Compensation and Mitigation for Biodiversity Loss

The National Planning Policy Framework states that "if significant harm resulting from a development cannot be avoided… adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused."[1]

Biodiversity is declining in England and development is one of the major threats. Destruction and increasing fragmentation of wildlife habitats due to development are all too common. Planning policy and ecological best practice guidelines set out a "mitigation hierarchy" stating that these steps should be followed in order:

- **AVOID**: Anticipated biodiversity losses should first be avoided by using alternative sites and design. This is especially important for habitats including ancient woodland that are irreplaceable and therefore cannot be mitigated or fully compensated for.
- **MITIGATE**: Impacts considered unavoidable should be mitigated where the impact occurs if possible.
- **COMPENSATE**: Any remaining significant biodiversity loss should be compensated for, where possible.

However, before this hierarchy comes into play it is essential that sufficient information is gathered to properly assess the impact of any given development on biodiversity.

WTML/ Samantha Gallagher

Example: The Royal Town Planning Institute's five-point approach to planning decisions for biodiversity

1. Information – is more information about the site's biological resource needed? Is more information about the development and its potential effects needed? Is the significance of the effects clear? Is relevant internal or external expertise available?

2. Avoidance – have all adverse effects on wildlife species and habitats been avoided wherever possible?

3. Mitigation – where adverse effects are unavoidable, have they been or can they be minimised by the use of mitigation measures that can be guaranteed by, for example, conditions or planning obligations?

4. Compensation – where, despite mitigation, there will be residual adverse effects that cannot be reduced further, have they been or can they be compensated for by measures aimed at offsetting harm? Can the compensatory measures be guaranteed by conditions or planning obligations?

5. New benefits – where there would be no significant harm to wildlife species or habitats, are there opportunities to provide new benefits for wildlife, for example, by habitat creation or enhancement? Can these new benefits be guaranteed by planning obligations?

Woodland loss and damage

Ancient woodland (land continuously wooded since at least 1600) is our richest land-based habitat. It is home to rare and vulnerable species, many of which do not colonise new areas easily and depend on the particular, stable, conditions that ancient woodland provides. Each ancient wood is a unique product of its location (geology, soils, climatic factors) and its history, including its management. The communities of animals and plants that have developed there over centuries cannot be recreated by planting new woods. Ancient woods are irreplaceable.

Other native woods are also often of high conservation value. For example, wet woodland is a relatively rare woodland type and particularly rich in certain species groups, such as invertebrates.

Recent woods and plantations, individual trees and hedgerows provide habitat for more generalist species and 'stepping stones' between areas of richer habitat.

Mitigation may be possible for individual species, by translocating them or providing alternative habitat. However, it is not possible to mitigate for the loss of ancient woodland because it is irreplaceable – you cannot move the entire habitat. This may also be true for some other semi-natural woodland, and for ancient hedgerows, many of which are relicts of ancient woods, and for ancient or long-established parkland and wood pasture habitats.

In the case of ancient trees it would take hundreds of years (300+) to replace a felled ancient tree with another tree of a similar age. Even if a replacement tree grows to this age it is unlikely to develop all the other biodiversity values associated with the original tree as other organisms need continuity of the same type of habitat. Mitigation is an almost impossible task in the case of ancient trees; mitigation might involve attempted translocation of the tree, but this is a process fraught with difficulties, not least the engineering required to move the large root system to avoid damage.

Compensation for loss and damage

Where woodland loss and damage are considered unavoidable, and once all mitigation measures have been considered and included in proposals, there is still likely to be a need for compensation.

For woodland loss or damage, compensation proposals might include creation of new native woodland, or restoration of existing ancient woodland previously planted with conifers. They could also include planting or restoration of hedgerows, open grown trees in wood pasture or parkland habitats, planting of trees and small copses in the wider landscape to reverse fragmentation and increase connectivity, or creation of habitats adjacent to existing ones to buffer them from adjacent land use (see our 'Buffering' factsheets).

In the case of HS2, proposals to compensate for biodiversity loss on Phase 1 were set out in the Environmental Statement which was deposited alongside the Hybrid Bill. For Phase 2, we expect these to be laid out in the Environmental Impact Assessments for Phase 2a and 2b.

Other forms of compensation

Translocation of habitats is sometimes suggested as compensation for loss. This is covered in a separate factsheet.

WTML/ Phil Formby

References

1. Department for Communities and Local Government (2012) National Planning Policy Framework. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

2. Defra (2012) Biodiversity Offsetting Pilots. Technical Paper: the metric for the biodiversity offsetting pilot in England

WOODLAND TRUST