



Department  
for Environment  
Food & Rural Affairs

[www.gov.uk/defra](http://www.gov.uk/defra)

# **Consultation on biodiversity offsetting in England**

## **Summary of responses**

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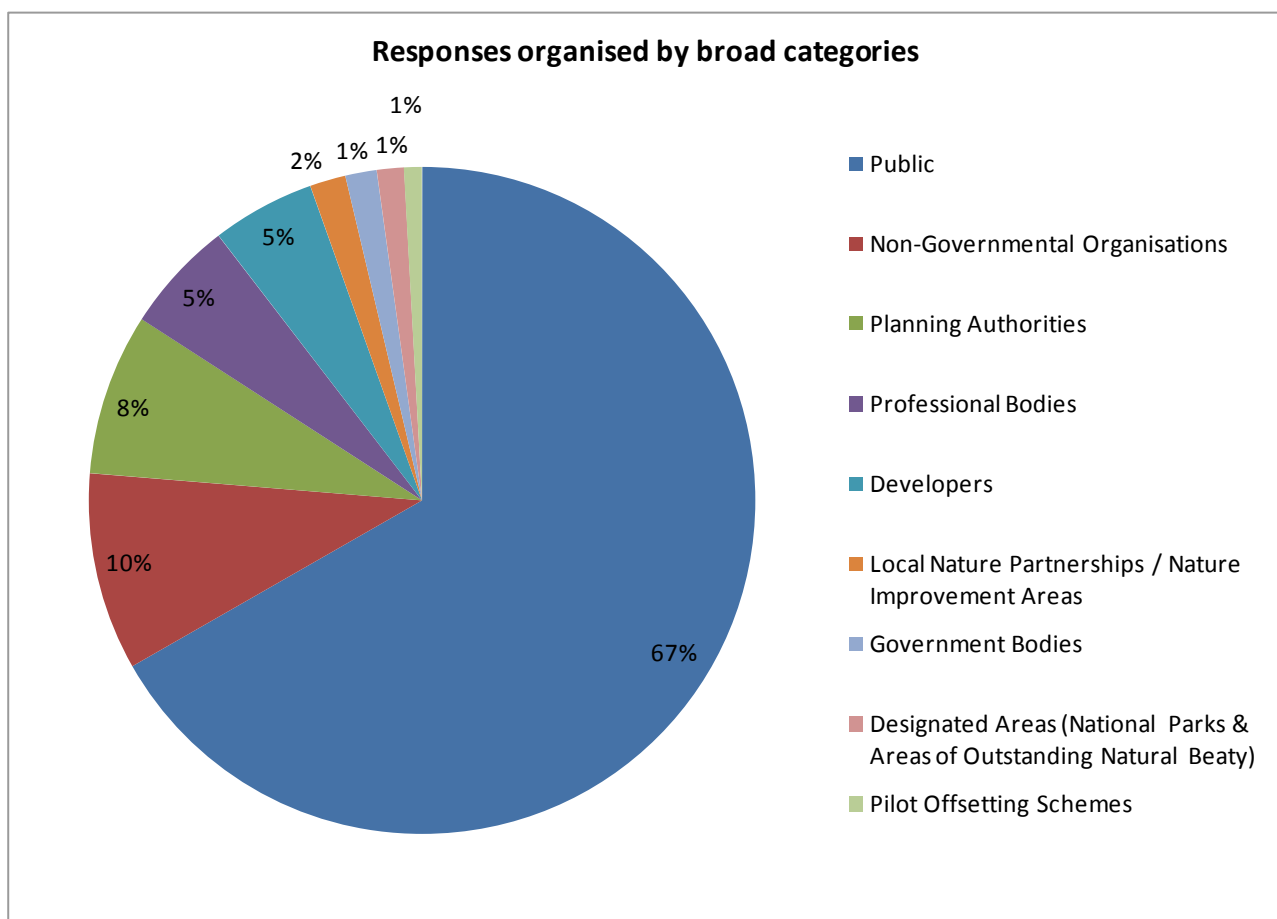
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## Purpose of consultation

On September 5<sup>th</sup> 2013 the Government published *Biodiversity offsetting in England*, a green paper which set out options for how biodiversity offsetting could be used in England and posed questions about how any system might best operate. A public consultation on this document and accompanying Impact Assessment (IA) ran until 7<sup>th</sup> November. Both the document and the IA are publicly available on the [Defra consultation hub](#).

## Summary of responses

There were 460 substantive responses, summarised in broad categories in the following table:



Defra also received a total of 486 formulaic responses relating to a Woodland Trust organised campaign, of which 259 said 'no' to offsetting with varying justifications and 227 'offset this' responses which stated what respondents value about nature. In order not to skew the results of the consultation it is normal practice for campaign responses to be treated as a single, numerical response.

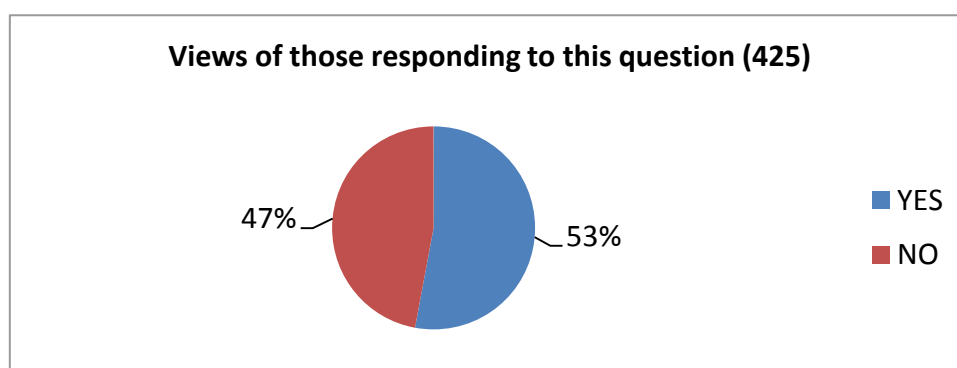
## Responses to individual questions

The Green Paper contained 38 questions, some with more than one part. Key points to emerge from the responses to each question are set out below together with a brief qualitative analysis of the responses.

**Respondents rarely provided answers to every question; unless otherwise stated, figures quoted in this analysis are based on the number of actual responses to each specific question or part question, not on all 460 responses. Similarly, comments which were not relevant to the question are not included in the figures or qualitative analyses unless otherwise stated.**

### Applying biodiversity offsetting in England (green paper section 5)

**Question 1: Do you think the Government should introduce a biodiversity offsetting system in England?**

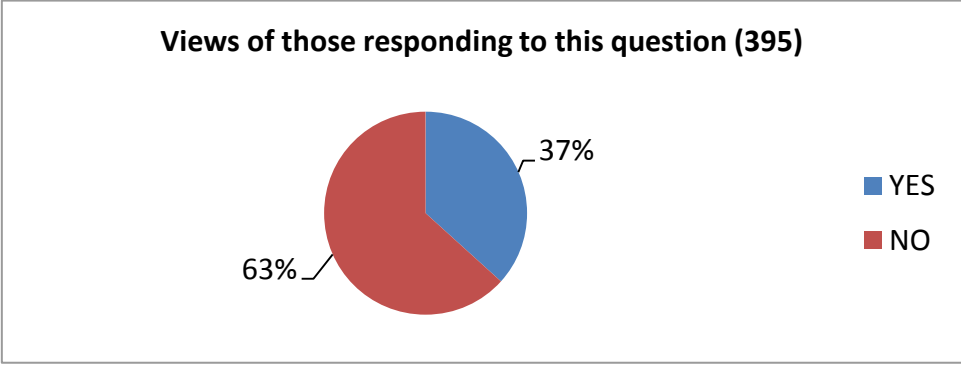


Responses to this question were evenly divided between those who supported and those who did not support the introduction of a biodiversity offsetting system in England, with a slight majority in favour. Many respondents qualified their response (i.e. they might support offsetting if certain conditions were met, for example if offsetting would always be a last resort, or that any offset would be provided locally).

The most frequent comments from those who did not support the introduction of an offsetting system, expressed concern that offsetting would lead to a net loss of biodiversity rather than a net gain. Many argued that it was wrong to attach a financial value to nature, or that complex natural systems, often built up over centuries, cannot be simply recreated at will.

A striking feature of this question was the different views expressed by different types of respondent. The largest group of respondents (two thirds of all) were members of the general public, a majority of whom were opposed to biodiversity offsetting either as a matter of principle or due to a lack of confidence that the system would work. Other groups of respondents were generally more supportive of offsetting in principle.

**Question 2:** Do you think the Government’s objectives for the system and the characteristics the Government thinks a system would display are right?



Slightly more than a third of respondents agreed that the Government has identified the right objectives and characteristics for an offsetting system. Two thirds disagreed.

Developers and potential offset providers tended to agree with the objectives and characteristics, while support from other stakeholder groups was more mixed. The most frequent comment from those who support the introduction of an offsetting system was that the current system for compensating for biodiversity loss needs to be improved. In this regard, some argued that better guidance on the mitigation hierarchy and better enforcement of existing planning regulation should be the priority. Whilst some respondents felt that it was important to avoid or restrict development impacts on biodiversity, others saw offsetting as a more orderly way of ensuring that, where compensation is necessary, environmental impacts are properly addressed.

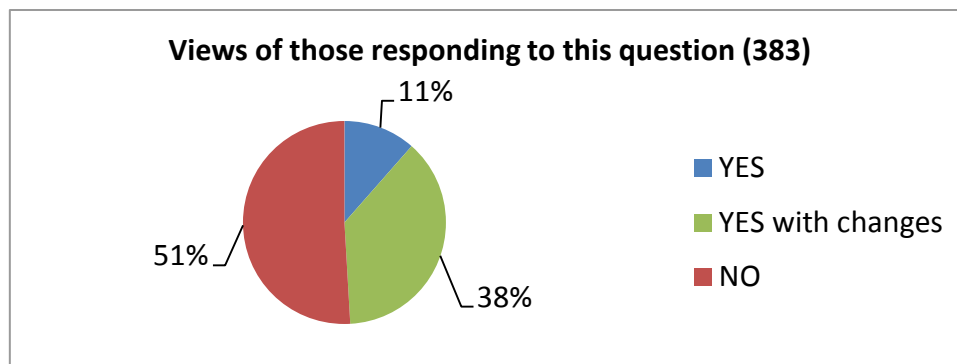
Of those who disagreed, a majority commented that they did not think it was possible to achieve all the objectives and characteristics simultaneously.

Some respondents commented on the need for further evidence, and on the lack of clarity about the relationship between the current system and a new offsetting system.

Respondents from stakeholder groups with a significant involvement in the planning system were divided on this question; developers and potential offset providers were very supportive, but local planning authorities and other organisations were not.

## The offsetting metric (green paper section 5.1)

**Question 3:** Do you think it is appropriate to base an offsetting system on the pilot metric? If not is there an alternative metric that should be used?



Slightly more than half of respondents felt that it was not appropriate to base an offsetting system on the pilot metric, whilst slightly less than half felt it was appropriate either in its current form or with modifications to take account of a range of factors.

A very frequent comment in the responses was that since the pilots have not yet been completed, and feedback is not yet publicly available, they considered it premature or found it difficult to comment on the metric. Relatively few comments were provided by those who support the use of the pilot metric.

Some respondents commented on the challenges of designing a metric that is both simple to operate and fit for purpose, or on fundamental issues which need to be considered in designing or operating an appropriate metric. Others commented that the idea of a single metric was flawed, and that a range of metrics might be needed to handle specific situations notably species offsetting.

There were very few specific responses to the second part of this question on an alternative metric, many suggesting specific changes to the existing metric rather than an alternative. Several respondents referred to existing methodologies and the need for consistency with current approaches to assessing ecological impacts notably Environmental Impact Assessment (EIA) and the approach set out in the Chartered Institute of Ecology and Environmental Management's guidance on Ecological Impact Assessment (EclA). Some expressed concerns that offsetting might result in a duplication of effort.

Many respondents commented that the metric is too simple, with only a few considering it to be too complex. The limitations of the interim methodology adopted for the assessment of habitat condition in the offsetting pilots (from the Higher Level Stewardship: Farm Environment Plan) was noted by many respondents.

A majority of respondents from stakeholder groups with a significant involvement in the planning system supported the pilot metric as a basis for an offsetting scheme, either in its current form or with changes.

**Question 4:** If you think the pilot metric is the right basis for an offsetting system:

- a. Are there any other factors which should be considered when quantifying biodiversity loss and gain?
- b. Are the weights given to the different factors appropriate?
- c. Are there any other changes you think should be taken into account?

There were 212 responses to the first part of this question, 124 to the second and 117 to the third. These identified a very wide range of factors which respondents felt should be considered when quantifying biodiversity loss and gain. The most frequently cited was connectivity or position within a wider ecological network, which was noted as the one principle from [‘Making Space for Nature’](#) (the Lawton review) which was not reflected in the metric’s assessment of development sites (although it is reflected in its assessment of offset sites). Species was the second most frequently cited missing factor followed by social, historical or cultural value, then ecosystem services.

In responding to the second part of this question on the weightings for factors, a frequent comment was that the rationale and evidence-base for the distinctiveness bands, number of categories, weightings and multipliers needs to be clearly articulated.

A large number of detailed comments were provided on the structure of the distinctiveness and condition components of the metric, in particular on the range and values of the scales used for each. There was a general concern that the use of only 3 broad bands was too simple and that a larger number of categories was necessary. Several respondents suggested additional weighting for irreplaceable habitats. Comments on the risk multipliers noted the need for care in the weightings given to the different risk multipliers, since the combined effects of applying the possible scores can result in a wide range of values, which has implications for project viability.

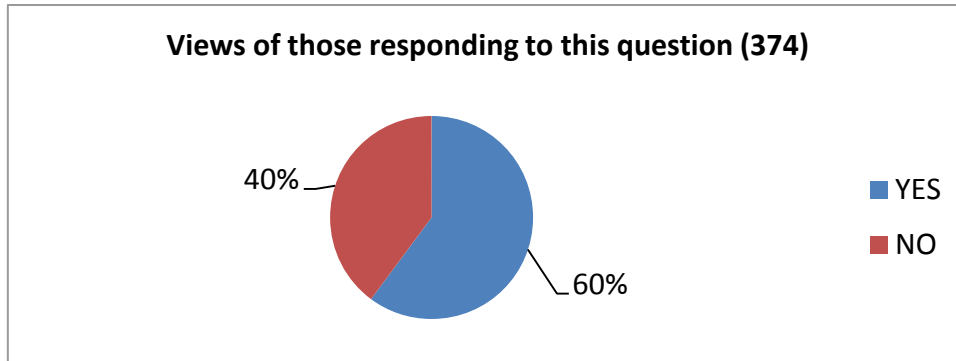
In commenting on other changes that should be taken into account, respondents noted in particular: the scoring of low distinctiveness habitats; limitations of the Higher Level Stewardship Farm Environment Plan Handbook methodology for assessing habitat condition; how quality measures are defined and quantified in terms of the distinctiveness and habitat condition scores; the need to adopt a standardised habitat classification; and the need to clarify the exchange rules which operate in conjunction with the metric.

The most frequent comments by respondents from stakeholder groups with a significant involvement in the planning system were that: the scientific basis of the metric should be presented; the metric should be modified to include certain factors and to review the weightings and multipliers; and more information was needed over how the metric would be applied in practice.



## Fit with the planning process (green paper section 5.2)

**Question 5:** Do you think offsetting assessment should be used when preparing a planning application for a project?



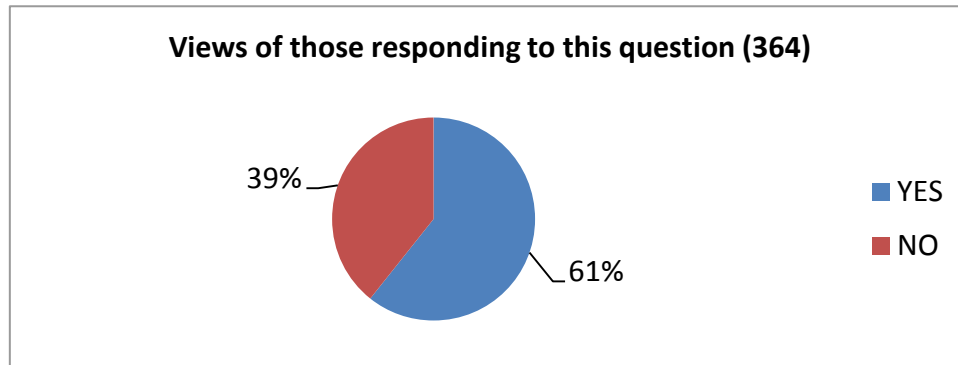
Some 294 respondents provided comments on this question, which were very varied.

Some respondents perceived a weakness and lack of consistency in the current system of assessing biodiversity impacts which they believed often results in planning approvals being given without full consideration of the biodiversity impact of the proposal. These commentators were generally the most supportive of the use of offsetting assessments, suggesting that they could have a part to play in quantifying the impacts of development alongside other types of assessment (e.g. of protected species) to enable local planning authorities to fully understand the ecological impacts of a proposal, and might result in some damaging projects being abandoned.

A frequent concern raised by respondents was the proposed early timing of offsetting assessment within the planning process. In particular they were concerned that the use of offsetting in the initial stages might lead to a presumption that offsetting would be used to enable development. They stressed the importance of correctly following the mitigation hierarchy, with offsetting assessment and offsetting itself only being considered as a last resort once avoidance and mitigation had been fully considered.

As is already the case, many respondents commented that all planning proposals should undertake an assessment of the impacts of development proposals on the environment. Many felt that the simplified procedure proposed for offsetting was not sufficiently systematic or comprehensive.

**Question 6** : Do you agree that it should be the responsibility of planning authorities to ensure the mitigation hierarchy is observed and decide what offset is required to compensate for any residual loss? If not, why, and how do you think offsetting should be approached in the planning system?



Many respondents repeated the point they had made in responding to the previous question, on the importance of correctly following the mitigation hierarchy, and that offsetting should only be a last resort.

A majority of respondents noted that under the current system, the local planning authority is already responsible for applying the mitigation hierarchy policy to planning decisions, but suggested that demonstrating adherence to the mitigation hierarchy should be the responsibility of the developer.

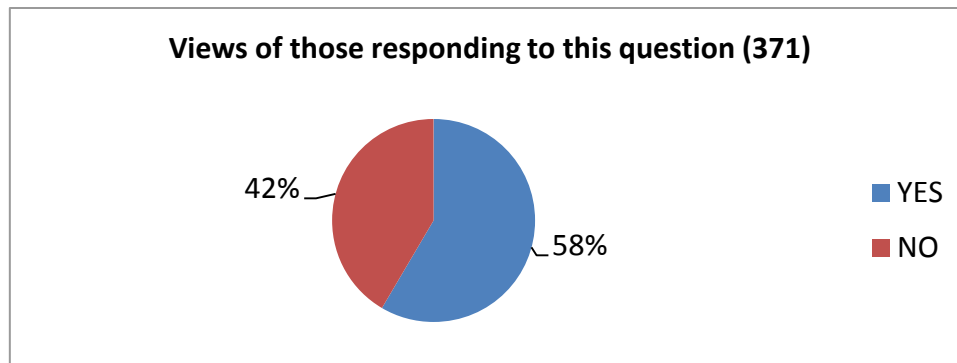
The most frequent comment made by respondents (including many local planning authorities) was that too few people within local planning authorities have the necessary ecological expertise to apply the hierarchy, and the specifics of offsetting. It was argued that this capacity issue needs to be addressed if the offsetting process is to be meaningful and capable of addressing biodiversity loss, rather than just simplifying the process for developers. As recognised in some responses, only around one third of authorities have in-house ecological expertise.

Similarly, some respondents wanted assurance that, if local planning authorities are to be able to make informed decisions on planning applications with respect to biodiversity offsetting requirements, there is and/or will be sufficient support in place from independent ecological experts, and access to relevant key partners to be able to consult on the accuracy of assessments and mitigation and compensation proposals.

Relatively few respondents commented on the second part of this question, but several argued for national consistency. If the metric varied across administrative boundaries, they felt that key aims of simplicity would not be met, and it would introduce inconsistency in the level of compensation required to address the same impact on biodiversity in different locations.

## Affected development consent regimes (green paper section 5.3)

**Question 7:** Do you think biodiversity offsetting should have a role in all development consent regimes?



Many respondents used the question to repeat their opposition to the offsetting concept in general, whilst others specified exclusions they wished to see within the TCPA regime, for example, that offsetting should not apply within National Parks.

Of those who responded in the positive, a common view was that there is no reason, as long as a nationally consistent and transparent approach is maintained, why the principles should not be applied to any type of development, at any scale, that has a potential impact on biodiversity, or they commented that it would not be sensible to have different systems for different types of proposal.

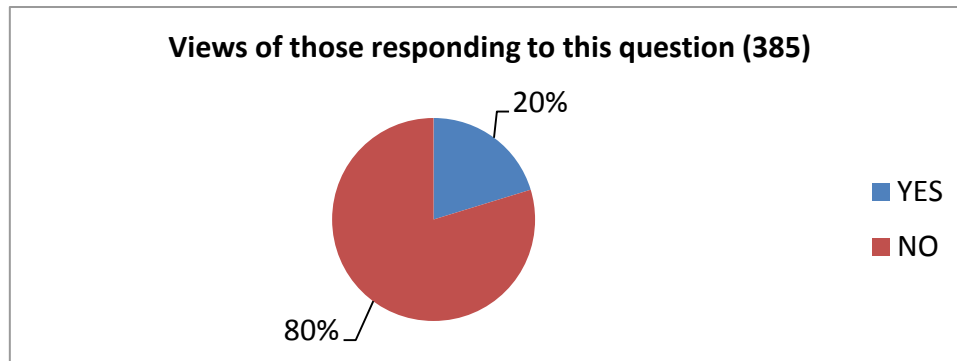
Some were concerned about the relationship between consent regimes, for example that where planning permission is required to allow a development to proceed, offsetting should not be revisited in any subsequent environmental consent regime associated with that development.

Some felt that offsetting is likely to have a greater role in large infrastructure projects since developers have less choice in where to locate the development site, for example developers of new roads.

The need for further work to enable offsetting in the coastal and marine environment was flagged by a few respondents, who commented on the need for caution due to the complexity of the habitats involved, and the need to avoid impacts on fishing or navigation.

## Choice on use of offsetting and offset location (green paper section 5.4)

**Question 8:** Do you think developers should be able to choose whether to use offsetting?  
If so what steps could Government take to encourage developers to use offsetting?



A significant majority of respondents, including most members of the public, considered that developers should not be able to choose whether to use offsetting.

Some believed that the offsetting pilots and international experience demonstrate that mandatory offsetting is necessary for the scheme to achieve its objectives, and gave various reasons for this. Others did not believe that developers would offset responsibly unless it was compulsory, but would rather prioritise cheaper and less effective methods of compensation.

Others considered that the potential benefits of a more efficient method for agreeing compensation would only be realised if there is sufficient momentum for a genuine offsetting market to develop, and this would only happen under a mandatory system. Some were concerned that a voluntary system would result in inconsistency, with variable uptake leaving some developers at a commercial disadvantage.

Others argued that offsetting should not be made mandatory until it has been put into practice and is better understood.

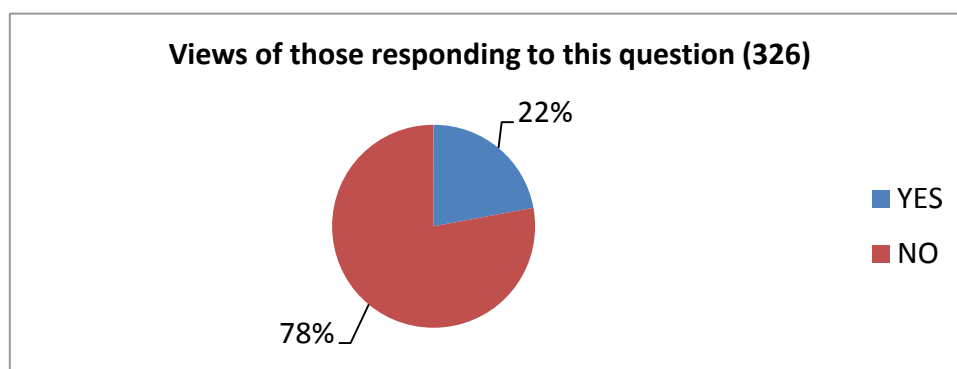
Many respondents who oppose offsetting in principle were of the opinion that developers should not be given a choice. Many also were concerned that developers would be given the choice between offsetting or providing no compensation whatsoever, or that developers would be given the choice to offset instead of following the mitigation hierarchy.

Many respondents, including many developers were of the opinion that developers should be able to choose whether to use offsetting to provide the required compensation for biodiversity loss. However, many emphasised that this should still be only after the mitigation hierarchy has been fully applied. The most common argument was that if biodiversity offsetting successfully presents developers and local planning authorities with a cost-effective means for agreeing compensation, then developers will naturally choose to use it. If however the developer prefers other means to provide the required compensation, then they should be free to use that means instead.

Some respondents made suggestions about how the Government might encourage developers to use biodiversity offsetting including: requiring that Government procurements used offsetting; using Local Nature Partnerships to facilitate local offsetting agreements; the Government providing low-interest loans to cover the costs to the developer; local planning authorities preparing in advance a local offsetting strategy; and the Government providing financial incentives to developers who use offsetting.

Respondents from stakeholder groups with a significant involvement in the planning system were divided in their views; whilst a large majority of developers favoured a voluntary approach, a large majority of local planning authorities and NGOs favoured a mandatory approach.

**Question 9:** If you think developers should be required to use offsetting do you think this requirement should only apply above a threshold based on the size of the development? What level should the threshold be?



A majority favoured no minimum threshold for the use of offsetting.

Some noted that if a mitigation hierarchy assessment was undertaken for all development proposals then only a minority of applications would need to be considered for offsetting anyway, although others argued that if offsetting is to genuinely achieve no net loss, then the system would have to apply to all cases.

Respondents commented that setting an arbitrary threshold would not take into account the actual loss of biodiversity, and that the size of a development is not an accurate indicator of ecological importance (e.g. populations of important species may be confined to habitats of very limited extent).

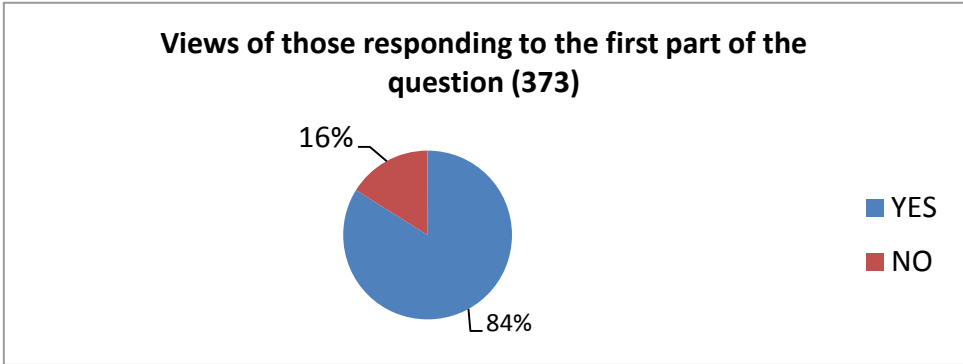
Respondents commented that the impact of many small developments on biodiversity would be just as great as one larger project, and felt that the risk of a perverse impact of a specific threshold which might lead to developers dividing their projects into a number of smaller lots in order to avoid having to use offsetting.

Those who favoured the setting of a threshold for offsetting commented that, without one, the costs of offsetting would outweigh any benefit for smaller developments, and therefore

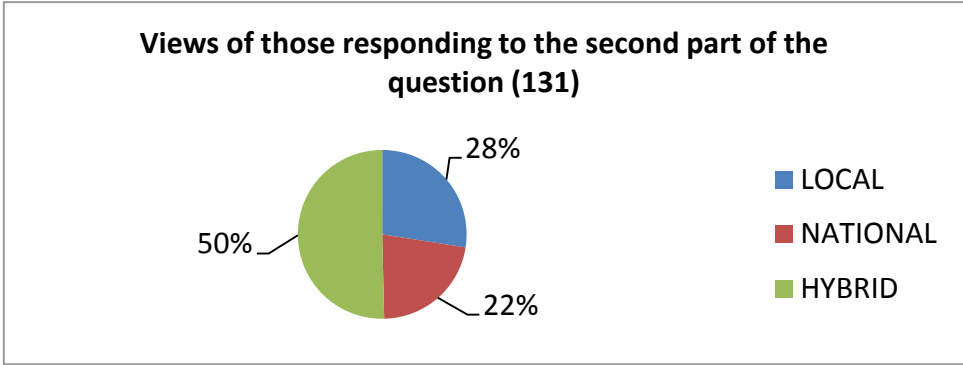
that a threshold might be a way of facilitating smaller sites with less capacity to incorporate mitigation measures.

Responses to the second part of the question (on the level at which a threshold might be set) offered a very wide range of suggestions with no consistent pattern, ranging from a higher threshold of 100 acres or over 200 housing units, to a low threshold of 0.25 hectares or 2 housing units. Another suggestion was that it would be better to specify a threshold in terms of biodiversity units.

**Question 10:** Do you think there should be constraints on where offsets can be located? If so what constraints do you think should be put in place?



A high proportion of respondents felt that there should be constraints on where offsets can be located.



Of those who answered the second part of the question on what constraints should be put in place, just over a quarter favoured an entirely local approach; slightly fewer a national strategic approach, and half favoured a hybrid system combining local delivery and a strategic approach, at least in some circumstances, notably where local delivery was not possible.

Some respondents proposed specific constraints, the great majority reflecting a relatively local approach. The most favoured of these was that offsets should be within an administrative or geographically defined local or local planning authority area, county or sub-region. A smaller number suggested a regional constraint, and fewer still suggested a constraint based on distance from the development site

Some respondents suggested principles to be applied to the setting of constraints rather than specific areas or distances, including: no constraints at all; as close to the impact site as possible; to maintain the functional connectivity of the habitats and species impacted by the development; to contribute to the Lawton principles of more, bigger, better connected; to avoid land that is likely to be desirable for future development; and in consideration of landscape character and historic environment.

Amongst respondents from stakeholder groups with a significant involvement in the development planning system, it was found that NGOs and local planning authorities were strongly in favour of constraints, but developers less so.

**Question 11:** Do you have any comments on the analysis set out in the impact assessment?

Relatively few commented on the impact assessment, many simply criticising offsetting in principle. Some found it difficult to assess the impact assessment and commented on the lack of precision in the baselines, the limited evidence base, and the many assumptions on which it was based which in their view limit the validity of the assessment. Others felt that the impact assessment did not adequately consider alternatives to offsetting, adequately explain how the economic analysis was only positive for a voluntary approach, or had not included major factors such as ecosystem services and connectivity.

The estimates by the RSPB cited on page 14 of the green paper, that providing a large area of offset will be cheaper than a smaller area, was not considered appropriate for all habitats, and respondents recommended that further supporting evidence was necessary.

Respondents recommended further modelling of the variety of conditions under which an offset market might operate. The assertion that the costs to local authorities of checking offset proposals would replace the costs of the current system was challenged, noting the likelihood of additional costs which will vary according to the degree of access each authority has to specialist advice.

An organisation representing developers was concerned that based on their experience to date, the impact assessment may underestimate the costs for developers, which include land acquisition for offsets and long term management and maintenance. The latter might have a considerable bearing on the cost-effectiveness of an offsetting system, citing experience of Suitable Alternative Natural Green Spaces in the Thames Basin Heaths Special Protection Area.

**Question 12:** Do you have evidence that would help refine the Government's analysis of the costs and benefits of the options considered in this paper? In particular, evidence relating to:

- a. The amount of compensation already occurring where there is residual biodiversity loss which cannot be avoided or adequately mitigated
- b. The method for estimating costs and their magnitude
- c. The method for estimating benefits and savings and their magnitude
- d. How to capture the wider social and environmental benefits of maintaining England's stock of biodiversity and delivering a coherent ecological network
- e. Likely take up of offsetting under a permissive approach

Many respondents used their reply to this question to emphasise their objection in principle to monetising nature. A number of organisations offered to discuss specific case study examples and alluded to publications or studies which might be helpful in developing a general methodology for estimating cost. One organisation offered to gather examples from its membership and to organise a workshop to consider alternative approaches working through real-life examples.

*a. The amount of compensation already occurring where there is residual biodiversity loss which cannot be avoided or adequately mitigated*

Only a small minority of responses actually offered new evidence. A number of developers or local planning authorities provided, or offered to provide on request, detailed examples of specific development projects where off site compensation was either proposed or had been successfully delivered, several involving great crested newts.

One respondent referred to a freedom of information (FOI) request to 354 local planning authorities (LPAs) with a 94% response rate, which revealed that 42% of all LPAs had carried out some form of off-site compensation. These ranged from one-off relocations of threatened species to more complex schemes, with pooled contributions from different developments paying for large conservation projects.

*b. The method for estimating costs and their magnitude*

Several responses noted earlier attempts by environmental economists to estimate the costs of creating and managing habitats or the cost of the loss of a habitat type. For example, BSG Ecology's costing of the UK Biodiversity Action Plan Habitat Action Plans and a more detailed study for English Nature on Habitat Replacement Costing, which provides a method of costing replacement and actual delivery costs. This study indicated that there can be great variation in the cost of creating habitats and on-going management costs.



This variation in costs was recognised by others. In response to the FOI request mentioned above, 22 local planning authorities had provided sufficiently detailed responses for analysis of costs, from which they had calculated that the average cost per hectare was £5,506, with considerable variation ranging from £1,000/ha to £140,000/ha.

One respondent drew a parallel between offsetting and the provision of 'Suitable Alternative Natural Green space' to avoid recreational impacts on European Sites, noting that one of the most difficult issues in costing Suitable Alternative Green Spaces has been how to cost 'in perpetuity'.

Another respondent commented that the estimated cost to businesses of familiarisation with offsetting (£2m) is unlikely to provide for the additional ecological expertise needed to ensure the system results in no net loss of biodiversity.

*c. The method for estimating benefits and savings and their magnitude*

There were very few specific responses to this part of the question, and no consistent pattern. One developer provided a number of specific costed case studies.

Various comments expressed the opinion that benefits (and costs) should not be judged purely in monetary terms, but also in terms of measures such as health, and that whether an offset site is a success and sustainable will usually only be possible after many years.

*d. How to capture the wider social and environmental benefits of maintaining England's stock of biodiversity and delivering a coherent ecological network*

Various specific publications were cited as relevant to this question.

*e. Likely take up of offsetting under a permissive approach*

A majority of respondents felt that take up of offsetting under a permissive approach would be low. Some on the other hand considered that take up could be high, reflecting a view that developers would seize the opportunity to circumvent current planning restrictions.

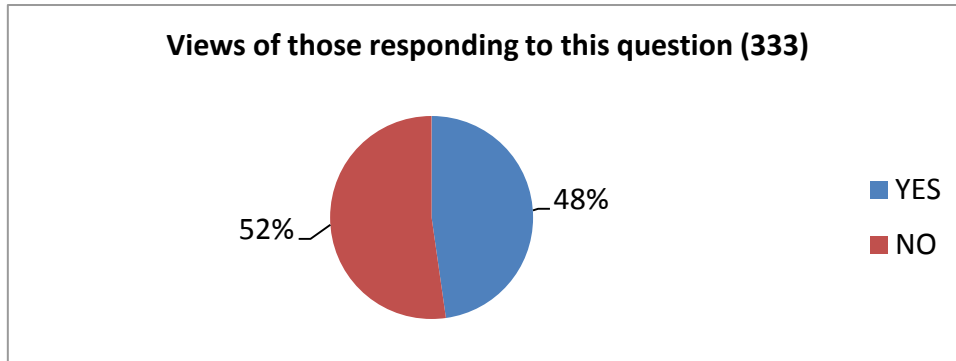
Some expressed disappointment that the green paper had not awaited the outcome of the offsetting pilots, where so far none of the pilots, which are completely voluntary, has successfully secured an offset.

Many felt that the key role of local planning authorities and the rigour with which they apply the National Planning Policy Framework mitigation hierarchy's avoidance and mitigation stages would be critical.

A view from a developer was that take up of offsetting as an alternative to a S106 agreement or similar will be site specific, depending on the options available and the costs and potential benefits.

## A national approach (green paper section 5.5)

**Question 13:** Do you think offsetting should be a single consistent national system without scope for local variation?



Respondents were almost evenly divided on whether offsetting should be a single consistent national system or one with scope for local variation, with a small majority favouring a local system.

Those in favour of a national system noted that a nationally agreed framework, including metrics and guidance, would result in a more straightforward and auditable scheme which would be more easily understood.

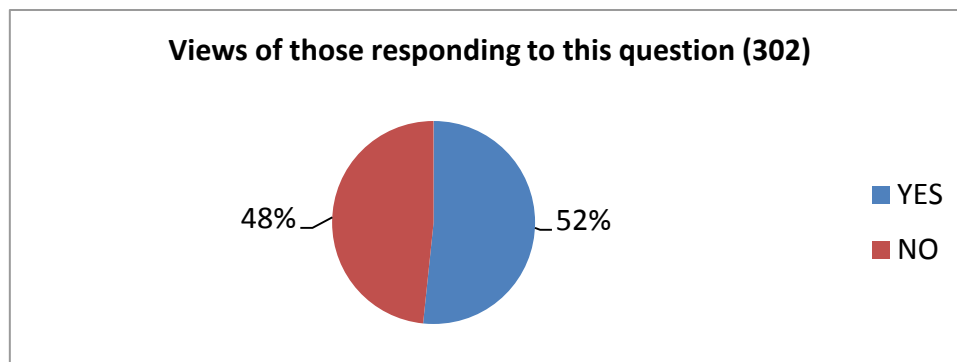
Supporters of local variation recognised that land use and habitats vary greatly across the country and offsetting should take account of this to avoid the risk of losing local distinctiveness.

Although Question 13 did not offer a middle way, there was significant support amongst respondents for a hybrid system, typically involving some minimum standards being set nationally with variation at the local level to reflect specific local needs.

Respondents generally felt that the metric and guidance should be to a national standard to ensure comparability in the assessment of impacts, but that there should be room for local variation in choosing the location of offset projects. However, some felt that every aspect of the system should be capable of local variation to reflect particular circumstances.

## Restrictions on the offsetting system (green paper section 5.6)

**Question 14:** Do you agree with the proposed exceptions to the routine use of biodiversity offsetting? If not, why not? If you suggest additional restrictions, why are they needed?



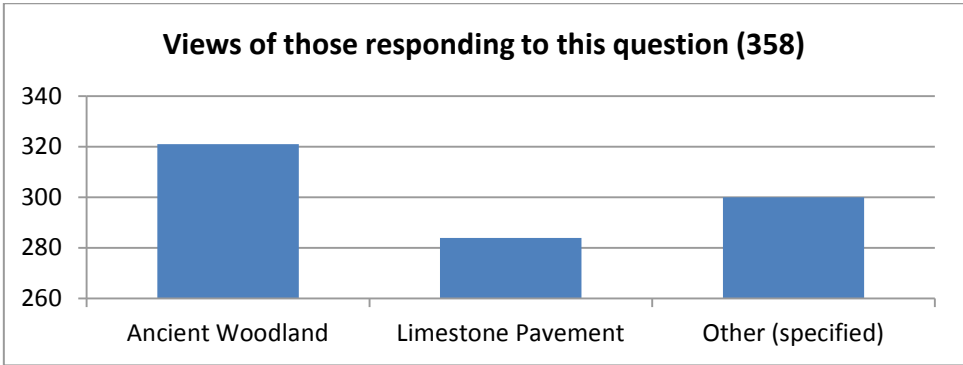
There was no clear consensus in response to this question, with approximately equal proportions supporting and opposing the proposed exceptions. Some who opposed the exceptions did so because they opposed biodiversity offsetting in principle.

Of those who disagreed with the proposed exceptions, many feared that current protections listed in the green paper would in practice be ignored and were particularly concerned by paragraph 31. Many questioned whether biodiversity offsetting could legally be applied in relation to European protected sites, and others were concerned that allowing any possibility for the sites listed to be considered under offsetting would allow 'loopholes' to be exploited by developers. They therefore did not agree with the proposed exceptions because they considered these exceptions absolute which the green paper does not. A few respondents who disagreed with the proposed exceptions argued that there should be no exceptions at all, as this would provide more consistency.

Another strong theme was that the proposed exceptions are not exhaustive or sufficient, and the following additional exceptions were proposed: Local Wildlife sites and priority habitats; areas chosen on an ad-hoc basis by local organisations and environmental NGOs; Habitats and Species of Principal Importance under the Natural Environment and Rural Communities Act; grassland; medieval meadows; high-value hedgerows; any site needing over 15 years to recreate; lowland heath; Biodiversity Action Plan species and priority habitats; sites used by birds protected under the Birds Directive; Ramsar sites; and marshland; registered common land, rivers, town and village greens, public access land, and national parks.

Support for the proposed exceptions from some respondents was conditional on strong enforcement, sharing the concerns expressed by others that they might be exploited or be used as loopholes.

**Question 15: Which habitats do you think should be considered irreplaceable?**



Over three quarters of respondents suggested that certain habitats should be considered irreplaceable. Of those suggested in the green paper, ancient woodland was supported by over two-thirds of respondents and limestone pavement by just under two thirds, while about the same proportion suggested alternative or additional habitats also be considered irreplaceable.

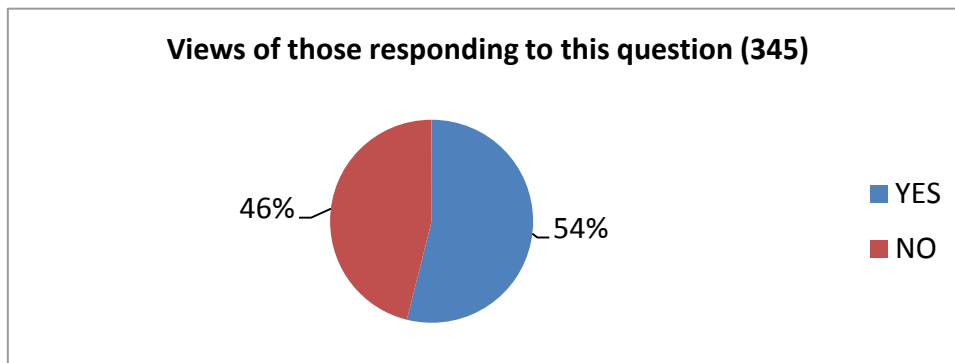
A huge range of alternative or additional habitats was suggested, the most popular being: Sites of Special Scientific Interest and other designated areas; sites of protected or otherwise vulnerable species; wetlands; bogs; meadows; coastal and estuarial habitats; grasslands; mature/ancient hedgerows; veteran/ancient trees outside woodland; fluvial habitats; animal migration routes; areas used by local communities; and fenlands.

Rather than list specific habitats, many suggested principles such as, anything which took over a certain amount of time to recreate (the most common suggestion being 100 years but as low as 10 years was suggested), or anything considered too high-risk to recreate. Others suggested a more flexible approach, with local communities defining for themselves what they considered to be irreplaceable.

Many respondents opposed in principle to offsetting answered that all or almost all habitats should be considered irreplaceable.

## Protected species and offsetting (green paper section 5.7)

**Question 16:** Do you think offsetting should, in principle, be applied to protected species?



Views on whether offsetting should be applied to protected species in principle were almost equally divided with a small majority of respondents supporting the idea. Of the various stakeholder groups, support was weakest from local planning authorities.

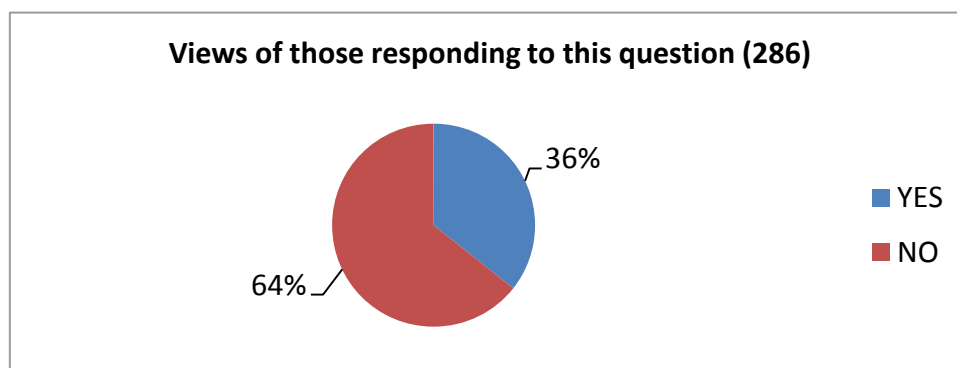
Of those who supported species offsetting, many commented that the current process for managing impacts on protected species needs to be improved. The most frequent issues raised were about how species offsetting would be made compatible with current legislation (almost a third of respondents, including all legal organisations), and the need for more evidence to be available.

However, many respondents felt that 'protected' status implied special treatment which had to be respected. For them there could be no question of including protected species within offsetting. Many referred to the existing legislation which they did not think could be reconciled with offsetting. Others pointed to the imperfect state of knowledge on what is needed to support protected species; the complexity of the habitats involved, which would not be easy to recreate; and the uncertainty as to whether these species would relocate to a new habitat.

A smaller number focused on the standing of the overall population rather than the individuals. For those respondents, offsetting species appeared to be acceptable, indeed for some it was attractive if it led to a better suite of habitats being available than at present.

Of respondents from stakeholder groups with a significant involvement in the planning system, a large majority were in favour of applying offsetting to protected species. This support largely came from NGOs and developers, with local planning authorities the most sceptical.

**Question 17:** Has the Government identified the right constraints and features that need to be addressed when applying offsetting to protected species?



A majority of respondents did not agree that the Government has identified the right constraints and features that need to be addressed for species offsetting. In general developers and landowners were the most supportive of the constraints and features identified by the Government.

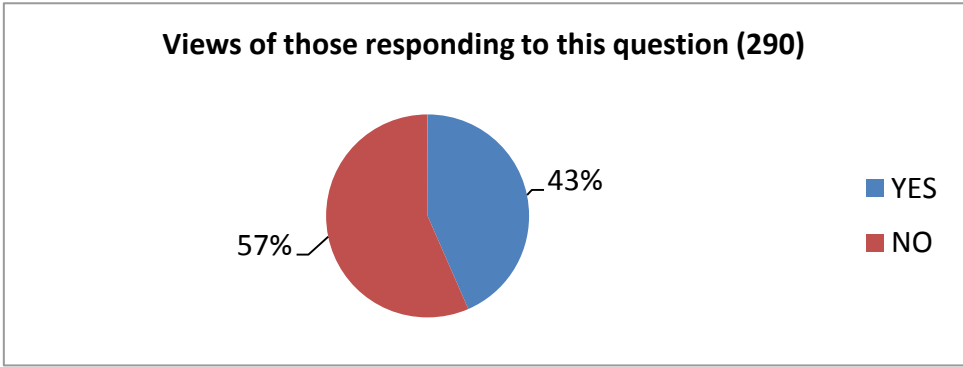
The most frequent comment, made by a quarter of respondents, was that species offsetting would require a significantly more complex metric. Almost as many noted that more scientific evidence was necessary.

A number of respondents used this question as an opportunity to restate their opposition to offsetting, or to offsetting species.

Some pointed out that species have very individual needs, so that it is difficult to have general principles; others referred to the existing legislation which they thought might block offsetting; others referred to issues around obtaining adequate information on which to take a decision. A number also thought it important to protect rare species not on the current European Protected Species list.

Of respondents from stakeholder groups with a significant involvement in the development planning system, NGOs and planning authorities were the most sceptical, and the comment was frequently made by all stakeholder groups that the metric would need to be more sophisticated in order to be applied accurately to species.

**Question 18:** Do you agree that great crested newts should be the first area of focus?



Slightly less than half of respondents agreed with this proposal. These respondents for the most part commented only to affirm that they agreed with the justification for doing so in the green paper.

While only a slight majority disagreed, there were far more comments from this group of respondents. Many of these questioned the logic for starting with great crested newts, for various reasons including that newts are too easy to relocate to be a suitable test, and that they are too important to be used as 'guinea pigs'. Others argued that offsetting newts would in itself be illegal. Some claimed that newts were only being suggested in order to appease developers who often encounter problems due to newts on development sites.

Similarly, some respondents suggested alternative species for the first area of focus often based on their particular vulnerability. Many disagreed with the idea of selecting just one species as a starting point, arguing that to treat a single species in isolation of its ecosystem is unhelpful and even counter-productive.

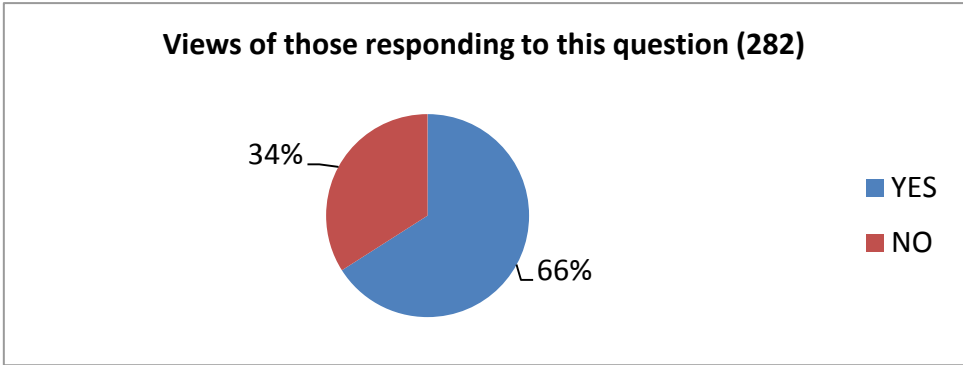
**Question 19:** Do you have any comments on the Government's thinking on how to apply offsetting to great crested newts?

Several respondents had reservations about both the accuracy and the appropriateness of the eDNA system and predictive analyses which the Government proposes to use when offsetting great crested newts, although others felt that this was a good use of new ecological science. Constructive criticism in this regard focused around a lack of reliable data on newt populations, and suggested working with specialist NGOs to compile this data. One suggested alternative approach was to presume that newts (and, more generally, other species) were present in likely sites rather than conduct costly surveys.

Many were concerned that it would not be possible to recreate newt populations sufficiently connected in terms of population and habitat network to flourish. It was also mentioned that newt populations are fairly mobile meaning both that connectivity was important but also that while newts might not be present in a site at the time of testing they might nonetheless frequently use it.

More generally, several respondents felt that the Government should focus more on a conservation approach than a welfare approach, that is to say offsetting by creating new populations as a more effective approach than by relocating existing populations. Several also felt that offsetting would be more effective if it considered habitats rather than specific species.

**Question 20:** Should offsetting be considered for any other species in the near future taking account of the constraints on species offsetting?



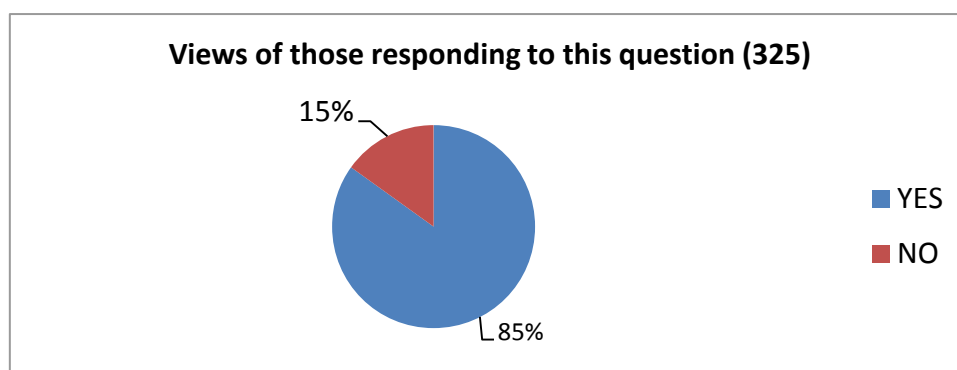
This produced a large range of suggestions. Many respondents provided long lists of species which they felt should be considered, with bats being a frequent suggestion. Others suggested groups of species such as endangered or protected species, or that all species should be included. Many repeated their opposition to offsetting species in principle.

Several respondents felt that the Government should await the results of any trial offsetting of great crested newts before considering applying it to other species.



## Covenants, management agreements and an offset register (green paper 5.8)

**Question 21:** Do you think conservation covenants should be put in place as part of an offsetting system? If they are required, who do you think should be responsible for agreeing conservation covenants? If not, how else do you think offsets could be secured for the long term?

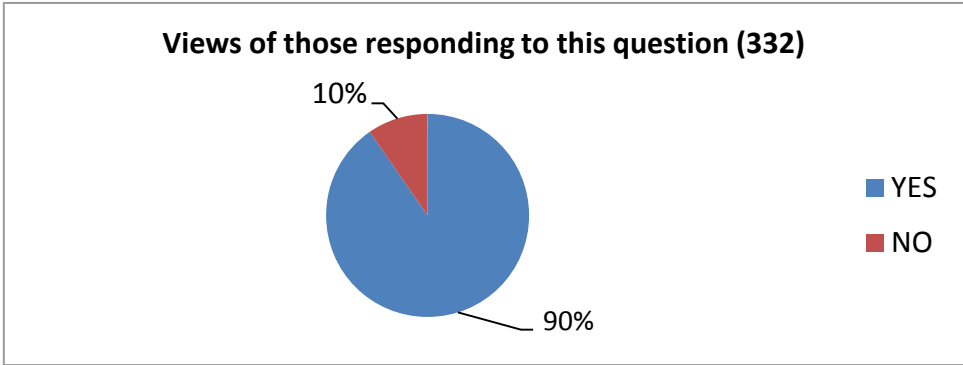


A majority of respondents were in favour of conservation covenants as part of an offsetting system. Most of those who responded to the other parts to this question focused on the first part on who should be responsible for agreeing covenants. Relatively few commented on the last part of the question on how else offsets could be secured for the long-term, with no distinct preferences emerging.

Respondents generally interpreted the question on who should be responsible for 'agreeing' covenants very broadly, as meaning 'who should define their content'. Local planning authorities, often in consultation with others, were the most frequently cited lead organisation. Respondents often provided lists of organisations, with a mixture of lead or advisory roles, or noted particular organisations as examples of a category, for example 'a government agency'.

A significant number of respondents were critical of the statement in the green paper about the release of a covenant if, through a planning decision, it was considered developable land, pointing out that this would mean the land was not actually secured.

**Question 22:** Do you think management agreements should be put in place as part of an offsetting system? If they are required, who do you think should be responsible for agreeing management agreements?

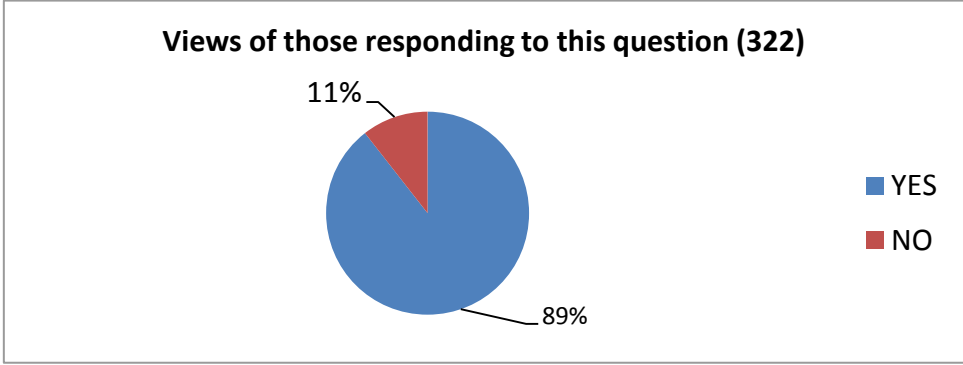


A clear majority of respondents were in favour of management agreements being part of an offsetting system.

The second part of this question sought views on who should be the body responsible for approving management agreements. Like conservation covenants, management agreements were considered by many respondents as an element of the local planning process, and so local planning authorities (LPAs) emerged strongly as being a necessary party to the agreement. However it was often noted that the LPAs should be advised by Natural England or the Environment Agency, local NGOs, a new national body with responsibility of offsetting, or 'landowners'. The other most frequently proposed specific lead organisation suggested by respondents was Natural England.

Many respondents interpreted the second part of the question more broadly as which parties should be involved in the agreement, which resulted in suggestions for multiple stakeholders. As may be expected, offset providers were often listed, as were developers, and other public and private advisory organisations.

**Question 23:** Do you think an offset register should be put in place as part of an offsetting system? If so, who do you think should be responsible for maintaining an offset register?

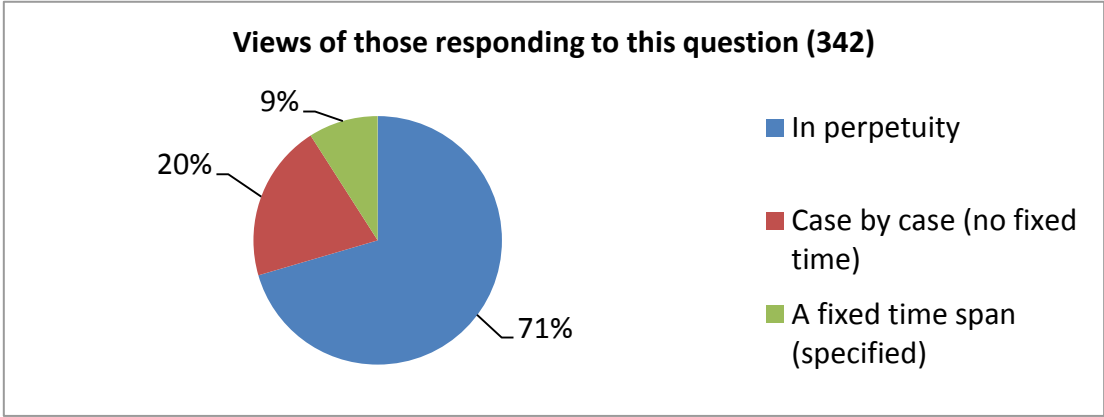


A clear majority of respondents were in favour of an offset register in order that available offsets would be known to interested parties.

Views on who should be responsible for maintaining an offset register were very wide ranging, but almost a third suggested that Natural England as the Government’s national adviser on biodiversity was the most appropriate body, followed by local planning authorities, the Land Registry, Defra or Defra with Natural England. Other suggestions included; a new national public body; Local Record Centres; the Environment Agency; an independent panel of experts; and a wide range of wildlife NGOs.

A number of respondents noted that Local Authorities would find it difficult to maintain consistency and that the organisation given responsibility for maintaining an offset register would need to be adequately resourced.

**Question 24:** How long should offsets be secured for?



A significant majority of respondents were of the opinion that offsets should be secured in perpetuity, while about one fifth said that duration of offsets should be considered on a case by case basis. Only a small minority were in favour of a fixed time span. However, it should be noted that there was some confusion over the term ‘in perpetuity’, as a few

respondents answered 'in perpetuity' but went on to specify a fixed time span (ranging from 25 years to over 100 years).

The legal, environmental, and biodiversity groups of stakeholder organisations expressed a strong preference for offsets to be secured in perpetuity. Farming and landowning organisations expressed concerns about the in perpetuity obligations which might come with conservation covenants and feared that this could dissuade offset providers. Concerns were also expressed by this stakeholder group on the potential costs of very long-term management of offset sites which they felt have not yet been fully understood.

The minority who favoured a fixed time span suggested a range of durations with no consensus, ranging from 20 years to 100 years as a minimum.

A frequent comment was that if the impact on biodiversity at the development site is permanent then compensation through offsetting must also be permanent, and that it made no sense to invest in offset sites which may be subsequently used for other purposes. Others noted that although perhaps desirable, protection in perpetuity was unrealistic, since not only does conservation policy change on a shorter timescale, but flexibility would be needed to reflect changes in land use policy, notably in relation to climate change.

**Question 25:** Are there any long term factors, besides climate change, that should be taken into account when securing offsets?

Respondents noted a wide range of long-term factors that should be taken into account in securing offsets. Many of these concerned hard to predict economic and social factors which might determine the strategic use of land, whilst others noted environmental factors that could limit the viability of offset sites.

The most frequently cited economic factors affecting the future demand for land, and therefore pressure to develop or change the use of offset sites, were the future cumulative development pressures in the local area, as well as future food security and the need to retain agricultural productive capacity. The likely small scale of offsetting relative to other pressures on land was however highlighted by other respondents.

Some respondents suggested that it would be sensible to have regard to spatial planning strategies, to avoid creating offsets on land that is likely to come under future development pressure.

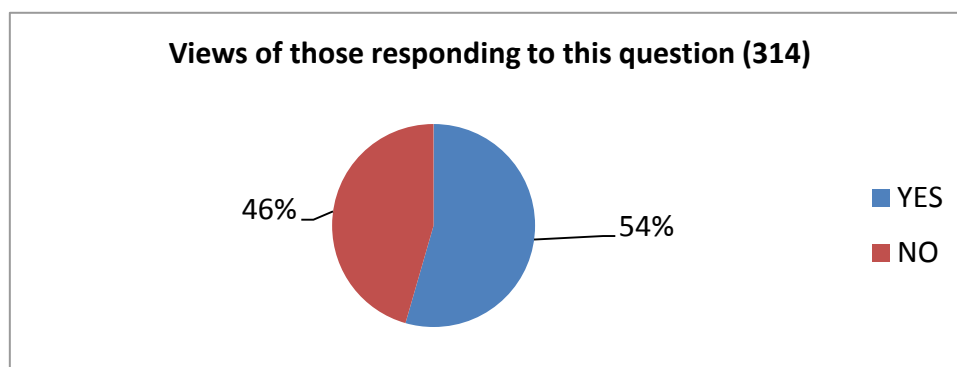
Other factors noted in responses which might increase pressure on land (and therefore on offset sites) were population growth; changes to planning policy; the economics of land management; the future agricultural economy; and unknown future technologies.

Another frequent long-term factor noted by respondents was changing nature conservation priorities and practice in relation to the aforementioned factors, and the need to consider

the potential impact of a range of environmental pressures notably rising sea levels, coastal erosion, flood risk, disease, invasive non-native species, pollution effects and vegetation change due to natural succession.

## Avoiding adverse effects on planning applications (green paper section 5.9)

**Question 26:** Do you think biodiversity offsetting should be 'backdated' so it can apply in relation to any planning applications under consideration at the point it is introduced?



A slight majority of respondents favoured the backdating of planning applications which are under consideration at the point offsetting is introduced.

There was some confusion over what exactly was meant by backdating; with some noting that any proposals being considered at the time a scheme is introduced would not technically be backdating, since planning decisions would not have been taken.

In the terms described in the green paper, backdating would benefit developers with current applications by enabling delivery of compensation requirements through offsetting. But many respondents referred to the possible risks of extra delays to planning decisions, for example due to identifying suitable offset locations, and to the potential perverse impacts of backdating, such as a rush to progress applications in order to avoid having to comply with offsetting requirements.

Some expressed concerns that retrospective application would lead to poor decision making and that the mitigation hierarchy must be correctly applied, and offsetting should not be used to overturn previous decisions that avoidance or mitigation were appropriate.

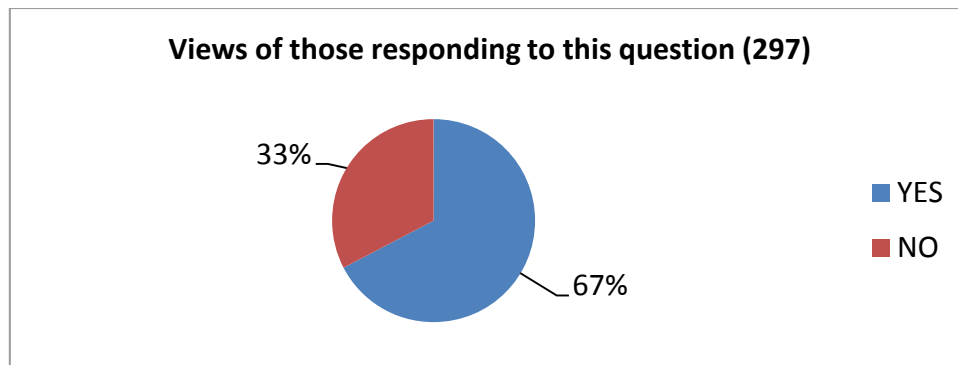
An approach preferred by some respondents would be to set a future date for the introduction of offsetting so that developers and planning authorities have time to prepare.

Those who supported backdating commented that it could be helpful where planning permission has been granted but not acted upon and then has to be resubmitted, and saw no reason to prevent it providing sufficient ecological information had been collected to an adequate standard to allow the application of the metric to inform the planning decision.

Concerns were expressed that backdating should not be invoked where this would require additional costs to the developer.

## Deciding whether harm is significant (green paper section 6.1)

**Question 27:** Do you think an offsetting system should take a national approach to the questions of significant harm and if so how?



Two thirds of respondents supported an offsetting system taking a national approach to significant harm, with one third opposed. Many respondents noted that the question of significant harm is already an established concept in the National Planning Policy Framework (NPPF) and that the mitigation hierarchy should be applied in order to decide whether or not compensation is required; and that although the NPPF sets but does not define a significant harm threshold this should not be defined via an offsetting scheme. Several respondents noted that local planning authorities need to consider whether any residual harm is significant depending on the circumstances of each case.

Another view was that if government policy does in fact require 'no net loss', then the significance of residual harm is irrelevant since any residual loss of biodiversity would need to be offset. Some expressed concerns that the threshold for offsetting used in the pilots includes low distinctiveness habitats which do not currently require compensation. A common proposal was that in defining significant harm, low distinctiveness habitats should be excluded in order to keep the system as simple as possible and to avoid inconsistency with the Environmental Impact Assessment. But others expressed the view that they should be included, noting that even habitats considered as being of low distinctiveness or quality are not necessarily of zero biodiversity value, but might for example be of value to certain species.

Other noted the merits of a hybrid approach to significant harm, with a threshold above which harm is always considered significant (unless it is a low distinctiveness, low quality habitat) and below which local planning authorities make judgements on a case by case basis.

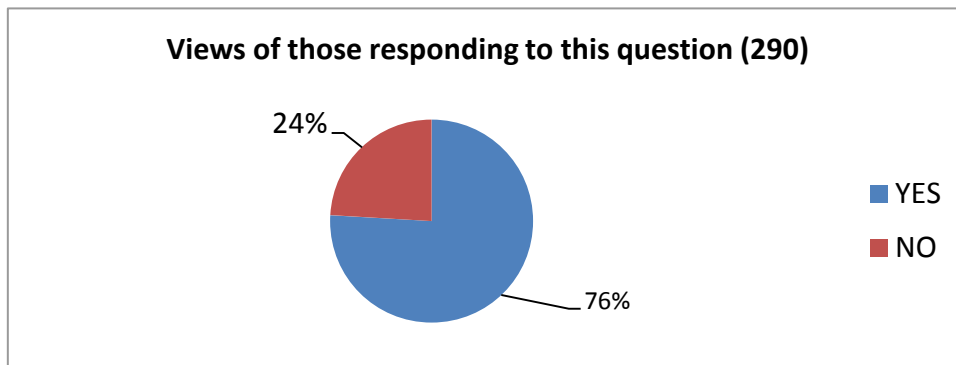
A frequent comment, generally from developers and local planning authorities, was that a national approach based on thresholds would make the system simpler and fairer, creating

a level playing field for all parties. It would allow developers to assess if offsetting would be required and to predict the likely cost of compensation and assist in applying paragraph 118 of the NPPF.

Many respondents commented on the importance of local factors in decision making, whilst recognising the role of a national approach for offsetting in informing planning decisions about offsetting. An example cited was that in areas of relatively low levels of biodiversity such as urban areas, applying a national approach to significance could erode local biodiversity value.

## Securing offsets against provider failure (green paper section 6.2)

**Question 28:** Do you think any additional mechanisms need to be put in place to secure offsets beyond conservation covenants? If so why and what are they? If this includes measures not listed above, please explain what they are.



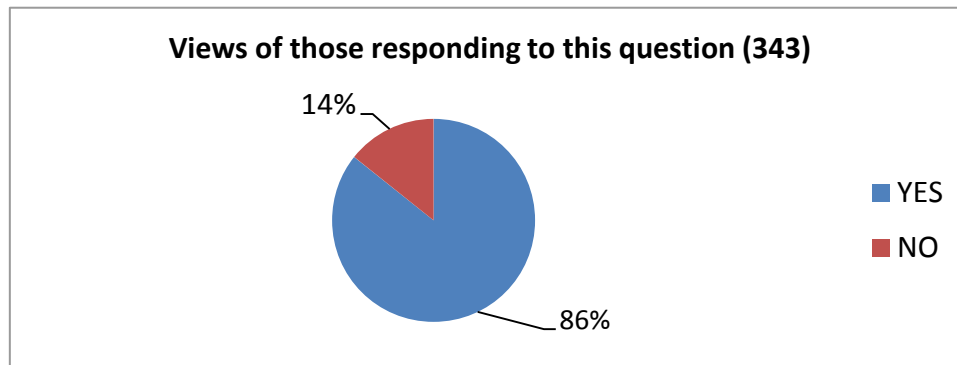
A significant majority of respondents were of the opinion that additional mechanisms were needed to secure offsets beyond conservation covenants. Comments on the reasons why additional mechanisms were necessary were split almost equally between:

- Securing the offset objectives against unforeseen circumstances, notably the risk of provider failure or bankruptcy
- Secure funding for management
- Ensuring compliance with and enforcing the covenant and necessary management

A large number of different proposals were made by respondents on the most suitable alternative methods for securing offsets beyond those proposals mentioned in the green paper. The most frequently suggested proposal was a public sector trust fund, followed by some form of financial instrument or financial penalty system such as a Performance Bond, legal protection or criminal sanctions. Others preferred to rely on pressure from local public opinion and community involvement, which implies a need for public transparency and a complaints system. The importance of a monitoring system was mentioned by a number of respondents.

## What kind of habitat can be provided as an offset (green paper section 6.3)

**Question 29:** Do you think there should be constraints on what habitat can be provided as an offset? If so what constraints do you think should be put in place, and how should they work in practice?



A very large majority of respondents agreed that there should be constraints on what habitat can be provided as an offset. Some developers, whilst accepting the need for some constraints, hoped these would not be overly prescriptive and wanted to see as much flexibility as possible in order to incentivise an offset market.

The most common constraint proposed by respondents was that habitat provided as an offset must be like-for-like.

Respondents recognised the risks of a free-trading system leading to the creation of large expanses of those habitats which are the easiest and cheapest to create, and the risks of losing the most difficult to create habitats as highlighted in the green paper at paragraph 49.

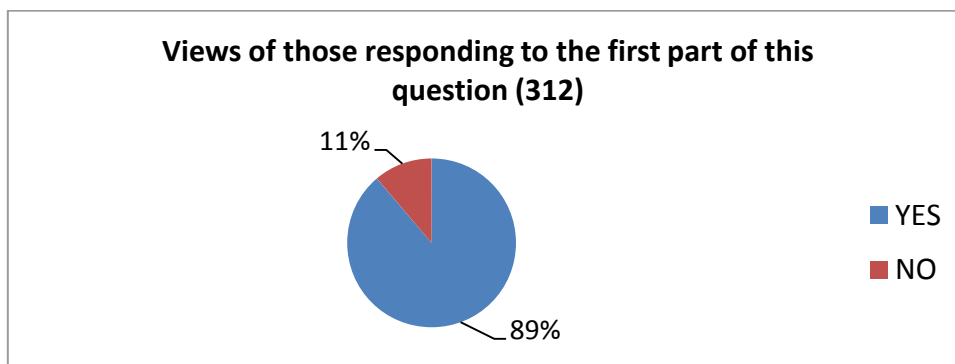
Some respondents referred to the approach taken in the offsetting pilots as a suitable model for a national system i.e. offset habitat should be provided at the same or a higher distinctiveness level.

Many respondents recognised that a hard and fast like-for-like rule could be restrictive and would not always be ecologically feasible. The importance of local decision making, based on local circumstances together with a strategic approach such as the 'hybrid' approach (local preferred but able to look wider if necessary) was recognised as necessary to maximise net gain.

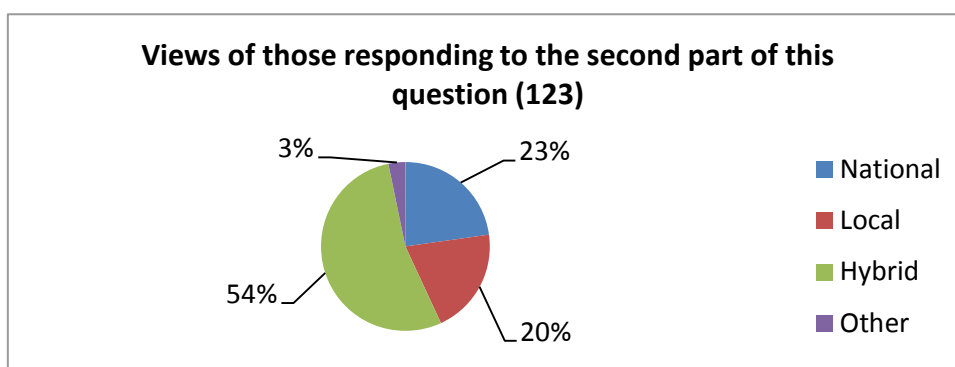


## Creating net ecological gain (green paper section 6.4)

**Question 30:** Do you agree an offsetting system should apply a strategic approach to generate new ecological gain in line with *Making Space for Nature*? If so, at what level should the strategy be set and who by? How should the system ensure compliance with the strategy?



A strong majority of respondents to this question agreed that an offsetting system should apply a strategic approach to generate ecological gain in line with Making Space for Nature.



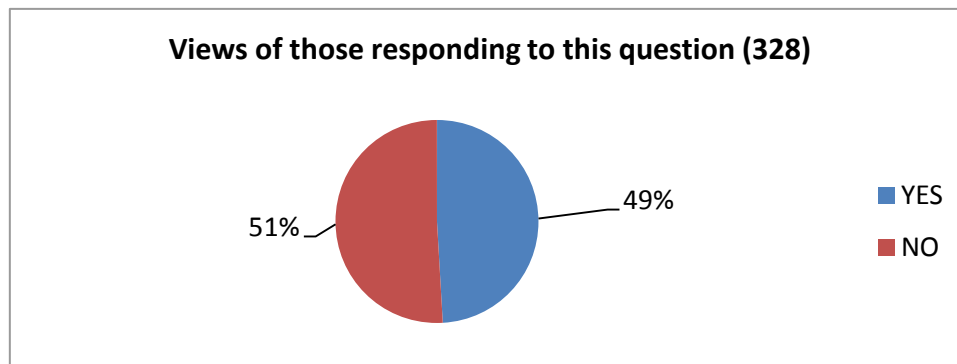
Of those who commented on the most appropriate level for setting a strategy, just over half favoured a hybrid (national and local) approach, with an almost equal split of the remainder between a national approach and a local approach the balance being at a 'landscape scale'.

There was a distinct difference of opinion between different groups of respondents, with developers tending to favour a flexible strategic approach and individuals and wildlife NGOs strongly favouring a more specifically local strategic approach. However, many who did not favour a national strategic approach nevertheless recognised the need to look further afield in situations where ecologically suitable sites were not available at a local level.

In response to the question about who should set the strategy, Local Nature Partnerships were favoured by a third of those who responded to this part of the question, followed by Natural England (in discussion with a range of other bodies) or local planning authorities. A wide variety of other organisations were occasionally suggested by respondents.

## Ensuring environmental benefits are additional (green paper section 6.5)

**Question 31:** Do you think habitat banking should be allowed? Do you think a provider must show intent to create a habitat bank to be allowed to sell it as an offset? Do you think habitat banks should be 'retired' if they are not used to provide an offset? If so, after how long?

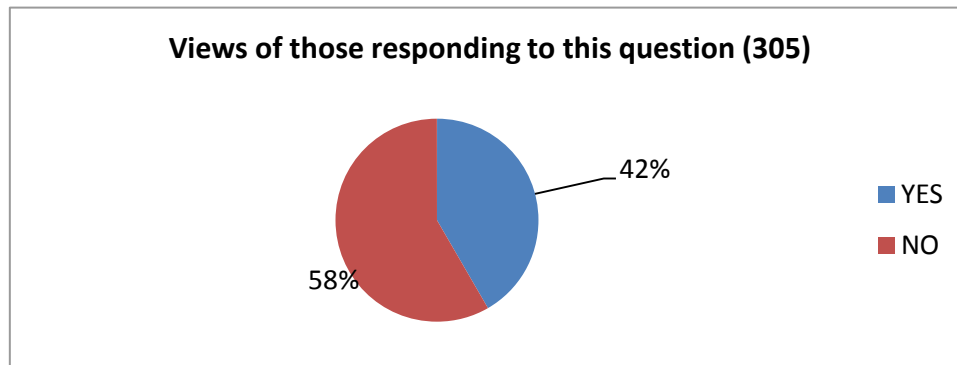


Respondents were equally divided on the merits of habitat banking being allowed as part of an offsetting system. Many respondents provided comments or qualified their response with specific requirements which would have to be fulfilled for a habitat banking scheme to be acceptable.

Of the 161 who responded to the second part of the question on whether a provider must show intent to create a habitat bank to be allowed to sell it as an offset, a very large majority agreed that intent was necessary, and others provided comments.

A smaller number (105) of respondents specifically answered the question of whether habitat banks should be 'retired' if they are not used to provide an offset, and a majority did not consider that this should be a requirement. There were too few responses for meaningful analysis to the final part of the question (if so, after how long).

**Question 32:** Do you think maintaining an environmental gain that might otherwise be lost should count as an offset? If so, how should a value be attached to the offset?



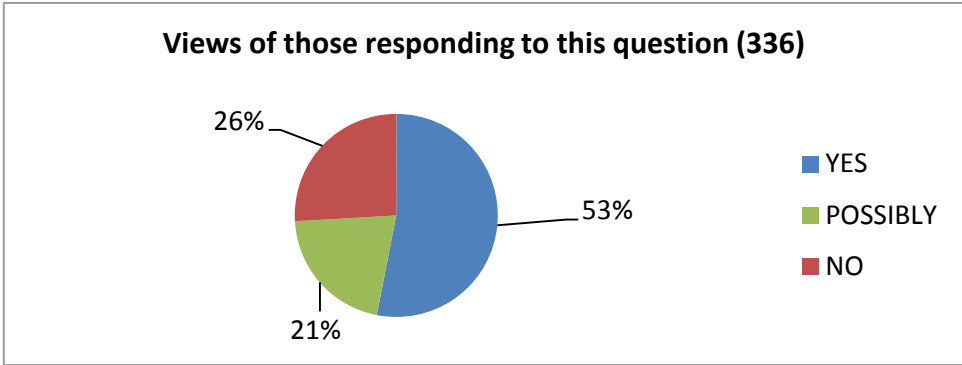
About two fifths of respondents believed that maintaining an environmental gain that might otherwise be lost should count as an offset, although some considered that they might support this approach under certain circumstances. Developers tended to be more supportive of this approach than other types of respondent.

The most frequently cited reasons given for not supporting this approach were: it raised issues of additionality or would not provide a genuine net gain; risks of abuse, blackmail or perverse consequences; the difficulty in proving that the gain claimed would actually be lost; and a view that such gains should be protected anyway by other means. Other comments included concerns that it would risk the credibility of offsetting or would make the system too complicated.

Comments by those who supported the approach were that it could be cheaper than new habitat creation; might be a way of preserving some of the benefits that will be not supported by the new agri-environment schemes; and it is an interesting concept, worthy of exploration.

Only a relatively small number of respondents commented on the final part of this question on how to attach a value to the offset used to maintain an environmental gain that might otherwise be lost, with two fifths suggesting that there was no obvious way, and that this would be difficult. Almost a third suggested that a new metric would be needed, potentially based on the difference in value with or without maintenance, whilst a quarter felt the existing metric could be used.

**Question 33:** Do you think it is acceptable or not to use biodiversity gain created for other purposes as an offset? If you do, how should it be decided what is allowed to be used as an offset?



A slight majority agreed that it is acceptable to use biodiversity gain created for other purposes as an offset, with a further fifth agreeing this might be possible in certain circumstances, or if particular conditions were met. A quarter did not agree with this proposal.

Views on how to decide what is allowed to be used as an offset were varied, although well over half who responded to this part of the question made the point that gains must be genuinely additional. The most frequently proposed approaches were for the decision to either be taken on a case by case basis by the local planning authority, or to be based on the offsetting metric.

**Ensuring consistent application of the metric (green paper section 6.6)**

**Question 34:** How do you think the quality of assessments should be assured and by whom?

Some of the 289 who responded to this question suggested more than one way in which the quality of assessments might be assured. By far the most frequently cited approach was through the use of accredited or certified ecological assessors, either independent or based in Natural England or the Environment Agency. Less frequently suggested approaches included: assurance by a national public body; through the planning process by the local planning authority (LPA); and using accredited ecological assessors. A wide range of other suggestions were offered by respondents, including a role for national standards (both Chartered Institute of Ecology and Environmental Management and Business and Biodiversity Offsets Program standards were mentioned), guidance or training.

There was no consensus on who should be responsible for ensuring the quality of assessments. Many respondents commented on the need for some kind of independent body although few named a specific organisation; some wanted this to be a government body, others independent of Government. The need for independence between the

assessor and the developer was stressed by many respondents, who were concerned that assessments would otherwise not be genuinely objective. Others were also concerned about independence from influence from national government.

A role for local ecological expertise, through wildlife NGOs or others was noted by a number of respondents. Others noted that the planning system, and therefore the LPA was ultimately responsible for ensuring the quality of assessments, and therefore local authority ecologists had an important part to play, although many commented on capacity limitations and a shortfall of in-house ecological expertise.

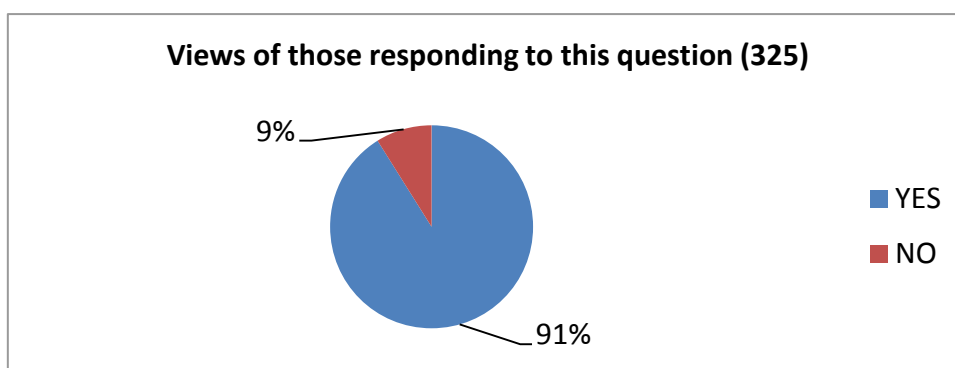
**Question 35:** How should differences of opinion over assessments be assessed?

There was no clear pattern to the suggestions made by the 255 respondents to this question about how differences of opinion over assessments should be addressed. Some respondents provided more than one suggestion.

The most frequently cited proposals were through the local planning authority processes; by means of an appeal or tribunal process; by Natural England; arbitration; through some kind of independent regulator or authorised body; using a professional body dispute resolution mechanism; by seeking a second opinion; or through a public inquiry or hearing.

### Including hedgerows in the metric (green paper section 6.7)

**Question 36:** Do you think the metric should take account of hedgerows? If so do you think the current approach is the right one or should it be adjusted?



A large majority of those who responded to this question agreed that the metric should take account of hedgerows and around two thirds of respondents considered the current approach to be the right one. However, over a third either did not support the current approach or felt that it needs to be adjusted.

A significant number of respondents noted the intrinsic value of hedgerows as a habitat in their own right and the importance of their functional role in linking other habitats. Some respondents were of the opinion that if necessary low quality hedges could be traded for

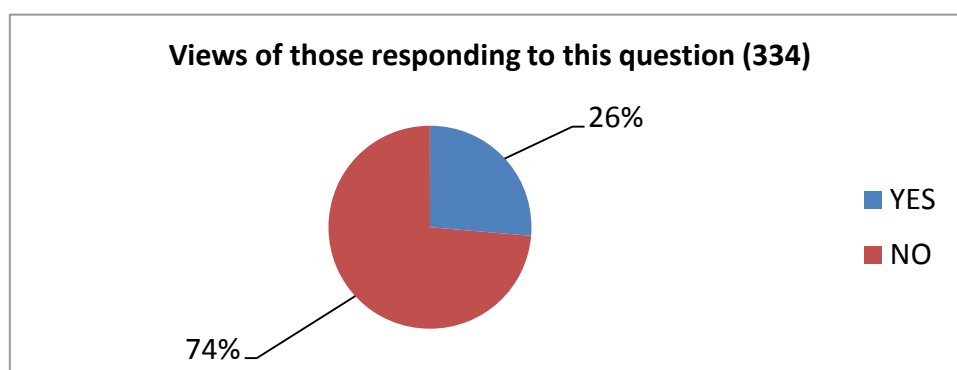
other habitats, but that medium and high quality hedges should be replaced on a like-for-like basis. A frequent comment was that some types, particularly ancient hedgerows, should be considered as irreplaceable.

A wide range of suggestions was made to the second part of this question on how the current approach should be adjusted, many of which were repeated in the response to Question 37. These included proposals on how to define categories of hedgerow quality including giving special attention to hedgerows defined as being a habitat of principal importance in the Natural Environment and Rural Communities Act. The fact that hedgerows are protected by the Hedgerow Regulations was noted by some respondents, who suggested that the regulations provide an appropriate starting point for considering how to manage impacts.

Suggestions were made on appropriate replacement ratios, most but not all considering the 3:1 ratio used in the offsetting pilots as being too low, whilst others felt that the quality of replacement habitat was as important as the length to be provided. A few respondents noted the importance of hedgerow trees and that the metric does not provide a way of dealing with other linear, non-wooded habitats.

Some respondents noted the inadequacy of the Higher Level Stewardship: Farm Environment Plan Handbook methodology for assessing the value of hedgerows (in line with responses to Questions 3 and 4), while others noted projects in progress which might provide a basis for an enhanced hedgerow metric.

**Question 37:** Do you think it should be possible to offset the loss of hedgerows by creating or restoring another form of habitat?



About three quarters of respondents felt that hedgerows should not be offset by other habitat.

About two thirds of the comments on this question indicated that those respondents were opposed to applying offsetting to hedgerows per se. The role of hedgerows in providing the ecosystem function of connectivity by acting as a wildlife corridor was mentioned by many respondents who considered this to be effectively irreplaceable. This led to many respondents either not answering the question directly, or just making the point that

hedgerows are or can be irreplaceable habitat and therefore in their opinion should be excluded from biodiversity offsetting.

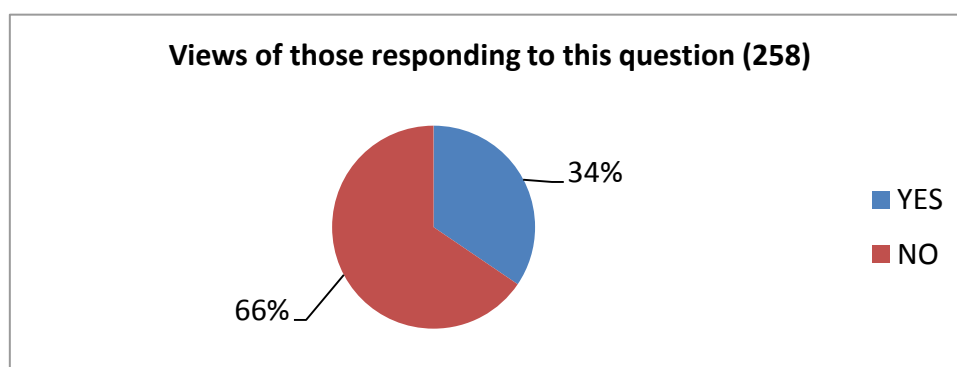
Of the remainder, respondents were equally divided in their views on whether the loss of hedgerows can be offset by creating or restoring another habitat, with half considering this to be possible, and half of the opinion that any replacement must be with another hedgerow (like-for-like). Developers were more in favour of allowing the replacement of hedgerows with other habitat types than were other types of respondent.

Respondents sometimes qualified their response, noting that whilst 'like-for-like' replacement was necessary for hedgerows, this principle should be applied most rigorously to the most distinctive, or high value hedgerow habitats such as ancient hedgerows. Similarly, those who agreed that creating or restoring another habitat as offset is possible often added a caveat that this principle must be considered on a case by case basis, or should apply only to low grade hedgerows, or only if the replacement habitat is another type of linear habitat or delivers similar functions to those lost, such as copses, scrub, or shelter-belts. Others noted the value of hedgerows as a landscape feature and the need to consider landscape in designing hedgerow replacement.

Offering a different take on the consultation question some respondents noted that hedgerows could replace other habitats and easily be accommodated within habitat restoration or creation schemes.

## Implementing biodiversity offsetting (green paper section 7)

**Question 38:** If conservation covenants are put in place, do you think providing for offsetting through planning guidance will be sufficient to achieve national consistency? If not, what legislative provision may be necessary?



Two thirds of respondents did not agree, and a third agreed that if conservation covenants are put in place, planning guidance would be sufficient to achieve national consistency.

Most of the respondents to this question provided general comments on the planning system, or on the need for consistency, and relatively few expressed a specific view on the need for planning guidance.

Given the early stage of development of conservation covenants, respondents clearly found it difficult to judge how they would work in practice in relation to offsetting, and therefore whether guidance would be adequate. Some respondents commented that it is also premature to consider amending primary legislation when the outcome of the pilot scheme was not yet available.

Some respondents questioned the validity of the question as posed, for example why consistency was regarded as more important than appropriateness, or why only planning guidance or legislation were being considered and not planning policy. Others agreed that consistency would be important at many stages of an offsetting system, notably in the specification of compensation requirements and agreeing the acceptability of compensation proposals via offsetting. Although it was not felt that planning guidance would itself guarantee a consistent approach, many respondents did feel that planning guidance on offsetting could be useful in interpreting the policy.

Others commented that existing guidance already specifies the circumstances in which compensation for impacts on biodiversity compensation needs to be provided, and that since offsetting is one way of delivering compensation no new guidance was necessary.

A frequent comment was that planning guidance is open to interpretation, and that lack of conformity with guidance was an issue in achieving consistency. Lack of consistency was seen as often being the result of the perceived lack of ecological expertise or capacity in planning authorities which was mentioned in response to earlier questions, and reference was made to the role of accreditation and other solutions previously offered in those responses.

Too few respondents answered the second part of this question (what legislation) for meaningful analysis. Some felt that all of the measures listed in paragraph 66 of the green paper would be required to achieve national consistency.

## Next steps

Defra recognises that respondents to this consultation have provided a significant amount of useful information and advice and will continue to work with Natural England and interested parties to further our shared understanding of how best to compensate for biodiversity loss when it cannot first be avoided or mitigated, as required by the National Planning Policy Framework.