Nottinghamshire County Council

Biodiversity Offsetting

A Local Offsetting Strategy for Nottinghamshire

1st edition - June 2012

Working with:

NATURAL ENGLAND

A Local Offsetting Strategy for Nottinghamshire

1. Introduction and key principles

Nottinghamshire has been selected as one of six pilot areas nationally to trial biodiversity offsetting. The biodiversity offsetting pilots will run for two years from 1st April 2012.

Biodiversity offsetting (henceforth "offsetting") is the process by which conservation activities designed to produce biodiversity benefits in compensation for losses are delivered, and is distinguished from other forms of ecological compensation by the formal requirement for measurable outcomes.

Developers in pilot areas required to provide compensation for biodiversity loss under planning policy can choose to do so through offsetting, once the mitigation hierarchy has been applied (whereby impacts are first avoided, then mitigated against, with compensation only used as a last resort). In Nottinghamshire, this relates only to direct impacts; indirect impacts must be addressed through appropriate mitigation measures.

The benefit of using biodiversity offsetting for the developer is that:

- It simplifies the discussion about how much compensation is needed: the impact of the development can be measured in units
- It is transparent: relevant information is open and available to all from the start of the process
- It allows the developer to pay someone else to deliver the offset for them, and to take on the responsibility for managing that compensation: they have no ongoing responsibly for the offset

Using the biodiversity offsetting approach means that a developer employs a standardised formula to calculate the number of "biodiversity units" to be lost as a result of their development, based on the habitat(s) affected, and its condition and extent. The developer then provides an offset (either themselves or through a third party offset provider) to deliver an equivalent number of biodiversity units on land elsewhere – either by creating new habitat, or restoring existing (degraded) habitat.

This Local Offsetting Strategy sets out the process by which offsetting will be implemented in Nottinghamshire. It may be updated should any improvements be identified once it is in use, and should be read in conjunction with national guidance produced by Defra:

- Guidance for Developers[1]
- Guidance for Offset Providers[2]

[1] http://www.defra.gov.uk/publications/files/pb13743-bio-guide-developers.pdf
[2] http://www.defra.gov.uk/publications/files/pb13742-bio-guide-offset-providers.pdf

- Appendix 1 of Guidance for Developer and Guidance for Offset Providers[3]
- Information for Local Authorities[4]

All local guidance and supporting information about the offsetting pilot in Nottinghamshire is available on Nottinghamshire County Council's website[5].

2. The Nottinghamshire pilot area

For planning applications determined by Nottinghamshire County Council, the area covered by the pilot covers the whole county of Nottinghamshire. This applies to waste development and the county council's own developments (such as schools, libraries and roads). It is envisaged that offsetting will not normally be applicable to development involving mineral extraction, because such development normally has the ability to create areas of high quality habitat through the restoration process, compensating for any initial loss and sometimes delivering considerable enhancements.

For other planning applications (such as housing, industrial and commercial developments), the local authorities participating in the pilot are listed in Table 1, and shown on the map in Appendix 1. Collectively, the participating authorities cover approximately two-thirds of the county.

Table 1. *Local planning authorities participating in the offsetting pilot*

Bassetlaw District Council
Gedling Borough Council
Newark and Sherwood District Council
Nottingham City Council
Nottinghamshire County Council (lead)

3. Offsetting in the planning process

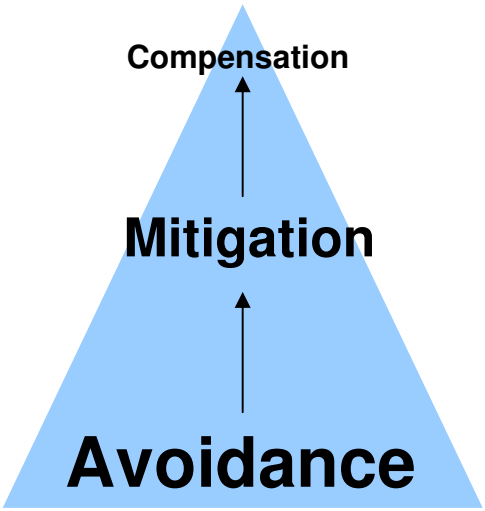
Planning applications submitted to local authorities participating in the offsetting pilot area will be considered as normal, and decisions about their acceptability will be made in line with the development management process.

Fundamental to this is the application of the 'mitigation hierarchy' (Figure 1) which requires that impacts on biodiversity are avoided, mitigated against, or compensated for (in that order), recognising that where satisfactory compensation cannot be secured, then permission should not be granted. In this context, the use of compensation in general, and offsetting specifically, must be a

[3] http://archive.defra.gov.uk/environment/biodiversity/offsetting/documents/1204-bio-offset-pilot-appendix.pdf
[4] http://www.defra.gov.uk/publications/files/pb13744-bio-local-authority-info-note.pdf
[5] http://cms.nottinghamshire.gov.uk/home/environment/planningmatters/biodiversityoffsetting.htm

last resort, where it has not been possible to firstly avoid impacts, or secondly to provide sufficient mitigation.

Figure 1. *The mitigation hierarchy*



It must be noted that offsetting *does not*:

- Replace the need to deliver essential mitigation for protected species where this is required,
- Apply to statutory designated sites (developments which impact on such sites will need to follow existing processes).

4. Determining when offsetting might be required

It is desirable for all concerned (developer, planners and planning consultees) that compensatory requirements are identified as early in the planning process as possible to avoid delays and increased expense.

Offsetting can be used to deliver compensatory requirements for all types of development (except that relating to mineral extraction), and of any size or scale, and developers will be encouraged to consider providing any biodiversity compensation that they need to deliver through offsetting during pre-application discussions with planning officers in participating local authorities, who will be briefed and provided with appropriate supporting information.

Where a potential need for compensation is identified, which could be delivered through offsetting, additional support will be available from Nottinghamshire County Council and Natural England, either through the planning case officer or directly to the developer.

In addition, ecological consultants operating in Nottinghamshire will be proactively encouraged to highlight the potential benefits of offsetting to their

clients during the preparation of planning applications, and again advice will be available from Nottinghamshire County Council and Natural England on an informal and confidential basis.

5. Calculating how much biodiversity needs to be offset

Where a developer chooses to deliver their compensation requirements through offsetting, they will calculate how many 'biodiversity units' will be lost as a result of their development. This involves scoring the habitat (or habitats) to be lost to development based on its distinctiveness (low, medium or high), and multiplying this by the condition score (poor, moderate or good) to give the number of biodiversity units per hectare. A more detailed explanation of this approach is provided in the Defra document "Guidance for Developers".

6. Using offset providers

Developers can choose to provide offsets themselves (for example on land that they own elsewhere), provided that it fits with the details of this offsetting strategy. Alternatively, they can pay a third party (an offset provider) to deliver the offset on their behalf, and to undertake ongoing management of the offset. Third party offset providers may be local authorities, voluntary organisations, or private landowners.

Note that when using an offset provider, the developer is not buying the biodiversity itself, or the land on which it stands. What is being sold is the delivery of the requisite number of biodiversity units, the cost for which is calculated by the offset provider on a case-by-case basis. This also needs to factor in the cost of activities required to maintain the offset in perpetuity, or at least for the lifetime of the development to which the offset relates.

Offset providers will need to produce an approved Biodiversity Offset Management Plan (BOMP) to guide the creation/restoration works at the offset site, and ongoing management into the future, the cost of producing which should be factored into the overall cost of providing the offset. Through the BOMP, offset providers must be able to confirm that works to be delivered by their offset project will provide additionality – i.e. that they will not end up funding works which would be completed anyway through public funds (such as through environmental stewardship, lottery funding or the Landfill Communities Fund).

It is the responsibility of the developer to source a third party offset provider when they chose to go down this route. However, to assist in this process, a regularly updated list of potential offset providers and project sites will be maintained on the Nottinghamshire County Council website[6]. In order to appear on this list, potential offset providers will be required to provide further details, including a calculation of the number of biodiversity units available through their offset

[6] http://cms.nottinghamshire.gov.uk/home/environment/planningmatters/biodiversityoffsetting.htm

project. They can, if they wish, also undertake further work (including production of the Biodiversity Offset Management Plan) and get the project approved by Natural England, meaning that the offset project is 'ready to go' for a developer. In any event, the offset provider should contact Natural England at an early stage to establish that their offset project is likely to fit with this Local Offsetting Strategy.

As noted above, the offset needs to be maintained in perpetuity, or at least for the lifetime of the development to which it relates. This means that the offset cannot be developed or converted into another land use, therefore the long term security of the offset project will be ensured through an appropriate planning mechanism. In addition, a national register of offset projects that have been delivered will be maintained by Defra at a national level, allowing future monitoring of sites.

7. The delivery of habitats through offsetting

In order to ensure that the potential benefits of offsetting are maximised, and to contribute to conservation at a landscape-scale, it is vital that the habitats that are created through offsetting are of high value, appropriate to the local area, and are correctly located in the county. They should also be of a sufficient scale, and in proximity to other areas of habitat, thereby contributing to the strengthening of the ecological network.

It should be noted that the offsets from multiple developments can be pooled together at the same offsetting site, to deliver more substantial gains for biodiversity. Conversely, offsetting requirements from one development can be delivered on multiple offsetting sites, provided that they meet the minimum size thresholds set out below.

Habitats to be delivered by offsetting

The habitats which should be created or restored through offsetting are drawn from the Nottinghamshire Local Biodiversity Action Plan (LBAP)[7], as these have been identified as priorities for conservation action. However, not all habitats listed in the LBAP are deemed appropriate for creation or restoration through offsetting; those which are, are listed in Table 2, with their corresponding IHS code as shown in Appendix 1 of the Guidance for Developers.

These LBAP habitats all have a High 'habitat distinctiveness' score (refer to Guidance for Offset Providers). Where a non-LBAP habitat (e.g. improved grassland) is being used for the creation of new areas of habitat, the intention must always be to increase the habitat distinctiveness from either Low or Medium, to High.

[7] Available at: http://www.nottsbag.org.uk/projects.htm#bap

In addition, where the loss of a habitat with a High 'habitat distinctiveness' is being offset, the habitat delivered through the offset should usually be of the same habitat type – i.e. like-for-like.

Table 2. *LBAP habitats appropriate for creation or restoration in Nottinghamshire and corresponding IHS code*

LBAP habitat	**Corresponding IHS code**
Lowland calcareous grassland	GC0 (GC1)
Lowland dry acid grassland	GA1
Lowland heathland	HE0 (HE1, HE2)
Lowland neutral grassland	GN1
Lowland wet grassland	CF1
Mixed ash-dominated woodland	WB3 (WB36)
Oak-birch woodland	WB3 (WB36)
Wet broadleaved woodland	WB3 (WB34)
Wood pasture & parkland	WM5
Fens, marshes & swamps	EM1, EM2, EM3
Reedbed	EM1 (EM11)
Eutrophic & mesotrophic standing water	AS3
Open mosaic habitat on PDL*	PI2
Hedgerows**	LF11

* restoration only
** creation only

Broad spatial location of offsets

In all cases, offsetting must contribute to one or more of the following themes:

1. *More* – it will produce an overall increase in the amount of LBAP habitat.
2. *Bigger* – it will increase the size of individual patches of existing LBAP habitat.
3. *Better* – it will improve the condition of existing LBAP habitat.
4. *Joined* – it will increase connectivity between areas of existing LBAP habitat.

All offsets must be provided within Nottinghamshire. When determining whether or not a proposed offset is acceptable, the overriding factor will be the quality of the project that it will deliver, and the suitability of offset proposals will be considered on a case-by-case basis. When making these judgements, the following factors will be considered:

A. Contribution to landscape-scale conservation

Offsetting projects that contribute to landscape-scale conservation within the following areas, shown in Appendix 2, will be particularly welcome, especially

where offsets from multiple developments are pooled together at a single offset site:

- Sherwood Forest (Regional Park area)
- Greenwood Community Forest (particularly for woodland creation)
- Trent Valley
- Humberhead Levels Nature Improvement Area (NIA)

B. Proximity to the related development

Ideally, offset projects will be located in proximity to the development to which they relates. However, it is recognised that the availability of land for offsetting is such that this may not always be possible, and may be outweighed by the desire to contribute to landscape-scale conservation efforts (see above) that are some distance away.

As a general rule, the following step-wise approach should be followed with regards to the location of offsets, with offsets projects located in:

1. The same parish (or Nottingham City Area Committee area) as the development to which they relate, but if this is not possible;
2. The same local authority area as the development to which they relate, but if this is not possible;
3. Any of the local authority areas participating in the pilot.

In addition, offsets should seek to contribute to, and be consistent with, local green infrastructure strategies wherever and as far as possible. These are:

- 6Cs *Green Infrastructure Strategy and Action Plan*[8]
- Newark and Sherwood District Council's *Green Infrastructure Strategy*[9]
- Bassetlaw District Council's *Green Infrastructure Study*[10]
- Nottingham City Council's *Breathing Space 2010-2020* and the Open and Green Space Area Commentaries[11]

The right habitats in the right place

Some habitats are appropriate to particular locations in the county, and some are not. To ensure that the habitats are correctly located, Natural England's National Character Area (NCA) approach will be followed[12]. The NCA's covering Nottinghamshire are shown in the map provided in Appendix 3, and are:

- Nottinghamshire, Derbyshire and Yorkshire Coalfield
- Southern Magnesian Limestone

[8] http://www.emgin.co.uk/default.asp?PageID=192#uit
[9] http://planning.newark-sherwooddc.gov.uk/pp/gold/viewGold.asp?IDType=Page&ID=21214
[10] http://www.bassetlaw.gov.uk/planning_and_building/planning_policy/local_development_framework/background_studies/green_infrastructure.aspx
[11] http://www.nottinghamcity.gov.uk/index.aspx?articleid=4902
[12] http://www.naturalengland.org.uk/ourwork/landscape/englands/character/areas/default.aspx

- Sherwood
- Humberhead Levels
- Trent and Belvoir Vales
- Leicestershire and Nottinghamshire Wolds
- Trent Valley Washlands

Note that an additional NCA, the Northern Lincolnshire Edge with Coversands, occupies a very small area in north-east Nottinghamshire, but is ignored due to its size.

Table 3 indicates which LBAP habitats (as identified in Table 2) are appropriate in each of the NCA's.

Table 3. *LBAP habitats and occurrence within National Character Areas*

LBAP habitat	**Nottinghamshire, Derbyshire and Yorkshire Coalfield**	**Southern Magnesian Limestone**	**Sherwood**	**Humberhead Levels**	**Trent and Belvoir Vales**	**Leicestershire and Nottinghamshire Wolds**	**Trent Valley Washlands**
Lowland calcareous grassland		✓			(✓)	(✓)	
Lowland neutral grassland	✓	(✓)			✓	✓	✓
Lowland wet grassland	✓	(✓)	(✓)	✓	✓		✓
Lowland dry acid grassland			✓	(✓)	(✓)		
Lowland heathland			✓				
Mixed ash-dominated woodland	✓	✓			✓	✓	
Oak-birch woodland			✓		(✓)		
Wet broadleaved woodland	✓	(✓)	(✓)	✓	✓		✓
Wood pasture & parkland	✓	✓	✓	✓	✓	✓	✓
Fens, marshes & swamps	✓		(✓)	✓	✓		✓
Reedbed	(✓)			✓	✓		✓
Eutrophic & mesotrophic standing water	✓	✓	✓	✓	✓	✓	✓
Open mosaic habitat on PDL*	✓	✓	✓	✓	✓	✓	✓
Hedgerows**	✓	✓	✓	(✓)	✓	✓	(✓)

* restoration only / ** creation only

✓ = Habitats which are an important and characteristic part of the NCA and should be the focus of habitat restoration and creation efforts

(✓) = Habitats which are a lesser component of the NCA, and are often only relevant in very specific cases – local advice should be sought

Size and fine spatial location of offsets

For habitat restoration projects delivered by offsetting, there is no minimum size constraint on what can be delivered – the area of habitat that will be restored will be dictated by the number of biodiversity units that require offsetting.

For habitat creation projects, a more structured approach is necessary to avoid the creation of small and fragmented habitat blocks which have impaired ecological functioning and are difficult to manage.

Table 4 shows the minimum habitat sizes for the broad habitat categories for habitat creation offset projects. This identifies:

- The minimum habitat size where the habitat forms an extension to an existing area of the same habitat
- The minimum habitat size where the habitat forms an extension to an existing area of a different habitat
- The minimum habitat size where the created habitat is physically removed from any other areas of habitat and forms a 'stand-alone' habitat block

Table 4. *Minimum habitat sizes for habitat creation offset projects*

	Minimum habitat size		
Habitat	Extension (same habitat)	Extension (different habitat)	Stand-alone
Grassland	No min. size	0.5ha	1ha
Heathland	0.25ha	1ha	2ha
Woodland	No min. size	0.5ha	1ha
Wetland (ex. ponds)	No min. size	0.5ha	1ha

A different approach is required for ponds and hedgerows, which is outlined below:

1. Ponds (as a sub-set of eutrophic and mesotrophic standing water

    - Ponds should be created within 1km of an existing LBAP-quality pond.
    - A minimum number of two ponds should be created.

2. Hedgerows

    - Hedgerows can be delivered either as contiguous lengths of new hedgerow, or as smaller sections used for gapping-up existing hedgerows.

- Where a new hedgerow is planted, the minimum length allowable is 20 metres.
- Where gapping-up is undertaken, the total length of gapping-up undertaken must equal the total length of hedgerow that needs to be delivered.

Non-compliance with the local offsetting strategy

Where an offset does not match the requirements of this local offsetting strategy, it is unlikely that they will deliver the same level of biodiversity benefits as an offset that does match the requirements. However, there may be instances where a non-compliant offset can be accepted, because it still delivers some biodiversity benefits. In these instances, the offset provider will be required to manage the risk of the habitat contributing a lower level of biodiversity by applying a 'spatial risk multiplier', as set out in Step 6 and Table 5 of the Guidance for Offset Providers. Instances where this may occur include:

- Where an increase in habitat distinctiveness to High does not occur (i.e. a habitat of only Medium habitat distinctiveness is proposed)
- Where an offset does not comply with the step-wise approach for locating offsets
- Where an LBAP habitat is created/restored that is not consistent with Table 3 above
- Where an offset is provided that does not comply with the minimum habitat sizes specified.

8. Roles and support

Local planning authorities

Local planning authorities (LPAs) participating in the pilot will, through pre-application discussions, highlight to developers that offsetting is available to them as a tool for delivering any compensatory works that may be required in relation to their scheme.

Where compensation requirements are to be delivered though offsetting, the LPA will reach a decision about its acceptability in line with the normal development management process. As part of this process, advice will be taken from Natural England, but the ultimate decision on whether the offset project is acceptable or not will be for the LPA to make.

Nottinghamshire County Council

Nottinghamshire County Council (NCC) will provide pre-application advice to developers and their ecological consultants, where this is sought (either by a direct contact from the developer/consultant, or through the relevant planning case officer at the LPA). NCC will also provide advice to the determining LPA

during the planning application process, where this is sought, and will liaise with Natural England to ensure that the advice received by the LPA is clear and consistent.

NCC will also maintain relevant website-based information about offsetting, including a list of potential offset providers and projects. NCC will also be responsible for maintain this local offsetting strategy, making any necessary amendments to the strategy as the need for these becomes apparent during the pilot process.

Natural England

Natural England will be able to provide advice to local authorities on:

- The offsetting project in general
- The development of an offsetting strategy
- The consistency of individual development proposals and their fit with the offsetting strategy
- Advice on whether biodiversity impacts have been assessed correctly, and whether the biodiversity metric has been applied correctly by the developer
- Advice on offset provider capability to deliver biodiversity offsets, the viability of their specific offset project proposals and its fit with the Local Offsetting Strategy

9. Publicity and promotion

As offsetting is being tested as a national pilot, there may be considerable interest about it. In order to promote offsetting and to recognise the efforts of developers who chose to use offsetting, opportunities to undertake publicity in local press (and through other media where appropriate) will be sought.

10. Further information

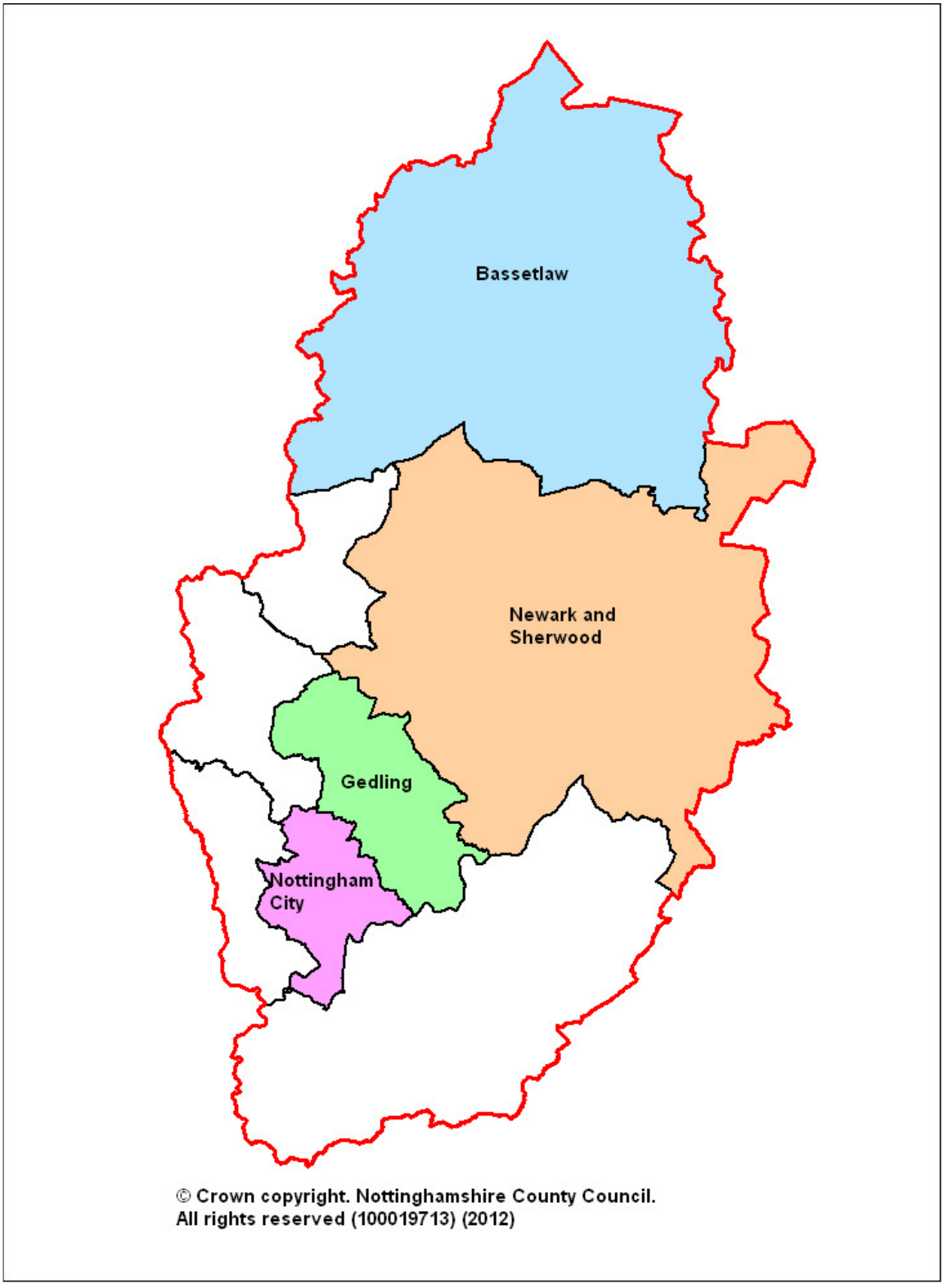
Further information about the biodiversity offsetting pilot in Nottinghamshire can be obtained found on Nottinghamshire County Council's website[13], at:

Alternatively, contact:

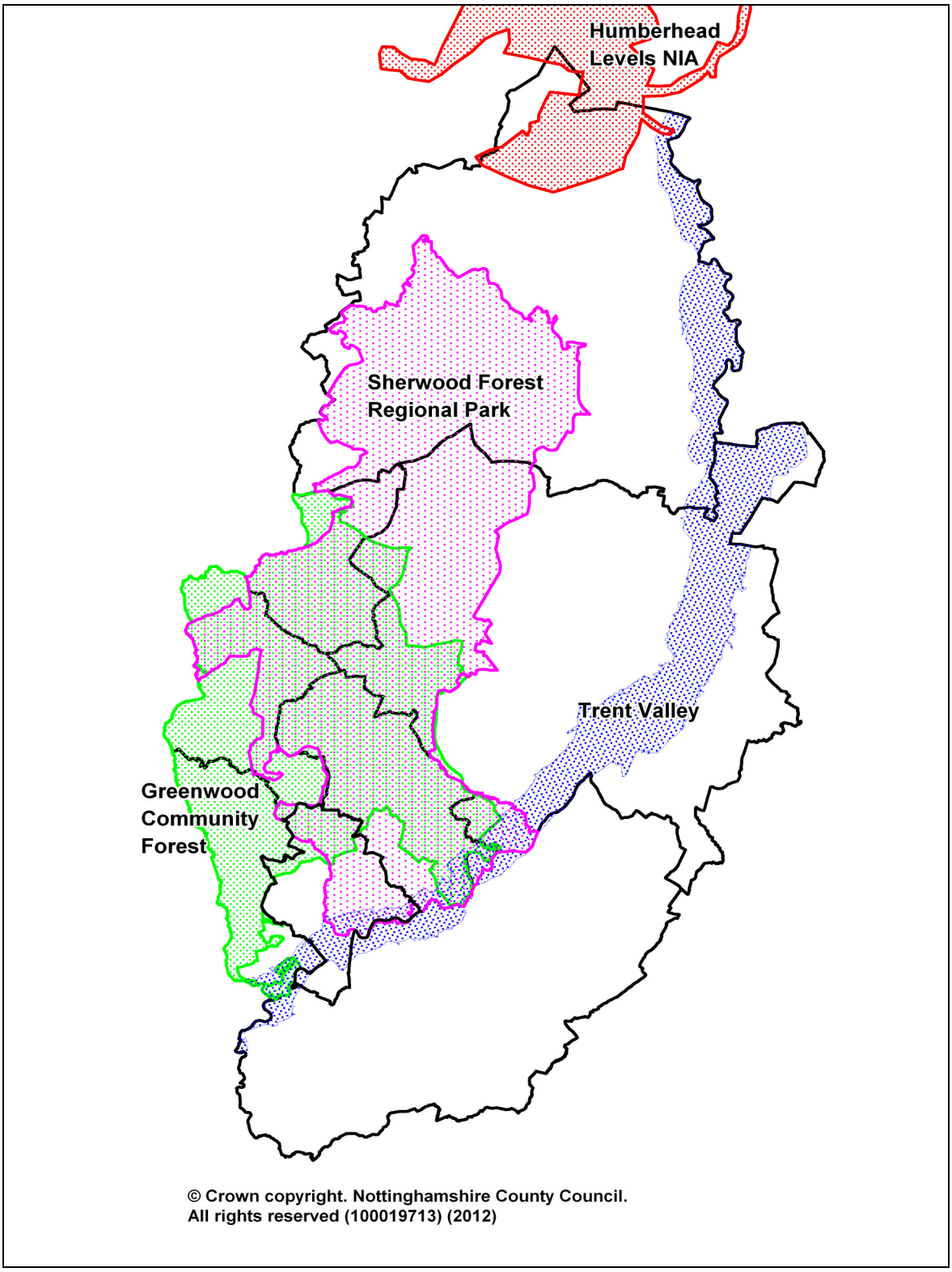
Nick Crouch (Nature Conservation Leader at Nottinghamshire County Council)
Email: nick.crouch@nottscc.gov.uk
Phone: 0115 969 6520

[13] http://cms.nottinghamshire.gov.uk/home/environment/planningmatters/biodiversityoffsetting.htm

Appendix 1 – *Map of the Nottinghamshire Pilot Area*



Appendix 2 – ***Map of landscape-scale conservation target areas in Nottinghamshire***



Appendix 3 – *Map of National Character Areas in Nottinghamshire*