



**REPORT of  
DIRECTOR OF PLANNING AND REGULATORY SERVICES**

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to  
**PLANNING AND LICENSING COMMITTEE  
5 JUNE 2018**

**ESSEX COASTAL RECREATIONAL AVOIDANCE AND MITIGATION  
STRATEGY (RAMS) UPDATE**

**1. PURPOSE OF THE REPORT**

1.1 This report provides an update on the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS). The matters in this report may affect the Council's planning policies and decision-making. Therefore, further reports will need to be made to this Committee for decision as the Strategy progresses.

**2. RECOMMENDATIONS**

2.1 That the Committee receives the Recreational Avoidance and Mitigation Strategy (RAMS) update outlined in this report. Comments from the Committee are sought as there are matters in this report which may affect future planning policies and procedures. Matters for decision will come back to the Committee as required.

**3. SUMMARY OF KEY ISSUES**

**3.1 Background**

3.1.1 There are ten international and nationally protected wildlife sites on the Essex Coast. This includes four wholly, or partly within the District at:

- Blackwater Estuary: Special Protection Area (SPA) and Ramsar
- Dengie: SPA and Ramsar
- Crouch and Roach Estuaries: SPA and Ramsar
- Essex Estuaries: Special Area of Conservation (SAC)

3.1.2 These sites are protected by the Conservation of Habitats and Species Regulations 2017 for their exceptional wildlife including large numbers of wintering water birds, a range of breeding species and habitats.

3.1.3 These birds, other coastal species and habitats can be vulnerable to disturbance from recreation so there is the potential for conflict with people. This issue is particularly acute along coasts and estuaries which have a strong draw for visitors. In general, the areas attractive to people and wildlife coincide along a narrow strip of land along the water's edge adding to the potential severity of the impacts.

- 3.1.4 The Regulations were originally published in 2010, but were updated and consolidated into the Conservation of Habitats and Species Regulations 2017 which came into effect on 30 November 2017. Both sets of Regulations require Local Planning Authorities (LPA) to demonstrate that their Local Plans will not adversely affect the integrity of a protected site(s) through a Habitats Regulations Assessment (HRA). Similarly, the Regulations require the Council as a ‘competent authority’ to ensure that planning permission is not granted for development that will have an adverse impact upon a protected site in the District, unless appropriate mitigation is sought. Any mitigation is a requirement of legislation so must be delivered.
- 3.1.5 A significant amount of housing is being proposed by the other Essex Local Plans. Of the seven in the public domain at present (Basildon, Braintree, Brentwood, Chelmsford, Colchester, Rochford and Tendring) approximately 94,500 dwellings are identified. Natural England expects this to increase recreational activity in or near the Essex coast, including impacting on the integrity of Maldon’s protected sites, which is contrary to national legislation.
- 3.1.6 The seven Local Plans are being produced with broadly similar timeframes. This provides a significant opportunity to deliver a comprehensive, strategic solution to recreational impact on the Essex Coast and influence planning policy which can inform these Plans (and other future plans) and ensure the most appropriate policies are in place to protect areas, understand the likely impact and secure funding and resources to mitigate impacts. Natural England have identified that a Recreation Avoidance and Mitigation Strategy (RAMS) will provide the necessary confidence that mitigation will be delivered in the right places to address the impacts identified, at the right time, as a consequence of new development.

## 3.2 **Progress to date**

### 3.2.1 Timetable

- 3.2.1.1 At the meeting of this Committee on 17 April 2018 Members sought further details on the timetable, particularly in relation to the key outputs of the RAMS project. Officers asked that the timetable be re-considered in places to take into account each participating authorities reporting processes, including those of this Committee, to ensure that all Members are engaged at key milestones, such as to consider the draft RAMS evidence report and the draft Supplementary Planning Document (SPD). The revised timetable identifying key milestones is attached as **APPENDIX 1**. Implications for future Committee reports are also set out.
- 3.2.1.2 The draft RAMS evidence report is a technical document and is expected to be brought to this Committee in September 2018: this is expected to be a lengthy and detailed report, but where possible, key sections will be brought to this Committee for information prior to September to aid Members understanding of the process and provide the basis for the draft RAMS SPD that will follow.
- 3.2.1.3 A key output of the evidence report will be the draft SPD. The timetable indicates that this will be available for consideration by this Committee in November. Although Essex County Council (ECC) Place Services are producing the SPD, and will coordinate the consultation and undertake any subsequent re-drafting, the approach taken to the SPD will be the same as that for Council-produced SPD’s. The

draft SPD will be brought to this Committee prior to public consultation, and again post consultation to identify any changes made as a result of the consultation, as well as to highlight the comments made and the officer response. The SPD will need to be adopted by the Council before it can be used as a SPD. The Council's project lead will be responsible for co-ordinating officer and Member responses to any draft documents to ensure that the final documents address the District's needs. These will be reported to the EPOA Officer Project Group and submitted to ECC.

3.2.1.4 The SPD also needs to go through each partner authority's relevant Committee cycle prior to consultation being undertaken.

### 3.2.2 Zones of influence

3.2.2.1 Each protected site currently has a Zone Of Influence (ZOIs) which is the likely distance visitors are prepared to travel to reach that site. The zones of influence vary significantly (from, for example, 8km to 24km) and overlap. The purpose of the surveys is to confirm the zones of influence of each protected site. Therefore, the questions being asked are around where visitors have travelled from, how frequently they travel and for what purpose. It is important that the zones are robust as they will provide the basis for determining which development contributes to mitigation at which sites. The winter survey data for nine sites (excluding the Blackwater Estuary where summer surveys are taking place – see paragraphs 3.2.3.1 and 3.2.3.2 below) are currently being analysed by Natural England to inform the new zones of influence for those protected sites. These will be based on the 75<sup>th</sup> percentile of postcode data taken from the winter surveys (only winter surveys were undertaken for these nine sites to reflect their protected characteristics) – officers are advised this is best practice and Natural England use the 75<sup>th</sup> percentile for all the ZOIs currently in place across England.

3.2.2.2 Once the summer surveys for the Blackwater Estuary have been completed and assessed, Natural England will combine the data with that from the winter surveys to produce its zone. The same process will be used as for the other sites.

### 3.2.3 Summer surveys

3.2.3.1 Summer visitor surveys need to be carried out for the Blackwater Estuary as this site has breeding bird features which could be disturbed by recreational activities during the summer months. The Royal Society for the Protection of Birds (RSPB) and Natural England advise that the species most likely to be affected are the Little Tern and Ringed Plover, so the survey locations will be based on recent nesting sites for these species at Tollesbury Wick and Bradwell Marina.

3.2.3.2 ECC will use the same format as for the winter surveys: a digital questionnaire (inputted directly onto an iPad) to capture postcode data. To reflect comments made by the Vice Chairman of this Committee at the first stakeholder workshop, and Officer concerns relating to the ability to record water and air based activity in the Estuary, a separate section has been added to allow the surveyor to record any other disturbance from water based / air based activities which is more noticeable in the summer months. While it may not be possible to speak to those involved, recording these activities can help inform future mitigation. Surveys are expected to take place from the 19 May for two weeks and will include the Spring Bank school holidays.

Surveys will take place at each location on two weekend days and two week days, 7.30am - 5pm. All surveys will take place within the Council's identified budget.

#### 3.2.4 Stakeholder workshops

3.2.4.1 To provide a greater insight into the impacts the coast and its environs face, a series of workshops have been arranged for those stakeholders who manage or impact on the protected sites. The first workshops (one for the North of Essex, including Maldon, and one for the South of Essex) were held in February / March – the outputs are attached as **APPENDIX 2**. Those who were not able to attend are being contacted separately to ensure that the evidence base is as robust as possible. This includes the National Trust, an important landowner in the Blackwater Estuary – officers have met them separately to ensure they are fully engaged in the process. The evidence base will therefore continue to evolve over the next month or so.

3.2.4.2 A second North workshop will be held on the 15 June 2018 (at Colchester Borough Council) and a second South workshop will be held on the 12 June 2018 (at Wat Tyler Country Park). The Vice Chairman of this Committee will be invited to the North workshop. The focus of the second workshops will be to identify appropriate and effective mitigation to address the impacts identified from the first workshops and from the survey data, as well as from other evidence base work undertaken to date.

#### 3.2.5 Elected Members Forum

3.2.5.1 In response to Members request at 17 April 2018 Committee, Officers confirmed that a Members Forum had been requested to ensure that Members from the participating authorities had the opportunity to have meaningful engagement in the RAMS process. This would be undertaken as part of each Council's Duty to Cooperate requirements. Partners were supportive of the principle - the draft Terms of Reference for the Forum and the governance structure for the project is attached as **APPENDIX 3**. It is intended that these will be formally agreed by the Forum at its first meeting. The first Forum is to be in late June / early July. This is timed to enable Members to discuss the emerging RAMS evidence report. Forums are likely to take place at other key milestones, such as when the draft SPD is being finalised. This will ensure the outputs from the Forum are meaningful and add value to the RAMS process. The Forum will be able to request additional meetings if required. Maldon Council will host and administer the Forum meetings.

#### 3.2.6 Chargeable development

3.2.6.1 Once the zones of influence have been identified, the number of dwellings proposed in each Local Plan, within each zone will be identified. These will be the dwellings that may be subject to a developer contribution. For all the other authorities the number of dwellings will be the housing target from their emerging Local Plans. Because Maldon Council has an approved LDP, and the majority of the allocations have planning permission, the approach taken in Maldon will need to be different. Officers have been clear that the Council would only be able to seek developer contributions for the LDP allocations that do not have planning permission i.e. Heybridge Swifts and land west of Burnham on Crouch, the neighbourhood plan allowance and windfalls, from the date the RAMS SPD is adopted.

- 3.2.6.2 Project level Habitats Regulations Assessments have been undertaken for the allocations with planning permission – as a result mitigation to address recreational impacts has already been agreed with Natural England. To apply a developer contribution retrospectively to allocations with planning permission (and with agreed mitigation), could be unlawful and the Council would not be able to adopt the SPD. To provide certainty and transparency to those making applications for residential development Officers recommend that a formula setting out the mechanism for the calculation of the charge, and to whom it applies, will need to be identified in the draft SPD.
- 3.2.6.3 In accordance with the Community Infrastructure Levy Regulations 2010 all developer contributions must be necessary, directly related and fairly and reasonable related in scale and kind to the development. It would be unreasonable for the cost of all mitigation to be borne by new development that comes forward after the SPD has been put in place. Similarly under the legislation, developer contributions can only be used to help mitigate the impacts of new development, although existing issues may be addressed where they are impacted on by the new development.
- 3.2.6.4 Officers have had initial discussions with the Council’s Legal Services about RAMS, but a priority is for RAMS and its approach to securing developer contributions to be discussed with legal services from each authority. An update will be brought to this Committee in future reports.

#### **4. CONCLUSIONS**

- 4.1 The Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS) is a joint initiative between 11 Essex authorities to identify the recreational impacts new homes will have on the international and nationally protected sites along the Essex Coast.
- 4.2 The project is moving towards the end of the evidence gathering stage: the second stakeholder workshops are due to take place shortly, the analysis of the summer surveys for the Blackwater Estuary are taking place so that the zones of influence for each site can be identified. The next key milestone is the publication of the RAMS evidence report in September 2018. Prior to this the Members Forum will be able to consider the emerging report in early summer.
- 4.3 Further discussion needs to take place on a range of issues, particularly relating to the number of dwellings expected to be charged in the District, the best way to secure financial contributions from new development, the impact upon the viability of new development and how the contributions should be managed and distributed. Further reports will be brought back to this Committee to provide information updates and also for decision-making.

#### **5. IMPACT ON CORPORATE GOALS**

- 5.1 The Recreation Avoidance and Mitigation Strategy will have a positive impact on the corporate goals which underpin the Council’s vision for the District, in particular protecting and shaping the District and balancing the future needs of the community.

## 6. IMPLICATIONS

- (i) **Impact on Customers** – This report provides customers with the most up-to-date progress on RAMS. Clear strategy working with other authorities in Essex provides certainty to residents and businesses in the District.
- (ii) **Impact on Equalities** – The SPD will be subject to an Equalities Impact Assessment.
- (iii) **Impact on Risk** – A RAMS is required in accordance with national legislation. The Council is a competent authority and must ensure that new development does not adversely impact upon protected sites in the District. The RAMS will provide greater certainty to the Council, developers and the local community in relation to the costs associated with development.
- (iv) **Impact on Resources (financial)** – The summer surveys are being undertaken within the Council’s identified budget. RAMS is expected to generate financial contributions from new development to help deliver mitigation projects in the District. This resource is not known at this point. Being involved in a strategic project is cost-effective and means that the cost of the project is shared between 11 authorities rather than being funded solely by the Council.
- (v) **Impact on Resources (human)** – Project management of the RAMS is by Essex County Council: Place Services. The Council’s project lead is in-house. The SPD will provide a robust and transparent process within which to negotiate financial contributions from new development. The SPD will enable the development management process to be streamlined and be more efficient and effective.
- (vi) **Impact on the Environment** – RAMS promotes sustainable development and safeguards the character and distinctiveness of the District. A SEA Screening Report will be undertaken for the SPD. By securing financial contributions to deliver mitigation for recreational impacts could generate significant positive impacts for the District’s environment.

### Background Papers:

Local Development Plan 2014-2029

Maldon District Local Development Plan Post Examination Sustainability Appraisal Report incorporating Strategic Environmental Assessment and Habitats Regulations Assessment, 2017

Conservation of Habitats and Species Regulations 2017

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