



**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

**to
PLANNING AND LICENSING COMMITTEE
24 JANUARY 2019**

**DRAFT ESSEX COAST RECREATIONAL DISTURBANCE AVOIDANCE AND
MITIGATION STRATEGY (RAMS): STAKEHOLDER AND PUBLIC
CONSULTATION**

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to outline the content of the draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS) (**APPENDIX A**). It seeks Committee's approval for the draft RAMS to go out for public consultation. In accordance with the Council's Statement of Community Involvement, consultation for the RAMS will be undertaken over a six week period.
- 1.2 This report also seeks the Committee's approval for the RAMS to be used as the evidence base for securing financial contributions from new housing development in the interim period prior to the draft RAMS Supplementary Planning Document (SPD) being adopted.

2. RECOMMENDATIONS

- (i) That the draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS) be approved for stakeholder and public consultation;

To the Council:

- (ii) That the draft Essex Coast RAMS be approved for securing financial contributions from new housing development in the interim period prior to the draft Essex Coast RAMS SPD being adopted

3. SUMMARY OF KEY ISSUES

3.1 Draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS)

- 3.1.1 The Conservation of Habitats and Species Regulations 2017 protects the ten international and nationally designated Habitats sites on the Essex Coast for their wildlife and habitats, including large numbers of wintering water birds. Four are 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 The Regulations require Local Planning Authorities (LPA) to demonstrate that their Local Plans will not adversely affect the integrity of a Habitats 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 Habitat site(s) in the District or elsewhere, unless appropriate mitigation is sought. Any mitigation is a requirement of legislation so must be delivered.
- 3.1.3 Natural England has identified that a significant amount of new housing is expected to come forward in the Essex Coast area by 2038 (Basildon, Braintree, Brentwood, Castle Point, Chelmsford, Colchester, Maldon, Rochford, Southend on Sea, Tendring, Thurrock). In their opinion, the associated increase in residents is expected to have a significant cumulative recreational impact upon the integrity of the Habitats sites, which is contrary to the Regulations.
- 3.1.4 Natural England has identified that a Recreational disturbance 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.
- 3.1.5 The RAMS will only mitigate ‘in combination’ effects of new housing through a tariff. Strategic sites may also generate ‘at source’ (on site) effects. If a development is required to provide on site mitigation, the tariff would still be required to address the ‘in combination’ effects expected to be experienced at the Habitats sites. The type of effect would be identified through a project level HRA undertaken as part of the planning application process for the site.

4. TECHNICAL REPORT

- 4.1 The RAMS has been prepared by Essex Place Services. It comprises two sections: the Technical Report and the Mitigation Report. The Technical Report sets out:
- why the RAMS is needed;
 - the purpose of the Strategy;
 - background evidence and analysis including:
 - winter and summer visitor surveys and results: their location, the survey methodology, questionnaire and results (previously brought to this Committee in March, Minute No. 2018/882, and June 2018, Minute No. 2018/123);
 - the approach taken to stakeholder workshops and their outputs (reported to this Committee in June 2018, Minute No. 2018/123);

- assessment of published data, reports and studies, such as the Habitats sites Site Improvement Plans, existing mitigation and bird data provided by the Wetland Bird Survey (WeBS);
- the zones of influence (reported in July 2018, Minute No 2018/291).

4.2 Mitigation Report

4.2.1 This part of the RAMS sets out:

- The overall mitigation package;
- How mitigation will be funded;
- How mitigation will be implemented and broad timescales for delivery;
- Details about monitoring and review.
- The amount of new homes expected to contribute to mitigation;
- The level of tariff recommended.

4.3 Mitigation package

4.3.1 Avoiding potential conflicts between birds and people is the priority of the RAMS. The Technical Report identifies key broad locations which are more accessible to visitors where recreation is expected to result in disturbance of key bird roosts. In the District these are at: Heybridge Basin; Northey Island; Bradwell Waterside; St Peters Chapel, Dengie; and, Tollesbury. Precise sites will vary depending on the time of year.

4.3.2 To address impacts in these key locations a mitigation package of interdependent projects has been produced, informed by the Technical Report, a precautionary approach and best practice. The mitigation package is required to ensure that an increase in recreational activity on the Coast does not increase the level of bird disturbance that currently exists. Costs are based on those provided by Partners for similar recent projects in the Essex Coast and in similar locations.

4.3.3 It is important that the mitigation package is pragmatic and realistic and only mitigates the recreational impacts of new development, and not existing issues. As such, the package and its phasing will need to reflect:

- Which measures will achieve the greatest impact in the most cost effective way;
- The complexity of projects: some may require long term planning, feasibility work prior to on the ground delivery etc.;
- The phasing of housing and therefore the availability of funding: Although the RAMS must be in place prior to the adoption of the first local plan in the Essex Coast (excluding Maldon), the RAMS indicates that most development will take place between 2023 - 2028, and many of the larger allocations and Garden Communities in particular are expected to have long lead-in times. This means that it may take some time for the majority of funding to be generated. The projects identified, particularly in the short term, will need to reflect this.

- 4.3.4 Four delivery timeframes have been identified: immediate priority (years one - two), short to medium priority (years three - five), longer term priority (years six - ten) and long term priority (10 years+). However, the precise delivery timeframe for each project will be agreed through the delivery process (see paragraphs 4.12.1 – 4.12.4). As the projects are reliant on the delivery of housing and the impacts evidenced on the Coast, as delivery evolves projects may need to be re-prioritised to reflect changing circumstances, the availability of funding from other sources (which RAMS could match fund) and changing national and local priorities.
- 4.3.5 Full details of the mitigation package are set out in Table 8.1 of the RAMS. The key implications for the District are discussed below.
- 4.4 **Delivery Co-ordinator**
- 4.4.1 To ensure delivery is managed effectively and efficiently a Delivery Co-ordinator will need to be appointed by the Accountable Body (see paragraph 4.12.3). This officer would be the main contact point for the RAMS and would ensure that the RAMS is being delivered as approved. They would provide regular updates to the Project Board and steering group (see governance) and will need to ensure that the RAMS complements projects delivered at Habitats sites by other stakeholders e.g. landowners, Essex Wildlife Trust (EWT), the Royal Society for the Protection of Birds (RSPB) and would need to identify opportunities to bring additional benefits through match funding.
- 4.5 **Bird Aware**
- 4.5.1 The RAMS identifies that communication and education are essential to deliver positive outcomes to the Coast. The Solent RAMS has established Bird Aware, a not-for-profit partnership which is a marketing tool, designed to educate and raise awareness of the birds that spend the winter on the Solent, so that people can enjoy the coast without disturbing the birds (see Minute No 2018/291).
- 4.5.2 The RAMS recommends establishing Bird Aware: Essex Coast as a cost-effective way to help deliver this key strand of the Strategy. Being involved in an established brand would generate greater awareness – by representing more of the environment, more mitigation and a larger public audience means the brand holds more weight in the statements it makes. This could make the process more credible to developers and the public.
- 4.5.3 Initial involvement would be £3,500 (£318 per Partner) and would cover the cost of a dedicated Essex Coast website, a locally tailored leaflet, brand kit and children's resources. The Essex Coast design would be in keeping with the brand but the Partners would have control over the content to ensure it is Essex Coast specific.
- 4.5.4 The Council's Countryside and Coast, Communications and Tourism Managers recognise that using an established brand could have positive benefits for the promotion of the RAMS in the District. Its use would not conflict with any other promotional material the Council is currently involved with. The initial contribution would come from existing budgets.

- 4.5.5 It is possible that other mitigation projects, such as the delivery officer, rangers, responsible dog owner campaigns and new signage could be delivered under the Bird Aware brand. However, this would be a decision for the Partners through the governance arrangements (see paragraphs 4.12.1 – 4.12.4).

4.6 Rangers

- 4.6.1 Encouraging people to avoid disturbance of birds through face to face education and communication has been identified by other partnerships, such as at Thames Basin Heaths and Dorset Heaths as an effective way to manage visitor behaviour. The RAMS supports this approach and identifies key locations with good visitor access that are likely to result in disturbance of key bird roosts, where rangers should focus their time. Six are within the District at Heybridge Basin, St Lawrence, Bradwell Waterside, St Peters Chapel, Burnham-on-Crouch, Tollesbury.
- 4.6.2 The RAMS provides for three Rangers to work across the Habitats sites. The RAMS recommends that during the winter one ranger should be dedicated to the Blackwater Estuary when disturbance of over wintering birds is likely from the number of homes planned in its Zone Of Influence (ZOI). The Blackwater Estuary will also be a priority for ranger visits in the summer as well. However, it is important that the rangers work with and complement existing services provided by the Councils and other organisations to ensure maximum value is achieved.

4.7 River bailiffs / codes of conduct/byelaws

- 4.7.1 The RAMS acknowledges the success of Maldon's river bailiff and recommends it should be expanded to the Colne Estuary and Hamford Water. The RAMS also recognises that the increasing use of watersports is an area of concern in the Blackwater Estuary, and that additional enforcement should be funded by the RAMS in this location, in the medium to longer term.
- 4.7.2 Bailiff activity would be most effective at reducing disturbance if backed up by new zoning aimed at reducing disturbance to key locations. The RAMS recommends introducing water sport zones, which could be appropriate in both the Blackwater Estuary and the River Crouch. This could reflect the successful 'wildlife refuge zones' used in the Exe where, depending on proximity to roosts, watersports are either not permitted, or are only permitted at certain times of the day (depending on the tide) / year (to reflect the seasons), and/or are restricted to certain types of activity.
- 4.7.3 The RAMS recognises that users will be most likely to alter their behaviour if measures, such as new codes of conduct and/or byelaws are established through close working with watersports groups, such as boating and paddleboarding clubs. Given the increasing level of watersport recreational activity in the District, there is potential to pilot this with key users groups active in the area.

4.8 Habitat Creation

- 4.8.1 Habitat creation has always been a feature of the RAMS but early drafts only allocated £50,000 for projects. Following representations by the Vice-Chairman of this Committee and the Acting Planning Policy Team Leader that the Technical Report justified an increased funding allocation, £500,000 has now been allocated for

habitat creation, which could include saltmarsh re-charge, regulated tidal exchange and artificial roosts at key locations. This provides the necessary ‘hooks’ for appropriate habitat projects to be delivered within and outside the District once the funding becomes available in the medium to longer term.

4.9 Habitat Protection

- 4.9.1 Areas of farmland and grassland outside, but adjoining the Habitats Sites (known as Functionally Linked Land) may be important ecologically in supporting the bird populations for which the Habitats sites have been designated. Many of these areas are within the District and are managed by farmers and other landowners under Higher Level Stewardship schemes. The RAMS recognises their importance to the longevity of the Habitats Sites: a key project is to map these areas and work with landowners in the District and elsewhere to ensure that any projects within the Habitats Sites complement those within the Functionally Linked Land.

4.10 Monitoring / Visitor surveys

- 4.10.1 The RAMS recognises that the key locations for bird roosts and the status of those species may change over time, as will recreation patterns, with factors such as climate, coastal erosion and the popularity / trends of different activities likely to influence distribution and access. Monitoring is an important element within the mitigation package: it is tailored to pick up ‘early-warning’ of any new issues and use of key measurable outcomes should ensure that the mitigation measures are effective. As such a detailed monitoring package will be a separate workstream delivered by the Steering Group in due course.
- 4.10.2 Monitoring of bird roosts will continue at regular intervals, through WeBS and volunteer observations across the Coast. This will ensure that trends in bird populations can be identified and impacts managed accordingly. Monitoring of access will be linked to the WeBS data to ensure any trends of recreation impact upon protected species are identified and mitigation projects identified where necessary. Relevant monitoring information will be reported annually to inform the Council’s Authority Monitoring Report.
- 4.10.3 The RAMS acknowledges that in some cases the total number of visitors completing visitor surveys for the RAMS was below that considered by Visit Britain guidelines to provide a comprehensive view of recreational activity on the coast. However, Natural England is satisfied that the responses are acceptable to inform the RAMS, as long as the mitigation package prioritises additional surveys in years one and two. Several locations, including the Dengie and the Crouch, have been prioritised for summer surveys early in the delivery period. Results would be combined with the existing winter surveys (used for the RAMS) to ensure the ZOI for each Habitats Site remains fit for purpose.
- 4.10.4 Therefore, visitor surveys are essential to the integrity of the RAMS process. Currently, the ZOIs for Habitats Sites in the District capture a significant proportion of housing from outside the District - it is important that their evidence base is kept up to date otherwise the Partners, and the Council as a competent authority, could be open to challenge. The RAMS also recognises that additional surveys provide an opportunity to enhance user data on watersport / air borne recreation activity and

ensure their impacts are fed into the delivery of key projects. This would benefit the Council and its partners by helping to justify associated projects in the District.

4.11 RAMS Tariff

- 4.11.1 The 11 Partners are seeking to deliver approx. 72,907 houses in their Local Plans over the plan period 2018 - 2038 (the lifetime of the Local Plans). This figure is based on current published housing figures in adopted and draft Local Plans – it is expected that as the Local Plans go through the plan-making process or are reviewed this figure will change. The RAMS and its SPD will be reviewed at appropriate intervals to ensure the documents remain up to date, relevant and effective.
- 4.11.2 The RAMS tariff is calculated by dividing the overall cost of the mitigation package (£8,916,448) by the number of dwellings in the Local Plans (without planning permission) which will be built in the Essex Coast Zone of Influence until 2038 (72,907 dwellings). The tariff per dwelling is therefore £122.30. Prior to the adoption of the SPD the housing figures will be re-considered to deduct any houses that have been granted planning permission in the interim. The cost of the mitigation measures will increase with inflation each year in line with the Retail Price Index.
- 4.11.3 All new residential development (where there is a net increase in the number of dwellings) built in the Zone of Influence will be required to make a financial contribution. The RAMS shows that all of the District falls within the ZOI. As such, all new housing will be liable to make a financial contribution.
- 4.11.4 The detailed approach to securing the tariff is still being finalised and will be a matter for the draft SPD (see paragraph 4.13.1).

4.12 Governance

- 4.12.1 To ensure transparency, governance arrangements are being taken forward by the Partners, rather than by Essex Place Services. Essentially, the Partners through the Essex Planning Officers Association (EPOA) Chief Officers Group propose to introduce a Project Board / Steering Group model (the draft governance chart is attached as **APPENDIX B**). This model has been implemented successfully by several partnerships elsewhere including North Kent, Dorset Heathlands and the Solent. Officers consider that the model can easily be transferred to the Essex Coast, however the objectives and priorities it delivers will be those set out by the Essex Coast RAMS.
- 4.12.2 Rather than establishing a new forum it is considered more effective and efficient for the Project Board to comprise the EPOA Chief Officers Group. This Group will make decisions at an operational level, relating to funding allocations, project prioritisation and delivery in line with the mitigation package set out in the RAMS approved by each Council. To ensure transparency and so that delivery is in line with the RAMS, an annual financial statement will be reported, as part of the Council's Authority Monitoring Report, to this Committee each year.
- 4.12.3 Environmental groups such as Natural England, will be invited to meetings where appropriate but will not have voting rights. The existing officer Steering Group will be retained and will provide technical support and reports to the Project Board. A

Member Working Group is expected to form part of the overall governance process to inform the Steering Groups approach to specific projects.

- 4.12.4 Additionally, one of the Partners will need to become the Accountable Body for the RAMS. That authority will employ the Delivery Officer, hold and administer funds, provide secretarial support to the Project Board and Steering Group, action commissioning of projects and surveys, collate monitoring information and provide a financial protocol. Each Council is considering whether to become the Accountable Body.
- 4.12.5 Further work is required on the details of the governance. A paper will be taken to the March EPOA Chief Officers meeting to provide more details on the operation of the delivery model and a communications plan. A Memorandum of Understanding will be taken to the June meeting to be signed by each Partner. The first allocation of funds will take place in December. Further information will be provided to this Committee during 2019 on the governance.

4.13 RAMS SPD

- 4.13.1 An SPD is being prepared by Essex Place Services to provide an effective framework for securing financial contributions to deliver the RAMS. It is expected that the draft SPD will be brought to this Committee in March for approval for consultation.

4.14 Consultation

- 4.14.1 Essex Place Services will undertake the consultation for the draft RAMS and the draft SPD at the same time. However the consultation will follow the same process the Council uses for all other draft SPDs.
- 4.14.2 Each Partner needs to take the documents to their relevant Committees so the consultation dates are not yet available. Further information on the consultation will be provided to this Committee in due course.

4.15 Interim guidance

- 4.15.1 In August 2018 Natural England issued interim advice (see RAMS report for noting to the November 2018 meeting of this Committee) to ensure that any residential planning applications coming forward ahead of the Essex Coast RAMS that are within the ZOI meet the requirements of the Habitats Regulations. Essentially, Natural England is advising that a fair and proportionate RAMS contribution is required. The process used by officers is set out in the November report.
- 4.15.2 All financial contributions must be consistent with the three tests set out in the Community Infrastructure Levy Regulations 2010. They must be:
- a) Necessary to make the development acceptable in planning term;
 - b) Directly related to the development;
 - c) Fairly and reasonably related in scale and kind to the development
- 4.15.3 The evidence from which the Council would identify and justify a financial contribution is within the draft RAMS. The Council's Solicitor has advised that the

draft RAMS carries some weight in the consideration of planning applications. Therefore, it is reasonable to use the tariff in the draft RAMS as the basis for securing financial contributions from new housing where the Local Planning Authority, as a designated Competent Authority, make a judgement that the impacts of new housing would be significant that it would conflict with the Habitats Regulations. Approving the draft RAMS for consultation will enable officers to start using the tariff in the planning application process. This will reduce costs to developers and help streamline the development management process for officers.

5. CONCLUSION

- 5.1 The draft 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 Habitats sites along the Essex Coast. The RAMS will be reviewed and updated as necessary to ensure that it remains relevant and effective.
- 5.2 Once approved for consultation by this Committee, the draft RAMS will be used in, the interim prior to the adoption of the SPD, as the basis for securing financial contributions from new development.
- 5.3 Further information on the governance of the RAMS, on the draft SPD and on the consultation for both documents, will be brought to this Committee during 2019.

6. IMPACT ON CORPORATE GOALS

- 6.1 The draft Recreation disturbance 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.

7. IMPLICATIONS

- (i) **Impact on Customers** – Clear strategy working with other authorities in Essex provides certainty to residents and businesses in the District. Planning applications for housing proposals will be determined in accordance with the RAMS ensuring housing has no adverse impacts upon the environment.
- (ii) **Impact on Equalities** – Not applicable.
- (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 Habitats 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 costs related to the stakeholder and public consultation will be met through the consultants commission. The RAMS sets out the evidence base for securing financial contributions from new housing.

- (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 RAMS provides a robust and transparent evidence base within which to negotiate financial contributions from new development. The RAMS will enable the development management process to be streamlined and be more effective.
- (vi) **Impact on the Environment** – RAMS promotes sustainable development and safeguards the character and distinctiveness of the District. The RAMS is expected to 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

Draft Recreational disturbance Avoidance Mitigation Strategy 2018-2038, Essex Place Services, January 2019

Interim advice to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Conservation of Habitats and Species Regulations 2017, Natural England, August 2018

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