

Southend-on-Sea Borough Council

Report of Deputy Chief Executive & Executive Director
(Growth & Housing)

To
Cabinet
On
15th September 2020

Agenda
Item No.

Report prepared by: Mark Sheppard

Essex Coast Recreation Disturbance, Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD)

Place Scrutiny Committee (Chair: Councillor Andrew Moring)
Cabinet Member: Councillor Carole Mulroney
A Part 1 Public Agenda Item

1. Purpose of Report

- 1.1 In November 2019 Southend Cabinet agreed the draft Essex Coast Recreation Disturbance, Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) for public consultation; delegated authority to agree minor amendments as a result of the consultation and adopt the RAMS SPD; implementation of a development tariff to be collected for all residential planning applications involving the creation of additional new dwellings; and Essex Planning Officers Association (EPOA) act as the RAMS Project Delivery Board responsible for the coordination and monitoring of RAMS, and that Elected Members from each local authority will also be involved with the governance and delivery of the project.
- 1.2 The purpose of the report is to inform Members of the findings of the public consultation on the draft RAMS SPD (**Appendix 1**) and to agree to adopt the revised SPD, presented in (**Appendix 2**); publish the adoption statement (**Appendix 3**); and to note the contents of the SEA/ HRA Screening Report (**Appendix 4**).
- 1.4 The RAMS SPD allows flexibility for each partner local authority in the method of collection of the RAMS tariff to fund habitats site mitigation.

2. Recommendations

- 2.1 To consider the contents of the 'You Said We Did' Feedback Report (and note the proposed amendments to the Recreational disturbance

Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) (Appendix 1).

- 2.2 That Cabinet recommends that full Council adopts the RAMS SPD (Appendix 2) and agree to publish the Adoption Statement (Appendix 3) in accordance with Regulation 14 of the Town and Country Planning (Local planning) (England) Regulations 2012 (as amended).**
- 2.3 To consider the contents of the SEA/HRA Screening Report (Appendix 4) and recommend that it be published.**
- 2.4 To note that the project will be delivered through an Essex Coast RAMS Partnership Agreement between the partner authorities.**
- 2.5 Agree to delegate authority to the Deputy Chief Executive (Growth and Housing) in consultation with the Cabinet Member for Environment and Planning to make necessary minor amendments to the Supplementary Planning Document, Adoption Statement, You Said We Did Feedback Report, and SEA/HRA Screening Report (in Appendices 1 – 4) should it be necessary before adoption/publication, and to undertake all the necessary legal and procedural adoption processes.**
- 2.6 Note that in adopting the RAMS SPD Southend Borough Council will collect a tariff charge of £125.58 per dwelling unit (indexed linked) from planning applications and transfer this to the RAMS Accountable Body in accordance with the RAMS Partnership Agreement. The Council will explore and utilise a number of methods in collecting RAMS tariff to ensure the process is as effective and efficient as possible.**

3. Background

- 3.1 Local planning authorities have a duty as competent authorities to ensure that designated habitat areas are protected in accordance with the Conservation of Habitats and Species Regulations 2017. With increasing recreational pressure on the coast as a result of new housing development, Natural England has identified an urgent need to develop comprehensive strategies to ensure that this pressure is mitigated and does not worsen the favourable status of protected habitat sites.**
- 3.2 Natural England has therefore strongly promoted the preparation of RAMS to ensure that local planning authorities, in preparing their local plans, secure a series of mitigation measures that are not only fundable and deliverable but will endure for the lifetime of the plan and beyond. A number of such strategies have already been prepared for sensitive areas of coastline around the country as part of a partnership approach involving a number of local authorities, including the Solent, Severn Estuary, Suffolk Coast and North Kent Coast.**
- 3.3 It is clear from a number of recent examinations in public of local plans around the country, that where such mitigation strategies are not in place Natural England are likely to raise material objections to the plan's planning policy**

provisions relating to nature and habitat conservation which could be found to be 'unsound' by a planning Inspector. In the light of these circumstances it was resolved by the Essex Planning Officers Association (EPOA) that the best way forward to protect the Essex coastline and to facilitate local plan preparation was to prepare an Essex Coast RAMS.

- 3.4 Southend Borough Council is one of twelve partner local authorities who are working together, along with Natural England, to implement the Essex Coast RAMS. The Strategy sets out a long-term strategic approach to avoid and mitigate recreational disturbance on European designated sites along the Essex Coast, from an increasing residential population arising from new housebuilding throughout the County.
- 3.5 The RAMS aims to prevent bird and habitat disturbance from recreational activities through a series of management measures which encourage all coastal visitors to enjoy their visits in a responsible manner.
- 3.6 The RAMS SPD provides a county-wide mechanism for securing developer contributions to fund measures identified in the Strategy. The type of possible mitigation measures will vary along the Essex coast and may include those set out in Table 1 below.

Table 1: Summary of RAMS mitigation measures

Action Area	Examples
Education and communication	
Provision of information and awareness raising	<p>This could include:</p> <ul style="list-style-type: none"> • Information on the sensitive wildlife and habitats • A coastal code for visitors to abide by • Maps with circular routes away from the coast on alternative footpaths • Information on alternative sites for recreation <p>There are a variety of means to deliver this such as:</p> <ul style="list-style-type: none"> • Through direct engagement led by Rangers / volunteers • Interpretation and signage • Using websites, social media, leaflets and traditional media to raise awareness of conservation and explain the Essex Coast RAMS project. • Direct engagement with clubs e.g. sailing clubs, ramblers clubs, dog clubs etc. and local businesses.
Habitat based measures	

Action Area	Examples
Fencing/way-marking/screening	Direct visitors away from sensitive areas and/or provide a screen to minimise their impact.
Pedestrian (and dog) access	<ul style="list-style-type: none"> • Zoning • Prohibited areas • Restrictions of times for access e.g.to avoid bird breeding season
Cycle access	Promote appropriate routes for cyclists to avoid disturbance at key locations.
Vehicular access and car parking	Audit of car parks and capacity to identify hotspots and opportunities for “spreading the load”.
Enforcement	<ul style="list-style-type: none"> • Establish how Water Rangers operating the patrol boats can be most effective. It should be possible to minimise actual disturbance from the boat itself through careful operation. • Rangers to explain reasons for restricted zones to visitors e.g. for bait digging, dogs on a lead.
Habitat creation	Saltmarsh recharge, regulated tidal exchange and artificial islands may fit with Environment Agency Shoreline Management Plans.
Project delivery	
Partnership working	Natural England, Environment Agency, RSPB, Essex Wildlife Trust, National Trust, landowners, local clubs and societies.
Monitoring and review	Birds and visitor surveys with review of effectiveness of measures with new ideas to keep visitors wanting to engage.

- 3.7 The successful delivery of the RAMS will contribute to Southend 2050 Pride and Joy outcome 3 ‘we have invested in protecting and nurturing our coastline, which continues to be our much loved and best used asset.

4. Consultation on the Essex RAMS SPD

- 4.1 The draft Supplementary Planning Document was published for consultation between Friday 10th January 2020 and Friday 21st February 2020 in accordance with the planning consultation requirements of each Local Planning Authority.
- 4.2 The consultation was undertaken jointly by the partner Councils and hosted by Essex County Council. It was available to view and comment on the Essex County Council Citizen Space consultation portal during the consultation, and the consultation material was also available to view on partner Council websites, at main Council offices and a number of public libraries. For those who do not have access to computers, paper response forms were available.
- 4.3 The Councils consulted statutory bodies such as Highways England, Natural England, Historic England and the Environment Agency; local stakeholders including the Business Forums, Essex Wildlife Trust, Sport England, and the Police; Business Forums; developers and landowners and their agents; local businesses; voluntary and community groups; and the public, including direct email/letter notifications to all consultees registered on local authority local plan consultation databases.
- 4.4 The Essex Coast RAMS draft SPD consultation received a total of 146 comments, 87 of these being from Essex residents and 59 from various organisations. Of the resident responses, two were received from Southend on Sea. All the comments received can be viewed in full on Essex County Council's Consultation Portal at <https://consultations.essex.gov.uk/place-services/the-essex-coast-rams-spd/>
- 4.5 A summary of all representations received as part of the consultation, and proposed amendments in response to these are set out in 'You Said We Did' Feedback Report (**Appendix 1**). These amendments have been incorporated into the proposed RAMS SPD (**Appendix 2**)

5. Essex Coast RAMS Partnership Working

- 5.1 The majority of the Essex coastline is protected habitat sites, designated as Special Areas of Conservation (SAC), Special Protection Areas (SPA) and international Ramsar of national and international importance for bird life stretching from the Blackwater in north Essex to the Thames Estuary as far as Thurrock in south Essex. In Southend the entire foreshore is protected by such designations.
- 5.2 Given the wide geographical spread of protected areas stretching across the Essex coastline, it was agreed by the EPOA that the most effective way of taking a RAMS project forward for the Essex coastline was in partnership. A Project Steering Group was therefore formed comprising of officer

representation from twelve local authorities, namely Castle Point, Chelmsford, Colchester, Basildon, Braintree, Brentwood, Maldon, Rochford, Southend, Tendring, Thurrock and Uttlesford. The Steering Group has been administered and supported by Essex County Council Place Services whilst representatives from Natural England have attended meetings to provide guidance and advice.

- 5.3 This joint approach also met the requirements of the 'duty to co-operate' provisions to ensure that local authority cross-boundary issues are adequately addressed in local plan preparation. To take this partnership approach forward a Memorandum of Understanding and Service Level Agreement was agreed and signed by the participating local planning authorities in early 2018.
- 5.4 A Partnership Agreement will help administer the project, with Chelmsford City Council volunteering to act as the Accountable Body. The Accountable Body will hold all tariff contributions from the twelve partner Councils. It will also employ the full-time Delivery Officer to oversee the project and who will be funded from the tariff contributions.
- 5.5 The governance arrangements for the project will be set out in the Partnership Agreement. In summary, work of the Steering Group, comprising one officer from each constituent authority, will be overseen by the EPOA Chief Officers Group (the Project Board) which will approve the annual work programme and mitigation priorities. EPOA Chief Officers Group will invite the Delivery Officer and Chair of the Steering Group to its meetings where the work of this Partnership is to be discussed. The Essex Coastal Forum which comprises Officers and Members from partner local authorities will also discuss the Essex Coast RAMS at bi-annual meetings.

6. RAMS Tariff and Method of Collection

- 6.1 The Essex Coast RAMS SPD proposes to charge a tariff of £125.58 per dwelling from 1 April 2020 (indexed linked) to mitigate the impacts of increased recreational pressure on the coastline, including impacts on international and national environmental designations. This charge will be pooled from the constituent authorities each financial quarter. Each constituent authority can decide how the money/ tariff will be collected from developers, with existing examples elsewhere using either Section 106¹ agreements, unilateral agreements and through Section 111². The collection and monitoring of tariff monies will be the responsibility of each local authority within the partnership.

¹ Town and Country Planning Act 1990 - a mechanism which makes a development proposal acceptable in planning terms that would not otherwise be acceptable. They are focused on site specific mitigation of the impact of development.

² Local Government Act 1972 - s111 (1) "...a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions"

7. Other Options

- 7.1 The Council is required to meet the statutory provisions of the Conservation of Habitats and Species Regulations 2017, in relation to the protection of the habitat sites of international and European importance within the Borough from the impacts of new development. An alternative option would be to develop guidance unilaterally, which would be a greater administrative burden than working with neighbouring authorities; and would not necessarily lead to consistency of approach compared with other similar local authorities. Alternatively a do-nothing approach could put the Council at risk of legal challenge.

8. Reason for Recommendation

- 8.1 To ensure that an appropriate strategy and supporting evidence is put in place to support the nature conservation provisions of the emerging Southend New Local Plan (SNLP) and to meet the requirements of the Conservation of Habitats and Species Regulations 2017.

9. Corporate Implications

Contribution to the Southend 2050 Road Map

- 9.1 The successful delivery of the RAMS will contribute to the fulfilment of several spatial elements of the Council's vision and priorities, for example through Southend 2050 Pride and Joy 'we have invested in protecting and nurturing our coastline, which continues to be our much loved and best used asset.'

Financial Implications

- 9.2 Financial and human resource input is necessary to administer RAMS. The mitigation measures proposed together with the cost associated with collecting the tariff on relevant planning applications, will be covered by the total money levied from developer contributions.

Legal Implications

- 9.3 There is no doubt that local planning authorities are coming under increasing scrutiny at the examination stage of their local plan preparation process in relation to the protection of habitat sites of international and European importance. Natural England are now requiring strong mitigation measures to be put in place in local plans and realistic and deliverable funding mechanisms to implement these measures.
- 9.4 As such an Essex Coast RAMS would be of significant benefit to Southend in supporting the preparation of the SNLP and in protecting the Southend Foreshore designated sites. Whilst the Southend coastline is currently well

managed, it is coming under growing pressure from increasing numbers of visitors and residents and new resources will be required if the natural habitat of the Southend Foreshore is to continue to be adequately protected.

- 9.5 Adopting a SPD for RAMS also provides the opportunity to bid for other Government resources to mitigate the impacts of increased recreational activity on the coastline.
- 9.6 To deliver its statutory local planning function, each local authority must engage with adjoining local authorities under the Duty to co-operate provisions set out in the Localism Act. This places a legal duty on local planning authorities to engage constructively, actively and on an on-going basis to maximise the effectiveness of development plan preparation in the context of strategic cross boundary matters. The production of the RAMS SPD depends on joint cross-boundary working if the statutory obligations of meeting the provisions of the Conservation of Habitats and Species Regulations 2017 are to be effectively met.
- 9.7 Local planning authorities must demonstrate how they have complied with the duty at the independent examination of their Local Plans. If a local planning authority cannot demonstrate that it has complied with the duty then the Local Plan will not be able to proceed further in examination.

People Implications

- 9.8 Staff resources from the Strategic Planning Team have and will be required in order to contribute to the preparation, adoption and delivery of the RAMS SPD as a joint partner. As the project moves into the delivery phase there may also be a need to reappraise which staff are the most appropriate to take the project forward.
- 9.9 The collection of the RAMS tariff will likely significantly increase the number of S106 agreements required to support planning applications impacting on staff resources, particularly in legal, although a reasonable proportionate administration fee could be applied. The need for S106 agreements could be reduced and simplified by using template agreements, unilateral agreements or S111 agreements where appropriate. However, there will inevitably be significantly greater numbers of legal agreements of one form or another which will require processing by staff in planning and legal.
- 9.10 Staff resources will also be required in collecting and monitoring the RAMS tariff and ensuring the monies are transferred to the accountable body in a timely manner.

Property Implications

- 9.11 The RAMS project will contain mitigation projects affecting the Southend Foreshore including land within Council ownership.

Consultation

- 9.12 The RAMS SPD was subject to a period of 6 weeks public consultation and the 'You Said We Did' Report (**Appendix 1**) details the findings of this consultation process.

Equalities and Diversity Implications

- 9.13 An equalities impact assessment will be produced for the SNLP. The public consultation on the RAMS SPD provides the opportunity for different sections of the community to input into the plan making process.

Risk Assessment

- 9.14 If the RAMS SPD were not to be published and taken forward to adoption there would be a real risk that the nature conservation policies of the emerging SNLP would be found to be 'unsound' by an independent Inspector at the Plan's examination in public. In addition, the absence of the mitigation projects are likely to result in increased recreational pressure on the coast to the detriment of the protected areas of natural habitat and in contravention of the Conservation of Habitats and Species Regulations 2017.
- 9.15 RAMS is a proportionate and consistent way of addressing the habitat regulations, in particular the 'in-combination' impact of new residential development, for planning applications in Southend and is being promoted by Natural England

Value for Money

- 9.16 There will be beneficial impacts on value for money by carrying out the work jointly with other Essex authorities, including the funding of projects and mitigation measures across the Essex coastline.

Community Safety Implications

- 9.17 The RAMS SPD, as an integral part of the SNLP, will seek to improve the natural environment thereby contributing towards improving community safety.

Environmental Impact

- 9.18 A Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA) Screening Report was published alongside the draft SPD.
- 9.19 The SEA process seeks to ensure that environmental and possibly other sustainability aspects are considered effectively in plans and programmes. The HRA process seeks to ensure that plans and programmes are not likely to result in significant effects on any nationally or internationally designated

wildlife sites known as European sites, either alone or 'in combination' with other plans or programmes.

9.20 The SEA/HRA screening report determines that there would be no significant effects on the environment resulting from the SPD and therefore that a SEA is not required. It also concludes that the SPD cannot have any negative effects on designated wildlife sites so there is no requirement to undertake further assessment under the Habitats Regulations 2017.

9.21 The following changes have been made to the SEA/HRA Screening Report in light of consultation comments received:

- References have been made to refer to the RAMS seeking to 'enable the conclusion of no adverse effect on the integrity of the Habitats sites' rather than the previous wording - ensuring that there will be no significant effects on the Habitats sites; and
- Inclusion of updated maps in the Appendices to be consistent with the revised SPD.

9.22 The updated SEA/HRA Screening Report is presented in **Appendix 4** to this report.

10. Background Papers

10.1 The Town and Country Planning (Local Development) (England) Regulations 2012.

10.2 Planning and Compulsory Purchase Act 2004.

10.3 National Planning Policy Framework 2019.

10.4 Draft Essex Coast Recreational disturbance, Avoidance and Mitigation Strategy Report (June 2019)

11. Appendices

11.1 **Appendix 1:** Essex Coast RAMS SPD 'You Said We Did' Consultation Report

11.2 **Appendix 2:** Essex Coast RAMS SPD

11.3 **Appendix 3:** Essex Coast RAMS SPD Adoption Statement

11.4 **Appendix 4:** Essex Coast RAMS Strategic Environmental Assessment (SEA) & Habitats Regulations Assessment (HRA) Screening Report