

12 March 2019

Planning and Licensing Committee

Essex Coast Recreational disturbance Avoidance and Mitigation (RAMS) Supplementary Planning Document (SPD)

Report of: *Phil Drane, Director of Strategic Planning*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

- 1.1 The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (the “*Essex Coast RAMS SPD*”) aims to deliver the mitigation necessary to avoid significant adverse effects from impacts of increased recreational pressure from new residential development; thus protecting the internationally important coastal habitats sites in accordance with the Conservation of Habitats and Species Regulations 2017.
- 1.2 Following evidence gathering and survey work, provided in the Essex Coast Recreational Avoidance and Mitigation Strategy Document (the “*Essex Coast RAMS Document*”) (Appendix A), the extent of this recreational impact has been gauged to establish a Zone of Influence (see Map 1). It is proposed that new residential developments within the Zone of Influence are included in the Essex Coast RAMS SPD.
- 1.3 The Essex Coast RAMS Document identifies a programme of strategic mitigation measures which are to be funded by developer contributions from residential development schemes, to be implemented by a Supplementary Planning Document (Essex Coast RAMS SPD), which requires public consultation.
- 1.4 This report seeks approval to carry out a joint consultation with 12 other boroughs on the Essex Coast RAMS SPD. Having taken consultation responses into account, the final Essex Coast RAMS SPD will be brought back to committee for approval to adopt as planning policy.

2. Recommendations

- a) That the Committee note the Essex Coast RAMS Document, including technical report and mitigation report (Appendix A);**
- b) That the Committee approve the Essex Coast RAMS Supplementary Planning Document (SPD) for public consultation (Appendix B), with a proposed a tariff of £122.30 per new home in the RAMS Zone of Influence;**
- c) To delegate authority to the Chair of the Planning and Licensing Committee, in consultation with the Chief Executive and Director of Strategic Planning, to finalise and approve the document, as set out in b) above for public consultation, including to make non-material or minor amendments to the proposed RAMS SPD prior to consultation; and**
- d) To present the final version of the Essex Coast RAMS SPD to Planning and Licensing Committee, with amendments after consultation, for adoption by Brentwood Borough Council.**

3. Introduction and Background

- 3.1 Natural England have confirmed that there is a requirement for each Local Planning Authority to consider the impact of new development on internationally important wildlife sites. Whilst Brentwood Borough does not have any of these sites within the borough, residents are likely to travel to the areas that contain these sites for recreation and so would have an impact.
- 3.2 The nearest internationally important sites to Brentwood Borough are the Essex coastal sites and the Epping Forest Special Area of Conservation. The proposed Draft Essex Coast RAMS SPD refers *only* to the Essex coastal sites. Epping Forest is considered in a separate piece of work which is not yet complete.
- 3.3 Brentwood has worked with other boroughs in Essex to assess the visitor impact on the coastal sites detailed in the Essex Coast RAMS Document and draft the Essex Coast RAMS SPD to address this impact. The visitor impact from new development is assessed “in combination” with the impact with all the other boroughs and proposes mitigation of this impact to protect these wildlife sites.

3.4 The mitigation will be funded by a tariff charged for each new home in the “Zone of Influence”. This tariff is currently calculated to be £122.30 per new home.

4. Joint Working on the Essex Coast RAMS Document and SPD

4.1 The Essex Coast RAMS Document (Appendix A) sets out the evidence for the Zone of Influence and a long-term strategic approach to avoid and mitigate the increase in recreational disturbance.

4.2 The Essex Coast RAMS SPD (Appendix B) will provide a county-wide mechanism for securing developer contributions to fund the mitigation measures identified in the Document. It is envisaged that Essex County Council Place Services would administer the consultation on the SPD on behalf of all partner local authorities.

4.3 The 11 LPAs which are partners in and responsible for the delivery of the RAMS are listed below:

- a) Basildon Borough Council
- b) Braintree District Council
- c) Brentwood Borough Council
- d) Castle Point Borough Council
- e) Chelmsford City Council
- f) Colchester Borough Council
- g) Maldon District Council
- h) Rochford District Council
- i) Southend-on-Sea Borough Council
- j) Tendring District Council
- k) Thurrock Borough Council

4.4 More recently, Uttlesford District Council is working within the Essex Coast RAMS SPD area.

4.5 It is anticipated that after a public consultation, all partner authorities will adopt and implement the Essex Coast RAMS SPD in 2019.

4.6 This strategic approach has the following advantages:

- a) It is endorsed by Natural England and has been used to protect other Habitats sites across England;
- b) It fulfils a requirement to assess the impact of the borough Local Plan on internationally important wildlife sites (Habitat Impact Assessment document);

- c) It is a pragmatic, simple and effective way of protecting the internationally important wildlife of the Essex coast and will help to reduce the time taken to reach planning decisions;
- d) It provides an evidence based and fair mechanism to fund the mitigation measures required as a result of the planned residential growth; and
- e) It provides developers, agents and planning authorities with a comprehensive, consistent and efficient way to ensure that appropriate mitigation for residential schemes within the Zone of Influence is provided in an effective and timely manner.

5. Mitigation and the Zone of Influence

- 5.1 The Essex coast provides opportunities for a range of recreational activities including dog walking, hiking, cycling and sailing. Research undertaken to inform the Essex Coast RAMS Document shows that housing growth is likely to increase the number of people visiting these sensitive coastal areas. This could create the potential for impacts from increased recreational disturbance to the birds and their habitats unless adequately managed.
- 5.2 The Essex Coast RAMS SPD applies to new residential dwellings that will be built in the Zone of Influence (Zoi) of the Habitats sites. The ZOI identifies the distance within which new residents are likely to travel to the Essex coast Habitats sites for recreation.
- 5.3 This Zoi was calculated by ranking the distances travelled by visitors to the coast based on their home town postcode data. Not all postcode data is used as this can skew the results and therefore the Zoi is based on the 75th percentile of postcode data. This provides the ZOI distance.
- 5.4 This method has been used for a number of strategic mitigation schemes and is considered by Natural England to be best practice. The distances used to create the zone are illustrated in Table1 (below).
- 5.5 The Zone of Influence is mapped in Figure 1 (below), showing its extent over Essex. In terms of its coverage in Brentwood Borough, this relates to a small area in the north-eastern corner of the borough, including part of Ingatestone village. A more detailed map of this part of the borough and the Zoi is provided in Appendix C.

Table 1: Zones of Influence for the Essex Coast RAMS

European designated site	Final distance to calculate RAMS Zol (km)
Essex Estuaries SAC	-*
Hamford Water SPA and Ramsar	8
Stour and Orwell Estuaries SPA and Ramsar	13
Colne Estuary SPA and Ramsar	9.7
Blackwater Estuary SPA and Ramsar	22
Dengie SPA and Ramsar	20.8
Crouch and Roach Estuaries Ramsar and SPA	4.5
Foulness Estuary SPA and Ramsar	13
Benfleet and Southend Marshes SPA and Ramsar	4.3
Thames Estuary and Marshes SPA and Ramsar	8.1

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Figure 1: Map of the Zone of Influence



- 5.6 The RAMS approach is a fair way to seek funds to mitigate the additional recreational pressure in a way that ensures that those responsible for it, pay to mitigate it at a level consistent with the level of potential harm. It also obeys the 'precautionary principle'. Existing visitor pressure at Habitats sites would be mitigated through alternative means and any pressure that would arise from different types of development would be addressed through the project HRA.
- 5.7 The majority of the HRAs produced by Essex LPAs as part of the production of their respective Local or Strategic Plans identified that the level of planned housing growth may lead to disturbance of birds in coastal Habitats (European) sites within and beyond each individual LPA boundary.

6. Essex Coast RAMS Document

- 6.1 The Essex Coast RAMS Document (Appendix 1), comprises a Technical Report (evidence base) and a Mitigation Report. It identifies:
- a) The purpose of the Strategy;
 - b) The likely impacts from recreational disturbance;
 - c) The Zones of Influence;
 - d) A package of effective mitigation measures including education and communication, fencing and rangers;
 - e) When and where the mitigation measures are required;
 - f) How mitigation relates to development (or development locations);
 - g) How the mitigation measures will be funded;
 - h) How the strategy will be implemented;
 - i) How the success of mitigation measures will be monitored; and
 - j) How best to incorporate monitoring data and other information and best practice into future reviews of the strategy and Local Plans
- 6.2 The mitigation measures identified in the Essex Coast RAMS Document will be funded from developer contributions. The overall cost for the mitigation package is estimated to be around £9 million up to 2038. This equates to a per dwelling tariff of £122.30. The developer contribution will be required for every net additional dwelling within the zones of influence unless the developer can agree with the Council and Natural England alternative 'bespoke mitigation' to fully mitigate the recreational impact of their development.
- 6.3 The Essex RAMS is only designed to identify the mitigation measures necessary to avoid and mitigate the in-combination recreational impacts at the 10 Habitats sites from additional residential dwellings within the

partner local authority areas during the periods of their Local Plans. It also focuses on management activities and behavioural change to affect change. It does not cover any additional infrastructure which could assist in meeting this aim, such as Country Parks, which are often referred to as Suitable Alternative Natural Greenspaces (SANGs).

- 6.4 Implementation costs identified in the RAMS will also be funded from qualifying dwellings within the zones of influence e.g. activities to monitor the effectiveness of the mitigation and avoidance measures.

7. Essex Coast RAMS Supplementary Planning Document

- 7.1 The Draft Essex Coast RAMS Supplementary Planning Document (SPD) (Appendix B) distils the Essex Coast RAMS Document into a practical document for use by local planning authorities, developers and the public. It provides the following information:

- a) A summary of the RAMS;
- b) The scope of the RAMS;
- c) The legal basis for the RAMS;
- d) The level of developer contributions (or tariff) being sought for strategic mitigation; and
- e) How and when applicants should make contributions.

- 7.2 The money collected will be paid by the developer on commencement of development through a planning obligation secured through a Section 106 Agreement, Unilateral Undertaking or an up-front payment. This approach is considered compliant with the statutory tests applied to planning obligations. The contributions would fall outside the Community Infrastructure Levy (CIL).

- 7.3 The RAMS is voluntary and there would remain an option for developers to put forward alternative mitigation packages. These would need to be agreed with Natural England to ensure compliance with the Habitats Regulations. However, for most developers it will be easier, quicker and cheaper to make a financial contribution towards the RAMS.

8. Next Steps

- 8.1 Subject to the approval of the Planning and Licensing Committee, in line with the Councils Statement of Community Involvement, consultation on the Draft Essex Coast RAMS SPD will be undertaken by Essex County Council Place Services on behalf of boroughs. It is proposed to start the consultation once all partner authorities have received approval from their relevant Committees.

- 8.2 Once consultation has closed and comments have informed amendments to the SPD, the final version will be presented to Committee for adoption by the Council.
- 8.3 Once the RAMS SPD is adopted, the tariff of £122.30 per new dwelling will be collected and used to implement the mitigation and avoidance measures contained within it.

9. Reasons for Recommendation

- 9.1 Brentwood Borough Council is duty bound to undergo an assessment of the impact of new development in their local plans on the internationally important wildlife sites. The proposed RAMS SPD (Appendix B) addresses this requirement.
- 9.2 The Essex Coast RAMS Document (Appendix A) aims to outline key issues and remaining concerns within the context of ongoing partnership and joint working.

10. Consultation

- 10.1 Each partner local authority needs to take the draft SPD to their relevant Committee for approval to consult. As such, some changes may be needed to the document before it is published for consultation and the exact consultation dates are yet to be agreed.

11. References to Corporate Plan

- 11.1 The RAMS SPD is relevant to the Council's emerging Local Plan (Pre-Submission, 2019) and work to prepare a South Essex Joint Strategic Plan, as a requirement of addressing in-combination impact of development on internationally important wildlife sites.
- 11.2 Production of the Brentwood Local Plan is a key priority in the Council's Vision for Brentwood 2016-2019. The joint plan aims to deliver South Essex 2050 ambitions regarding growth and infrastructure investment also relate to priorities within the Vision for Brentwood 2016-2019.

12. Implications

Financial Implications

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- 12.1 The tariff has been calculated in line with expected growth in housing for the zone, which has been evidenced through the strategy and endorsed by Natural England. The tariff will be regularly monitored and reviewed.
- 12.2 The cost for administering the RAMS SPD consultation and the proposed tariff are covered by existing budget provision. There will be staff time for administering the collection of payment contributions and the RAMS SPD consultation.

Legal Implications

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- 12.3 The RAMS SPD reduces the risk of legal challenges by ensuring that all applications that pay the tariff comply with the Habitat Regulations. Under regulation 67 of the Conservation of Habitats and Species Regulations 2017 the Council must have regard to guidance issued by other authorities in this case in matters effecting European sites or European offshore marine sites thus any SPD issued in this respect will be a material consideration in coming to a planning determination. Regulation 70 makes the consideration of any assessment in a determination a prerequisite in a determination. Any charge for mitigation of an impact to a designated site emanating from a development may therefore be charged as an obligation under section 106 Town and Country Planning Act 1990.

Other Implications

- 12.4 The Brentwood Pre-Submission Local Plan (2019) has been drafted to include the requirements of RAMS where applicable. This will be a consideration for development proposals in the Zol and so may have implications for the viability of development, including Section 106 negotiation and/or Community Infrastructure Levy (CIL) requirements in future.

13. Background Papers

- a) Brentwood Borough Habitat Regulation Assessment (2019)
- b) Brentwood Borough Pre-Submission Local Plan (2019)

14. Appendices to this report

- a) Appendix A: Essex Coastal RAMS Document
- b) Appendix B: Draft Essex Coastal RAMS Supplementary Planning Document (SPD)

c) Appendix C: Zone of Influence (Zol) applying to the eastern part of Ingatestone

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