

<b>Committee(s):</b> Planning and Licensing Committee	<b>Date:</b> 18 December 2019
<b>Subject:</b> Progress Report on the Essex Coast Recreational Disturbance Avoidance and Mitigation (RAMS) Supplementary Planning Document (SPD)	<b>Wards Affected:</b> Ingatestone, Fryerning and Mountnessing
<b>Report of:</b> Phil Drane, Director of Strategic Planning	<b>Public</b>
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### **Summary**

The draft Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (the “draft Essex Coast RAMS SPD”) was brought to Planning and Licensing Committee on 12 March 2019 for approval to carry out a joint consultation with 11 other local planning authorities.

Minor amendments to improve clarity have been made to the draft Essex Coast RAMS SPD for developers and their agents. The updated document is attached as Appendix A. These and procedural matters have been agreed by the Essex Planning Officer Association (EPOA) Chief Officer group. The overall aim is to ensure a consistent approach to the implementation of the project across Essex. The 12 authorities have agreed to carry out the joint consultation in January - February 2020, with Essex County Council Place Services collating, reviewing and presenting the results of this consultation by the end of March 2020.

The draft Essex Coast RAMS SPD proposes a Tariff of £122.30 per new dwelling to fund mitigation of recreational impact on the coastal biodiversity sites. It is recommended that the proposed amended draft Essex Coast RAMS SPD is subject to the joint consultation, with a view that the results are brought to committee for consideration that it be adopted during 2020.

### **Recommendation**

**Members are asked to:**

**R1. Approve the consultation draft Essex Coast RAMS SPD, as set out in Appendix A, for a consultation period lasting six weeks in January/February 2020 across the 12 local planning authorities.**

## **Main Report**

### **Introduction and Background**

1. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (the “Essex Coast RAMS SPD”) has been drafted to deliver the mitigation necessary to avoid significant adverse effects from impacts of increased recreational pressure from new residential development; protecting the internationally important coastal habitats sites in accordance with the Conservation of Habitats and Species Regulations 2017.
2. A report introducing the draft Essex Coast RAMS project document and proposing consultation on the draft SPD were approved by the Planning and Licensing Committee in March 2019.

### **Issue, Options and Analysis of Options**

3. Since March 2019, several main implementation matters have been discussed and agreed in principle by the RAMS steering group. A progress report reflecting these matters was taken to the Essex Planning Officer Association (EPOA) chief officer group in September 2019. Comments received back through these processes have been reflected in the draft Essex Coast RAMS SPD (Appendix A), including the following implementation matters:
  - a) The tariff will apply to all new residential development with a net increase of one dwelling or more.
  - b) A single tariff will apply (currently circa £122.30) to all qualifying residential developments regardless of size of dwelling (number of bedrooms).
  - c) It is proposed to charge a lower amount for purpose-built student accommodation. This would equate to 2.5 student accommodation units being equal to one residential unit (refer to appendix one of the draft Essex Coast RAMS SPD document).
  - d) The tariff will apply to reserved matters applications on an individual basis having regard to whether the potential effects of the proposal were fully considered when the existing outline was granted or where new information submitted with the RMA would make for a different assessment of effects.
  - e) The tariff will be paid no later than on commencement of each phase of approved developments.
  - f) Local planning authorities can charge for the (reasonable and proportionate) cost of preparing a Section 106 or Unilateral Undertaking to the applicant.
  - g) The preferred method of collecting the contribution can be decided by each local planning authority. Brentwood Borough Council is now making

collections under Section 106 of the Town and Country Planning Act 1990, appropriate to the size of the proposed development, as proposed by the Council's Planning Solicitor in the Essex Coast RAMS report to Planning and Licensing Committee on 12 March 2019, Item 3.

- h) The tariff contributions will be spent on both project-wide mitigations such as Rangers, and specific mitigations within the habitat zone in which the contribution was collected, in accordance with the RAMS Strategy document.
  - i) The Steering Group has already implemented a public website highlighting problems with disturbance of birds and its impact, illustrating good practice whilst visiting coastal areas. The website can be viewed at: <https://essexcoast.birdaware.org/home>.
4. The EPOA chief officer group has agreed that the project should be overseen by a single accountable body. The Essex Coast RAMS steering group has confirmed that it supports in principle Chelmsford City Council becoming the accountable body.
5. Chelmsford City Council's Legal Team is currently drafting a Partnership Delivery Agreement for the ongoing governance, coordination and delivery of the project. This will cover the structural, operational, HR and financial arrangements for the project. Chelmsford City Council's Finance Team is exploring the setting up and costs of financial operational processes for collecting, holding and administrating the contributions.
6. Several accountable body matters have been discussed by the RAMS steering group and will be reflected in the first draft legal agreement, such as:
- a) The Accountable Body will hold all the RAMS tariff contributions, which will be sent quarterly from each local planning authority.
  - b) Each local planning authority will be responsible for collecting the tariff from all qualifying dwellings and for monitoring the tariff contributions they receive (not how they are spent).
  - c) The Project Delivery Officer will be employed by the Accountable Body and will manage the implementation of the mitigation with monitoring of contribution spending.
  - d) Elected Members from each local planning authority will be involved with the governance and delivery of the project (potentially through the expansion of the existing Essex Coastal Forum).
  - e) Based on forecasting of near future RAMS tariff income there will not be a need for local planning authorities to forward fund the appointment of the Project Delivery Officer.

7. It was proposed that each local planning authority will contribute equally towards project implementation costs that cannot be covered by the tariff contributions such as annual accountable body accountancy costs and project staff redundancy. This is still under discussion as it could be a disproportionate cost for boroughs, including Brentwood, that are on the fringes of the zone of influence (ZOI). This will be decided on prior to signing the Partnership Delivery Agreement.
8. For the RAMS to move forward as an Essex-wide project, the EPOA chief officer group agreed the following recommendations on the main implementation matters:
  - a) All local planning authorities to agree/endorse the RAMS Strategy Document by the end of 2019. This was endorsed by the Brentwood Borough Council in March 2019 (Planning and Licensing Committee, 12 March 2019, Item 3).
  - b) All local planning authorities to collect the RAMS tariff for all new qualifying residential developments. Brentwood Borough Council has started this process, collecting from one development of five new homes in the zone of influence, and to collect the RAMS tariff for all new qualifying residential developments.
  - c) All local planning authorities to agree/endorse the Essex Coast RAMS SPD for consultation by the end of 2019 and to publish the Essex Coast RAMS SPD for public consultation at the same time in early January 2020 with Place Services hosting, analysing and providing the boroughs with feedback on the consultation by the end of March 2020. The recommendation of this report would enable Brentwood Borough Council to comply with this matter.
  - d) All local planning authorities are to carry out an appropriate assessment and to consider the RAMS Partnership Delivery Agreement with sign-off by the end of March 2020. This is for future consideration.
9. It will be necessary to return to the committee for approval to adopt, once the consultation has taken place and the Essex Coast RAMS SPD has been updated.

### **Reasons for Recommendation**

10. To provide an update to the Committee on the progress of the proposed 2020 consultation and the oversight and implementation of the draft Essex Coast RAMS SPD. Approval to consult will enable the Council to comply with the implementation matters agreed by the 12 local planning authorities affected (including Brentwood Borough).

## **Consultation**

11. As set out in the Council's Local Development Scheme, the draft Essex Coast RAMS SPD requires consultation. Informing people about consultations will be in line with the 12 borough Statements of Community Involvement. The joint consultation of the draft Essex Coast RAMS SPD is proposed for early 2020.

## **References to Corporate Plan**

12. The Local Development Plan and supporting documents are a key priority in the Council's 'Vision for Brentwood' Corporate Plan 2016-2019. The draft Essex Coast RAMS SPD is an important supporting document for the Brentwood Local Plan as set out in the Council's Local Development Scheme.

## **Implications**

### **Financial Implications**

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13. 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. The cost for administering the RAMS SPD consultation and the proposed tariff are covered by existing budget provision. The Council's main resource implications will be staff time for administering the collection of payment contributions and the RAMS SPD consultation.

### **Legal Implications**

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14. The RAMS SPD reduces the risk of legal challenge 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 affecting 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.

## **Economic Implications**

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15. There are no economic implications beyond the proposed tariff for residential development in a specific area of the borough (part of Ingatestone), as set out in the report.

## **Other Implications**

16. As a result of the results of the 2020 consultation, the Habitat Regulations Assessment of the Brentwood Regulation 19 Draft Local Plan may need to be updated.

## **Background Papers**

- Recreational disturbance Avoidance Mitigation: Supplementary Planning Document Consultation Report, Item 3 Planning and Licensing Committee, 12 March 2019  
(<https://brentwood.moderngov.co.uk/ieListDocuments.aspx?CId=363&MId=2049>)
- Brentwood Borough Habitat Regulation Assessment (revised November 2019)
- Brentwood Borough Pre-Submission Local Plan (Regulation 19, February 2019)

## **Appendices to this report**

- Appendix A: Draft Essex Coast RAMS SPD (August 2019)