

Committee:	Cabinet	Date:
Title:	Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy (RAMS)	Monday, 15 July 2019
Portfolio Holder:	Cllr Louise Pepper, Portfolio Holder for Environment and Green Issues; Equalities	
Report Author:	Sarah Nicholas, Senior Planning Officer snicholas@uttlesford.gov.uk	Key decision: No

Summary

1. Natural England, the Government's advisor for the natural environment in England identified the need for a strategic approach or RAMS, to understand the likely increased recreational impacts on coastal Sites of Scientific Interest and to identify effective avoidance and mitigation measures. Consequently the 11 Essex Local Planning Authorities (LPAs) who lie wholly or partly within Impact Risk Zones of coastal Sites of Scientific Interest (SSSI), have worked with Natural England in preparing the Essex RAMS Strategy. During this process it was found that the Zone of Influence (Zoi) for the Blackwater Estuary Special Protection Area (SPA) and Ramsar site includes a small part of Uttlesford District in Felsted parish. Uttlesford has therefore joined the other local authorities as a partner for the delivery phase of the Essex Coast RAMS.
2. The purpose of this report is to approve the RAMS Strategy Document (Technical Report and Mitigation Report) (Enc. 1) and to approve the Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy (Essex RAMS) draft Supplementary Planning Document (SPD) (Enc.2) for consultation.
3. Essex County Council Place Services were commissioned to prepare the RAMS and SPD on behalf of the partners. RAMS have been successfully implemented throughout other areas of the country for example, in the Solent, Thames Basin Heaths and North Kent.
4. The RAMS aims to avoid and mitigate bird and habitat disturbance from recreational activities through a series of management measures which encourage visitors to enjoy their visits responsibly. Natural England has identified the need for a RAMS to ensure compliance with the Habitat Regulations¹
5. The Essex Coast RAMS sets out a long-term strategic approach to avoid and mitigate recreational disturbance on European designated sites along the

▪ ¹ Conservation of Habitats and Species Regulations 2017, as amended (commonly known as the 'Habitats Regulations')

Essex Cost, from an increasing residential population arising from new housebuilding across the County.

6. The RAMS enables a developer to make a financial contribution towards the delivery of strategic mitigation measures to help address recreational pressures that would otherwise occur, instead of needing to provide bespoke mitigation themselves.
7. The Essex RAMS Supplementary Planning Document (SPD) will provide a county-wide mechanism for securing developer contributions to fund measures identified in the Strategy

Recommendations

8. That Cabinet adopt the Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy (Essex RAMS) Document (Technical Report and Mitigation Report) (Enc. 1)
9. That Cabinet approve the Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy (RAMS) draft Supplementary Planning Document for Consultation. (Enc. 2)
10. That Cabinet authorise the Assistant Director Planning to make minor changes to the draft Supplementary Planning Document should it be necessary prior to the consultation, and to prepare and approve the necessary consultation documentation.

Financial Implications

11. The local authority partners have agreed that it is necessary to have an Accountable Body (AB) who would be responsible for setting up the RAMS governance and delivery arrangements, hold and administer the RAMS contributions, provides advice and guidance on financial matters and employ and manage the Delivery Officer.
12. Chelmsford City Council has estimated that there will be start-up costs and annual on-costs which cannot be funded through developer contributions and will need to be shared between all partner authorities.
13. The start-up costs will cover the legal agreement/SLA for the ongoing governance, coordination and delivery of the project covering structural, operational, HR and financial procedures for the project. The SLA may include a commitment from LA to contribute to shared costs for maternity cover and redundancy (if incurred) etc.
14. The annual on-costs will include maintaining the financial management systems, management of RAMS staff, administration of Member/Officer Board,
15. It may be necessary to forward fund the appointment of the Delivery Officer but this would be refunded once sufficient developer contributions had been collected.

16. Only very preliminary work has been done on these costs. First estimates are start-up costs £900 per local authority and £400 per annum per local authority. This is subject to further consideration by the RAMS steering group.

Background Papers

17. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy (Essex RAMS) Document (Technical Report and Mitigation Report)

Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy (Essex RAMS) draft Supplementary Planning Document

Impact

- 18.

Communication/Consultation	The strategy has been prepared with and signed off by Natural England. The SPD will be subject to public consultation
Community Safety	N/A
Equalities	An Equality Impact Assessment has been undertaken for the Council's new Local Plan
Health and Safety	N/A
Human Rights/Legal Implications	Local Planning Authorities have a duty to comply with the Habitats Regulations and ensure that plans and projects under their jurisdiction do not lead to adverse effects on the integrity of Habitats sites.
Sustainability	RAMS allows for sustainable planned housing growth within the RAMS area to go ahead without adversely affecting the designated coastal Habitats sites.
Ward-specific impacts	Felsted and Stebbing
Workforce/Workplace	None

Situation

19. The Essex coastline stretches for just over 350 miles, extending from the Thames Estuary in the south, northwards to the port of Harwich and the Stour Estuary. The coastline is extremely diverse and features a variety of habitats and environments and which are internationally important for wildlife. Most of the Essex Coast is designated under the UK Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations') as part of the European Natura 2000 network. This includes Special Protection Areas, Special Areas of Conservation and Ramsar sites, which are defined as Habitats sites in the National Planning Policy Framework (2018).

20. There are 10 Habitats sites in the Essex Coast RAMS areas including the Crouch and Roach Estuaries SPA and Ramsar at South Woodham Ferrers. The sites are listed below and shown in Figure 1.1 on page 3 of the RAMS.

- Essex Estuaries SAC
- Stour and Orwell Estuaries SPA and Ramsar
- Hamford Water SPA and Ramsar
- Colne Estuary SPA and Ramsar
- Blackwater Estuary SPA and Ramsar
- Dengie SPA and Ramsar
- Crouch and Roach Estuaries SPA and Ramsar
- Foulness Estuary SPA and Ramsar
- Benfleet and Southend Marshes SPA and Ramsar, and
- Thames Estuary and Marshes SPA and Ramsar

21. The Essex coast provides opportunities for a range of recreational activities including dog walking, hiking, cycling and sailing. Research undertaken to inform the RAMS 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.

22. The Essex RAMS, attached at Enc. 1 to this report, comprises a Technical Report (evidence base) and a Mitigation Report. It identifies:

- The purpose of the Strategy;
- The likely impacts from recreational disturbance;
- The Zones of Influence;
- A package of effective mitigation measures including education and communication, fencing and rangers;
 - When and where the mitigation measures are required;
 - How mitigation relates to development (or development locations);
 - How the mitigation measures will be funded;
 - How the strategy will be implemented;
 - How the success of mitigation measures will be monitored; and
 - How best to incorporate monitoring data and other information and best practice into future reviews of the strategy and Local Plans

23. The RAMS includes updated Zones of Influence for each Habitat site. The Strategy shows that a small area of Uttlesford in Felsted Parish falls within the zone. .
24. The mitigation measures identified in the Essex RAMS 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.
25. The draft RAMS SPD (Enc. 2) distils the Strategy into a practical document for use by local planning authorities, developers and the public. It provides the following information:
- A summary of RAMS
 - The scope of RAMS
 - The legal basis for the RAMS
 - The level of developer contributions (or tariff) being sought for strategic mitigation, and
 - How and when applicants should make contributions.
26. The money collected will be paid by the developer on commencement of development through a planning obligation secured through a S106 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 any Community Infrastructure Levy (CIL)
27. As discussed in paragraph 24 above, the RAMS is voluntary and there would remain an option for developers to put forward alternative mitigation packages. These would need to be agreed to ensure compliance with the Habitats Regulations. However, for the vast majority of developers it will be easier, quicker and cheaper to make a financial contribution towards the RAMS.
28. A number of partner authorities have already approved the RAMS Strategy and SPD. The aim is for each authority to have the documents approved by the summer and for consultation on the SPD to commence September. As the SPD is a joint document between 12 authorities some changes may be needed to the document before it is published for consultation.
29. The Strategy and the draft SPD has been tested at appeal. On the 30 May 2019 planning permission was granted on appeal for 28 dwellings at Maranello, Watch House Green Felsted (UTT/18/1011/OP) (Enc 3). The Inspector considered the impact of the development on the Blackwater Estuary Special Protection Area (BESPA) (paragraphs 28-37 of decision). The Inspector took a precautionary approach and considered that the proposal would alone or in combination with other projects be likely to have a significant effect on BESPA and therefore carried out an Appropriate Assessment using the Strategy and Draft SPD. The Inspector recognised that the RAMS and SPD although not yet adopted had no evidence to indicate that they would not

be adopted in the near future. The appellant had signed a Unilateral Undertaking to make the financial contribution towards RAMS. The Inspector found that the contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the CIL Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites and concluded that taking this mitigation into account the development would not adversely affect the integrity of the habitat sites.

Risk Analysis

30.

Risk	Likelihood	Impact	Mitigating actions
That the Strategy is not adopted and the SPD is not approved for consultation, resulting in the risk of legal challenge that the Habitats Regulations will not be complied with.	1	3 – dealing with legal challenges.	That each applicant would need to put forward alternative mitigation packages compliant with the Habitats Regulations.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.