

PLANNING POLICY AND LOCAL PLAN COMMITTEE

16 JULY 2019

REPORT OF THE CORPORATE DIRECTOR (PLANNING AND REGENERATION)

A.3 ESSEX COASTAL RECREATIONAL AVOIDANCE AND MITIGATION STRATEGY (RAMS)

(Report prepared by William Fuller)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT
<p>This report provides an update for Members on the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS) and describes how this may affect the Council's planning policies and decision-making in the future.</p>
EXECUTIVE SUMMARY
<p>Twelve Essex local planning authorities are working together on a mitigation strategy to protect the internationally designated Essex Coast from the effects of increased recreational disturbance as a result of population growth throughout Essex.</p> <p>The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) sets out the necessary measures to avoid and mitigate the effects from increased recreational disturbance. The RAMS sets a tariff of £122.30 per dwelling. This tariff will apply to all residential proposals, even proposals for one dwelling. This is because the whole of the District is within the Zone of Influence and the RAMS seeks to avoid and mitigate the in-combination effects from all new dwellings.</p> <p>To comply with the European Habitat Regulations, this Council is already seeking the said contribution from all new dwellings via legal agreements – but the consultation and adoption of the Supplementary Planning Document will ensure this arrangement is formalised in a consistent way across Essex.</p>
RECOMMENDATIONS
<ul style="list-style-type: none">(a) To approve the Draft Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) for consultation purposes and note the content of the RAMS Strategy Document (Technical Report and Mitigation Report); and(b) To delegate authority to the Head of Planning to make minor changes to the SPD should it be necessary. Any changes considered by the Head of Planning to be more than minor will be reported back to the Committee prior to any consultation commencing.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

There are a number of internationally important wildlife areas around the coast of Tendring that are protected under UK and European Law. The Council has a legal responsibility as a 'competent authority' to ensure they are not damaged as a result of new development.

RESOURCES AND RISK

Resources: Tendring District Council's contribution toward the cost of the RAMS project has been met through the agreed Local Plan budget and the agreed North Essex Garden Communities budget.

Risks: Plans and procedures need to show that they will not have a detrimental impact upon the qualifying features of the internationally designated sites. Without this collaborative approach Tendring may be at risk of not showing how harm could be mitigated. Harm to the qualifying features of these sites as a result of new development may result in a breach in UK and European Law for which the Council could be liable.

LEGAL

Legislation: The Habitat Regulations were originally published in 2010, but were updated and consolidated into the Conservation of Habitats and Species Regulations 2017 which came into effect on 30th November 2017. Both sets of Regulations require Local Planning Authorities (LPAs) to demonstrate that their Local Plans will not adversely affect the integrity of a protected 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 protected site in the District, unless appropriate mitigation is sought. Any mitigation is a requirement of legislation so must be delivered.

The National Planning Policy Framework (NPPF) requires Local Plans to be based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area.

OTHER IMPLICATIONS

Crime and Disorder: It may be that indirect benefits to tackle crime and disorder will be realised through the RAMS project through greater investment in the way protected sites are managed.

Equality and Diversity: Whilst having no direct benefit to these groups, the RAMS project will allow all groups in the community access to the countryside.

Health Inequalities: The RAMS project supports public access to the outdoors which will assist in

promoting a healthier lifestyle for residents and visitors to the District.

Area or Ward affected: All wards, but with particular importance to those that sit within or adjacent to the District's designated sites.

Consultation/Public Engagement: The RAMS Steering Group has already held two workshops for landowners, businesses and other interested parties and a Member workshop hosted by Malden District Council. Once prepared the SPD will also be the subject of a public consultation.

PART 3 – SUPPORTING INFORMATION

LOCAL PLAN AND DEVELOPMENT PLAN DOCUMENT TECHNICAL STUDIES

Reason for Recommended Decision

Twelve Essex local planning authorities (LPAs) are working together on a mitigation strategy to protect the internationally designated Essex Coast from the effects of increased recreational disturbance as a result of population growth throughout Essex.

A Habitat Regulations Assessment Strategy Document and a Supplementary Planning Document (SPD) have been prepared by consultants Place Services. The Local Plan Committee is asked to note the findings of the Habitat Regulations Assessment Strategy Document and agree consultation on the SPD. The Habitat Regulations Assessment Strategy Document includes a Technical Report (Evidence Base) and Mitigation Report. The Strategy Document and Draft SPD are attached as appendices to this report. It should be recognised that the SPD is in draft form and could be subject to change before it is finalised ahead of any consultation

All SPDs must be consulted upon prior to adoption. As twelve LPAs are working together on the RAMS one consultation will be organised by Place Services on behalf of all twelve LPAs. All LPAs are therefore being asked to agree the draft SPD for consultation. The consultation is likely to commence in summer 2019 subject to all authorities gaining the necessary approvals. It is proposed that if any changes to the Draft SPD of a minor nature are required ahead the consultation, then it be delegated to the Head of Planning to authorise those changes. If however more fundamental changes are required, it will be reported back to the Committee.

Alternative Options

The alternative would be to require all applications, even minor applications, to submit a project level shadow appropriate assessment. This would need to include bespoke avoidance and mitigation measures to comply with Regulation 61 of the Habitat Regulations.

This option is not being recommended because it would mean significant work and expense for applicants in preparing a shadow appropriate assessment and for Officers in assessing the shadow appropriate assessment. Furthermore, a piecemeal approach would make it difficult to deliver effective and timely avoidance and mitigation measures.

Background Information

The increase in population expected from housing growth across Essex will increase the demand

for recreational spaces, for example locations for people to picnic, hike, walk their dogs, swim, sail and many other activities.

The Essex coastline provides opportunities for these recreational uses. However, a large portion of the coastline is covered by international, European and national wildlife designations. The purpose of these designations is to protect wildfowl and wading birds as well as their coastal habitats. Population growth in Essex is likely to increase the number of visitors to these sensitive coastal areas, creating the potential for conflict via increased recreational disturbance of the species and habitats, unless adequately managed.

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 it is 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 and the term Habitats sites is now referenced in the National Planning Policy Framework (2019). There are 10 Habitat sites in Essex, which are listed below. The Colne Estuary Special Protection Area (SPA) and Ramsar, Hamford Water SPA and Ramsar and the Stour and Orwell Estuaries SPA and Ramsar are located (in part) within Tendring District.

Habitats Sites

Essex Estuaries SAC
Hamford Water SPA and Ramsar
Stour and Orwell Estuaries 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
Thames Estuary and Marshes SPA and Ramsar

To understand the recreational impacts affecting different areas along the Essex coastline and identify measures which can effectively avoid and mitigate likely disturbance impacts from increased visitors to the Essex coast from new residential developments Natural England, the Statutory Authority responsible for the conservation of habitats and species, identified the need for a strategic approach. Accordingly twelve Essex LPAs agreed to work together. Place Services were commissioned to prepare a RAMS Strategy and SPD, which the LPAs can use to avoid and mitigate likely significant effects to the Essex coast and ensure compliance with the Habitat Regulations. A similar approach has been successfully implemented throughout the country.

The ultimate aim of the Habitat Regulations is to “maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora and Community interest” (The Habitats Directive, Article 2 (2)).

The RAMS is made up of a Technical Report and Mitigation Report. It identifies:

- a) the likely impacts from recreational disturbance;
- b) effective mitigation measures;
- c) when the mitigation measures are required;

- d) where the mitigation is required;
- e) how mitigation relates to development (or development locations);
- f) how mitigation measures will be funded;
- g) how the success of the mitigation measures will be monitored; and
- h) how best to incorporate monitoring data and other information and best practice into future reviews of the strategy and Local Plans.

The Essex Coast RAMS is only designed to identify the mitigation measures necessary to avoid and mitigate recreational impacts at the 10 Habitats sites from additional residential dwellings within the twelve LPAs areas during the periods of their Local Plans. It 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) or other 'hard' works such as installation of barriers and the rerouting of footpaths.

In support of the RAMS, Natural England has updated their maps to show Zone of Influence (Zoi) for each Habitat site (see Appendixes 1 and 2). The Zoi are based on survey work which has informed the RAMS. The Technical Report shows that the whole of Tendring District is within the Zoi. This means that all residential development in Tendring is within the scope of the Essex Coast RAMS and it is anticipated that development is likely to have a significant effect upon the interest features of the aforementioned Habitat sites through increased recreational pressure, when considered in-combination. Consequently all residential development proposals in the District will require an appropriate assessment to assess recreational disturbance impacts on Habitat sites.

Whilst the Essex Coast RAMS is being prepared as a result of emerging Local Plans in Essex it applies to all applications, even applications for single dwellings and for allocations in adopted Local Plans. This is because it is recognised that plans and projects within the Zoi are likely to have a significant effect on a number of Habitat sites when taken in-combination. This applies just as much to new planning applications for housing development that are made prior to the adoption of the RAMS SPD. Due to this, the Council has taken the decision to begin collecting financial contributions from applicants for RAMS. Many of the other LPAs have also begun collecting contributions.

The Town and Country Planning (General Permitted Development) (England) Order 2015 allows certain development as Permitted Development in Schedule 2 of the Order. However, this is subject to regulations 73 to 77 of the Conservation of Habitats and Species Regulations 2017, which override this stating that if the appropriate habitat mitigation is not provided then the development cannot be permitted development.

Regulation 77(7) states that: "In the light of the conclusions of the assessment the local planning authority may approve the development only after having ascertained that it will not adversely affect the integrity of the site." Therefore, applications for prior approval will either have to make a RAMS contribution or prepare a project level shadow HRA.

The RAMS SPD includes background information, which explains the need to avoid and mitigate. It lists the types of development covered by the RAMS, details of what the applicant needs to do and the tariff. Payment of the tariff is voluntary and alternatives are also discussed in the SPD. As explained above, the alternative is for applicants to carry out their own project level shadow appropriate assessment, which will need to detail necessary avoidance and mitigation measures to ensure compliance with Regulation 61 of the Habitat Regulations.

APPENDICES

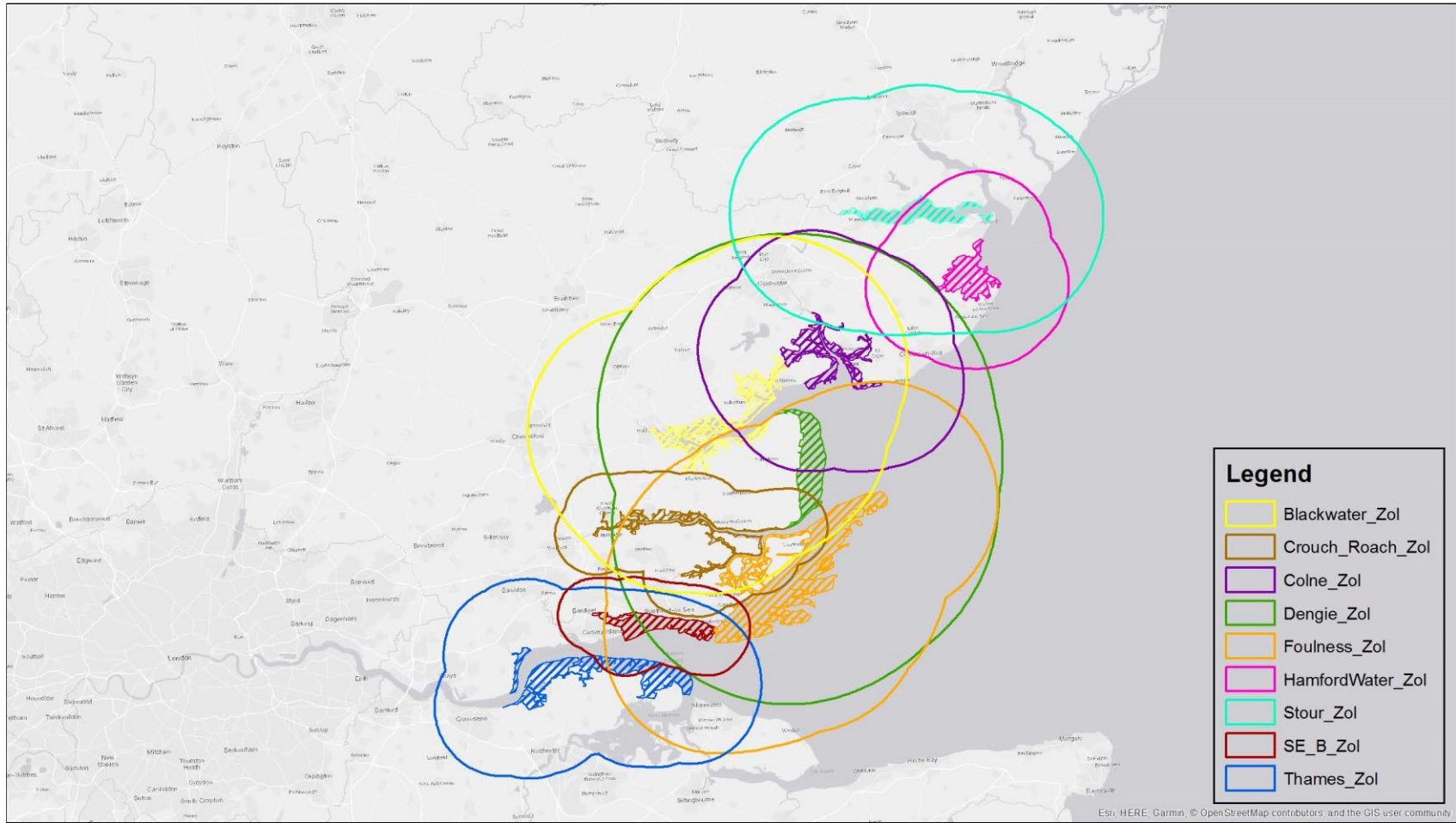
Appendices 1 & 2 – Zones of Influence (Zoi) for Essex and Tendring (set out below)
Appendix 3 – RAMS Habitats Regulations Assessment Strategy Document
Appendix 4 – Draft Essex Coast RAMS Supplementary Planning Document

BACKGROUND DOCUMENTS

None

Appendix 1

Essex Estuaries Zones of Influences



0 10 20 40 Kilometers

Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community

Appendix 2

District Wide Zones of Influence

