

10 February 2021

ITEM: 16

Decision: 110556

Cabinet

Adoption of the Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy Supplementary Planning Document and Partnership Agreement

Wards and communities affected:

Belhus (part)
Chadwell St Mary
Chafford and N Stifford (part)
Corringham & Fobbing
East Tilbury
Grays Riverside (part)
Grays Thurrock
The Homesteads
Little Thurrock Blackshots
Little Thurrock Rectory
Ockendon (part)
Orsett (part)
Stanford East and Corringham Town
Stanford le Hope West
Tilbury Riverside & Thurrock Park
Tilbury St Chards
Stifford Clays

Key Decision: Key

Report of: Councillor Mark Coxshall, Cabinet Member for Regeneration and Strategic Planning

Accountable Assistant Director: Leigh Nicholson – Assistant Director - Planning, Transport and Public Protection

Accountable Director: Andy Millard – Director of Place

This report is Public

Executive Summary

Under European law and the associated Habitat Regulations, Local Planning Authorities (LPAs) have a legal obligation to assess the impacts of new development on internationally important wildlife sites and, where necessary, put mitigation measures in place to minimise any harm.

The Essex coastline stretches for just over 350 miles, extending from the Thames Estuary in the south, around the Crouch and Blackwater Estuaries and northwards to the port of Harwich and the Stour Estuary. The coastline is extremely diverse and features a variety of habitats and environments, which are internationally important to wildlife. Most of the Essex Coast is also designated under the Conservation of Habitats and Species Regulations 2017 (the 'Habitat Regulations'), with the habitats forming part of the European Natura 2000 habitat network. This includes Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and Ramsar sites; the latter of which is also defined as an applicable habitat in the National Planning Policy Framework.

The coast provides opportunities for a range of recreational activities including dog walking, walking/hiking, cycling and sailing. With a projected increases in housing growth in Essex, the number of people visiting these sensitive coastal sites is also likely to increase. This could create the potential for impacts from increased recreational disturbance to the birds and their habitats, unless it can be adequately mitigated and managed. Failure to mitigate and manage will breach the Habitat Regulations.

This paper introduces a pan Essex strategy to provide a mechanism for the 12 Local Planning Authorities to comply with their responsibilities to protect habitats and species. The Strategy is known as the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (or 'RAMS' for short).

The purpose of this paper is to report on the outcome of a public consultation on the RAMS Supplementary Planning Document (SPD) and recommend the final RAMS and SPD for approval, as well to obtain authority to enter a Partnership Agreement with the 11 other Essex Local Authorities, with Chelmsford City Council as the Lead Institution to manage the implementation of the RAMS for the first three years.

1. Recommendations

- 1.1 That the Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS) 2018 - 2033 (January 2019) as set out in Appendix 1, be adopted.**
- 1.2 That the Essex Coast RAMS Supplementary Planning Document (SPD) (June 2020) as set out in Appendix 2, be adopted.**
- 1.3 That the RAMS Strategic Environmental Assessment (SEA) & Habitats Regulations Assessment (HRA) Screening Report as set out in Appendix 4, be adopted.**

1.4 That the Director of Place be authorised to join the Essex Coast RAMS Partnership on behalf of Thurrock Borough, via a Partnership Agreement with the 11 Essex Authorities and Chelmsford City Council as the Accountable Body (for the first term) and put into place operational processes to implement, collect, monitor and pay the tariff contributions collected in the Thurrock Borough to the Essex Coast RAMS Accountable Body.

2.0 Introduction and Background

2.1 Under European law and the associated Habitat Regulations, Local Planning Authorities (LPAs) have a legal obligation to assess the impacts of new development on internationally important wildlife sites and, where necessary, put mitigation measures in place to minimise any harm.

2.2 The Essex coastline stretches for just over 350 miles, extending from the Thames Estuary in the south, around the Crouch and Blackwater Estuaries and northwards to the port of Harwich and the Stour Estuary. The coastline is extremely diverse and features a variety of habitats and environments, which are internationally important to wildlife. Most of the Essex Coast is also designated under the Conservation of Habitats and Species Regulations 2017 (the 'Habitat Regulations'), with the habitats forming part of the European Natura 2000 habitat network. This includes Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and Ramsar sites; the latter of which is also defined as an applicable habitat in the National Planning Policy Framework.

2.3 12 Essex LPAs, including Thurrock, have been working together under the Duty to Cooperate, assisted by Natural England and Essex County Council's Place Services on preparing the RAMS, the SPD and the partnership arrangements. Joint working, in this way, offers the opportunity to protect the birds and habitat sites around the Essex Coast in a coordinated manner.

2.4 The RAMS aims to secure and deliver an estimated £8.9m mitigation package across Essex, secured by financial contributions from new residential development, thus enabling the implementation of a series of positive land and recreational management measures.

3.0 Issues, Options and Analysis of Options

The Essex Coast Recreation disturbance Avoidance Mitigation Strategy (RAMS)

3.1 The Essex Coast provides opportunities for a range of recreational activities including dog walking, walking/hiking, cycling and sailing. Research undertaken to inform the Essex Coast RAMS has shown that with housing growth increasing, the number of people visiting these sensitive coastal sites is also likely to increase. This could create the potential for impacts from increased recreational disturbance to the birds and their habitats, unless it can

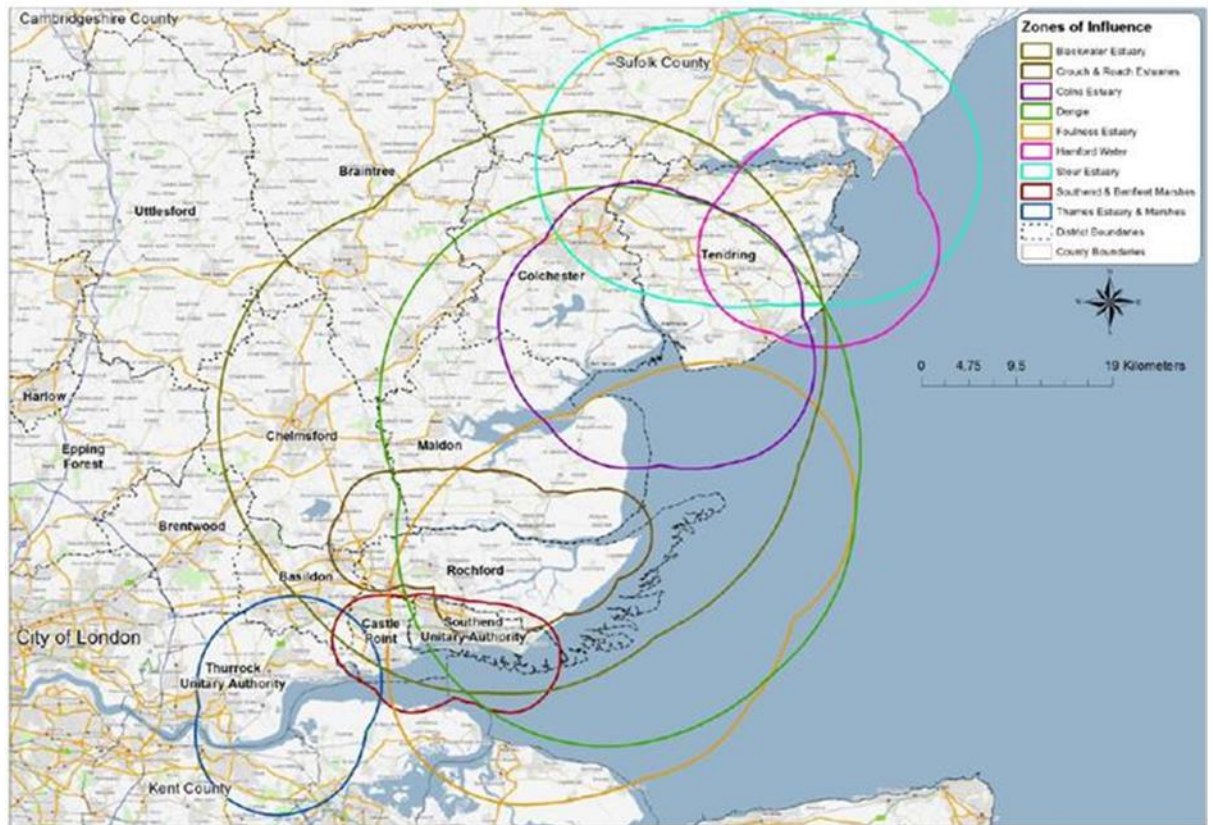
be adequately mitigated and managed. Failure to mitigate and manage will breach the Habitat Regulations.

- 3.2 There are ten habitat sites in the Essex Coast RAMS, of which the Outer Thames Estuary and Marshes SPA and Ramsar is within Thurrock.
- 3.3 The SPD (Appendix 2) sets out common LPA guidance that will apply when determining planning applications for new housing development in the 12 partner LPAs. The SPD sets out a requirement for a financial contribution of £125.57 per dwelling that can be adjusted annually in line with indexation (2019/2020 base), which will be collected to fund the RAMS. The SPD, and associated assessments were subject to public consultation in early 2020 and the document has been revised in response of comments received. The documents can be found in appendix 5.
- 3.4 Through the provision of a 'per-dwelling tariff', the Essex Coast RAMS enables the achievement of proportionate mitigation measures and enables development proposals of all scales to contribute towards necessary mitigation. The measures within the RAMS are to be fully funded by developer contributions. To comply with the Habitat Regulations in advance of the SPD, all 12 LPAs have been collecting RAMS contributions for development within the Zones of Influence (see below), which will be spent on the mitigation measures in accordance with the adopted RAMS.
- 3.5 Chelmsford City Council has offered to manage and administer all the developer contributions on behalf of the Essex authorities, subject to the signing of a 'Partnership Agreement' and the implementation of a process to appoint a joint Delivery Officer. This avoids the duplications of resources across the Councils and keeps administration costs to a minimum.
- 3.6 If any Council chooses not to approve these documents and not sign up to the Partnership Agreement, they will still have a legal obligation to comply with the Habitat Regulations and will therefore have to put their own arrangements in place, which will have significant implications for resources by comparison. The majority of other Authorities have already approved these documents, with the remainder seeking agreement this quarter.

The Zones of Influence

- 3.7 To inform the Essex Coast RAMS, visitor surveys have been carried out at key locations within each of the coastal habitat sites to establish a common baseline. Zone of Influences were calculated for each habitat site using this survey data.
- 3.8 Within each Zone, it is considered that residential development is likely to have an impact, and as a result, developer contributions for the delivery of avoidance and mitigation measures are therefore justified. The Zone applicable for Thurrock relates to an area of Land to the east of the Borough known as the Thurrock Estuary and Marshes.

3.9 Part of the Borough falls within one Zone, the Thames Estuary and Marshes. This is shown on the plan below:



Mitigation Package

3.10 The overall cost for the mitigation package is estimated to be £8.9m up to 2038. The mitigation package is summarised on Table 8.2 of the RAMS. It includes a mix of measures considered necessary to avoid, or minimise disturbance at key locations with easy public access, including:

- New staff resources – Delivery Officer, rangers, etc;
- Communication – with the public and others;
- Dog related mitigation;
- Codes of Conduct;
- Habitat creation; and
- Visitor and habitat monitoring.

3.11 The package is flexible and deliverable and based on practice elsewhere in England. Successful RAMS have already been implemented in The Solent, Thames Heath and North Kent.

- 3.12 A precautionary approach has been adopted, with priority areas for measures identified as those which have protected breeding birds, which could conflict with high numbers of summer visitors to the coast and those with important roosts and foraging areas in winter. Sensitive habitats have also been identified for ranger visits.
- 3.13 The mitigation package prioritises measures considered to be effective at avoiding or mitigating recreational disturbance by habitat site managers. Encouraging responsible recreation is a key measure endorsed by land managers of important wildlife sites across the country, including Natural England, the Royal Society for the Protection of Birds (RSPB) and Wildlife Trusts. These bodies provide educational material at sites to encourage visitors to comply with key objectives.

RAMS Project Governance

- 3.14 The RAMS is intended to be a flexible project that can quickly adapt as necessary. The new Delivery Officer and rangers should quickly become familiar with the sites and areas that are particularly sensitive, which may change over time, and sites that experience a high number of visitors. The experience of rangers on the ground will therefore help to steer the project and necessary measures. Input is also expected from local authority elected members, Natural England and specialist experts from the Essex RAMS Steering Group. The budget will be signed off by a Project Board comprised of relevant officers from the Essex Planning Officers' Association, with members' oversight provided by the Essex Coastal Forum.

Monitoring and Review Process

- 3.15 The Essex Coast RAMS will provide a flexible and responsible approach, allowing it to respond to unforeseen issues. Close engagement will continue with Natural England who will be able to advise if recreational disturbance is increasing at particular habitat sites and specific locations. This will enable these locations to be targeted by the new rangers to have an immediate impact.
- 3.16 Updated visitor surveys, which are included in the funded mitigation package, will enable the zone of influence to be reviewed and expanded if it is shown that visitors are travelling from further than previously found. There is scope to also adjust the tariff:
- if it is shown that the contributions are not covering the identified measures;
 - if any Zol is made smaller; or
 - to respond to changes to housing numbers across Essex.
- 3.17 The Essex Coast RAMS will be monitored and reviewed on a regular basis by an officer Steering Group. It will be deemed successful if the level of bird and

habitat disturbance is not increased despite an increase in population and the number of visitors to the coastal sites for recreation.

- 3.18 The effectiveness of the Essex Coast RAMS as an integrated part of the planning system in Essex has already been tested as part of Chelmsford City Council's Local Plan Examination. The Planning Inspector's Report positively found that: *"Overall, the HRA concludes that there will be no adverse effect on the integrity of European protected sites, either alone, or in combination with other plans or projects, subject to the mitigation set out in the Plan policies. Natural England agrees with these conclusions and I have no substantive evidence to counter these findings. The requirement to undertake appropriate assessment in accordance with the Regulations has therefore been met"*. The Chelmsford Local Plan was adopted in May 2020.

Partnership Arrangements

- 3.19 The Partnership Agreement will be a legal document which will show how Chelmsford City Council will become the Accountable Body for the first three years and will administer the RAMS on behalf of all 12 LPAs. The duration of the project that the partnership is being set up to manage is proposed to run until 2038, with a mechanism to extend if appropriate. The document is still to be finalised between all partners, but it is likely to include the following requirements:
- A list of projects recommended by the Delivery Officer and agreed by the Steering Group be reported to the Project Board every six months for sign off, and six-monthly updates in turn provided to the Essex Coastal Forum, which Maldon District Council is already part of;
 - Every quarter the Section 106 (S106) Officer of each LPA sends their RAMS contributions to the Accountable Body and a contributions report to the Delivery Officer;
 - Once all contributions collected, the Accountable Body and Delivery Officer will provide the Steering Group with details of any monies available;
 - The Delivery Officer recommends projects based on monies available, priorities in the approved RAMS, and the best information available from rangers, Natural England and interest groups;
 - The Steering Group will meet quarterly and agree projects and A.O.B. for recommendation to the Project Board;
 - Once the Project Board has agreed spending, the Delivery Officer implements, and project manages, with all invoices sent to the Accountable Body;
 - The Delivery Officer will also provide the Steering Group with an annual report to inform LPA statutory Authority Monitoring Reports; and
 - The accountable body's costs, such as line management and accountancy, will be divided between the 12 participating Essex LPAs. Other extra-ordinary employment liabilities such as redundancy and long-term sickness, will also be divided between the 12 LPAs using the same formulae.

4.0 Reasons for Recommendation

4.1 This Recommendation is required to allow Thurrock Borough Council, as Local Planning Authority to comply with the Habitat Regulations, where there is a legal obligation to assess the impacts of new development on internationally important wildlife sites and, where necessary, put mitigation measures in place to minimise any harm.

5.0 Consultation (including Overview and Scrutiny, if applicable)

5.1 Essex Place Services led the consultation process on behalf of the 12 authorities and consulted the following:

- the public; statutory bodies including neighbouring Councils, local Parish and Town Councils, utility companies, health representatives and Government 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 Essex Police;
- developers and landowner and their agents; and
- local businesses, voluntary and community groups.

5.2 The consultation material was available to view and comment on the Essex County Council 'Citizen Space Consultation Portal' during the consultation dates. It was also available to view on partner Council's websites, from their main offices and at a number of local public libraries. Information was also provided on the project Bird Aware website www.essexcoast.birdaware.org.

5.3 For those people who did not have access to computers, paper response forms were also made available. All Councils sent direct emails / letter notifications to all consultees registered on their Local Plan consultation databases. A public notice was also included in the Essex Chronicle to advise how to respond and the consultation dates and information on the consultation was also posted on social media.

5.4 The SPD consultation received a total of 146 comments, 87 of these being from Essex residents and 59 being from various organisations. Comments were received on a wide range of themes, relating to the SPD, the RAMS itself and also the format of the consultation exercise.

5.5 In response to the various comments received, Essex Place Services introduced a You Said, We Did Report (Appendix 3).

6.0 Impact on corporate policies, priorities, performance and community impact

6.1 The protection and enhancement of coastal habitats is an important priority for the Council to protect and improve the environment for residents and visitors as part of the existing Core Strategy, forthcoming Local Plan and wider

aspirations for environmental protection and enhancement. The RAMS, SPD and Partnership Arrangements will help meet these aims.

7.0 Implications

7.1 Financial

Implications verified by: **Laura Last**
Senior Management Accountant

It is recommended that there is an Accountable Body that would be responsible for setting up the RAMS governance and delivery arrangements, hold and administer the RAMS contributions on behalf of the Essex RAMS Partnership and provide advice and guidance on financial matters.

For the first three years, Chelmsford City Council have offered to take on this role. The work towards the Partnership Agreement estimates start-up costs and annual on-costs which cannot be funded through developer contributions and will need to therefore be shared between all partnership authorities.

These costs are estimated to cost Thurrock Borough Council circa £1,400 per annum, with some variation for the first six months to reflect more intense management costs during the Delivery Officer's probation period. This approach is still considered to be the most cost-effective way, however, to manage the 12 LPAs administrative costs for the joint resource. Extraordinary employment liabilities will also be shared between the 12 LPAs based on the same formulae. These costs will be met from existing service budgets

7.2 Legal

Implications verified by: **Tim Hallam**
Deputy Head of Legal and Deputy Monitoring Officer

Legally, the Conservation of Habitats and Species Regulations 2017 provide the legal framework for the RAMS. They require LPAs to demonstrate that their Development Plans will not adversely affect the integrity of a protected site through a Habitat Regulations Assessment (HRA). The 2017 Regulations are currently 'retained EU Law' under the European Union (Withdrawal) Act 2018

Similarly, 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 Borough, unless appropriate mitigation is sought. Any mitigation is then a legal requirement, and so must be delivered.

7.3 Diversity and Equality

Implications verified by: **Becky Lee**
Team Manager - Community Development and Equalities

Essex Coast RAMS SPD is an evidence based, fair mechanism to fund mitigation measures for protected bird habitats. It is pragmatic: a simple and effective way of protecting and enhancing the internationally important wildlife & habitats of the Essex coast and will help to reduce the time taken to reach planning decisions.

The protection and enhancement of coastal habitats is an important priority for the Council to preserve and improve the environment for all residents and visitors as part of the existing Core Strategy, forthcoming Local Plan and wider aspirations for environmental protection and enhancement.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder, and Impact on Looked After Children)

None relevant.

8.0 Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Thurrock Council Core Strategy (<https://www.thurrock.gov.uk/core-strategy-local-plan/about-core-strategy>)

9.0 Appendices to the report

- Appendix 1: Essex Coast Recreational disturbance Avoidance Mitigation Strategy 2018 - 2033 (January 2019)
- Appendix 2: Essex Coast RAMS SPD (June 2020)
- Appendix 3: Essex Coast RAMS Supplementary Planning Document (SPD) – You Said, We Did – Consultation Report (April 2020)
- Appendix 4: Essex Coast RAMS SPD SEA – HRA Screening Report (June 2020).

Report Author:

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