

24 August 2020

Report of	Assistant Director for Place and Client Services	Author	Shelley Blackaby ☎ 508635
Title	Adoption of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD)		
Wards affected	All		

## 1. Executive Summary

- 1.1 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.
- 1.2 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 current RAMS tariff is £125.58 per dwelling (the tariff is index linked). This tariff will apply to all residential proposals, even proposals for one dwelling. This is because the whole of the borough is within the Zone of Influence and the RAMS seeks to avoid and mitigate the in-combination effects from all new dwellings.
- 1.3 Consultation took place on the draft Essex Coast RAMS Supplementary Planning Document (SPD) in January-February 2020. All representations have been considered and modifications have been made to the draft SPD. A You Said, We Did report summarises all representations to the draft SPD, and this is included as Appendix 2. The RAMS SPD is attached as Appendix 1.

## 2. Recommended Decision

- 2.1 To adopt the RAMS SPD.
- 2.2 To delegate authority to the Lead Officer: Planning, Housing & Economic Growth to make minor changes to the RAMS SPD should it be necessary. Any changes considered by the Lead Officer and Group Spokespersons to be more than minor will be reported back to the Committee.

## 3. Reason for Recommended Decision

- 3.1 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.
- 3.2 A RAMS Strategy Document and SPD have been prepared by consultants Place Services. The Local Plan Committee adopted the RAMS Strategy Document in October 2019 and agreed consultation on the draft RAMS SPD.
- 3.3 Once adopted, the RAMS SPD will be a material consideration in the determination of planning applications. As such it will help to protect the birds and habitats of the Essex

coast from increased visitor pressure associated with new residential development in combination with other plans and projects. It will also support the implementation of the emerging Colchester Local Plan.

#### **4. Alternative Options**

- 4.1 Although the Council is not obliged to adopt the RAMS SPD a decision not to do so would not remove the Council's duties under the Habitats Regulations and would not remove the need to implement the RAMS, or another appropriate strategy, to avoid or mitigate the impacts of new housing on the integrity of habitats sites. Failure to avoid or mitigate the impacts of recreational disturbance arising from new housing in the determination of planning applications would leave decisions vulnerable to legal challenge. The RAMS Strategy Document and SPD are intended to ensure the Council's obligations under the Habitats Regulations are effectively discharged.
- 4.2 An alternative to the Essex Coast RAMS 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.
- 4.3 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.

## 5. Background Information

- 5.1 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.
- 5.2 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.
- 5.3 Eleven Essex LPAs commissioned Place Services to prepare a RAMS Strategy Document and SPD to avoid and mitigate likely significant effects to the Essex coast and ensure compliance with the Habitat Regulations. Since work began Uttlesford District Council have joined the partnership. The RAMS Strategy Document, which includes a Technical Report and Mitigation Report, was presented to Local Plan Committee (LPC) in February 2019 and adopted by LPC in October 2019.
- 5.4 The LPC agreed consultation on the draft RAMS SPD in October 2019 and consultation took place from 10 January – 21 February 2020 in accordance with the planning consultation requirements set out in each of the partner LPAs Statements of Community Involvement. The consultation material was available to view and comment on the Essex County Council Citizen Space consultation portal and to view from partner LPA main offices and at a number of local public libraries during the consultation period. Information was also provided on the partner LPA websites and the project Bird Aware website [www.essexcoast.birdaware.org](http://www.essexcoast.birdaware.org).
- 5.5 The SPD consultation received a total of 146 comments, 87 of these being from Essex residents and 59 being from various organisations including Natural England, Essex County Council, the RSPB and the Marine Management Organisation. Of the resident responses, 11 were made from residents of Colchester. All the responses are available to view online at <https://consultations.essex.gov.uk/place-services/the-essex-coast-rams-spd/>.
- 5.6 Comments were received on a wide range of themes, relating to the SPD, the RAMS document itself and also the format of the consultation exercise. The main issues that were raised included:
- Confusion about the purpose and aims of the RAMS;
  - Scope and detail of mitigation measures;
  - Concern regarding the effectiveness of the RAMS approach;
  - Query whether the right key stakeholders have been involved in the RAMS;
  - Questioning the status of protected wildlife sites following the UK's withdrawal from the European Union;
  - Concern that RAMS will enable inappropriate development to be allowed;
  - Suggestions that money should be spent on other projects;
  - Concern with the calculation and definition of the Zones of Influence;
  - Arguments that the tariff is set too high, or alternatively too low;
  - Questions over the adequacy of the proposed budget and staff to deliver project across such a wide area;

- Concerns about monitoring (both in relation to the tariff and Zones of Influence);
- Suggestion that other land uses (other than residential) should come within the scope of the tariff;
- Perceived conflict of RAMS purpose (protecting against recreational disturbance) and aims with the England Coastal Path project (increasing public access to the coast);
- Concerns that RAMS will impact on existing and future strategies and aspirations for tourists and residents to access and enjoy the coast, for economic growth and health and wellbeing; and
- Suggestions that alternatives to paying into the RAMS should either not be allowed, or that alternative approaches should be more clearly set out.

5.7 In response to the various comments received, Place Services produced a 'You Said, We Did' report which considers each of the comments and recommends whether or not changes to the SPD are required. These have been considered by the RAMS Steering Group of Officers from the twelve Essex LPAs and a revised version of the SPD has been agreed by the Steering Group. The main revisions include:

- A glossary and list of acronyms and a description of what they mean is now included at the beginning of the SPD;
- A clearer description of how overheads and other costs have been identified within the RAMS mitigation package;
- The first paragraph of the SPD has been amended to state 'birds and their habitats' rather than 'wildlife' to make it clearer from the outset as to what type of wildlife the RAMS and the SPD is primarily seeking to protect;
- More recognition of the South East Marine Plan and the East Inshore and East Offshore Marine Plans which, when adopted, will become part of the statutory Development Plan for the relevant Councils;
- An amendment to include reference to fishing / bait digging to paragraph 2.2;
- Reference to the 'Outer Thames Estuary SPA' rather than the 'Thames Estuary SPA';
- Previous maps replaced with higher resolution images;
- Additional clarification within Paragraph 3.7 making the SPD more explicit regarding proposals for single dwellings being subject to the RAMS tariff;
- More explanation of requirements of development proposals in regard to statutory HRA procedures and on-site mitigation, and that the specific effects the RAMS will mitigate in accordance with Regulation 122 of the CIL Regulations;
- More justification for the inclusion of C2 Residential Institutions and C2A Secure Residential Institutions as being liable for tariff payments;
- Inclusion of the National Planning Policy Framework (NPPF) within the 'useful links' section;
- Clarification that non-residential proposals are exempt from the tariff;
- Amendments to the map in Appendix 2 of the Essex Coast RAMS SPD SEA/HRA Screening Report (presented in Appendix 4 to this report) be amended to reflect the Outer Thames SPA designation;
- Clarification on the requirements for project-level Habitat Regulations Assessment (HRA) and Appropriate Assessment (AA) of development proposals which will explore the hierarchy of avoidance and mitigation, and that the SPD is relevant to 'in-combination' recreational effects only;
- Clear explanation that the intention of Essex Coast RAMS mitigation is to enable the conclusion of no adverse effect on the integrity of the international designated sites;
- Removal, from the relevant map in the SPD and RAMS Strategy, all areas of Suffolk from the Zone of Influence; and

- Clearer explanation of the relationship between the effects of a population increase resulting from net new dwelling increases.

5.8 In addition, further changes have been made to ensure that the revised SPD is up to date including:

- Clarification that ways of paying the tariff contributions varies between partner LPAs;
- Reference to the governance arrangements for the RAMS including the Project Board and Essex Coastal Forum; and
- Clarification that the RAMS monitoring framework will be agreed on appointment of the Delivery Officer.

The entire You Said, We Did report is presented in Appendix 2 and the revised SPD is Appendix 1.

5.9 Natural England initiated the Essex Coast RAMS and were involved with the preparation of the draft SPD so did not make any specific comments on it in their consultation representation. However, Natural England have reviewed the revised SPD and confirmed that they endorse it and are pleased with the approach and cooperation between LPAs. Natural England will continue supporting the Essex Coast RAMS as it moves into the delivery phase.

5.10 The Section 1 Local Plan Inspector considered the effectiveness of the Essex Coast RAMS as a mitigation measure as part of the Local Plan examination. In his letter to the North Essex Authorities dated 15 May 2020 he endorsed the Essex Coast RAMS and Section 1 Habitat Regulations Assessment. Paragraph 59 of his letter states:

*“Taking into account the mitigation measures, which as well as the RAMS include the proposed modifications to the Plan’s policies, the NEAs are satisfied that there is sufficient certainty that the Plan would not adversely affect the integrity of any European site, alone or in combination. In the light of all the above points, I consider that they are justified in taking that view.”*

5.11 As reported to LPC in October 2019, Chelmsford City Council (CCC) have put forward a proposal to become the Accountable Body. CCC will hold all contributions from the 12 LPA partners and employ the Delivery Officer. CCC have drafted a legal agreement and the partner LPAs are in the process of agreeing this. Once all partners have signed the Partnership Agreement the Delivery Officer can be appointed. It is anticipated that an appointment will take place in October 2020.

## 6. Equality, Diversity and Human Rights implications

6.1 An Equality Impact Assessment has been prepared for the Local Plan, and is available to view by clicking on this link: -  
<https://cbccrmdata.blob.core.windows.net/noteattachment/Equality%20Impact%20Assessment%20June%202017.pdf>

## 7. Strategic Plan References

7.1 The Strategic Plan is relevant, in particular in contributing towards priorities under the themes of Opportunity and Wellbeing:  
**Opportunity-** Ensure a good supply of land available for new homes through our Local Plan.  
**Wellbeing-** Encourage belonging, involvement and responsibility in all the

borough's communities; and Help residents adopt healthier lifestyles by enabling the provision of excellent leisure facilities and beautiful green spaces, countryside and beaches.

## **8. Consultation**

- 8.1 Draft Supplementary Planning Documents must be consulted as set out in the Council's Statement of Community Involvement (SCI). The consultation of the RAMS SPD met the Council's SCI.

## **9. Publicity Considerations**

- 9.1 Whilst there are numerous mitigation strategies around the country the Essex Coast RAMS is new to Essex which could warrant press attention.

## **10. Financial implications**

- 10.1 Applicants will be expected to fund the avoidance and mitigation measures in the RAMS through payment of the tariff.
- 10.2 Chelmsford City Council will become the Accountable Body for the first three years. The Accountable Body will be responsible for holding and administering the RAMS contributions, provide advice and guidance on financial matters and employ and manage the Delivery Officer.
- 10.3 A Partnership Agreement has been prepared, which includes the estimated annual cost of line managing the Delivery Officer and administering the RAMS, which cannot be funded using the RAMS contributions. These costs will be shared between the partner LPAs. The costs to each partner are estimated to be £1,400 per annum and subject to an annual review.

## **11. Health, Wellbeing and Community Safety Implications**

- 11.1 None

## **12. Health and Safety Implications**

- 12.1 None

## **13. Risk Management Implications**

- 13.1 The Essex Coast RAMS reduces the risk of legal challenges by ensuring that all applications that pay the tariff comply with the Habitat Regulations.

## **Appendices**

Essex Coast RAMS SPD

Essex Coast RAMS You Said, We Did consultation report