

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 05 March 2018

Portfolio:	Planning and Development
Subject:	Solent Recreation Mitigation Partnership Definitive Strategy for Approval
Report of:	Director of Planning and Regulation
Corporate Priority:	Protect and enhance the environment

Purpose:

The purpose of this report is to seek the Executive's approval of the Definitive Solent Recreation Mitigation Strategy (SRMS). In doing so, this would allow the Council to implement the Strategy's new guidance and charging schedule (collected as a developer contribution from planning permissions) from 1 April 2018.

Executive Summary:

The Solent Coastline contains large numbers of important bird assemblages which have resulted in it being designated as a Special Protection Area (SPA) under the EU Birds Directive and subsequently transposed into the UK Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).

The Solent SPA bird species are particularly vulnerable to the effects of recreational disturbance arising from new housebuilding in the area. In order to legally permit new residential development whilst ensuring protection and mitigation of the Solent SPAs, the Solent Recreation Mitigation Partnership (SRMP) was formed, of which Fareham Borough Council (FBC) is a current member.

The SRMP produced an Interim Mitigation Strategy in 2014 to address immediate pressures from development, however this Interim Strategy has now been updated by a more comprehensive Definitive Mitigation Strategy. This Definitive Strategy was endorsed by the PUSH Joint Committee on 5 December 2017 as a mechanism to mitigate the impact on SPA species that is likely to result from recreational disturbance arising from planned new house building in the vicinity of the coast to 2034. The Strategy proposes a series of management measures which actively encourage all coastal visitors to enjoy their visits in a responsible manner rather than restricting access to the coast or preventing activities that take place.

The implementation of the Strategy and the monitoring of its effectiveness would be funded by a sliding scale of developer contributions which have been calculated according to the bedroom numbers of a property. On average, this would be the

equivalent of £564 per new dwelling, an increase from £181 per new dwelling under the interim Strategy. This contribution would be required for all new homes built within 3.5 miles (5.6 kilometres) of the SPAs which in practice covers the entire Borough.

Payment of the Solent Recreation Mitigation Strategy contribution provides a cost-effective partnership approach to providing the necessary mitigation to protect the SPAs in line with the advice of Natural England, the Government's statutory advisor on nature conservation. If applicants decide not to make the SRMS contribution, they will need to undertake their own Habitat Regulations Assessment to assess and mitigate the impact that their development may have on an SPA, as required by the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).

Recommendations:

It is recommended that the Executive approves the implementation of the Definitive Solent Recreation Mitigation Strategy and the associated charging regime from 01 April 2018.

Reason:

To ensure continued compliance with the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations), whilst facilitating housebuilding and economic growth in Fareham.

Cost of proposals:

None.

Appendices:

A: Definitive Strategy - 'Solent Recreation Mitigation Strategy' (December 2017):

<http://www.birdaware.org/CHttpHandler.ashx?id=29372&p=0>

Background papers: None.

Reference papers: None.

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Executive Briefing Paper

Date:	05 March 2018
Subject:	Solent Recreation Mitigation Partnership Definitive Strategy for Approval
Briefing by:	Director of Planning and Regulation
Portfolio:	Planning and Development

INTRODUCTION

1. Fareham Borough Council is a member of the Solent Recreation Mitigation Partnership which consists of Local Authorities (both PUSH and Non-PUSH members), the RSPB, Natural England, Hampshire & Isle of Wight Wildlife Trust and Chichester Harbour Conservancy. The purpose of the partnership has been to devise and agree on suitable mitigation measures that enable the proposed quantum of housebuilding in the region to continue whilst ensuring that the recreational impacts from development on the Solent SPAs are mitigated.
2. The Partnership produced and implemented an Interim Strategy for mitigation which has been in place since 2014. Since then, the Partnership has developed the Definitive Strategy which replaces the Interim Strategy and provides adequate mitigation of recreational effects on the Solent SPAs until 2034 and for 80 years in-perpetuity post 2034. However, to keep the Definitive Strategy relevant, the Partnership will undertake regular strategic reviews of the Definitive Strategy every 3 years from implementation, or more frequently if changes in legislation or evidence necessitate.

SOLENT SPAs

3. Over 90,000 coastal birds fly from as far as Arctic Siberia to feed and roost for the winter on the Solent. This includes 10% of the global population of Brent Geese. To safeguard them, three Special Protection Areas (SPAs) have been designated in the Solent in accordance with Article 4 of the EC Birds Directive. The SPAs are classified for rare and vulnerable birds (as listed in Annex I of the Directive) and for regularly occurring migratory species.
4. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) requires Local Planning Authorities to be satisfied that development is not likely to have significant effects on the SPA. Avoidance and mitigation measures should be used to remove the likelihood of any significant effect which might have otherwise taken place. (This is to enable a development to proceed either through its allocation in a Local Plan or the granting of planning permission).

5. Research undertaken during 2009-2013¹, has shown that newly planned housebuilding within 3.5 miles (5.6 kilometres) of the Solent SPAs is likely to lead to a significant effect on the SPA bird populations predominantly through disturbance caused by recreational activity at the coast. Such activity causes the SPA bird populations to take flight/move away from the disturbance, using up precious energy reserves and causing them to spend less time feeding. This can result in a higher bird mortality rate and in turn will begin to threaten species existence.

INTERIM MITIGATION STRATEGY

6. Extensive research into this matter was undertaken during 2009-2013 through the Solent Disturbance and Mitigation Project which preceded the Mitigation Partnership. The findings of this research identified the need for avoidance and mitigation measures to be implemented in order to allow the continued granting of planning permission for new residential development in the Solent area.
7. As a result, in 2013 the Solent Local Authorities together with Natural England formed the Solent Recreation Mitigation Partnership and proceeded to develop the Interim Mitigation Strategy. The Interim Mitigation Strategy introduced the current mitigation payment (which has increased by inflation to £181 per dwelling) in order to satisfy both Natural England and the Habitat Regulations.

DEFINITIVE MITIGATION STRATEGY

8. The Definitive Mitigation Strategy, replaces the Interim Strategy and provides a definitive way forward for addressing the impact on SPA species from recreation arising from new housing development. To do this, the Strategy proposes a series of management measures which actively encourage all coastal visitors to enjoy their visits in a responsible manner rather than restricting access to the coast or preventing activities that take place.
9. The Definitive Strategy provides full details of the proposed mitigation package, however in summary it includes:
 - A team of coastal rangers to advise people on how to avoid bird disturbance, liaise with landowners, host school visits etc.;
 - Communications, marketing and education initiatives;
 - Initiatives to encourage responsible dog walking;
 - The preparation of codes of conduct for a variety of coastal activities;
 - Site-specific projects to help manage recreation at the coast and provide secure habitats for the birds;
 - The provision of new/enhanced greenspaces as alternatives to visiting the coast.
10. The Strategy is to last to 2034 with an in-perpetuity period following (defined as 80 years by Natural England) whereby mitigation measures will continue to be implemented through an in-perpetuity fund, into which a proportion of all current contributions are directed. However, in order to keep the Definitive Strategy relevant, the Partnership will also undertake regular strategic reviews every 3 years from implementation (or more frequently if changes in legislation or evidence necessitate).

¹ Baseline research can be viewed online here: <http://www.birdaware.org/research>

11. The implementation of the Definitive Strategy and the monitoring of its effectiveness is to be funded by developer contributions. These will be adjusted annually to take into account inflation. Unlike the current Interim Strategy (which uses a flat rate for charging), the Partnership has decided to use a sliding scale of contributions, based on the number of bedrooms of a property. As a result, the breakdown of the contribution of a new dwelling by size is:
 - £337 for 1 bedroom dwelling;
 - £487 for 2-bedroom dwelling;
 - £637 for 3-bedroom dwelling;
 - £749 for 4-bedroom dwelling; and
 - £880 for 5 bedrooms or more.
12. As with the current Interim Strategy, the new Definitive Strategy contribution would be required for all new homes built within 3.5 miles (5.6 kilometres) of the SPAs. This distance covers the entire Borough.
13. The developer contributions for new dwellings within Fareham Borough Council's administrative boundary will be collected by Fareham Borough Council (FBC) and transferred to the SRMP, who will then implement the Strategy. The contributions would be collected either through a legal agreement, which would be a Section 106 agreement or, in situations where a Section 106 agreement would not otherwise be necessary, the Council would secure contributions through Section 111 of the Local Government Act 1972. These processes are already set up for the implementation of the Interim Mitigation Strategy and would not change for the Definitive Strategy.
14. The public facing brand of the mitigation partnership is now known as Bird Aware Solent. This branding has been well received and is successful. The Partnership's new website (www.birdaware.org), as well as staff uniforms and documents all use this consistent branding.
15. At the current time, Fareham Borough Council is the SRMP authority responsible for the financial accounting of all SRMP contributions that are collected across the partnership. For awareness, Portsmouth City Council currently manage and employ the post of the Partnership Manager and Havant Borough Council provide communications and marketing support to the Partnership.
16. It is also important to note that the Draft Fareham Local Plan 2036 makes policy reference to the Definitive Mitigation Strategy through Draft Policy NE3: Solent Special Protection Areas.

THE PROPOSED WAY FORWARD

17. The Definitive Strategy was subject to public consultation from 17 July to 17 September 2017. Following this consultation period, the Strategy was finalised and considered by the PUSH Joint Committee on 5 December 2017, who subsequently endorsed the

Definitive Strategy for implementation². Following endorsement of the Definitive Strategy by the PUSH Joint Committee it is now up to individual authorities to seek approval of the Strategy for implementation.

18. As part of the Definitive Strategy consultation process, a specific briefing took place for housebuilders and developers. The feedback from this briefing confirmed that the increase in the cost of the contribution from the Interim to the Definitive Strategy was not substantial and would not affect the viability of housing development. As such, it is not considered likely that the Definitive Strategy's approval and implementation would affect housing delivery in the Borough.

RISKS OF NOT APPROVING THE DEFINITIVE STRATEGY

19. The Definitive Strategy provides an acceptable solution for Natural England to ensure there are no likely significant recreational effects on the Solent SPAs whilst being able to lawfully permit the homes that are needed across the Borough. As such, if the Definitive Strategy is not approved and implemented by this Council, the legal framework protecting the SPAs must be addressed by individual applicants through alternative ways. Even if the Definitive Strategy is approved, individual applicants still have the choice (on each application submitted) of opting out of the contribution charge and undertaking a Habitat Risk Assessment for that application to identify bespoke mitigation in order to satisfy the requirements of the Habitats Regulations (2017) and therefore be acceptable to Natural England.
20. As a result, it is recommended that the Definitive Solent Recreation Mitigation Strategy is approved by the Executive of Fareham Borough Council and is implemented from 1 April 2018. As such, all relevant planning applications that are determined (i.e. issued with a planning decision notice) on or after 1 April 2018 would be subject to the contribution as per the rates set out in the Definitive Strategy.

Enquiries:

For further information on this report please contact Claire Burnett (Ext. 4330).

² The Decision to endorse the Definitive Strategy can be found in the minutes from the PUSH Join Committee meeting on 05/12/2017 http://www.push.gov.uk/171205_final_push_minutes.pdf