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HAVANT BOROUGH COUNCIL

CABINET

7th February 2018

SOLENT RECREATION MITIGATION STRATEGY

Report by Lewis Ford (Planning Policy Officer)

FOR DECISION

Cabinet Lead for Planning & Place Making

Key Decision: No

1.0 Purpose of Report

- 1.1 The purpose of this report is to seek the Cabinet's approval of the Solent Recreation Mitigation Strategy. In doing so, this would allow the Council to implement the strategy's new guidance and charging schedule (collected as a developer contribution for planning applications) from 1st April 2018.

2.0 Recommendations

- 2.1 It is recommended that Cabinet:
- a) Approve the Solent Recreation Mitigation Strategy (Appendix 1);
 - b) Approve the Solent Recreation Mitigation Strategy's implementation from 1st April 2018;
 - c) Endorse the Council's continued membership of and engagement with the Solent Recreation Mitigation Partnership (SRMP).

3.0 Summary

- 3.1 The Council has an ambitious agenda for growth and development with the consultation on the Draft Havant Borough Local Plan 2036 being approved on 18th December and being taken forward this year. The Draft Local Plan recognises that the Solent has a wealth of natural habitats and an incredibly scenic coastline which are themselves part of the attractiveness of the area. Large sections of the coastline have been internationally recognised as Special Protection Areas (SPAs) and have significant legal protection as a result.
- 3.2 Research shows that a general increase in recreation and disturbance as a result of new development will affect the protected bird species which use the harbours. The Council has a legal obligation to consider this as part of the development process. If it cannot be shown that no harm would occur to the SPAs then it would be unlawful for the Council to grant planning permission for new housing or allocate sites in a Local Plan. This could have a significant impact on the Council's growth and development ambitions for the Borough.
- 3.3 As a result, the Council is part of the Solent Recreation Mitigation Partnership. The Partnership was formed to provide a solution to overcome this issue in the form of a

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strategic planning framework. The Solent Recreation Mitigation Strategy (available at appendix 1), would enable development to lawfully take place whilst also protecting the internationally important ecology of the harbours.

- 3.4 The Solent Recreation Mitigation Strategy was endorsed by the Partnership for Urban South Hampshire (PUSH) Joint Committee on 5th December 2017. The strategy is now being considered for approval by the various local planning authorities (LPAs) who form the Solent Recreation Mitigation Partnership (SRMP). If Cabinet approve the strategy's implementation in Havant Borough, this would take place from the start of the 2018/19 financial year.

4.0 Subject of Report

- 4.1 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.
- 4.2 The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) requires that there is no likelihood of a significant impact on the SPA before a development can proceed (either through its allocation in a local plan or the granting of planning permission). If necessary, avoidance and mitigation measures can be used to remove the likelihood of any significant effect which might have otherwise taken place.
- 4.3 The PUSH Spatial Position Statement plans for the development of around 64,000 new homes across South Hampshire in the coming years. This will lead to more people visiting the coast for leisure. This has the potential to result in greater disturbances to the birds. Research carried out between 2009 and 2013 has shown that disturbance to the SPA species can result in them using more energy to move away from the disturbance and spend less time feeding. Both of these result in less energy reserves which can result in mortality in the bird population.

The interim mitigation strategy

- 4.4 The research showed that the planned housebuilding across the Solent would be likely to lead to a significant effect on the SPA bird populations. As a result, avoidance and mitigation measures were found to be necessary in order to continue granting planning permission for new residential development.
- 4.5 The Solent Local Authorities formed the Solent Recreation Mitigation Partnership. In order to keep permitting residential development whilst the Solent Recreation Mitigation Strategy was put together, the Interim Mitigation Strategy was developed and implemented.
- 4.6 This has been successful and there has never been a need to refuse planning permission in Havant Borough solely because of the strategic impact on SPA species. The interim strategy has been an effective tool to make sure that housebuilding can continue to take place and has minimised the impact of this issue for housebuilders.

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The Solent Recreation Mitigation Strategy

- 4.7 However the Interim Mitigation Strategy is, as the name suggests, an interim solution. The Solent Recreation Strategy (available at appendix 1) would provide a definitive way forward for addressing the impact on SPA species as a result of recreation caused by new 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.
- 4.8 The 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;
- 4.9 The implementation of the strategy and the monitoring of its effectiveness would be funded by developer contributions¹ which have been calculated according to the bedroom numbers of a property. On average this would be the equivalent of £564 per new dwelling, however a 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.
- 4.10 This contribution would be required for all new homes built within 5.6 kilometres of the SPAs. In practice this covers the entire Borough apart from a small section in the very north. The proposed policy on this topic in the Draft Local Plan (Policy E16) includes a map of the area it would apply to.
- 4.11 These developer contributions for new dwellings within Havant Borough's administrative boundary will be collected by Havant Borough Council (HBC) and transferred to the SRMP who will then implement the strategy. The contributions would be collected through a legal agreement. This would be a Section 106 agreement or, in situations where a Section 106 agreement would not otherwise be necessary, a Unilateral Undertaking. This process is already set up for the implementation of the Interim Mitigation Strategy and would not change. Administration fees are collected to cover the Council's administrative costs.
- 4.12 The public facing brand of the partnership is now Bird Aware Solent. This branding has been well received and is successful. The partnership's new website (www.birdaware.org), staff uniforms and documents all use this consistent branding. The branding was put together by the Council's Marketing and Graphic Design team and this has represented an income stream for the Council.

¹ These will be adjusted annually to take account of inflation.

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Proposed way forward

- 4.13 It is recommended that the Solent Recreation Mitigation Strategy is approved by Cabinet and is implemented in Havant Borough from 1st April 2018. The strategy provides a solution to make sure that there is no likelihood of a significant effect on the Solent SPAs whilst being able to lawfully permit the homes that are needed across the Borough.
- 4.14 As part of the preparation of the strategy public consultation has taken place and is reflected in the final strategy that was endorsed by the PUSH Joint Committee. A specific briefing also took place for housebuilders and developers. This confirmed that the costs involved were not substantial and would not affect the deliverability of housing development. As such, it is not considered likely that the strategy's approval and implementation would affect housing delivery in the Borough.
- 4.15 However if the strategy is not approved and implemented, the legal framework protecting the SPAs remains in place. This would force developers to look for bespoke solutions to overcome the issue. In reality, in all but the largest applications, this is not possible. As such, housebuilding in the Borough would dramatically slow down or stop completely. This would have significant implications for achieving the economic and social goals that the Council has set out in the 2017 Corporate Strategy.

5.0 Implications

5.1 Resources:

- 5.1.1 The developer contributions for new dwellings within Havant Borough's administrative boundary will continue to be collected by Havant Borough Council (HBC) and transferred to the SRMP who will then implement the strategy.
- 5.1.2 For the Interim Strategy, the Council has used a standard Unilateral Undertaking (UU) to secure the contribution from applicants if a Section 106 agreement was not needed (e.g. to secure provision of affordable housing). The administrative costs are covered through specific charges for arranging Section 106 agreements and unilateral undertakings. The approval of the new strategy will not alter this method of collection. As such, there will no further demand in terms of resources.
- 5.1.3 The Council's Marketing and Graphic Design Team has prepared the SRMP's public facing brand: Bird Aware Solent. This has presented an income stream for the council.

5.2 Legal:

- 5.2.1 Please see section 4 of this report.

5.3 Strategy:

- 5.3.1 The Solent Recreation Strategy is referenced heavily in the Adopted Local Plan and the Draft Havant Borough Local Plan 2036. It is key to the delivery of that strategy as set out in section 4 of this report.

5.4 Risks:

The implications of not approving the Solent Recreation Mitigation Strategy

- 5.4.1 The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) requires the mitigation for any impact which a proposed development, in combination with other plans or projects, is likely to have on an SPA. As such, the regulations require

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LPAs, before they grant planning permission or allocate a site, to make sure that there is no likelihood of a significant effect on an SPA. In practice, this means that development proposals cannot be consented or proceed unless there are no impacts on the integrity of the SPAs. The Solent Recreation Mitigation Strategy provides a cost effect partnership approach to providing the necessary mitigation to protect the SPAs which is in line with the advice of Natural England, the Government's statutory advisor on nature conservation.

Environmental Risks

- 5.4.2 The Solent Recreation Mitigation Strategy does not deal with any other direct impacts on the SPAs such as loss of habitat, increased noise, effect on water quality etc. which may arise from new housing, or the potential impact of other types of development such as new employment sites. Similarly, it does not address the impact on other European sites, specifically Special Areas of Conservation (SACs) and Ramsar Sites. Separate mitigation may be required to address these additional impacts that could arise from new development. These will be assessed by the LPAs, with advice from Natural England through the Habitats Regulations Assessment on the Havant Borough Local Plan 2036.

5.5 Communications:

- 5.5.1 Part of the Solent Recreation Mitigation Partnership is to publicise the issues involved as much as possible. Communications is thus a key part of the strategy and the mitigation measures. Full details are in the strategy itself (appendix 1).

5.6 For the Community:

- 5.6.1 Public access to the coast provides benefits including health, education and general wellbeing. 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. By maintaining public access but with measures to ensure that recreational activity and nature conservation interests are not in conflict, the coast can be managed for the benefit of both wildlife and the human public.

5.7 The Integrated Impact Assessment (IIA):

- 5.7.1 The Integrated Impact Assessment (IIA) has been completed and shows that the implementation of the Solent Recreation Mitigation Strategy will not lead to a disproportionate impact on any specific element of the community.

6.0 Consultation

- 6.1 The Solent Recreation Mitigation Strategy was subject to public consultation. This has informed the strategy which was endorsed by the PUSH Joint Committee on 5th December 2017.

Appendices:

Appendix 1: The Solent Recreation Mitigation Strategy

Background Papers:

The evidence base which has informed the Solent Recreation Mitigation Strategy is available at: <http://www.birdaware.org/research>

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Agreed and signed off by:

Head of Legal Services: 15th January 2018

Head of Finance: 25th January 2018

Relevant Head of Service: 29th January 2018

Cabinet Lead for Planning and Place-Making: 25th January 2018

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