



CABINET

Tuesday, 03 October 2023

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| Subject | Recreational disturbance Avoidance and Mitigation Strategy – Collaboration Agreement - Heads of Terms |
| Cabinet Member | Councillor Kay Yule Cabinet Member with responsibility for Planning and Coastal Management |
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| Is the report Open or Exempt? | OPEN |
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| Category of Exempt Information and reason why it is NOT in the public interest to disclose the exempt information. | Not applicable. |
| Wards Affected: | All Wards |

Purpose and high-level overview

Purpose of Report:

The purpose of this report is to seek authorisation to enter into a Collaboration Agreement with Babergh District Council, Mid Suffolk District Council and Ipswich Brough Council, to take forward existing and long-standing joint working to manage the implementation of mitigation required under the 'Recreational Disturbance Avoidance and Mitigation Strategy', hereafter referred to as 'the Suffolk Coast RAMS'. It is essential that this stage is agreed in order to enable the Council to proceed to deliver the necessary mitigation of recreational pressure on protected habitat sites as a result of cumulative population growth associated with housing development. This is 100% funded through developer contributions which we are legally required to spend on this mitigation. Delivering mitigation in this collaborative way ensures that it is done in the most effective and efficient way.

The Heads of Terms for the Collaboration Agreement are appended to this report (Appendix A)

Options:

This report seeks approval for East Suffolk Council to enter into a Collaboration Agreement with, Babergh District Council, Mid Suffolk District Council and Ipswich Borough Council to facilitate the delivery of the Suffolk Coast RAMS and to give the Head of Planning and Coastal Management delegated authority to agree the Collaboration Agreement.

An alternative option would be to not give approval to enter into a Collaboration Agreement with Ipswich Brough Council, Babergh District Council and Mid Suffolk District Council to facilitate the delivery of the Suffolk Coast RAMS and not give the Head of Planning and Coastal Management delegated authority for financial and project decision making with respect to the delivery of the Suffolk Coast RAMS and the agreement of the collaboration agreement. However, it is essential that potential adverse effects as the result of recreational disturbance on habitat sites are appropriately mitigated and this approach would not allow the Council to deliver the required mitigation collaboratively in making it very difficult and slow for the Council to fulfil its duties as 'competent authority' under the Habitats Regulations. There would be considerable delay in taking this route, which would effectively leave East Suffolk to deliver this alone. Such an approach could cause Natural England to object to the approval of any housing planning applications, including those consented that require conditions to be discharged. This effectively halts all housing development in the district until Natural England are confident that East Suffolk can continue responsibility as a 'competent authority' to deliver mitigation (which should be in collaboration with other authorities). This would severely impact on much needed housing delivery, including affordable housing, it would delay and add uncertainty to infrastructure delivery and it would pause a number of East Suffolk housing development projects.

Recommendation/s:

1. That it be approved for the Council to enter into a Collaboration Agreement with Babergh District Council, Mid Suffolk District Council and Ipswich Borough Council to facilitate the delivery of the Suffolk Coast RAMS.

2. That authority be delegated to the Head of Planning and Coastal Management to agree the Collaboration Agreement.

Corporate Impact Assessment

Governance:

No impacts.

ESC policies and strategies that directly apply to the proposal:

The Suffolk Coast Recreational Avoidance and Mitigation Strategy (Suffolk Coast RAMS) has been developed in partnership with Ipswich Borough Council, Babergh District Council and Mid Suffolk District Council since 2017. The Suffolk Coast RAMS set out a tariff based approach to funding measures to mitigate the impact of increased recreational disturbance arising from housing growth. A per-house tariff is collected on relevant developments at the planning application stage. These funds are then consolidated and used to deliver a suite of mitigation measures as set out in the Strategy when development comes forward.

Policy WLP8.34 of the Waveney Local Plan and Policy SCLP10.1 of the Suffolk Coastal Local Plan set the strategic framework for the collection of the RAMS tariff on relevant developments and commits the Council to working with neighbouring authorities to mitigate impacts on habitat sites. Both Local Plans are underpinned by the RAM Strategy evidence base and the commitment to mitigate in accordance with it.

These policies are supported by the Council's RAMS Supplementary Planning Document, adopted in May 2021, that provides further guidance regarding the Suffolk Coast RAMS and what is required from developers to mitigate any potential recreational impacts arising from proposed new development.

As at the end of the 2022/23 financial year East Suffolk has collected £942,933. in mitigation funding and £553,642 of this is now available to spend on mitigation in the form of a long term, staffed mitigation project working with partners and stakeholders along the whole Suffolk coast.

Environmental:

As competent authorities under the Conservation of Habitats and Species Regulations (2017) (as amended), local planning authorities need to ensure that plans and projects under their jurisdiction do not lead to adverse effects on the integrity of Habitat sites.

Equalities and Diversity:

No Impacts.

An Equality Impact Analysis (ref: EQIA547146106) has been carried out and concluded no differential negative impacts on those with protected characteristics.

Financial:

It is proposed within the Heads of Terms that East Suffolk act as the host authority, which includes taking responsibility for the holding of the collected RAMS funds. East Suffolk are equal partners in the agreement but are substantially the largest geographic area covering the RAMS protected sites, we have collected and will continue to collect the majority of funding and therefore our location is most appropriate to take this

responsibility. Individual partner authorities will remain as the 'competent authority' for their area and continue to be responsible for the collection of the tariff on relevant planning applications. All partner authorities will continue to work together in managing the project through an established Executive Group of senior officers. The cost of employing the RAMS Delivery Officer will be covered by the pooled RAMS tariff receipts.

Human Resources:

As the host authority, East Suffolk will have responsibility for employing and managing the day-to-day activities of a RAMS Delivery Officer, however the salary of the RAMS Delivery Officer (and associated costs) will be entirely paid for from the pooled tariff funds. There will be no financial impact on East Suffolk beyond the current staff resource to progress and oversee the establishment and management of the project.

ICT:

No impacts.

Legal:

Legal officers in the Council have been involved in preparing the Heads of Terms for the Collaboration Agreement and in advising on the approach to entering into the agreement. Legal advice is that a Collaboration Agreement is the most appropriate mechanism as the authorities progress the project delivery programme and seek to combine resources. The agreement will provide the Council the appropriate legal and financial protections.

The Suffolk Coast RAMS Strategy was drafted over a period of years, during which time the authorities worked together under a memorandum of understanding (MoU). An MoU is an agreement between legally competent parties which is non-binding.

Risk:

The risks associated with this recommendation almost entirely lie in not moving forward with it. The risks of agreeing to progress with the implementation of Suffolk Coast RAMS are only related to officer time and resource overseeing the project. This would increase if the Collaboration Agreement failed in the future, however, the collection of contributions will continue as we are required to do, and we are legally obliged by those contributions to only spend on RAMS mitigation.

In the event of not giving approval to enter into a Collaboration Agreement with Babergh District Council and Mid Suffolk District Council and Ipswich Brough Council the risks are significant. This would not allow to the Council to deliver the required mitigation collaboratively in accordance the Suffolk Coast RAMS making it very difficult and slow for the Council to fulfil its duties as 'competent authority' under the Habitats Regulations. There would be considerable delay in taking this route, which would effectively leave East Suffolk to deliver this alone. Such an approach could cause Natural England to object to the approval of any housing planning permissions, including those consented and that require conditions to be discharged. This effectively halt all housing development in the district until Natural England are confident that East Suffolk can continue responsibility as a 'competent authority' to deliver mitigation (which should be in collaboration with other authorities). This would severely impact on much needed housing delivery, including affordable housing, it would delay and add uncertainty to infrastructure delivery and it would pause a number of East Suffolk housing development projects.

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| External Consultees: | The Suffolk Coast RAMS has been developed in partnership with Babergh District Council, Mid Suffolk District Council and Ipswich Borough Council since 2017. The other partner authorities are also anticipated to be agreeing the Heads of Terms during October. The approach in the Suffolk Coast RAMS Strategy is supported by Natural England as the government's statutory advisor on nature conservation. |
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Strategic Plan Priorities

| Select the priorities of the Strategic Plan which are supported by this proposal: <i>(Select only one primary and as many secondary as appropriate)</i> | | Primary priority | Secondary priorities |
|--|--|-------------------------------------|-------------------------------------|
| T01 | Growing our Economy | | |
| P01 | Build the right environment for East Suffolk | <input type="checkbox"/> | <input type="checkbox"/> |
| P02 | Attract and stimulate inward investment | <input type="checkbox"/> | <input type="checkbox"/> |
| P03 | Maximise and grow the unique selling points of East Suffolk | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| P04 | Business partnerships | <input type="checkbox"/> | <input type="checkbox"/> |
| P05 | Support and deliver infrastructure | <input type="checkbox"/> | <input type="checkbox"/> |
| T02 | Enabling our Communities | | |
| P06 | Community Partnerships | <input type="checkbox"/> | <input type="checkbox"/> |
| P07 | Taking positive action on what matters most | <input type="checkbox"/> | <input type="checkbox"/> |
| P08 | Maximising health, well-being and safety in our District | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| P09 | Community Pride | <input type="checkbox"/> | <input type="checkbox"/> |
| T03 | Maintaining Financial Sustainability | | |
| P10 | Organisational design and streamlining services | <input type="checkbox"/> | <input type="checkbox"/> |
| P11 | Making best use of and investing in our assets | <input type="checkbox"/> | <input type="checkbox"/> |
| P12 | Being commercially astute | <input type="checkbox"/> | <input type="checkbox"/> |
| P13 | Optimising our financial investments and grant opportunities | <input type="checkbox"/> | <input type="checkbox"/> |
| P14 | Review service delivery with partners | <input type="checkbox"/> | <input type="checkbox"/> |
| T04 | Delivering Digital Transformation | | |
| P15 | Digital by default | <input type="checkbox"/> | <input type="checkbox"/> |
| P16 | Lean and efficient streamlined services | <input type="checkbox"/> | <input type="checkbox"/> |
| P17 | Effective use of data | <input type="checkbox"/> | <input type="checkbox"/> |
| P18 | Skills and training | <input type="checkbox"/> | <input type="checkbox"/> |
| P19 | District-wide digital infrastructure | <input type="checkbox"/> | <input type="checkbox"/> |
| T05 | Caring for our Environment | | |
| P20 | Lead by example | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| P21 | Minimise waste, reuse materials, increase recycling | <input type="checkbox"/> | <input type="checkbox"/> |
| P22 | Renewable energy | <input type="checkbox"/> | <input type="checkbox"/> |
| P23 | Protection, education and influence | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| XXX | Governance | | |
| XXX | How ESC governs itself as an authority | <input type="checkbox"/> | <input type="checkbox"/> |
| How does this proposal support the priorities selected? | | | |

By entering into a Collaboration Agreement with Babergh District Council, Mid Suffolk District Council and Ipswich Brough Council, East Suffolk will be progressing existing joint working to manage the implementation of mitigation required under the Suffolk Coast RAMS and ensure compliance with the Conservation of Habitats and Species Regulations (2017) (as amended). The Suffolk Coast RAMS includes measures to protect some of the most important natural environments, recognised internationally for their ecological value. This directly supports the delivery of Strategic Plan priorities P03 and P23 which seek to protect and enhance the unique natural environment of East Suffolk.

The approach set out in the strategy also supports the delivery of priority P08 as the continued protection of the natural environment brings with it health and well-being benefits by ensuring residents have access to high quality natural open space. Maintaining the special characteristics of these unique habitat sites ensures a rich array of biodiversity across the East Suffolk area which supports Strategic Plan priority P20.

Background and Justification for Recommendation

| 1 Background facts | |
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| 1.1 | The Conservation of Habitats and Species Regulations (2017) (as amended) provide protection for sites that are of exceptional importance in respect of rare, endangered or vulnerable natural habitats and species. The network consists of Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). The National Planning Policy Framework (NPPF) states that Ramsar sites should be afforded the same level of protection and refers to SACs, SPAs and Ramsar sites as 'Habitat Sites'. |
| 1.2 | As competent authorities under the Conservation of Habitats and Species Regulations (2017) (as amended), local planning authorities need to ensure that plans and projects under their jurisdiction do not lead to adverse effects on the integrity of Habitat sites. |
| 1.3 | Both Local Plans for East Suffolk include residential site allocations and support the delivery of new housing, to deliver the housing requirements identified in the Local Plans. The Habitat Regulation Assessments produced as part of the Local Plan process both identified a risk of increased recreational disturbance at Habitat Sites as a result of planned housing growth and recommended a collaborative approach, working with neighbouring authorities to mitigate these impacts as they arise from cumulative housing growth across these authority areas. Working collaboratively to address habitat impacts is an established approach used in other mitigation schemes such as the Solent Recreation Mitigation Strategy. |
| 1.4 | To address this, East Suffolk Council, Ipswich Borough Council, Mid Suffolk District Council and Babergh District Council have worked in partnership to produce the Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy. The strategy set out a tariff based approach to funding measures to mitigate the impact of increased recreational disturbance arising from housing growth. A per-house tariff is collected on relevant developments at the planning application stage. These funds are then consolidated and used to deliver a suite of mitigation measures as set out in the Strategy. The approach in the Suffolk Coast RAMS |

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| | Strategy is supported by Natural England as the government's statutory advisor on nature conservation. |
| 1.5 | The Suffolk Coast RAMS Strategy was finalised in 2019 and a Supplementary Planning Document was produced and adopted by East Suffolk Council in May 2021 to support the implementation of the Strategy. The RAMS tariff has been being collected on relevant applications across the partnership area since early 2019. The collected funds are currently held separately by each partner authority. Now, in order to spend the funds collectively in accordance with the Suffolk Coast RAMS, a Collaboration Agreement is required to govern the pooling and transfer of funds between the partner authorities. The other partner authorities are also anticipated to be agreeing the Heads of Terms during October. The Heads of Terms for this agreement are set out in Appendix A of this report. |
| 1.6 | Getting the collaboration agreement in place promptly will facilitate spending the contributions collected. Decisions on mitigation spend will be agreed by the RAMS Executive Group which is made up of senior officers from all partner authorities |
| 1.7 | As set out in the Heads of Terms, it is proposed that East Suffolk act as the host authority, which includes managing the day-to-day activities of a RAMS Delivery Officer and taking responsibility for the holding of the collected RAMS funds. East Suffolk are equal partners in the agreement but are substantially the largest geographic area covering the RAMS protected sites, we have collected and will continue to collect the majority of funding and our location is most appropriate to take this responsibility. Individual partner authorities will remain as the 'competent authority' for their area and continue to be responsible for the collection of the tariff on relevant planning applications. |
| 1.8 | Although hosted by East Suffolk, the salary of the RAMS Delivery Officer (and associated cost) is paid for from the pooled tariff funds. |

2 Current position

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| 2.1 | The Suffolk Coast RAMS Strategy was finalised in 2019. The RAMS tariff has been being collected on relevant applications across the partnership area since early 2019. The collected funds are currently held separately by each partner authority. |
| 2.2 | A Collaboration Agreement is needed to govern the 'pooling' of the collected RAMS tariffs to allow for spend on mitigation measures in accordance with the Suffolk Coast RAMS Strategy and Conservation of Habitats and Species Regulations (2017) (as amended). |

3 How to address current situation

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| 3.1 | It is recommended that Cabinet give approval for the Council to enter into a Collaboration Agreement with Babergh District Council, Mid Suffolk District Council and Ipswich Borough Council to facilitate the delivery of the mitigation measures within the Suffolk Coast RAMS and give the Head of Planning and Coastal Management delegated authority to agree the Collaboration Agreement. |
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4 Reason/s for recommendation

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| 4.1 | To ensure compliance with the Conservation of Habitats and Species Regulations (2017) (as amended) and deliver against the requirements set out in the Local |
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| | Plans by ensuring the delivery of appropriate mitigation to address the impact of increased recreational pressure on protected Habitat Sites. |
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Appendices

Appendices:

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| Appendix A | Draft Heads of Terms for Collaboration Agreement in respect of the Suffolk Coast RAMS Project |
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Background reference papers:

| Date | Type | Available From |
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| May 2019 | Suffolk Coast Recreational Disturbance, Avoidance and Mitigation Strategy | https://www.eastsuffolk.gov.uk/planning/development-contributions/rams/ |
| March 2019 | East Suffolk Council-Waveney Local Plan | https://www.eastsuffolk.gov.uk/planning/planning-policy-and-local-plans/local-plans/ |
| September 2020 | East Suffolk Council-Suffolk Coastal Local Plan | https://www.eastsuffolk.gov.uk/planning/planning-policy-and-local-plans/local-plans/ |
| May 2021 | Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (SPD) | https://www.eastsuffolk.gov.uk/assets/Planning/Planning-Policy-and-Local-Plans/Supplementary-documents/Recreational-Disturbance-Avoidance/Suffolk-Coast-RAMS-SPD-final-May-2021.pdf |
| September 2023 | Equality Impact Analysis (EQIA547146106) | Available on Request |