

<b>Local Development Framework Panel Meeting</b>	<b>Agenda Item: 4</b>
<b>Meeting Date</b>	2 March 2015
<b>Report Title</b>	Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy
<b>Cabinet Member</b>	Cllr Lewin, Cabinet Member for Planning
<b>SMT Lead</b>	Pete Raine - Director of Regeneration
<b>Head of Service</b>	James Freeman - Head of Planning Services
<b>Lead Officer</b>	Gill Harris - Spatial Planning Policy Manager
<b>Key Decision</b>	No
<b>Classification</b>	<b>Open</b>
<b>Forward Plan</b>	<b>Reference number: N/A</b>
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. Agree the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy 2014, and the Phase 1 Bird Disturbance Report 2012, as part of the Swale Borough Local Plan evidence base; and</li> <li>2. Agree the next steps outlined within this report.</li> </ol>

## 1 Purpose of Report and Executive Summary

1.1 This report is to update Members on work that has been ongoing with other North Kent Local Authorities regarding the recreational disturbance of birds at designated European wildlife sites in North Kent. It is to agree that the two documents can form part of the Swale Borough Local Plan evidence base and to outline the next steps.

1.2 The main points of this report are:

- that it is imperative that Local Plans and Development Plan Documents provide a clear policy steer for a suitable type, amount and location of development that can meet the aspirations of the growth agenda for the area, whilst being supported by Habitat Regulation Assessment (HRA) work to demonstrate that the suite of European sites across north Kent will not be adversely affected;
- in the absence of comprehensive HRA work at the local plan stage, conflicts are likely to occur when development proposals that accord with the growth agenda are presented, yet they are unable to proceed if they cannot accord with the requirements of the Habitats Regulations. Consistency across Local Planning Authorities (LPA) in both HRA and the application of

mitigation measures has been recommended, and this is the approach that the North Kent Environmental Planning Group is proposing;

- without this joint work, deficiencies in information would require application of the precautionary principle which could prevent the adoption of Local Plans; and
- without a commitment to the recommended strategic approach and next steps, the risk to the adoption of Swale's emerging Bearing Fruits 2031: The Swale Borough Local Plan Part 1 - Publication Version is extremely high.

## **2 Background**

- 2.1 The continuous swathe of coastal habitat between Gravesend and Whitstable on the North Kent shore comprises three Special Protection Areas (SPAs) and Ramsar sites. The status of the Thames Estuary and Marshes, the Medway Estuary and Marshes, and the Swale as European designated sites reflects their importance for wintering waterfowl, breeding waterfowl, breeding and wintering raptors, and also a range of rare plant and invertebrate species. Much of north Kent lies within the Thames Gateway, a Government priority for regeneration and economic development, and therefore a way forward needs to be found to accommodate growth whilst protecting the environment.
- 2.2 The North Kent Environmental Planning Group was established in order to try to find a joint approach towards Local Plans and their HRA assessments. With the large levels of development proposed across north Kent, the statutory environmental bodies were becoming increasingly concerned about the impact of this level of development on the designated European wildlife sites.

### **Phase 1 Bird Disturbance Study**

- 2.3 The North Kent Environmental Planning Group commissioned a phase 1 bird disturbance study (Appendix II) to provide summary information for Habitat Regulations Assessments of the relevant Local Development Frameworks, land allocations for development, and the creation of mitigation and access management strategies. The report covered Canterbury, Dartford, Gravesham, Medway, and Swale local authorities. It focussed on the impacts of recreational activities on the three SPA and Ramsar sites, and considered these impacts (individually and in-combination) in relation to new housing development.
- 2.4 The evidence from the bird disturbance study and visitor studies will be used to inform and review the Habitat Regulations Assessments (HRA) of Local Plans, Development Plan Documents, Appropriate Assessments of planning applications and, in future, the development of mitigation and access management strategies.

## **Strategic Access Management and Monitoring Strategy**

- 2.5 The next step was to commission a Strategic Access Management and Monitoring Strategy (Appendix I). This report aimed to bring together information from a range of sources and to provide support for plan-making and site-specific Habitat Regulations Assessments (HRA). The report was commissioned to provide an overview of the issues, the scale of impacts, and the consequences with respect to legislation. Given the complexities of the ecological issues and strict requirements of the Habitat Regulations, a clear view of the implications and necessary next steps was required for the LPAs to adopt their respective Local Plans and Local Development Framework Documents and for development management purposes.
- 2.6 There was a strong body of evidence showing how increasing levels of development, even when well outside the boundary of protected sites, can have negative impacts on those sites.
- 2.7 The following broad conclusions were drawn in the Strategic Access Management and Monitoring report relating to development and the need for mitigation:
- (i) there have been marked declines in the numbers of birds using the three SPAs; particularly apparent on the Medway and at locations with the highest levels of access;
  - (ii) disturbance is a potential cause of the declines. The study shows birds are responding to the presence of people, and there is evidence that the busiest locations (which have seen the most marked bird declines) support particularly low numbers of birds. Detailed and costly fieldwork (involving assessment of invertebrate food supplies) and complex modelling would be necessary to explore in detail the impacts of disturbance on bird population size;
  - (iii) access levels are linked to local housing, with much of the access involving frequent use by local residents. Indicative data on future housing development, when used with the visitor data to estimate change in access levels between now and circa 2026, would suggest that the SPA/Ramsar sites would see a future increase of approximately 15 per cent. Given the results of the disturbance work to date and the likely scale of change in the future, it is clearly not possible to rule out any likely significant effects on the integrity of the European sites as a result of increased housing provision nearby. A suite of mitigation measures are therefore necessary to avoid potential adverse effects caused by future development;
  - (iv) all activities are potentially likely to contribute to additional pressure on the SPA sites and should be addressed within mitigation plans. Dog walking, and, in particular, dog walking with dogs off leads, is currently the main cause of disturbance (by far), and therefore should be a focus for mitigation. Other particularly intrusive activities are those that involve people on the mudflats or the water;

- (v) development within six km of access points to the SPAs is particularly likely to lead to an increase in recreational use of the SPAs. Local green or open space use such as dog walking, cycling, jogging, walking, and to some extent family outings will originate from people living within this radius;
- (vi) beyond six km from access points onto the SPA, large developments or large scale changes to housing levels will also result in increased recreational use. It would appear that visitors to the north Kent coast mostly originate from a zone north of the M2/A2 between Gravesend and Herne. People living within this broad coastal strip (i.e. beyond six km from SPA access points and north of the M2/A2) are likely to visit for more coastal specific activities; and
- (vii) development beyond six km (excluding large sites) can be potentially screened out of assessments and assumed to have no likely significant effect on European sites. For development that does fall within six km (or large sites beyond six km) it will not be possible to demonstrate no adverse effect on integrity of the European sites, and mitigation measures will need to be considered.

2.8 Mitigation measures are discussed within the report and include:

- raising awareness;
- on-site wardening;
- provision of signage and access infrastructure;
- provision/enhancement of green space away from the SPAs; and
- direct contact with users.

2.9 The challenge is that the way forward needs to provide for the mitigation measures necessary to address the in-combination impacts of a range of development (including many small developments) spread over a wide area and coming forward over an extended time period. It also needs to ensure that the impacts are resolved in perpetuity, which could be 80-125 years into the future.

2.10 The Strategic Access Management and Monitoring Strategy suggests that the most effective way forward is to undertake a strategic approach across all five LPAs through the implementation of a tariff system. An approach to implementing the strategy is to develop a tariff based on the overall quantum cost of measures required for the level of new development coming forward, and this tariff calculated on a per house contribution. The partnership/management board would then collect and allocate funds according to proposals that come forward.

2.11 Alongside the initial commencement of the scheme, there is continuing work needed to improve the detail of the SAMMS, get the monitoring established and continually review opportunities for refined or additional measures. This approach would allow SAMMS projects to be developed locally, collectively, and carefully planned to ensure success, encouraging proactive development of

measures by all partners, and maintaining a best value approach, whilst continuing to ensure that the funding was being allocated to measures that were appropriate.

- 2.12 The use of a tariff would provide transparency and clarity to developers who would know from the outset how much they would need to provide per dwelling to satisfy the HRA regulations.
- 2.13 The tariff could be collected either through S106 or CIL, once each LPA adopts a CIL schedule. The Strategic Access Management and Monitoring Strategy suggested that the tariff could be around £223 per dwelling, but this figure would be revised once the sub-group revise the list of suggested mitigation measures.

### **3 Proposals**

- 3.1 Members agree the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy 2014, and the Phase 1 Bird Disturbance Report 2012, as a part of the Swale Borough Local Plan evidence base.
- 3.2 The North Kent Environmental Planning Group, which includes the other North Kent Local Planning Authorities, has agreed that the next step is to establish a sub-group to take this work forward. The sub-group will look at:
  - the most appropriate management structures/strategic management boards required to implement and manage the tariff, including possible legal agreements between the LPAs;
  - potential governance arrangements;
  - the establishment of a delivery board/organisation to deliver the proposed mitigation measures;
  - the establishment of an administrative body to be the 'banker' and to manage the collecting of tariff monies;
  - funding (and in perpetuity funding/endowments etc);
  - future monitoring arrangements to ensure the money spent is having a positive impact on the reduction in recreational bird disturbance;
  - the list of suggested mitigation measures (in partnership with Natural England) to establish the most effective methods and to establish which could be achieved in the short and long term; and
  - interim measures until all of the above are in place.
- 3.3 Members are asked to agree to Swale's participation in this sub-group and agree the suggested way forward.

## 4. Alternative Options

- 4.1 The alternative option is to not partake in this joined up approach with our neighbouring LPAs and to undertake a full HRA of Swale's Local Plan. This would be costly and time consuming, and it is highly likely that the Local Plan would receive an unfavourable HRA report, which in turn could prevent its adoption. The risk to the adoption of Swale's emerging Local Plan without a commitment to this strategic approach, and agreed next steps, is extremely high.
- 4.2 Without this joint work deficiencies in information would require application of the precautionary principle, which is highly likely to delay the adoption of Swale's Local Plan. It could also delay the determination of any planning applications within six km of an entry point to an SPA.

## 5. Consultation Undertaken or Proposed

- 5.1 A workshop was held by the Consultant, Footprint Ecology, in September 2013, with representatives from North Kent Local Planning Authorities and local and national environmental bodies to help inform the report.
- 5.2 Natural England, the Environment Agency, Kent Wildlife Trust, Kent and Medway Greening the Gateway, and the RSPB all sit on the North Kent Environmental Planning Group which reviewed the brief for this study and had the opportunity to comment on the draft document. As this study is a technical piece of evidence and forms a part of the evidence base for the emerging Local Plan, no further consultation is necessary.
- 5.3 If the suggested tariff is eventually proposed to become part of Swale's Community Infrastructure Levy (CIL), public consultation would take place following the statutory regulations for introduction of a CIL Charging Schedule.

## 6. Implications

Issue	Implications
Corporate Plan	Healthy environment; and Open for business.
Financial, Resource and Property	The costs of the next steps outlined in the report can be met from within existing budgets.
Legal and Statutory	The process will follow the statutory planning regulations where necessary.
Crime and Disorder	None identified at this stage.
Sustainability	Adoption of a strategic approach will ensure that the health and condition of the internationally designated wildlife sites are maintained at their current level. The two studies were also used to

	inform the Sustainability Appraisal/Strategic Environmental Assessment and the Habitat Regulations Assessment of the emerging Swale Borough Local Plan.
Health and Wellbeing	None identified at this stage.
Risk Management and Health and Safety	None identified at this stage.
Equality and Diversity	None identified at this stage.

## 7. Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy 2014.
- Appendix II: Phase 1 Bird Disturbance Report 2012.

## 8. Background Papers

8.1 None.