

DECISION-MAKER:	CABINET		
SUBJECT:	SOLENT DISTURBANCE MITIGATION PROJECT		
DATE OF DECISION:	19 AUGUST 2014		
REPORT OF:	CABINET MEMBER FOR ENVIRONMENT AND TRANSPORT		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Stephen Harrison Planning Officer Team Leader	Tel: 023 8091 7568
	E-mail:	stephen.harrison@southampton.gov.uk	
Director	Name:	Stuart Love	Tel: 023 8091 7713
	E-mail:	stuart.love@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

Not Applicable

BRIEF SUMMARY

In order to minimise the risk of objections to development from Natural England, the Council needs to enact the requirements of the Conservation of Habitats and Species Regulations 2010 on all new residential development and ensure our planning permissions are protected from challenge by adopting the Solent Disturbance Mitigation Project (SDMP). This project seeks to mitigate the impacts of new residential development on the Solent Special Protection Areas (SPAs), alongside all other Partnership Urban South Hampshire (PUSH) Authorities.

RECOMMENDATIONS:

- (i) To note the context of this report;
- (ii) To approve the adoption of the Solent Disturbance Mitigation project so that all new residential development is required to mitigate against the harm caused, in line with policy CS22 of the Core Strategy (2010), by either the submission of site specific schemes of work or payment of a £172 contribution per residential unit, prior to implementation of the development; and
- (iii) Delegate the detailed mechanism for securing the planning obligations to the Head of Culture and Planning, as it evolves.

REASONS FOR REPORT RECOMMENDATIONS

1. In line with all other PUSH Authorities, the Council has a duty as a competent authority to ensure that new development does not cause an unacceptable impact to protected species. Developers also need to ensure that their developments mitigate any potential impact and this will also protect new residential planning applications from challenge by third parties, including Natural England. A copy of the relevant minutes from the PUSH Joint Committee held on the 25th March 2014, which sets out more of the

background, are appended to this report.

2. To ensure that appropriate mechanisms are in place to mitigate against the potential harm on Solent Special Protection Areas, that otherwise would be caused by the increased recreational disturbance from new residential development within the surrounding Solent area.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3. Failure to mitigate would lead to breach of the Conservation of Habitats and Species Regulations 2010.
4. Doing nothing would lead to possible legal challenge by third parties, including Natural England on new residential planning permissions issued.

DETAIL (Including consultation carried out)

Background

5. The Solent is internationally important for its wildlife interest and there are various protective designations including three Special Protection Areas (SPAs), which have been designated predominantly for the protection of the large numbers of wading birds and wildfowl which spend the winter on the Solent. A substantial amount of house building is planned around the Solent and this new development would have several potential impacts on the SPAs, one of which is increased recreational activity at the coast resulting from population increases associated with new homes.
6. Addressing this issue is necessary to enable regeneration and development to go ahead. The European Habitats and Birds Directives protect rare species and habitats and these Directives have been transposed into UK law through the Habitats Regulations. Under these regulations, Southampton City Council has a duty to assess whether or not a proposed development or a combination of developments is likely to have a significant effect on a SPA and failure to do so would be a failure of its duty as a competent authority and decisions made open to challenge by Natural England and/or others.
7. Further background information can be found at the following link to [Solent Disturbance Mitigation Project](#).
8. As a result and to mitigate against this impact the thirteen Solent local planning authorities in consultation with partner organisations have jointly identified the measures - known as 'mitigation measures' - which are needed to ensure that the additional recreational activity resulting from new house building does not have a significant impact on birds in the SPAs. This was identified in the Council's Core Strategy in 2010 as a necessary mechanism with the details to be subsequently agreed.
9. The current strategy is twofold, with one option to provide a contribution of £172 per residential dwelling, payable prior to implementation of the planning consent, via a bespoke Unilateral Undertaking for schemes which do not trigger the threshold for a Section 106 Agreement (net gain of 5 residential units).
10. The second option is for a scheme of works to be submitted as part of the planning application proposing measures to remove the impact of the development on the SPAs. All such submissions would be reviewed by

Southampton City Council in consultation with Natural England on a case-by-case basis. The expectation is that the majority of relevant applications will be liable and exceptions are likely to be rare across Hampshire.

Detail

11. Following the adoption of the SDMP by the City Council it is anticipated that all new residential development approved after the Cabinet decision should be supported by a Unilateral Undertaking (or alternative means as the process evolves) which will be signed by the applicant. This undertaking will agree to make a contribution of £172 per dwelling (index linked) and will be completed before planning permission can be issued. Failure to agree will result in the planning application being refused as contrary to Policy CS22 of the LDF Core Strategy (2010) as supported by the Habitat Regulations and any other relevant policies and/or legislation.
12. The undertaking will be triggered when development commences. The Council's website has advised applicants that all new planning applications for residential development (including applications for 'prior approval' when an applicant seeks to convert an office or shop to residential use under the new permitted development regime) received on or after Monday 7th June 2014 will be caught by this change in approach, with the new processes implemented directly following the Cabinet approval of what has already been agreed at the PUSH level.
13. It is likely that an exemption and/or reduced rate will be granted, unless there is clear evidence of harm, for single bedroom car free developments within the city centre and student residential schemes where the associated impacts are likely be less than they would be for a typical family dwelling.
14. The process will be managed by the Council's Planning Obligations Officers with support from the Council's Legal Services, and it is anticipated that a standard Unilateral Undertaking for use by developers will be available on the Council's website shortly. Once adopted it is anticipated that the processes involved will be very similar to those already adopted for securing infrastructure and site specific improvements and affordable housing from existing residential developments in the City.
15. The monies collected will be pooled, and managed on behalf of the PUSH authorities by Test Valley Borough Council, and initially spent on employing a Project Officer, associated dog wardens and improved information and advice within the affected areas (as agreed by PUSH). Further mitigation packages will be agreed, as required, over time.

RESOURCE IMPLICATIONS

Capital/Revenue

16. The additional planning obligation would be sought on all new residential development and as such, would require additional mitigation provision on all additional residential development below the current S106 threshold of 5 units.
17. This will result in additional workloads within Development Management, which will be absorbed by current staffing levels and budget frameworks. A single authority will take responsibility to manage the spend of the pooled contributions on specified "mitigation measures" within the Solent Special

- Protection Areas, on behalf of the contributing authorities.
18. Based on a target of 650 houses a year (with some exempt or reduced fee) there may be income generated of over £80,000 per annum. At present it is not anticipated there will be an admin fee retained by the Council. The methodology of transferring collected monies to Test Valley is yet to be finalised – this may be actioned once or twice per financial year –subject to a future meeting of the SDMP group.

Property/Other

19. Southampton City Council planning applications will also be subject to the Solent Disturbance Mitigation Project, where the planning application seeks new residential development.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

20. A resource implication exists for the Legal Department in administering the planning obligation, but this additional resource will, in part, be mitigated by payment of the relevant legal fees required for checking of the Unilateral Undertaking, payable by the Planning Applicants.

Other Legal Implications:

21. Without these measures in place planning applications would be open to challenge by third parties including Natural England for failure to mitigate against the relevant harmful recreational activity on Solent Special Protection Areas.

POLICY FRAMEWORK IMPLICATIONS

22. The planning obligation can be adopted in accordance with Southampton City Council’s Core Strategy (Jan 2010) policy CS22.

KEY DECISION? Yes

WARDS/COMMUNITIES AFFECTED:	All
------------------------------------	-----

SUPPORTING DOCUMENTATION

Appendices

1.	PUSH Joint Committee Minutes (24 th March 2014)
----	--

Documents In Members' Rooms

1.	None
----	------

Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	No
--	----

Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	None	
----	------	--