

North Tyneside Council

Report to Head of Environment, Housing and Leisure

DATE: 1 May 2019

Title: Approval for consultation
on a Draft Coastal Mitigation
Supplementary Planning
Document

Portfolio: Deputy Mayor

Cabinet Member:

**Councillor Bruce
Pickard**

**Report from Service
Area:**

Environment, Housing and Leisure

Responsible Officer:

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Wards affected:

All Wards

PART 1

1.1 Executive Summary:

This report outlines a proposed Coastal Mitigation Supplementary Planning Document (SPD). This SPD is required to support implementation of policy DM5.6 *Management of International Sites* within the North Tyneside Local Plan adopted by Full Council in July 2017. Local Plan policy DM5.6 sets out a range of criteria to ensure that planning applications in North Tyneside do not lead to adverse effects upon international sites.

International sites of relevance to North Tyneside are sections of the north east coast that provide important habitat for protected bird species. These areas of the coast are protected as European sites of biodiversity importance and include the Northumbria Coast Special Protection Area (SPA) and the Durham Coast Special Area of Conservation (SAC). The Authority has a duty under the Conservation of Habitats and Species Regulations 2017 to ensure that it does not give consent, such as through a planning application, to any plan or project that could have an adverse effect upon the integrity of a SPA or SAC.

The potential effects of development upon European sites was identified through a Habitats Regulations Assessment (HRA) which was produced as an information document in preparation of the North Tyneside Local Plan, and following advice of Natural England. This identified any development that potentially increases the number of visitors to the coast, such as new homes or visitor accommodation, could have a potential adverse effect upon European sites.

The Draft SPD set out in this report has been prepared to provide clear guidance for applicants on the likely impact of their proposals upon European sites and potential mitigation.

The Draft SPD identifies that the most appropriate mitigation for most planning applications is regular on-site monitoring and management of the European sites.

The most effective means of providing such mitigation is through a dedicated warden service and the delivery of targeted and coordinated physical projects funded through planning obligations secured from development.

Reflecting this, the Draft SPD identifies for consultation, a proposed standard charge for new development and identifies the creation of a Coastal Warden Service and delivery of physical projects as the primary form of mitigation against potential adverse effects.

1.2 Recommendation:

It is recommended that the Head of Environment, Housing and Leisure:

- (1) Approve publication of the Draft Coastal Mitigation SPD for public consultation.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 22 February 2019.

1.4 Council Plan and Policy Framework

This report presents a Draft Supplementary Planning Document (SPD) based upon the North Tyneside Local Plan for consultation and contributes to a number of the objectives of the Our North Tyneside Plan 2018-20, including:

- Our places will be great places to live, offer a good choice of quality housing, provide a clean, green, healthy, attractive, safe and sustainable environment, be a thriving place of choice for visitors, be great places to live;

The Draft SPD provides guidance that supports the Local Plan's objectives specifically to support protection of the environment and environmental value. The key policies are:

- S5.4 *Biodiversity and Geodiversity*
- DM5.5 *Managing effects on Biodiversity and Geodiversity*
- DM5.6 *Management of International Sites*

These policies commit the authority to the protection, enhancement, management and creation of biodiversity where appropriate through the development process. This is in line with national planning policy as set out in Chapter 15 *Conserving and enhancing the natural environment* of the National Planning Policy Framework (NPPF), and particularly paragraphs 171 and 174 to 177.

1.5 Information:

1.5.1 Requirement for the Coastal Mitigation Supplementary Planning Document

1.5.2 This Draft SPD has been prepared to provide additional guidance and information on the mitigation expected to be required from development within North Tyneside to prevent adverse effects on the habitats and species along our internationally protected coastline.

1.5.3 The Council has a duty to protect European Sites from adverse effects under European Directive (92/43/EEC) on the Conservation of Natural Habitats and Wild Flora and Fauna (the "Habitats Directive") and the Conservation of Habitats and Species Regulations 2017.

- 1.5.4 A Habitats Regulation Assessment (HRA) concluded that implementation of the Local Plan could cause adverse effects to European Sites through increased recreational disturbance at the coast. This would arise from development particularly within a 6km buffer zone of the coast, but also with some impacts from a wider catchment.
- 1.5.5 Local Plan policy DM5.6 *Management of International Sites* recommends a range of actions and mitigation that would be appropriate to avoid or reduce adverse effects upon European Sites. However, this mitigation is likely to be disproportionately costly and ineffective in the longer term when delivered on a case-by-case basis. To be most effective over the longer term, a strategic approach is required where Coastal Wardens would undertake many activities encompassing the recommended mitigation. This could include awareness-raising, monitoring and identifying potential mitigation projects at the coast that could be implemented by the Authority. These projects could include installation of fencing and provision of new footpaths, or other initiatives that could assist in protecting the coast's most sensitive locations from the cumulative impacts of development.
- 1.5.6 The Coastal Warden Service and delivery of physical projects is the Council's preferred approach to delivering mitigation for development proposals in compliance with Local Plan policy DM5.6 *Management of International Sites*. This approach to mitigation will be the most effective way to avoid likely adverse effects for most schemes within North Tyneside. Natural England, a statutory consultee on matters affecting European Sites, has indicated they would support such an approach. Without such an SPD in place it is expected that applications for development will continue to face difficulties in satisfying the requirements for appropriate mitigation of their impacts.
- 1.5.7 Delivery of Coastal Mitigation
- 1.5.8 To secure delivery of the approach outlined in the Coastal Mitigation SPD it is recommended that applicants make a financial contribution through a planning obligation connected to the grant of planning permission.
- 1.5.9 For residential development and new tourist accommodation, a tariff based approach is proposed as the most appropriate means of identifying a suitable financial contribution from each planning application in most circumstances. Overall journey times from all parts of North Tyneside to the coast are under 20 minutes by car. Therefore, development in all parts of the borough will be expected to make a contribution. As ascertained within the HRA, development within 6km of the coast is likely to generate higher levels of recreational visitors to the coast. The contribution for developments within this area is therefore higher than for those beyond.
- 1.5.10 For other development that may lead to an increase in visitor numbers to the coast, the specific impacts arising from each proposal cannot be predicted and a tariff based approach is not considered effective. A financial contribution agreed between the applicant, North Tyneside Council and Natural England is proposed as the most appropriate means of mitigation for such development in most circumstances.
- 1.5.11 There may be circumstances where the specific nature of a development means a standard tariff based approach is not appropriate. This could include particularly large-scale development or schemes with a specific direct impact upon European sites. In such circumstances other forms of mitigation delivered directly by the applicant would be required.

1.5.12 Calculation of Contribution

- 1.5.13 The level of financial contribution from each planning application required to support the Coastal Mitigation Service and delivery of physical projects is informed by an estimate of the cost of providing a viable and effective service and the amount of development anticipated to come forward up to 2032 (the life of the North Tyneside Local Plan).
- 1.5.14 The financial cost of delivery of the identified coastal mitigation is comprised of a budget for the delivery of physical projects at the coast, salaries for Coastal Wardens, associated costs and overheads to enable the Coastal Wardens to undertake their day to day activities, and a contingency to allow for continued maintenance should the level of new development decline.
- 1.5.15 The overall cost of delivering the identified mitigation over the Local Plan period to 2032 is £2,231,044.
- 1.5.16 Local Plan policy S4.2(a) *Housing Figures* provides for at least 16,593 homes over the Plan period of 2011/12 to 2031/32. At 2019, 7,939 of these dwellings have been built or already benefit from planning permission. There are therefore 8,654 potential additional dwellings from which a financial contribution could be secured. 4,963 of these potential additional dwellings would be located within 6km of the coast and 3,691 would be in other parts of the borough.
- 1.5.17 There are no forecasts of future development of tourist accommodation but over the life of the Local Plan some development that could include new hotels, caravans or other accommodation is anticipated. Therefore a contribution from each individual accommodation unit created, proportionate to the impact that could arise from each additional new home, is considered appropriate.
- 1.5.18 The proposed tariff is:
- Residential development within the 6km buffer zone
£337 for each net additional dwelling/ unit
 - Residential development beyond the 6km buffer zone
£151 for each net additional dwelling/ unit
 - Tourist accommodation within the 6km buffer zone, e.g. caravan parks and hotels
£153 for each net additional unit of accommodation
 - Tourist accommodation beyond the 6km buffer zone, e.g. caravan parks and hotels
£69 for each net additional unit of accommodation

1.5.19 Monitoring and updating the Supplementary Planning Document

- 1.5.20 Actual housing delivery will inevitably vary to some extent from the projections set out in the Local Plan. The Council will monitor coastal mitigation contributions and review the level of contributions regularly to ensure that they remain fairly and reasonably related in scale to the developments from which they arise.
- 1.5.21 A key aim of the Warden Service would be to monitor the amount and condition of the European Sites and the level of disturbance they experience. Monitoring data will be report annually in the Council's Authority Monitoring Report. Wardens will also regularly

report to a Steering Group attended by Officers from both North Tyneside Council and Northumberland County Council and by relevant stakeholders including Natural England.

1.5.22 The above calculations are based on current costs. It is proposed to update the SPD on an annual basis following adoption, to adjust the tariff in line with inflation.

1.5.23 Requirements for applicants

1.5.24 Contributions set out in the Coastal Mitigation SPD are not mandatory. Applicants who do contribute will:

- not be required to submit any additional evidence to demonstrate that their proposals will not lead to adverse effects upon European Sites; and,
- benefit from greater certainty that their proposal is in accordance with policy DM5.6 *Management of International Sites*.

1.5.25 If an applicant seeks to provide individual measures to avoid and mitigate for recreational pressure they will have less certainty and face potential delays in the consideration of the planning application and they must:

- provide additional evidence to demonstrate to the satisfaction of the Council and Natural England that the proposed development would have no adverse impact upon European Site, either alone or in-combination; and
- provide necessary mitigation, alternatives, imperative reasons of overriding public interest or compensation to the enable the Council in consultation with Natural England to conclude that adverse effects on European Site integrity have been prevented.

1.5.26 Contributions set out in the Coastal Mitigation SPD relate to the mitigation of adverse effects upon European Sites only. Applicants must still submit necessary evidence and if required, measures to avoid or mitigate impacts upon other species or habitats that their proposals would affect.

1.5.27 Next Steps

1.5.28 In accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012, draft SPDs must be consulted upon for a period of at least 4 weeks. More details about the proposed consultation on this Draft SPD are outlined under section 2.3 of this report. Following the end of the consultation period, all representations will be considered and revisions will be made to the SPD where required.

1.5.29 The final proposed SPD will be presented at Cabinet for adoption.

1.5.30 Contributions will be sought on relevant planning applications immediately following the adoption of the SPD. Collected funds will enable the inception and delivery of the Coastal Warden Service and the delivery of physical projects at the coast.

1.5.31 The process for creation and future governance of the Coastal Warden Service and the delivery of physical projects will be a matter for the Authority to progress in accordance with its established processes. As the proposed SPD will secure s106 planning obligations it is expected that this will include the governance arrangements following Cabinet's decision of 14 May 2018.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

Agree with the recommendations as set out at paragraph 1.2 of this report.

Option 2

Do not agree the recommendations as set out at paragraph 1.2 of this report.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reasons:

- The preparation of a SPD will allow for the authority to fulfil the requirements of international and national legislation, and local and national planning policy, ensuring that adverse effects upon European Sites are avoided.
- It is a statutory requirement that SPDs are subject to consultation with relevant stakeholders.
- Other stakeholders such as housing and other developers will also have a direct interest in the document and should be given the opportunity to comment accordingly.

1.8 Appendices:

Appendix 1: Draft Coastal Mitigation Supplementary Planning Document, March 2019

1.9 Contact officers:

Laura Craddock, Principal Planner (0191) 643 6310

Jackie Palmer, Planning Manager (0191) 643 6336

Jackie Hunter, Biodiversity Officer (0191) 643 7279

Colin MacDonald, Senior Manager, Technical & Regulatory Services (0191) 643 6620

Cathy Davison, Principal Accountant, Investment (Capital) and Revenue (0191) 643 5727

1.10 Background information:

The following background information has been used in the compilation of this report and is available at the office of the author:

1. [Planning and Compulsory Purchase Act 2004](#)
2. [Planning Act 2008](#)
3. [Town & Country Planning \(Local Planning\)\(England\) Regulations 2012](#)
4. [National Planning Policy Framework \(2019\)](#)
5. [Conservation of Habitats and Species Regulations 2017](#)
6. [European Directive 92/43/EEC](#)
7. [Statement of Community Involvement 2013](#)
8. [North Tyneside Local Plan \(2017\)](#)
9. [Habitat Regulations Assessment and Appropriate Assessment 2017](#)

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The staff, printing and other costs to consult on the draft Coastal Mitigation SPD will be met from within the existing Authority budgets.

Funding for the projects and warden service identified as mitigation through the Coastal Mitigation SPD will be secured through developer contributions as Section 106 agreements or Unilateral Undertakings. This process will be managed through the developer contributions governance arrangements agreed by Cabinet at its meeting of 14 May 2018.

2.2 Legal

The Coastal Mitigation SPD is an issue to be considered during the planning process.

In accordance with the Local Government Act 2000 and Regulations made under that Act, responsibility for adoption of the SPD following consultation is the responsibility of Cabinet.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

Internal consultation was undertaken throughout late 2018 and 2019. The matter has been subject to engagement with the Deputy Mayor, Cabinet Member for Finance, the Chief Finance Officer and the Head of Law and Governance. The Draft SPD has been prepared in consultation with the Council's Biodiversity Officer.

2.3.2 External Consultation/Engagement

SPDs must be subject to statutory consultation. If agreed, the Council will begin a six week consultation on the Draft SPD. As part of this, the Draft SPD will be made available on the Council's consultation portal. Statutory consultees (Natural England, the Environment Agency and Historic England) and other relevant non-statutory consultees (for example, the Northumberland Wildlife Trust, adjacent authorities) will be directly consulted.

The consultation methods will comply with both the statutory consultation requirements and the requirements of the Council's adopted Statement of Community Involvement. Further details of this process and the feedback received will be included within a Consultation Statement.

Following consultation a summary of the responses received and the final proposed Coastal Mitigation SPD will be presented to Cabinet to consider for adoption.

2.4 Human rights

There are no human rights implications directly arising from this report.

2.5 Equalities and diversity

There are no direct implications arising from this report.

2.6 Risk management

The Cabinet Member has been involved in dialogue relating to Draft SPD and is aware of the risks identified. The risks associated with the preparation and engagement of a Draft SPD have previously been assessed.

2.7 Crime and disorder

There are no direct implications arising from this report.

2.8 Environment and sustainability

The SPD enables the protection of the natural environment.

A Strategic Environmental Assessment Screening Report draft concludes that the impact of the Draft SPD, through responses to the SEA Directive Criteria, would not result in any significant environmental effects beyond those already assessed as part of the preparation of the Local Plan. A full Strategic Environmental Assessment is therefore not required.

PART 3 - SIGN OFF

- Chief Executive ☒
- Head(s) of Service ☒
- Chief Finance Officer ☒
- Monitoring Officer ☒
- Head of Corporate Strategy and Customer Service ☒