

Recreation Avoidance Mitigation Strategy

Summary: This report considers the representations made at Regulation 18 stage of plan preparation and seeks to agree the final in principle policy approach in addressing the impacts of growth through the adoption of a Green Infrastructure and Recreational Avoidance and Mitigation Strategy.

- Recommendations:
- 1) It is recommended that Members endorse the approach, recommending to Cabinet and delegating responsibility for drafting such an approach, including that of finalising the associated tariff and Policy to be included in the Local Plan to the Planning Manager.**
 - 2) In relation to the collection of the tariff it is recommend that Members endorse and recommend to Cabinet Option 1**

Cabinet Member(s)	Ward(s) affected
All Members	All Wards
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1. Introduction

- 1.1 It is a legal requirement that all Local Plans are subject to Habitat Regulation Assessment. These Assessments are undertaken to ensure that the Plans Policies and Proposals will not result in any significant adverse impacts on internationally recognized wildlife sites and where the potential for such impacts arises there is an agreed process of mitigation.

The draft Local Plan was subject to an interim Habitat Regulation Assessment and a final Assessment is in preparation. Both indicate that the proposed housing growth, in North Norfolk and in combination with that planned across the county, will increase the number of recreational visitors to many of the important wildlife sites in the District. If left unmitigated this has the potential to have significant adverse impacts resulting from recreational disturbance.

- 1.2 This is an issue which affects all Local Plans in Norfolk and working under the Duty to Co-operate the member Authorities have been considering a single shared approach to address potential impacts. This report explains the emerging approach (the development of a Recreational Avoidance Mitigation Strategy – RAMS) and considers this, and the representations made at Regulation 18 stage of plan preparation, and recommends modifications to appropriate policies and the creation of a new stand along policy to clearly articulate the Council's approach in order to ensure that the Plan meets the legal requirements of the Habitat Regulations. The report does not seek final

endorsement of the RAMs strategy or policy but the in principle decision in relation to the setting of financial tariffs and the wider policy approach in order to further the Local Plan and help progress the evidence base including that of the Habitat Regulation Assessment of the Local Plan. The final approach will be subject to further reports once this work is finalized by the Duty to Co-operate forum.

- 1.3 The emerging North Norfolk Local Plan has been subject to public consultation at regulation 18 stage during May and June 2019. This report is one of a number of reports that seeks to finalise the draft Local Plan policy approach in relation to consideration of the consultation responses and the finalisation of the supporting evidence. At the end of the process a revised Draft Local Plan incorporating justified modifications will be produced for the authority in order to consult at Regulation 19 Draft Plan publication stage ahead of subsequent submission for examination. At such a stage the Plan will be subject to consideration by an independent inspector against a number of legal tests and soundness tests to determine if it is legally compliant, justified, effective, and has been positively prepared. A binding report will be produced, which will determine if the Draft Plan is sound, with or without further modifications, following which the Plan can be formally adopted by the Council.

- 1.3 This report focusses on the updated approach to offset recreational impacts on protected European sites arising as a result of the growth in residential dwellings and tourism accommodation (known as Habitats Sites in accordance with the national planning policy framework, NPPF). It is necessary so that project level Habitat Regulation Assessments, HRAs and the HRA of the Draft Local Plan can reach a conclusion of no adverse effect on the integrity of European sites in accordance with the findings of the Interim Habitats Regulation Assessment, to accord with Habitat legislation and Natural England's, NE, Interim advice, contained in **Appendix 1**.

- 1.4 The Regulation 18, interim HRA concluded that there are measures contained in the emerging Plan that are *capable of providing the necessary certainty to enable a conclusion of no adverse effects at the next iteration of the HRA.(Final)*. One such matter was identified as the *progression of the strategic mitigation strategy for recreation pressure across the Norfolk European sites*¹.

- 1.5 Policy ENV4, Biodiversity and Geology, includes reference to developer contributions being required to ensure that visitor impact mitigation on European sites will be in line with the emerging Recreational Avoidance & Mitigation Strategy for recreational impacts on those sensitive sites. The Interim HRA advised in para 5.6 that the wording was adequate for that stage (Regulation 18) of Plan making but that there would be benefit in setting out more clearly the requirements for European sites as a separate policy to the wider requirements for biodiversity and geodiversity. The study went on to recommend that the policy be revisited so that there was more clarity and certainty around developer requirements in relation to the strategic mitigation approach required to alleviate recreational pressures on the protected European sites.

¹ Interim HRA 2019 para 11.1/11.3

- 1.6 The potential for recreational activities to disrupt the protection objectives of Habitats Sites in and around Norfolk is related to the level of growth in each Local Plan 'in combination'; specifically an increase in population resulting from identified new housing requirements across the county that will in turn result in more people visiting Habitats Sites for recreation. This growth, combined with an increase in tourism accommodation, will result in more people visiting and possibly harming Habitats Sites.
- 1.7 In the past, HRAs for Norfolk authorities have concluded that significant impacts were only likely where protected sites were within or in close proximity to the districts themselves. However, more recent evidence and research indicates that effects on some sites are likely to extend much further than the LPA boundary and as it is not possible to rule out residual effects, strategic mitigation as identified by Natural England is proposed and forms the basis for the joint Local Authority approach set out in the emerging Recreational Avoidance Mitigation Strategy, RAMs.
- 1.8 The strategy has been produced to support Local Planning Authorities (LPAs) in Norfolk in their statutory requirement to produce 'sound' i.e. legally compliant Local Plans for their administrative areas and as such form part of the evidence base for Local Plans. The strategy includes a template approach for project level HRAs which helps the Council to ensure that residential planning applications, which have the potential to impact on Habitats Sites are also compliant with the Habitats Regulations. The strategy is required in order to ensure that Local Plan(s) can be adopted and to enable growth in the District through the implementation of measures to avoid adverse effects on the integrity of Habitats Sites.
- 1.9 Local planning authorities are responsible for ensuring that policies and proposals contained in their Local Plans and developer proposals to them do not have an adverse effect on the integrity of European sites. Although this being a response to European legislation the requirement is transposed into English law by such legislation as the Environmental Assessment of Plans and Programmes Regulations 2004, and the conservation of Habitats and Species Regulations 2017(as amended) and will continue to do so even after the UK leaves the EU.
- 1.10 The Habitats Regulations provide for the designation and protection of 'European sites', (also known as Natura 2000 sites), the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites (referred to as Habitats Sites in accordance with the NPPF). Regulations 63 and 64 of the Habitats Regulations require a series of steps and tests to be followed for plans or projects that could potentially affect a Habitats Site. These steps are commonly referred to as the Habitat Regulation Assessment, HRA process and apply to the competent authority (in this case the LPA) which must undertake to consider whether a proposed development plan or programme is likely to have significant effects on a Habitats Site.
- 1.11 The additional growth brought forward through Local Plans will lead to more people visiting Habitats sites and has the potential to cause more disturbance to wildlife and habitats. The RAMs identifies a programme of County wide mitigation measures aimed at delivering the mitigation necessary to avoid and mitigate the predicted adverse effects on the integrity of the Habitats Sites

from in-combination residential and tourist growth through a set programme and a per dwelling tariff.

- 1.12 It remains important to acknowledge that the RAMS exists to mitigate 'in-combination' effects specifically. It is not a mechanism to deliver mitigation for recreational impacts from individual residential developments alone or individually; It will be essential to divert and deflect visitors away from sensitive Habitats Sites through the provision of Green Infrastructure on/near the development site, for the purposes of avoidance in the first instance and to avoid adverse effects on the integrity of these sites. In order to do this the GI/RAMS report states that it is essential that LPAs secure the provision of GI at both the development site and plan making level and to do so at a certain quality standard. To this effect The Local Plan brings forward a suite of policies not least the previously endorsed approach to open space provision which details on site and off site provision against local standards but also through an updated Policy ENV5 Green Infrastructure requirements and a host of specific site allocation policies where a specific reference to green infrastructure and enhanced green infrastructure is necessary depending on their proposed development numbers.

2 Background and Update

- 2.1 Habitats Sites, include Special Protection Areas (SPAs), Special Areas of Conservation (SACs), European Marine Sites, but also include and Ramsar sites (wetland sites designated to be of international importance under the Ramsar Convention) and *candidate* sites. These represent those areas with the highest level of designation for wildlife interest in Europe and ensuring that their protection objectives are not compromised is of paramount importance.
- 2.2 Within North Norfolk, such sites include the North Norfolk Coast SAC/SPA, the Wash and North Norfolk Coast SAC and European Marine Site, Overstrand Cliffs SAC, Winterton Horsey Dunes SAC, the Norfolk Valley Fens SAC, the River Wensum SAC (one of the best examples of a chalk river in the country) and the Broads and Broadland SAC and SPA.
- 2.3 The strategy builds on earlier work by Footprint Ecology which was reported to and endorsed by this working party in March 2017 and subsequently Cabinet. This study was principally concerned with establishing the number and behaviour of visitors at the designated sites as well as drawing analysis around routes and distance travelled and frequency of use, all at different times of the year. As such it helped establish the links between new housing development and recreation use and provides evidence to inform the Local Plan including the development of appropriate monitoring and mitigation measures. In relation to North Norfolk the survey data showed the European sites in North Norfolk had a strong draw both locally and from further afield on a daily basis and that on average across Norfolk based on the then predicted Local Plan growth levels of 16% across Norfolk there is a predicted increase of access to European sites of 14%, (without mitigation). For North Norfolk there is an estimated 9% increase in access (without mitigation) but this is from a range of districts, including growth in Greater Norwich, Kings Lynn and West Norfolk. However there are variations with the most marked increase in the Brecks at 30%. (Breckland). This is due to a combination of high levels of growth and short distance travelled to access the sites. By contrast access to European sites over the remaining broad locations were reported as: Valley

Fens 28%, Royden & Dersingham, 15%, The Broads, 14%, East Coast 11% & the Wash, 6%.

- 2.4 The survey data also showed a range of different use and recreational draw for the different sites which ranged from recreational walking, dog walking, to holiday use which accounted for nearly half of all visitors surveyed. In terms of frequency of use 36% of the people interviewed visited daily, 12% 1 to 3 times a week, 24% 1 to 3 times per month 16% less than once a month and 12% first visit.
- 2.5 Since then the HRA work undertaken for the individual Local Plans across Norfolk has identified a common theme regarding the potential for recreational activities to disrupt the protection objectives of Habitats Sites in and around Norfolk. This is related to the level of growth in each Local Plan, specifically an increase in population resulting from identified new housing requirements that are within the 'Zone of Influence' (ZOI) for likely significant effects regarding recreational disturbance at Habitats Sites. i.e the extent to which residents and visitors will travel to Habitat Sites for recreational activities.
- 2.6 In response to the potential increase in visits from recreational growth due to population and tourism growth there is an opportunity to address mitigation strategically through a combined Green Infrastructure and Recreational Avoidance Mitigation Strategy, RAMs

3 The Strategy

- 3.1 The RAMs is a costed per unit tariff based strategy that identifies a detailed programme of county wide mitigation measures aimed at delivering the necessary mitigation to avoid adverse effects on the integrity of the Habitats Sites from in-combination effects of new recreational growth (including that from tourists). The strategy is funded from developer contributions and based on a series of base line reviews of existing studies, stakeholder workshops and partnership work through the Norfolk Strategic Framework. It is not designed to deal with existing recreational impact issues just that of future predicted impacts. The strategy has been undertaken in collaboration with all other Norfolk Planning Authorities including the County Council, NCC, and Natural England, NE, and with the assistance of other stakeholders such as the Forestry Commission and Norfolk Wildlife Trust through the Norfolk Strategic Framework, NSF. Place Services were commissioned to undertake the detailed work. A steering group comprising of representatives of the LPA's, NCC, NE guided the project.
- 3.2 The strategy includes the requirement for the provision of well-designed open space/green infrastructure on-site for appropriate developments (Enhanced Green Infrastructure) and or delivery/contributions towards strategic green infrastructure (as identified in the Council's Green Infrastructure Background Paper, and enhancements through Strategic Opportunity Areas) in order to assist in taking the strain away from people visiting Habitats Sites for recreation. The RAMs specific mitigation includes the provision of a team of rangers that provide a presence at the Habitats Sites, who's role would include informing visitors and directing them to less sensitive areas, providing walks, talks and monitoring and management duties such as ensuring appropriate signage is in place and car parking is managed. Their role would

also be to liaise with landowners and partners to manage sites and help monitor sensitive habitats and species.

3.3 Having reviewed the counties open space provision to ascertain if there is a need to provide enhancement at a county level in order to meet an improved standards high enough to act as a diversion from existing Habitat Sites the study also concluded that there is no need for any new county wide provision / strategy of GI. In concluding this the study evidenced the essential need for LPAs to also secure the provision of on-site GI (or developer contributions) and identified Strategic Opportunities Areas, SOA, which could be developed to meet an enhanced standard and help act as genuine alternatives to the existing recreational destinations and help rectify deficiencies in existing provision. In North Norfolk four Strategic Opportunity Areas were identified:

- **SOA1:** lying to the north of the strategic GI corridor and the town, of **Fakenham**, opposite the Rudham Stile Lane site allocations and provides the opportunity to increase the amount of publically accessible natural or semi natural greenspace , enhanced walking routes, woodland and open space.
- **SOA2: Holt Country Park** to the South of Holt and on the edge of the Norfolk Coast Area of Outstanding Natural Beauty (AONB) . Here further enhancements could be made to increase accessibility, attract a wider audience and the creation and enhancement to biodiversity and GI network. Suggestions include outreach and educational events, Art and sculpture and network improvements.
- **SOA3: Weavers Way** –Enhancements including the addition of a circular rout around Great Wood and Felbrigg through enhanced signage, managed footpaths and different routes for different capabilities.
- **SOA4: North Walsham-** although well served by the Norfolk Trail network including the 61 mile Weavers Way connecting Cromer to Great Yarmouth and linkage into the coastal path, Angles Way, Wherryman's Way the Paston Way, Bure Valley Way and the Marriots Way at Aylsham, many towns and villages to the west and south west do not meet natural England Accessible green Instructure Standards of having a 100ha greenspace within 5km, ANGST. The town is proposed to have a significant western urban extension and as such opportunities exist for the enhancements to existing Public rights of way, PRow, such as Weavers Way and Paston Way, as well as enhancements to recreational opportunities in this area. The study recommends specifically that - *North Walsham Wood, Lord Anson's Wood, Bacton Wood and Perch Lake Plantation and the surrounding area. Collectively these areas could become a new Country Park/SANG (or equivalent) and enable access into surrounding PRow and long-distance trails. Currently Lord Anson's Wood is an allocated site in Norfolk Waste and Minerals Local Plan for sand and gravel extraction. However, it is recommended it be restored to heathland with public access, which could be incorporated into any future project.* Such recommendations and opportunities will be considered further in the allocation policy and emerging Development Brief for North Walsham Sustainable Urban Extension, SUE.

3.4 The strategy recommends that existing or proposed localised Green Infrastructure Strategies are reviewed and policies updated to include the requirement to provide enhancements through 'Enhanced Green Infrastructure'. EGI is defined as GI that is in addition to any local policy requirements on open space but at an enhanced scale and quality sufficient

to provide an alternative space to Habitats Sites. Furthermore, to avoid adverse effects on the integrity of Habitats Sites from the development alone, that larger scale development proposals of 50 units plus, should incorporate Enhanced Green Infrastructure at a proportionate scale to the development.

- 3.5 Enhanced Green infrastructure is necessary at the local (development site) level and the strategic (Local Plan making) level to divert and deflect visitors from Habitats Sites, and is often referred to as Suitable Alternative Natural Greenspace (SANGS). The provision is part of the overall strategy and in addition to the package of mitigation measures founded through the tariff based approach. Collectively the EGI and mitigation measures work in combination as a single strategy. SANGS are usually one area of an alternative attractive semi-natural environment but in the context of the Norfolk GI/RAMS, EGI is proposed as an alternative to a SANG and can incorporate a network of open spaces, permissive routes and natural or semi-natural environments across a given area. The GI/RAMS recommends that an EGI quality audit is undertaken of all existing open spaces against a set quality criteria to ensure the effectiveness of the EGI. This audit should incorporate further visitor surveys to ensure that that it meets the local need. As such this is potentially an area of future work.
- 3.6 A template approach is recommended for Project level HRA's where LPA's can record their decisions and through which sites that are predicted to have impacts from each development can be prioritised through the package of measures included in the RAMS.
- 3.7 A per dwelling tariff has been calculated based on the costed package of measures relevant to the impacts and the total number of houses/development still to come forward over the Local Plan(s) period. As such the approach seeks to mitigate the additional recreational pressure in a way that ensures that those responsible for it pay to mitigate it at a level consistent with the level of potential harm and consequently allows the emerging Plans that plan for growth to be HRA compliant, which in turn sets out a framework for individual development proposals to also be HRA compliant.
- 3.8 The costs are subject to final checks and clarification of overall plan numbers but are set to be in the region of £7.9m for the mitigation package and represents a planning contribution that must be **paid for each net new dwelling delivered across the District and County of £205.02²**. In relation to different Use Class such as tourism accommodation specialist accommodation and student accommodation the tariff is split into bed space unit equivalents with the study recommending developer contributions on a 'per six bed space ratio' of the tariff identified for residential growth. As each LPA represents the competent authority in terms of its own obligations to the HRA, each LPA will be responsible for collecting the tariff from all qualifying dwellings that fall under its jurisdiction and for monitoring the tariff contributions that they receive from developers.
- 3.9 In order to identify appropriate Zones of Influence, ZOI i.e a designated distance that establishes where development is likely to have a significant effect on a Habitats Site and where development occurring within can be expected to generate additional recreational visits to Habitats Sites, and

² As of October 2020

hence be expected to contribute, the study analysed postcode data from survey data. Individual site ZOIs were first established which showed significant overlaps between sites and varied due to their geographical position. The data was then further refined to identify an overall ZOI for both residential and tourist development utilising best practice methodology agreed with Natural England. It showed that the whole of the county is evidenced to be covered by one ZOI for residential development. A larger ZOI is also identified and evidenced for tourism development and which also goes some way as to demonstrating the huge distance people travel and the appeal of the Norfolk and in particular North Norfolk to visitors.

- 3.10 As the most up to date and robust evidence these Zones of Influence will also inform updated Impact Risk Zones published by Natural England and it is advised they will be essential to reference in preparing project level HRA's at application stage.
- 3.11 In terms of implementation the study recommends that a project Steering Group is set up of LPA partners and other specialist bodies in order to manage the ongoing project and that a project officer be employed to deliver the mitigation and manage the wardens. Each LPA would pool contributions collected. It is anticipated that this next stage of the project will be co-ordinated via the existing Duty to Co-operate Framework and through the Norfolk Strategic Framework Members Forum.
- 3.12 Mechanisms already exist for collecting contributions from housing developments in the form of 'Section 106' agreements, 'Section 111' (up-front payment) agreements, or 'Unilateral Undertakings'. The study recommends that the Council adopt an approach of both S106 and S111 agreements advising that contributions be sought through S106 agreements where there are other contributions to be collected and through S111 agreements only where this is the sole developer contribution.
- 3.13 For the purpose of clarity S111 are legal obligations between developers and the LPA based around upfront payment at planning application stage, with monies being returned if an application is subsequently refused. Their use would allow for determination in the normal time frames and not slow down the issuing of any decision notice in this regard.
- 3.14 **Without such contributions, planning permission should not be given** as the payment is towards a mitigation package which is required to make all residential development acceptable in planning terms as per section 106 of the 1990 Town and Country Planning Act.

4 Regulation 18 Feedback

- 4.1 All of the Regulation 18 consultation feedback has been published in the Schedule of Responses, previously reported to Members. For information, the feedback in relation the proposals put forward in relation developer contributions in order to mitigate visitor pressure through developer contributions was included in Policy ENV4 and is contained within **Appendix 2** to this report and summarised below.
- 4.2 Statutory Bodies: Natural England welcomed the commitment to a strategic approach to mitigate recreational visitor impacts to European sites and the

protection afforded wider designated sites. In their response they reaffirmed that *Developmental growth in the area is likely to cause adverse effects to designated sites and should be appropriately assessed to identify impacts and mitigation, resulting in the delivery of a costed suite of measures...* They acknowledged the joint LPA work to date on the GI/RAMS strategy, supporting a separate policy in this area and strongly advised the Council adopt an interim payment per dwelling in the absence of an established (Local Plan – my emphasis) strategy to ensure new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations, in accordance with the best available evidence and to address the in combination impacts arising.

- 4.3 Developer responses included general comments from Gladman who concluded that the trust of approach contained in Policy ENV4 was consistent with the NPPF and sufficiently flexible providing the opportunity for mitigation where direct or indirect adverse effects on designated sites are unavoidable. For clarity they sought the policy should be reworded making clear that contribution required should be linked to the increased usage of European sites associated directly from individual proposals. However for reasons stated this does not hold true, It is for effects arising through growth in combination.
- 4.4 Norfolk Wildlife Trust also commented and gave support to a separate policy and county wide approach outlined including seeking developer contributions regarding visitor pressure and agreed with the interim HRA at this stage on this matter.
- 4.5 Norfolk Homes sought clarifications on the evidence to support such a tariff, and the measures required calling for greater public scrutiny / examination.
- 4.6 No comments were received on the matter via town and parish councils and one specific comment was received from a member of the public objecting on the lack of evidence for such policy.

5 National Policy and Guidance

- 5.1 Para 177 of the NPPF sets out that the presumption in sustainable development does not apply where a plan or project is likely to have a significant effect on a Habitats site- either alone or in combination with other plans or projects, unless an appropriate assessment³ has concluded that the Plan or project will not adversely affect the integrity of the Habitats Site.
- 5.2 Para 171 advises also that Plans should: ...take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure.
- 5.3 As detailed in para 1.7 of this report the Conservation of Habitats and Species Regulations 2017,(as amended) commonly known as the Habitats Regulations provide for the designation and protection of Habitats (European) sites. It is these regulations that Plans and project including individual

³ The 'Habitats Regulations Assessment' (HRA) process that competent authorities must undertake to consider whether a proposed development plan or programme is likely to have significant effects on a Habitats Site is undertaken in stages. The HRA stage 2 is often referred to as 'Appropriate Assessment' (AA) although the requirement for AA is first determined by an initial HRA 'Screening' stage undertaken as part of the full HRA.

planning applications need to demonstrate no adverse impacts on the integratory of the Habitat Sites.

6 Conclusions

- 6.1 The issue of mitigating impacts on the Districts European sites is nothing new to the Council. It was necessary to include policy requirements for prior approval of a scheme of mitigation on such sites arising out of increased visitor pressure in the now adopted Site Allocation DPD. Such an approach has generally moved towards a tariff based approach. The additional best available evidence now available coupled with the findings of the interim HRA indicates that all residential and tourism development has the potential for adverse impacts and as such suggests the approach is widened to cover all residential and tourism growth not just allocated sites and updated to deliver the mitigation.
- 6.2 The initial survey work on visitor numbers at European sites undertaken by Footprint Ecology provide detailed evidence of current and projected visitor patterns across the Norfolk European sites and demonstrated that on average there would be approximately a 14% growth at each site without intervention. The Place Services study builds on that by identifying the required zones of influence and provides a strategic framework designed to deliver the detailed programme of County wide mitigation measures aimed at delivering the mitigation necessary to avoid adverse impacts on the integrity of the Habitat Sites from in combination recreational impacts caused by residential and tourist growth.
- 6.3 The interim HRA has identified the importance of ensuring the mitigation strategy is in place and highlighted the requirement for an individual policy to be in place in order for it to conclude appropriately. **Natural England advise a strategic approach is adopted and this is evidenced through the Place Service study which identifies the single zone of influence covering the wider region, the mitigation measures required and in relation to the level of growth yet to come forward the appropriated tariff per unit required to deliver the mitigation.**
- 6.4 Feedback indicated from statutory bodies highlights the importance and the necessity to include the strategic approach and Natural England advised in their regulation 18 consultation feedback that the subject should be covered by a specific individual policy. Furthermore Natural England in their interim advice note dated 12th August 2019 advised that “...*This strategy will form an evidence base for local plans to ensure that residential planning applications which have the potential to impact on European designated sites are compliant with the Habitats Regulations...*” For clarity this is identified as including all unplanned growth that may come forward in the timeline of the project
- 6.5 Natural England go on to state that once the Zones of Influence are established it is anticipated that “***any new residential development within an identified zone will constitute a likely significant effect (LSE) on the sensitive interest features of the above designated sites through increased recreational pressure, either when considered ‘alone’ or ‘in combination’.*** The RAMS (or associated Supplementary Planning Document) will, once adopted, specify requirements for developer

contributions via a per house tariff to an agreed and costed suite of measures which have been developed to mitigate impacts to these designated sites”

- 6.6 A proportionate financial contribution is therefore required to make all residential developments acceptable in planning terms as per Section 106 of ‘The 1990 Town & Country Planning Act. Without such a contribution, planning permission should not be given to residential schemes due to the subsequent effect on Habitats Sites and the legal compliance by the LPA to avoid adverse effects on integrity of Habitats Sites.
- 6.7 As the competent authority needs to meet its legal commitments, each LPA will be responsible for collecting the tariff from all qualifying dwellings and for monitoring the tariff contributions that they receive from developers. Addressing this required is a complex area covering developer contributions, the delivery of appropriate Green Infrastructure and the consideration of biodiversity and project level HRA’s. **In addressing the impacts of visitor recreation It is proposed that an additional policy is drafted and included in the Local Plan along with further references in other policies as required to clearly set out the requirement** that contributions from developments will be secured towards the package of mitigation measures and Enhanced open space requirements identified in the Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy. Including. Specific site allocation policies will also include reference to appropriate contributions and detail the specific opportunities for enhanced Green infrastructure in line with the identified opportunities. **Appendix 3** of this report contains the proposed draft policy extracts. The final wording of such policies will be aligned with any subsequent recommendations from the Norfolk Strategic Framework and the final study. It is anticipated that a further Supplementary Planning Guidance document may need to be produced some time in the future and referenced to in the Local Plan.
- 6.8 Coupled with the collection of the tariff is the delivery of the mitigation. In line with the study findings it is proposed that this will be delivered through the project level HRAs and reflect the impacts that individual proposals make to the relevant European sites. Collectively the pooled contributions and mitigation package will be delivered across Norfolk through the establishment of the relevant project board through the NSF.
- 6.9 **In establishing and pooling contribution Members have two options:**
- Option 1** – in line with Natural England’s Interim advice, as outlined in para 6.4 and contained in **Appendix 1**, collect the established tariff towards mitigation measures identified in the Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy, GI/Rams Strategy in order to deliver all measures identified through project level HRA’s or otherwise, to mitigate any recreational disturbance impacts in compliance with the Habitat Regulations and Habitat Directive on all appropriate development, once the Place Services study has been adopted.
- Option 2** – in line with the study’s reasoned outputs⁴ collect the tariff towards mitigation measures identified in the Norfolk Green Infrastructure and

⁴ Para 3.3.3 page 90 Place Services.

Recreational Impact Avoidance and Mitigation Strategy, GI/Rams Strategy once the Local Plan is adopted by the NSF.

- 6.10 Option 2 would provide for a staggered start to the GI/RAMS project and build funds only after the Local Plan is adopted. In the interim the current Site Allocation DPD policy approach would persist. The emerging Plan for North Norfolk includes a reliance on windfall sites and the tariff established includes these in its calculation. Should these and or other proposals come forward ahead of the Plan it may not be possible to demonstrate no adverse impacts and as such permission should be refused. In addition the full mitigation package may not be able to be funded without a readjustment of the tariff. Natural England's interim advice supports the introduction of the tariff in advance of Local Plans once the zones of influence have been established. Given the above and the fact that the Zone of Influence has/have since been established and covers all of North Norfolk **it is recommended that option 1 be endorsed and the collection of the tariff and the pooling of funds be commenced through project level HRA's following the adoption of the study** through the Norfolk Strategic Framework.

7 Recommendations

- 1- It is recommended that Members endorse the approach, recommending to Cabinet and delegating responsibility for drafting such an approach, including that of finalising the associated tariff and Policy to be included in the Local Plan to the Planning Manager.**
- 2- In relation to the collection of the tariff it is recommend that Members endorse and recommend to Cabinet Option 1.**

8 Legal Implications and Risks

- 8.1 The Council must produce a Local Plan which complies with various regulatory and legal requirements and in determining its policy approaches must be justified and underpinned by up to date and proportionate evidence, the application of a consistent methodology and take account of public feedback and national policy and guidance.
- 8.2 The statutory process requires records of consultation feedback and a demonstration of how this has informed plan making with further commentary demonstrating how the representation at regulation 18 have been taken into account in line with Regulation 22.
- 8.3 **Plans and Projects** which have the potential to impact on European designated sites are compliant with the Habitats Regulations, **namely** Conservation of Habitats and Species Regulations 2017, as amended (commonly known as the 'Habitats Regulations'). Requirements are set out within Regulations 63 and 64 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 63 and 64 are commonly referred to as the 'Habitats Regulations Assessment' process.

9 Financial Implications and Risks

- 9.1** Failure to undertake plan preparation in accordance with the regulations and NPPF is likely to render the plan 'unsound' at examination and result in the need to return to earlier stages. Substantial additional costs would be incurred.

Appendices

Appendix 1 – Natural England Advice letter

Appendix 2 – Regulation 18 Consultation Feedback Summary

Appendix 3 – Draft Policy Approach