

NEW LOCAL PLAN EVIDENCE BASE: ESSEX COAST RECREATIONAL DISTURBANCE AVOIDANCE AND MITIGATION STRATEGY SUPPLEMENTARY PLANNING DOCUMENT (SPD) 2019

1 PURPOSE OF REPORT

- 1.1 Under the direction of Natural England, the Council has been an active member of the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Steering Group, in partnership with Essex County Council, Basildon Borough Council, Brentwood Borough Council, Braintree District Council, Castle Point Borough Council, Chelmsford City Council, Colchester Borough Council, Maldon District Council, Tendring District Council and Uttlesford District Council.
- 1.2 The Council previously noted the final Essex Coast RAMS in April 2019 and has been using the RAMS to effectively discharge its responsibilities under the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations'), including in the undertaking of appropriate assessments at the planning application stage.
- 1.3 A joint supplementary planning document (SPD) has been prepared which would, if adopted, distil the relevant information from the RAMS into a more concise format, providing information to applicants on the need, process and mechanisms for applying the RAMS at the planning application stage. This report recommends that the Council jointly consults on this draft SPD, along with the other partner authorities, for a period of six weeks.

2 INTRODUCTION

- 2.1 The Council's existing Core Strategy 2011 sets out the Council's commitment to the protection, promotion and enhancement of biodiversity throughout the district.
- 2.2 The National Planning Policy Framework (NPPF) 2019 requires Plans to maintain the character of the undeveloped coast, while improving public access to it, where appropriate, and to protect, enhance and promote conservation of priority habitats. Furthermore, the NPPF requires Plans to promote the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.
- 2.3 The Council's existing planning policies, including policy ENV1 of the Core Strategy, require the Council to maintain the environmental quality in the district to protect its distinctive character.
- 2.4 The Council, as a competent authority, has legal obligations under the Conservation of Habitats and Species Regulations 2017 (the 'Habitats

Regulations') to ensure the impacts of 'plans and projects' do not have an adverse impact on the integrity of habitats sites either individually or in combination with other plans and projects. For planning applications this means, where appropriate, undertaking Habitats Regulations Assessments (HRA) to identify any likely significant effects on the integrity of habitats sites and whether these can be avoided or mitigated.

- 2.5 The Essex coastline provides recreational opportunities for Essex residents, and is home to internationally important numbers of breeding and non-breeding birds and their coastal habitats.

- 2.6 A large proportion of the Essex coastline is covered by international, European and national wildlife designations. A key purpose of these designations is to protect wildlife and habitats. Most of the Essex coast is designated under the Habitats Regulations as part of the European Natura 2000 network which includes Special Protection Areas (SPAs) and Ramsar sites. The protection of Habitats Sites is given emphasis in the National Planning Policy Framework (2019).

- 2.7 The Habitats sites to which the SPD applies are as follows, with those within Rochford District's authority area highlighted in bold:

Essex Estuaries SAC

Stour and Orwell Estuaries SPA and Ramsar

Hamford Water SPA and Ramsar

Colne Estuary SPA and Ramsar

Blackwater Estuary SPA

Dengie SPA and Ramsar

Crouch and Roach Estuaries SPA and Ramsar

Foulness Estuary SPA and Ramsar

Benfleet and Southend Marshes SPA and Ramsar

Thames Estuary and Marshes SPA and Ramsar

- 2.8 Evidence, described in detail in the RAMS, suggests that most of the recreational activity is undertaken by people who live in Essex.
- 2.9 The RAMS strategy explains the mitigation that is necessary to protect the wildlife of the Essex coast from the increased visitor pressure associated with new residential housing development in combination with other plans and projects, and how this mitigation will be funded, as well as the implications for

Rochford District's plan-making. The RAMS strategy highlighted a need for a per-dwelling tariff of £122.30 to be applied to new residential developments in the district in order to effectively mitigate the resultant impacts on the integrity of habitats sites.

- 2.10 The RAMS strategy applies to new residential dwellings where there is a net gain, that will be built in the Zone of Influence (Zol) of the habitats sites. The Zol identifies the distance within which new residents are likely to travel to the Essex coast habitats sites for recreation. The entirety of Rochford District falls within one or more Zols.
- 2.11 The RAMS strategy explains that mitigation at this scale, and across several LPAs, is best tackled strategically and through a partnership approach to ensure maximum effectiveness of conservation outcomes and cost efficiency.
- 2.12 The Planning Policy Sub-Committee previously noted the RAMS Strategy in April 2019 and, following an interim period, the Council has been applying the RAMS in the absence of an SPD in the determination of planning applications.

3 Essex Coast RAMS Supplementary Planning Document (SPD)

- 3.1 A Supplementary Planning Document (SPD) has been jointly prepared for the 11 RAMS authorities which focuses on the delivery of the mitigation necessary to protect the wildlife of the Essex coast from the increased visitor pressure associated with new residential housing development in combination with other plans and projects and how this mitigation will be funded.
- 3.2 The SPD distils the technical RAMS strategy into a consistent and practical document for use by the Council, applicants and the public and provides the following information:
 - A summary of the RAMS;
 - The scope of the RAMS;
 - The legal basis for the RAMS;
 - The level of developer contributions being sought for strategic mitigation;
 - How and when applicants should make contributions; and
 - Alternative options for an applicant.
- 3.3 An SPD is a type of planning document that does not form part of the formal 'development plan' for an area and does not introduce new policies but which intends to provide additional guidance on the application of existing policies. An SPD is a material consideration in the determination of planning applications. In this context, the SPD is intended to provide additional

guidance on the application of the RAMS and policies ENV1 of the Core Strategy and DM27 of the Development Management Plan.

- 3.4 The SPD will assist decision-making with respect to any future development that may impact on habitats sites within Rochford District, by providing a clear and concise source of information for applicants, developers and the Council's own development management team on the application of the RAMS throughout the planning process.
- 3.5 The Council is not obliged to prepare or adopt an SPD but failure to do so may make it more difficult for applicants to understand the process and mechanisms involved in the application of the RAMS and result in guidance needing to be provided by officers on an ad hoc basis. A decision to not prepare or adopt an SPD would not remove the Council's legal obligations under the Habitats Regulations and would not remove the need to implement the RAMS, or another appropriate strategy, to mitigate the impacts of new housing on the integrity of habitats sites.
- 3.6 A frequently asked questions (FAQ) document will also be produced to provide further background information on the Bird Aware Essex Coast website.

4 RISK IMPLICATIONS

- 4.1 LPAs have the duty, by virtue of being defined as 'competent authorities' under the Habitats Regulations, to ensure that planning decisions do not adversely affect the integrity of habitats sites. The Council is not obliged to prepare or adopt an SPD; however, a decision not to do so would not remove the Council's duties under the Habitats Regulations and would not remove the need to implement the RAMS, or another appropriate strategy, to avoid or mitigate the impacts of new housing on the integrity of habitats sites.
- 4.2 Failure to avoid or mitigate the impacts of recreational disturbance arising from new housing in the determination of planning applications would leave decisions vulnerable to legal challenge. The RAMS strategy, and accompanying SPD, are intended to ensure the Council's obligations under the Habitats Regulations are effectively discharged.
- 4.3 The absence of an SPD may also make it more difficult for applicants to understand the process and mechanisms involved in the application of the RAMS strategy. This may result in more frequent requests for guidance being made to officers on an ad hoc basis, which would have implications on the capacity of officers to fulfil other responsibilities.

5 ENVIRONMENTAL IMPLICATIONS

- 5.1 The purpose of the RAMS project is to ensure that the integrity of habitats sites along the Essex coast can be effectively preserved. The SPD provides a distillation of the RAMS strategy for the use of applicants, developers and the

Council's development management team. In doing so, it will enable the Council to more effectively protect, enhance and conserve habitats and species through the planning process.

6 RESOURCE IMPLICATIONS

- 6.1 The preparation of this SPD was achieved through existing resources and agreed budgets.

7 LEGAL IMPLICATIONS

- 7.1 LPAs have the duty, by virtue of being defined as 'competent authorities' under the Habitats Regulations, to ensure that planning decisions do not adversely affect the integrity of habitats sites. Furthermore, the NPPF, as revised in 2019, requires decisions to *inter alia* promote the conservation and enhancement of the natural environment to taking a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.
- 7.2 The Council is not obliged to prepare or adopt an SPD; however, a decision not to do so would not remove the Council's duties under the Habitats Regulations and would not remove the need to implement the RAMS, or another appropriate strategy, to avoid or mitigate the impacts of new housing on the integrity of habitats sites. Failure to avoid or mitigate the impacts of recreational disturbance arising from new housing in the determination of planning applications would leave decisions vulnerable to legal challenge. The RAMS strategy, and accompanying SPD, are intended to ensure the Council's obligations under the Habitats Regulations are effectively discharged.

8 EQUALITY AND DIVERSITY IMPLICATIONS

- 8.1 An Equality Impact Assessment has been completed and found there to be no impacts (either positive or negative) on protected groups as defined under the Equality Act 2010.

9 RECOMMENDATION

- 9.1 It is proposed that the Sub-Committee **RECOMMENDS TO COUNCIL**

That the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (the 'RAMS SPD') 2019, attached at Appendix A, be consulted on for a period of six weeks.



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Background Papers:-

None.

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Essex Coast Recreational disturbance Avoidance and Mitigation Strategy

Supplementary Planning Document (SPD) 2019

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1. Introduction

- 1.1 This Supplementary Planning Document (SPD) focuses on the mitigation that is necessary to protect the wildlife of the Essex coast from the increased visitor pressure associated with new residential development in combination with other plans and projects, and how this mitigation will be funded.
- 1.2 This SPD accompanies the strategic approach to mitigation which is set out in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (the 'RAMS'). The RAMS provides a mechanism for Local Planning Authorities (LPAs) to comply with their responsibilities to protect habitats and species in accordance with the UK Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations').
- 1.3 This SPD distils the RAMS into a practical document for use by LPAs, applicants and the public and provides the following information:
 - A summary of the RAMS;
 - The scope of the RAMS;
 - The legal basis for the RAMS;
 - The level of developer contributions being sought for strategic mitigation; and
 - How and when applicants should make contributions.
- 1.4 A 'frequently asked questions' (FAQ) document has also been produced to provide further information about the RAMS project. This is available on the Bird Aware Essex Coast website¹.

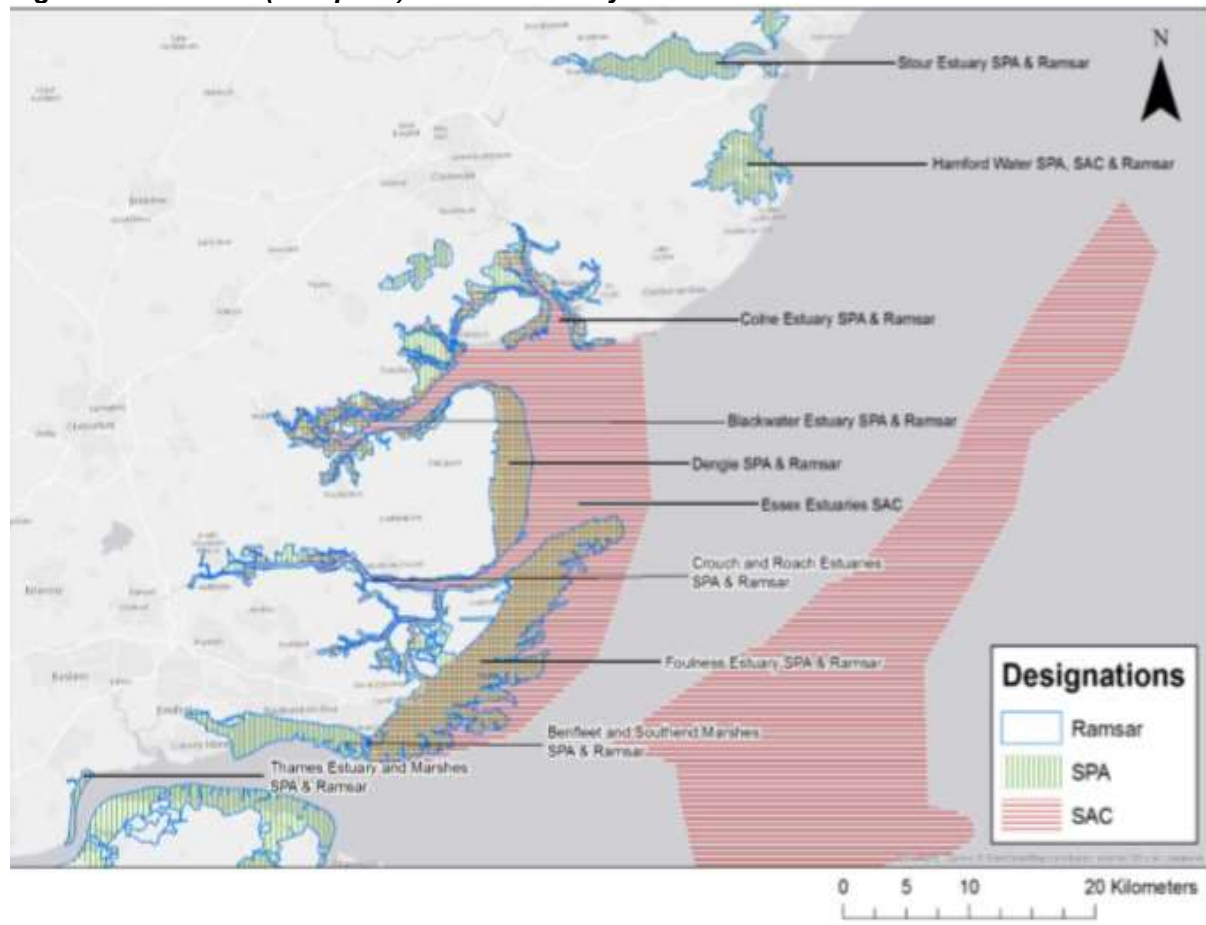
¹ Bird Aware Essex Coast: <https://essexcoast.birdaware.org/home>

2. Summary of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy

The importance of the Essex coast

- 2.1 The Essex coastline is one of importance for people and wildlife. It provides recreational opportunities for Essex residents, and it is home to internationally important numbers of breeding and non-breeding birds and their coastal habitats.
- 2.2 The coast is a major destination for recreational use such as walking, sailing, bird-watching, jet skiing and dog walking. Evidence, described in detail in the RAMS, suggests that the majority of this activity is undertaken by people who live in Essex.
- 2.3 Although only Tendring District, Colchester Borough, Chelmsford City, Maldon District, Rochford District, Southend Borough, Castle Point Borough and Thurrock Councils lie on the coast, residents from, Basildon Borough, Brentwood Borough, Uttlesford District and Braintree District are also likely to travel to the coast for recreational use.
- 2.4 A large proportion of the coastline is covered by international, European and national wildlife designations. A key purpose of these designations is to protect breeding and non-breeding birds and coastal habitats. Most of the Essex coast is designated under the Habitats Regulations as part of the European Natura 2000 network: for the purposes of this SPD these are Special Protection Areas, Special Areas of Conservation and Ramsar sites. These sites are also defined as 'Habitats Sites' in the National Planning Policy Framework (2019).
- 2.5 The Habitats Sites to which this SPD applies are as follows and these are shown overleaf on Figure 2.1:
 - Essex Estuaries SAC
 - Stour and Orwell Estuaries SPA and Ramsar
 - Hamford Water SPA and Ramsar
 - Colne Estuary SPA and Ramsar
 - Blackwater Estuary SPA and Ramsar
 - Dengie SPA and Ramsar
 - Crouch and Roach Estuaries SPA and Ramsar
 - Foulness Estuary SPA and Ramsar
 - Benfleet and Southend Marshes SPA and Ramsar
 - Thames Estuary and Marshes SPA and Ramsar

Figure 2.1: Habitats (European) sites covered by the Essex Coast RAMS



Notes:

- Ramsar sites are areas of wetland which are designated of international importance under the Ramsar Convention (1971).
- Special Protection Areas (SPAs) are sites which support rare, vulnerable and migratory birds.
- Special Areas for Conservation (SACs) are sites which support high-quality habitats and species.

The duties of Local Planning Authorities (LPAs)

2.6 LPAs have the duty, by virtue of being defined as 'competent authorities' under the Habitats Regulations, to ensure that planning application decisions comply with the Habitats Regulations. If the requirements of the Habitats Regulations are not met and impacts on Habitats sites are not mitigated, then development must not be permitted.

2.7 Where a Habitats site could be affected by a plan, such as a Local Plan, or any project, such as a new hospital/housing/retail development, then Habitats Regulations Assessment (HRA) screening must be undertaken. If this cannot rule out any possible likely significant effect either alone or in combination on the Habitats site prior to the implementation of mitigation, then an Appropriate Assessment (AA) must be undertaken. The AA identifies the interest features of the site (such as birds, plants or coastal habitats), how they could be harmed, assesses whether the proposed plan or project could have an adverse

effect on the integrity of the Habitats site (either alone or in-combination), and finally how this could be mitigated.

- 2.8 The aim of the HRA process is to '***maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest***' (The EC Habitats Directive, 92/43/EEC, Article 2(2)).

The requirement for delivery of strategic mitigation

- 2.9 The published Habitats Regulations Assessments (HRAs) for the relevant Local Plans have identified recreational disturbance as an issue for all of the Essex coastal SPAs, SACs and Ramsar sites.
- 2.10 Mitigation measures have been identified in the HRA (screening and/or Appropriate Assessments) for many of the Local Plans. There are similarities in the mitigation measures proposed, reflecting the identification of 'in-combination' effects resulting from planned and un-planned growth in LPA areas. In recognition of this, Natural England² recommended a strategic approach to mitigation along the Essex coast.
- 2.11 Furthermore, each Habitats site or complex of sites in England has a Site Improvement Plan (SIP), developed by Natural England. Recreational disturbance is identified as an issue for all ten of the Habitats sites considered in this strategy.
- 2.12 Mitigation measures are therefore necessary to avoid these likely significant effects in-combination with other plans and projects. Mitigation at this scale, and across a number of LPAs, is best tackled strategically and through a partnership approach. This ensures maximum effectiveness of conservation outcomes and cost efficiency.
- 2.13 Some housing schemes, particularly those located close to a Habitats site boundary or large-scale developments, may need to provide mitigation measures to avoid likely significant effects from the development alone, ***in addition to the mitigation*** required in-combination and secured for delivery through the RAMS. This would need to be assessed and, where appropriate, mitigated through a separate project level Habitats Regulations Assessment (HRA) (including AA where necessary). The local planning authority, in consultation with Natural England, would advise on applicable cases. Therefore, the implementation of this SPD does not negate the need for an appropriate assessment for certain types of development.
- 2.14 The Essex coast RAMS aims to deliver the mitigation necessary to avoid the likely significant effects from the 'in-combination' impacts of residential

² An executive non-departmental public body and the government's adviser for the natural environment in England

development that is anticipated across Essex; thus protecting the Habitats sites on the Essex coast from adverse effect on site integrity. This strategic approach has the following advantages:

- It is endorsed by Natural England and has been used to protect other Habitats sites across England;
- It is pragmatic: a simple and effective way of protecting and enhancing the internationally important wildlife of the Essex coast and will help to reduce the time taken to reach planning decisions;
- It provides an evidence based and fair mechanism to fund the mitigation measures required as a result of the planned residential growth; and
- It provides applicants, agents and planning authorities with a comprehensive, consistent and efficient way to ensure that appropriate mitigation for residential schemes within the Zone of Influence (see paragraph 3.2 below) is provided in an effective and timely manner.

2.15 The RAMS approach is fair and 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. It also obeys the 'precautionary principle'³. Existing visitor pressure at Habitats sites would be mitigated through alternative means and any pressure that would arise from different types of development would be addressed through the project HRA.

2.16 The majority of the HRAs produced by Essex LPAs as part of the production of their respective Local or Strategic Plans identified that the level of 'net new' planned housing growth may lead to disturbance of birds in coastal Habitats (European) sites within and beyond each individual LPA boundary.

³ 'In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.' (Principle 15) of Agenda 21, agreed at the Rio Earth Summit, 1992.

3. Scope of the SPD

Where does the RAMS apply?

3.1 The 12 LPAs which are partners in and responsible for the delivery of the RAMS are listed below:

- Basildon Borough Council
- Braintree District Council
- Brentwood Borough Council
- Castle Point Borough Council
- Chelmsford City Council
- Colchester Borough Council
- Maldon District Council
- Rochford District Council
- Southend Borough Council
- Tendring District Council
- Thurrock Borough Council
- Uttlesford District Council

3.2 The SPD applies to new residential dwellings that will be built in the Zone of Influence (Zol) of the Habitats sites. The Zol identifies the distance within which new residents are likely to travel to the Essex coast Habitats sites for recreation.

3.3 The Zol was calculated by ranking the distances travelled by visitors to the coast based on their home town postcode data. Not all postcode data is used as this can skew the results and therefore the Zol is based on the 75th percentile of postcode data. This provides the Zol distance.

3.4 This method has been used for a number of strategic mitigation schemes and is considered by Natural England to be best practice. The distances used to create the zone are illustrated in table 3.1 (below).

Table 3.1: Zones of Influence for the Essex Coast RAMS

European designated site	Final distance to calculate RAMS Zol (km)
Essex Estuaries SAC	~*
Hamford Water SPA and Ramsar	8
Stour and Orwell Estuaries SPA and Ramsar	13
Colne Estuary SPA and Ramsar	9.7
Blackwater Estuary SPA and Ramsar	22
Dengie SPA and Ramsar	20.8
Crouch and Roach Estuaries Ramsar and SPA	4.5
Foulness Estuary SPA and Ramsar	13
Benfleet and Southend Marshes SPA and Ramsar	4.3
Thames Estuary and Marshes SPA and Ramsar	8.1

* The Essex Estuaries SAC overlaps with the Blackwater Estuary, Colne Estuary, Crouch and Roach Estuaries, Dengie, Foulness and Outer Thames Estuary SPA and Ramsar sites.

3.5 The Zol can be accessed via Magic Maps⁴, (where you will find the definitive boundaries. A broad illustration of the extent of the RAMS Zol is shown in Figure 3.1, below.

Figure 3.1: Illustration of the Zones of Influence for the Essex Coast RAMS



What types of dwellings does this apply to?

3.6 New residential developments where there is a net increase in dwelling numbers are included in the RAMS. This would include, for example, the conversion of existing large townhouses into smaller flats, or the change of use of other buildings to dwellings. It excludes replacement dwellings (where there is no net gain in dwelling numbers) and extensions to existing dwellings including residential annexes. Applicants are advised to contact the LPA if in any doubt as to whether their development is within the scope of the RAMS.

Does it apply to all schemes?

3.7 It applies to all schemes regardless of size. The National Planning Practice Guidance⁵ confirms that local planning authorities may seek planning contributions for sites of less than 10 dwellings to fund measures with the

⁴ MAGIC website: <https://magic.defra.gov.uk/MagicMap.aspx>

⁵ Planning Practice Guidance: <https://www.gov.uk/government/collections/planning-practice-guidance>

purpose of facilitating development that would otherwise be unable to proceed because of regulatory requirements.

3.8 The RAMS and this SPD apply to the following Planning Use Classes:

Table 3.2: Planning Use Classes covered by the Essex Coast RAMS

Planning Use Class*	Class Description
C2 Residential institutions	Residential care homes, boarding schools, residential colleges and training centres.
C2A Secure Residential Institution	Military barracks.
C3 (a) Dwelling houses (a)	- covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.
C3 Dwelling houses (b)	- up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.
C3 Dwelling houses (c)	- allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger.
C4 Houses in multiple occupation	- Small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom
Sui Generis ***	- Residential caravan sites (excludes holiday caravans and campsites) -Gypsies, travellers and travelling show people plots

Notes:

* This table is based on Natural England advice (244199 August 2018, which was advisory, not definitive.

** Care homes will be considered on a case-by-case basis according to the type of residential care envisaged.

*** Sui Generis developments will be considered on a case-by-case basis according to the type of development proposed.

A guide on student accommodation and RAMS is included as Appendix 2.

- 3.9 Other types of development within the Zofl and not included within the draft SPD, such as visitor accommodation, may be likely to have significant effects on a protected habitat site/sites and will in such cases need to be subject of an appropriate assessment as part of the Habitats Regulations. As part of this assessment any mitigation proposals (including those which address any recreational pressure) will need to be considered separately from this strategy and taken into account by the appropriate authorities.

What types of application does the RAMS apply to?

- 3.10 The RAMS applies to all full applications, outline applications, hybrid applications, and permitted development (see below). This includes affordable housing. Reserved matters applications will be considered on an individual basis having regard to whether the potential effects of the proposal were fully considered when the existing outline was granted or where new information submitted with the reserved matters application would make for a different assessment of effects.
- 3.11 In order to consider RAMS contributions at the outline application stage, the application should indicate a maximum number of dwelling units.
- 3.12 The General Permitted Development Order (GPDO) allows for the change of use of some buildings and land to Class C3 (dwelling houses) without the need for planning permission, with development being subject to the prior approval process. However, the Habitats Regulations also apply to such developments. The LPA is therefore obliged by the regulations to scope in those GPDO changes of use to dwelling houses where these are within the Zol.
- 3.13 In practice, this means any development for prior approval should be accompanied by an application for the LPA to undertake an HRA on the proposed development. The development will need to include a mitigation package which would incorporate a contribution to the RAMS to mitigate the 'in-combination' effects.
- 3.14 The alternative is for the applicant to provide information for a project level HRA/AA and secure bespoke mitigation to avoid impacts on Habitats sites in perpetuity.

4. Mitigation

- 4.1 Measures to avoid and mitigate adverse impacts on the Habitats sites are statutory requirements. Mitigation measures, which are required for any residential development within the areas of the LPAs that falls within a Zone of Influence, are identified in this SPD.

- 4.2 The RAMS identifies a detailed programme of strategic mitigation measures which would be funded by contributions from residential development schemes. These measures are summarised in Table 4.1 (overleaf):

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Table 4.1 – The Essex coast RAMS toolkit

Action area	Examples
Education and communication	
Provision of information and education	<p>This could include:</p> <ul style="list-style-type: none"> • Information on the sensitive wildlife and habitats • A coastal code for visitors to abide by • Maps with circular routes away from the coast on alternative footpaths • Information on alternative sites for recreation <p>There are a variety of means to deliver this such as:</p> <ul style="list-style-type: none"> • Through direct engagement led by rangers/volunteers • Interpretation and signage • Using websites, social media, leaflets and traditional media to raise awareness of conservation and explain the Essex Coast RAMS project. • Direct engagement with clubs e.g. sailing clubs, ramblers clubs, dog clubs and local businesses.
Habitat based measures	
Fencing/waymarking/screening	Direct visitors away from sensitive areas and/or provide a screen such that their impact is minimised.
Pedestrian (and dog) access	<ul style="list-style-type: none"> • Zoning • Prohibited areas • Restrictions of times for access e.g.to avoid bird breeding season
Cycle access	Promote appropriate routes for cyclists to avoid disturbance at key locations
	Audit of car parks and capacity to identify hotspots and opportunities for “spreading the load”

Action area	Examples
Vehicular access and car parking	
Enforcement	<ul style="list-style-type: none"> Establish how the crew operating the river Ranger patrol boat could be most effective. It should be possible to minimise actual disturbance from the boat itself through careful operation. Rangers to explain reasons for restricted zones to visitors
Habitat creation	Saltmarsh recharge, regulated tidal exchange and artificial islands may fit with Environment Agency Shoreline Management Plans
Partnership working	Natural England, Environment Agency, RSPB, Essex Wildlife Trust, National Trust, landowners, local clubs and societies.
Monitoring and continual improvement	Birds and visitor surveys with review of effectiveness of measures with new ideas to keep visitors wanting to engage

- 4.3 Appendix 1 contains details of the full mitigation package. The overall cost for the mitigation package is £8,916,448.00 in total from March 2019 until 2038.

What is the tariff?

- 4.4 The current tariff is £122.30 per dwelling as of 2019/20. This will be indexed linked, with a base date of 2019. This will be reviewed periodically and re-published as necessary.
- 4.5 In order to arrive at a per dwelling contribution figure, the strategic mitigation package cost was divided by the total number of dwellings (79,582 dwellings) which are currently identified to be built in the Zol over Local Plan periods until 2038. This includes dwellings which have not received Full/Reserved matters consent. Any dwellings already consented in the Plan period are not included in this calculation. This figure is not definitive and likely to change as more Local Plans progress and are reviewed. As such the figure will be subject to review.

When will the tariff be paid?

- 4.6 Contributions from residential development schemes will be required no later than on commencement of each phase of development. This is necessary to ensure that the financial contribution is received with sufficient time for the mitigation to be put in place before any new dwellings are occupied.
- 4.7 Where development is built in phases this will apply to each phase of house building. A planning obligation will be used to ensure compliance.

How will the tariff be paid?

- 4.8 The statutory framework for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990 (as amended) and Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). In addition, paragraphs 54 to 57 of the National Planning Policy Framework (NPPF) 2019 sets out the Government's policy on planning obligations. The obligation can be a unitary obligation, referred to as a 'Unilateral Undertaking'⁶ or multi party agreement, referred to as a 'Section 106 agreement'⁷. The applicant will be required to enter into a formal deed with the Local Planning Authority (LPA) to secure the payment of the required financial contribution. The RAMS contribution may form a clause within a wider S106 agreement.
- 4.9 This contribution is payable in addition to any Community Infrastructure Levy liability and/or any other S106 or S278 contributions for other types of

⁶ An offer to an Local Planning Authority to settle obligations relevant to their planning application.

⁷ A legal agreement under Section 106 of the Town and Country Planning Act 1990 made between local authorities and developers, and often attached to a planning permission, to make acceptable development which would otherwise be unacceptable in planning terms.

contribution and there may be other site-specific mitigation requirements in respect of Habitats sites and ecology as outlined above.

- 4.10 The mitigation measures identified in this SPD are specifically sought to avoid additional recreational pressures on Habitats sites and do not provide wider benefit or represent the provision of infrastructure. These contributions are not classed as providing infrastructure so can be secured through Section 106 agreements without any restriction on pooling of contributions from 5 or more developments (Regulation 123 of the Community Infrastructure Levy regulations). This approach is consistent with the views of other local authorities across the country in dealing with mitigation requirements for other Habitats sites and has been accepted by Planning Inspectors at appeal/examination.
- 4.11 Planning obligations are legally binding on the landowner (and any successor in title). They enable the LPA to secure the provision of services (or infrastructure), or contributions towards them, which is necessary in order to support the new development i.e. by making an otherwise unacceptable development acceptable in planning terms.
- 4.12 Legal agreements for planning purposes should meet all the following tests in order to be taken into account when determining a planning application:
- They are necessary to make a development acceptable in planning terms;

‘LPAs, as competent authorities under the Habitats Regulation, have the duty to ensure that planning application decisions comply with regulations.’
 - They are directly related to the development;

‘Evidence in the RAMS demonstrates that visitors come mainly from within the Zol indicated above to the Habitats sites. The ‘in-combination’ impact of proposals involving a net increase of one or more dwellings within this Zol is concluded to have an adverse effect on Habitats site integrity unless avoidance and mitigation measures are in place.’
 - They are fairly and reasonably related in scale and kind to a development.

The measures put forward in the RAMS represent the lowest cost set of options available which will be both deliverable and effective in mitigating the anticipated increase in recreational pressure from new residential development within the Zol. The costs are apportioned proportionately between all developments dependent on the scale of development. The contributions will be spent on both project-wide

mitigations such as Rangers, and specific mitigations within the Zol in which the contribution was collected. This contribution is therefore fairly and reasonably related in scale and kind to the development.

4.13 Applicants are expected to meet the LPA's legal fees associated with any drafting, checking and approving any deed. These legal fees are in addition to the statutory planning application fee and the contribution itself and must be reasonable. Details of the LPA's current legal fees can be found on the LPA's website. The website addresses for each LPA are included within Section 8 of this strategy.

Schemes under 10 dwellings

4.14 Applicants for schemes which will create up to 10 new units of residential accommodation can use a Unilateral Undertaking (UU). This should be submitted when the planning application is submitted.

4.15 Applicants will need to provide the following documents as part of their planning application where payment will be made through a UU:

- The original UU committing to pay the total RAMs contribution (index linked) before commencement of house building on the site/in accordance with the phasing of the development. This must be completed and signed by those who have a legal interest in the site including tenants and mortgagees;
- A copy of the site location plan signed by all signatories to the UU and included as part of the undertaking;
- Recent proof of title to the land (within the last month) which can normally be purchased from the Land Registry. Please note there are two parts to the proof of title: a Register and a Title Plan, both of which must be submitted.
- If the land is unregistered the applicant must provide solicitors details and instruct them to provide an Epitome of Title to the LPA

4.16 A payment for the LPA's reasonable costs of completing and checking the agreement will be necessary. The LPA will only charge for the actual time spent on this matter if the applicant follows the guidance. These legal fees are in addition to the statutory application fee and any contributions themselves. Please send a separate payment for this fee. This may be increased if the matter is particularly complex.

4.17 The LPA will require a payment towards the LPA's legal costs of completing and checking the UU. Current fees can be found on the respective LPA's website.

Schemes for 10 or more dwellings

- 4.18 In the case of larger or more complicated developments which include planning obligations beyond RAMS contributions, the most appropriate route for securing contributions will be via a multi-party Section 106 Agreement.
- 4.19 Applicants must submit a Heads of Terms document for the Section 106 Agreement, identifying these requirements and specifying their agreement to enter into a planning obligation. Heads of Terms should be provided at the point of submission of the planning application.
- 4.20 Please contact Planning Officers at the relevant LPA at the earliest opportunity to discuss your application and the most appropriate method of paying your RAMS contribution.

5. Alternative to paying into the RAMS

- 5.1 The 12 RAMS partner LPAs encourage mitigation to be secured via the strategic approach and prefer developer contributions to the RAMS. This approach is likely to be simpler, quicker and less costly for applicants. It will also ensure the adequate and timely delivery of effective mitigation at the Habitats sites.
- 5.2 As an alternative, applicants may choose to conduct their own visitor surveys to provide information to support the LPA in preparing project level Habitats Regulations Assessment (HRA) Screening Reports (in order to ensure that they can demonstrate compliances with Regulation 63 of the Habitats Regulations) and secure the bespoke mitigation specified within. Where applicants choose to pursue this option, the LPA will need to consult Natural England on the effectiveness of the mitigation proposed.

6. Monitoring of this SPD

- 6.1 To monitor the effectiveness of the RAMS and this SPD, a strategic monitoring process is in place and will be managed by a dedicated RAMS delivery officer in liaison with each LPA's own monitoring officers.
- 6.2 Monitoring will be undertaken annually and a report will be provided to each LPA to inform their individual Authority Monitoring Report (AMR). As competent authorities under the Habitats Regulations, the delivery of the Essex Coast RAMS is the responsibility of the LPA needing it to ensure their Local Plan is sound and legally compliant.
- 6.3 A representative from each of the partner LPAs, together forming 'The RAMS Steering Group', shall work with the Essex Coast RAMS team to establish a

monitoring process, which will include SMART targets⁸ to effectively gauge progress.

- 6.4 To ensure the monitoring process is fit for purpose, various monitoring activities will be undertaken at different times and at an appropriate frequency. For example, visitor survey updates will be scheduled for after 2 and then 5 years. The monitoring process will be used to inform future reviews of the RAMS and the SPD.

7. Consultation

- 7.1 This draft SPD is published for consultation between x and x in accordance with the planning consultation requirements of each LPA.

- 7.2 Comments should be submitted online at: <INSERT LINK>

- 7.3 Alternatively comments can be emailed or posted to Place Services at:

Place Services,
Essex County Council
County Hall
Chelmsford
Essex
CM1 1QH

<INSERT EMAIL ADDRESS>

- 7.4 Following the close of the consultation all comments will be considered and where necessary amendments made to the draft SPD prior to adoption by each LPA.

8. Useful Links

- Essex Coast Bird Aware - <https://essexcoast.birdaware.org/home>
- Basildon Borough Council (planning and environment) - <https://www.basildon.gov.uk/article/4622/Planning-and-environment>
- Braintree District Council (planning and building) - https://www.braintree.gov.uk/homepage/22/planning_and_building
- Brentwood Borough Council (planning and building control) - <http://www.brentwood.gov.uk/index.php?cid=531>
- Castle Point Borough Council (planning) - <https://www.castlepoint.gov.uk/planning>
- Chelmsford City Council (planning and building control) - <https://www.chelmsford.gov.uk/planning-and-building-control/>
- Colchester Borough Council (planning, building control and local land charges) - <https://www.colchester.gov.uk/planning/>
- Maldon District Council (planning and building control) - https://www.maldon.gov.uk/info/20045/planning_and_building_control

⁸ Targets that are Specific, Measurable, Attainable, Relevant and Timely (SMART)

- Rochford District Council (planning and building) - <https://www.rochford.gov.uk/planning-and-building>
- Southend Borough Council (planning and building) - https://www.southend.gov.uk/info/200128/planning_and_building
- Tendring District Council (planning) - <https://www.tendringdc.gov.uk/planning>
- Thurrock Borough Council (planning and growth) - <https://www.thurrock.gov.uk/planning-and-growth>
- Uttlesford District Council (planning and building control) - <https://www.uttlesford.gov.uk/article/4831/Planning-and-building-control>
- Natural England - <https://www.gov.uk/government/organisations/natural-england>
- MAGIC (Map) - <https://magic.defra.gov.uk/MagicMap.aspx>
- Planning Practice Guidance - <https://www.gov.uk/government/collections/planning-practice-guidance>

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9. Glossary

Appropriate Assessment	Forms part of the Habitats Regulations Assessment
Competent Authority	Has the invested or delegated authority to perform a designated function.
England Coast Path	Natural England are implementing the Government scheme to create a new national route around the coast of England
Impact Risk Zone	Developed by Natural England to make a rapid initial assessment of the potential risks posed by development proposals. They cover areas such as SSSIs, SACs, SPAs and Ramsar sites.
Habitats sites	Includes SPA, SAC & Ramsar sites as defined by NPPF (2018). Includes SPAs and SACs which are designated under European laws (the 'Habitats Directive' and 'Birds Directive' respectively) to protect Europe's rich variety of wildlife and habitats. Together, SPAs and SACs make up a series of sites across Europe, referred to collectively as Natura 2000 sites. In the UK they are commonly known as European sites; the National Planning Policy Framework also applies the same protection measures for Ramsar sites (Wetlands of International Importance under the Ramsar Convention) as those in place for European sites.
Habitats Regulations Assessment	Considers the impacts of plans and proposed developments on Natura 2000 sites.
Natural England	Natural England - the statutory adviser to government on the natural environment in England.
Local Planning Authority	The public authority whose duty it is to carry out specific planning functions for a particular area.
Ramsar site	Wetland of international importance designated under the Ramsar Convention 1979.
Special Area of Conservation	Land designated under Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora.
Special Protection Area	Land classified under Directive 79/409 on the Conservation of Wild Birds.
Supplementary Planning Document	Documents that provide further detail to the Local Plan. Capable of being a material consideration but are not part of the development plan.
Zone of Influence	A designated distance that establishes where development is permitted.

10. Acronyms

AA	Appropriate assessment
GPDO	General Permitted Development Order
HRA	Habitat Regulations Assessment
LPA	Local Planning Authority
RAMS	Recreational disturbance Avoidance and Mitigation Strategy
SAC	Special Area of Conservation
SPA	Special Protection Area
SPD	Supplementary Planning Document
UU	Unilateral undertaking
Zol	Zone of Influence

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11. Appendix 1: Strategic Mitigation

Mitigation package costed for 2018-2038

Priority	Theme	Measure	One off cost?	Annual cost	No. of years	Total cost for developer tariff calculations	Notes
Immediate - Year 1/2	Staff resources	Delivery officer		£45,000	19	£1,027,825	Salary costs include NI and overheads & 2% annual increments
		Equipment and uniform		(small ongoing cost)		£5,000	Bird Aware logo polo shirts, waterproof coats and rucksacks, plus binoculars for Rangers
	Year 2	1 ranger		£36,000	18	£770,843	Salary costs include NI and overheads & 2% annual increments
	Year 2	1 ranger		£36,000	18	£770,843	Salary costs include NI and overheads & 2% annual increments
		Staff training		£2,000	19	£38,000	£500 training for each staff
		Partnership Executive Group		(LPA £1,000)	19	£0	This would need to be an 'in kind' contribution from the LPA as this is a statutory requirement of the competent authorities. NB This is over and above the requirement for S106 monitoring

Priority	Theme	Measure	One off cost?	Annual cost	No. of years	Total cost for developer tariff calculations	Notes
		Administration & audit		(LPA £1,000)	19	£0	As above
	Access	Audit of Signage including interpretation	£1,000			£1,000	Undertaken by Delivery officer/rangers but small budget for travel
		New interpretation Boards	£48,600			£48,600	£2,700 per board, based on HLF guidance. Approx. 9 boards, one per Site. Cost allows for one replacement in plan period
	Monitoring	Levels of new development				£0	No cost as undertaken as part of LPA work in Development Management and s106 or Infrastructure officers
		Recording implementation of mitigation and track locations and costs				£0	No cost as delivered as part of core work by delivery officer
		Collation & mapping of key roosts and feeding areas outside the SPA	£10,000			£10,000	Initial dataset to be available to inform Rangers site visits.

Priority	Theme	Measure	One off cost?	Annual cost	No. of years	Total cost for developer tariff calculations	Notes
		Visitor surveys at selected locations in summer (with questionnaires)	£15,000			£15,000	Focus on Dengie, Benfleet & Southend Marshes and Essex Estuaries saltmarsh; estimated cost £5/Habitats site. Liaise with NE & ECC PROW re England Coast Path
		Visitor numbers and recreational activities	£5,000 (£500/Habitats site/yr)			£5,000	Rangers, partner organisations, LPAs
		Consented residential development within Zol.	£0/ Habitats site/yr)			£0	S106 officers to Track financial contributions for each development for all LPAs; liaise with LPA contributions officers
	Communication	Website set up for Day 1				£0	Essex Coast Bird Aware webpage set up costs £3k to be covered by LPAs.
		Walks and talks to clubs and estuary users groups				£0	Covered by salary costs for Delivery officer
		Promotional materials				£5,000	Use Bird Aware education packs, stationery, dog bag dispensers, car stickers etc.

Priority	Theme	Measure	One off cost?	Annual cost	No. of years	Total cost for developer tariff calculations	Notes
Short to Medium term	Dog related	Set up/expand Dog project in line with Suffolk Coast & Heaths AONB "I'm a good dog" and Southend Responsible Dog Owner Campaign	£15,000			£15,000	Use Bird Aware design for leaflets & website text, liaison with specialist consultants (Dog focussed), liaison with dog owners etc. Liaise with dog clubs & trainers;
	Water sports zonation		£10,000			£10,000	Approx. costs only to be refined when opportunity arises
Year 5	Staff resources	1 additional ranger		£36,000	13	£456,567	Salary costs include NI and overheads & 2% annual increments
		Staff to keep website & promotion on social media up to date		£1,000	19	£19,000	Update/refresh costs spread over plan period and include dog and water borne recreation focussed pages on RAMS/Bird Aware Essex Coast website plus merchandise eg dog leads.

Priority	Theme	Measure	One off cost?	Annual cost	No. of years	Total cost for developer tariff calculations	Notes
	Monitoring	Update Visitor surveys at selected locations in summer (with questionnaires)	£45,000			£45,000	Estimated cost £5000/Habitats site/year for 9 Sites. Liaise with NE & ECC PROW re England Coast Path and LPAs re budgets as some of the survey costs may be absorbed into the budget for the HRAs needed for Local Plans. This could reduce the amount of contributions secured via RAMS which could be used for alternative measures.
		Signage and interpretation	£14,500			£14,500	£14,500 allows for 3 sets of discs - 3 designs, 1500 of each; e.g. paw prints in traffic light colours to show where no dogs, dogs on lead and dogs welcome. This may link with a timetable eg Southend with dog ban 1 st May to 30 th Sept

Priority	Theme	Measure	One off cost?	Annual cost	No. of years	Total cost for developer tariff calculations	Notes
	Water based bailiffs to enforce byelaws	Set up Water Ranger	£50,000	£120,000	15	£2,029,342	Costs need to include jet ski(s), salary & on costs, training and maintenance plus byelaws costs. Priority is recommended for at least 1 Ranger to visit locations with breeding SPA birds e.g. Colne Estuary, Hamford Water and other locations eg Southend to prevent damage during the summer. Explore shared use at different times of year e.g. winter use at other Habitats sites. Given increased recreation predicted.
		Additional River Ranger where needed		£120,000	15	£2,029,342	
	Codes of conduct	For water sports, bait digging, para motors/power hang gliders & kayakers	£5,000			£5,000	Use Bird Aware resources with small budget for printing. Talks to clubs and promotion covered by Delivery officer and rangers
	Habitat creation - Alternatives for birds project – and long term management	Work with landowners & EA to identify locations eg saltmarsh creation in key locations where it would provide benefits and work up projects	£500,000			£500,000	Approx. costs only to be refined when opportunity arises for identified locations in liaison with EA and landowners via Coastal Forum and Shoreline Management Plans.

Priority	Theme	Measure	One off cost?	Annual cost	No. of years	Total cost for developer tariff calculations	Notes
	Ground nesting SPA bird project – fencing and surveillance costs - specifically for breeding Lt Terns, & Ringed Plovers	Work with landowners & partners to identify existing or new locations for fencing to protect breeding sites for Little Tern & Ringed Plover populations	£15,000			£15,000	Check with RSPB, NE & EWT when project is prioritised
Longer term projects	Car park rationalisation	Work with landowners, Habitats site managers & partner organisations	£50,000			£50,000	Approx. costs only to be refined when opportunity arises
	Monitoring	Birds monitoring for key roosts & breeding areas within and outside SPAs		£5,000	10	£50,000	Costs for trained volunteers; surveys every 2 years
		Vegetation monitoring		£5,000	4	£20,000	Costs for surveys every 5 years

Priority	Theme	Measure	One off cost?	Annual cost	No. of years	Total cost for developer tariff calculations	Notes
Year 10, 15 & 20	Monitoring	Update Visitor surveys at selected locations in summer (with questionnaires)	£45,000			£135,000	Estimated cost £5/Habitats site. Liaise with NE & ECC PROW re England Coast Path
	Route diversions	Work with PROW on projects	£15,000			£15,000	Approx. costs only to be refined when opportunity arises

TOTAL MITIGATION PACKAGE COSTS

£8,105,862

+10% contingency

£810,586

TOTAL COST

£8,916,448

12. Appendix 2: Essex Coast RAMS Guidelines for proposals for student accommodation

Introduction

A2.1 The Essex coast Recreational disturbance Avoidance and Mitigation Strategy (the “Essex coast RAMS”) aims to deliver the mitigation necessary to avoid significant adverse effects from in-combination impacts of residential development that is anticipated across Essex; thus protecting the Habitats (European) sites on the Essex coast from adverse effects on site integrity. All new residential developments within the evidenced Zones of Influence where there is a net increase in dwelling numbers are included in the Essex Coast RAMS. The Essex Coast RAMS identifies a detailed programme of strategic mitigation measures which are to be funded by developer contributions from residential development schemes.

A2.2 This note includes guidance for proposals for student accommodation to help understand the contribution required. It has been agreed by the Essex Coast RAMS Steering Group. The purpose of this note is to ensure that a consistent approach is taken across Essex when dealing with proposals for student accommodation within the Zones of Influence of the Essex Coast RAMS.

Student Accommodation

A2.3 In their letter to all Essex local planning authorities, dated 16 August 2018, Natural England included student accommodation as one of the development types that is covered by the Essex Coast RAMS.

A2.4 It would not be appropriate to expect the RAMS tariff of £122.30 for each unit of student accommodation. This would not be a fair and proportionate contribution. Nevertheless, Natural England has advised that there needs to be a financial contribution towards the RAMS as there is likely to be a residual effect from student accommodation development even though it will only be people generated disturbance rather than dog related. Natural England has advised that the tariff could be on a proportionate basis. It may also be possible for the on-site green infrastructure provision to be proportionate to the level of impact likely to be generated by the student accommodation, particularly as one of the main reasons for having on site green infrastructure is to provide dog walking facilities, which wouldn’t be needed for student accommodation. The general model for calculation, set out below, explains how to obtain a fair and proportionate contribution for student accommodation.

A2.5 In the first instance, 2.5 student accommodation units will be considered a unit of residential accommodation.

A2.6 Secondly, it is recognised that due to the characteristics of this kind of residential development, specifically the absence of car parking and the inability of those living in purpose built student accommodation to have pets, the level of

disturbance created, and thus the increase in bird disturbance and associated bird mortality, will be less than dwelling houses (use class C3 of the Use Classes Order b).

A2.7 Research from the Solent Disturbance Mitigation Project showed that 47% of activity which resulted in major flight events was specifically caused by dogs off of a lead. As such, it is considered that level of impact from student accommodation would be half that of C3 housing and thus the scale of the mitigation package should also be half that of traditional housing.

So, a scheme for 100 student accommodation units would be considered 40 units. 40 units would then be halved providing that future occupiers are prevented from owning a car and keeping a pet:

$$100/2.5 = 40$$

$$40/2 = 20$$

$$20 \times £122.30 = £2,446$$

A2.8 Please note that the calculation outlined above is to be used as a guide. The level of contribution would also need to consider the proximity of the accommodation to the Habitats sites in question and the total number of units being built.

Chelmsford City Council

A2.9 Proposals for student accommodation in Chelmsford will have a de minimis effect. Unlike Colchester and Southend, Chelmsford only has a small area of Habitats sites in the far south-eastern part of its administrative area. Purpose built student accommodation generally includes restrictions preventing students from owning a car or a pet. These restrictions will make it extremely unlikely that a student will visit a Habitats site, owing to the difficulty in accessing Essex coast Habitats sites from Chelmsford by public transport. Consequently, proposals for purpose built student accommodation in Chelmsford will not lead to likely significant effects on Habitats sites from increased recreational disturbance.