

<b>Report to:</b>	Special Meeting of Overview and Scrutiny Committee (Regeneration and Skills)	<b>Date of Meeting:</b>	14 December 2021
<b>Subject:</b>	Item Called In - Revised Recreation Pressure Information Note – Draft for consultation and development management purposes		
<b>Report of:</b>	Chief Legal and Democratic Officer	<b>Wards Affected:</b>	Park and Sudell
<b>Portfolio:</b>	Cabinet Member – Planning and Building Control		
<b>Is this a Key Decision:</b>	No	<b>Included in Forward Plan:</b>	No
<b>Exempt / Confidential Report:</b>	No		

### Summary:

- (1) To advise the Overview and Scrutiny Committee of the relevant aspects of the Constitution and the reasons for the call-in of the decision of the Cabinet Member planning and Building Control on the above item, as set out in paragraph 2.3 to this report.
- (2) To seek the views of the Overview and Scrutiny Committee.
- (3) In the event of the Committee being concerned about the decision, the Overview and Scrutiny Committee must decide which of the following courses of action is to be taken in relation to this matter:-
  - a) referral of the matter to the Cabinet Member – Planning and Building Control for re-consideration, setting out the nature of the Overview and Scrutiny Committee’s concerns; or
  - b) referral of the matter to Council for the Council to decide whether it wishes to object to the decision (subject to the guidance set out in paragraph 2.5).
- (4) In the event of the Committee being satisfied with the decision, the decision can proceed for implementation immediately following the meeting.

### Recommendation(s):

- (1) That the Committee considers the reasons set out in the extract of the Constitution (see paragraph 2.3) and the requisition for call-in (see paragraph 2.2) and determines its jurisdiction accordingly;

- (2) That the Committee determines whether it is concerned about the decision made by the Cabinet Member – Planning and Building Control; and
- (3) If the Committee is concerned about the decision, that the Committee indicates which of the two options set out in paragraph (3) of the summary set out above, it wishes to pursue.

**Reasons for the Recommendations:**

The decision of the Cabinet Member – Planning and Building Control has been called in. The Overview and Scrutiny Committee is required to consider the concerns raised by Councillors.

**Alternative Options Considered and Rejected:** (including any Risk Implications)

Not applicable. The Council’s Constitution requires the Overview and Scrutiny Committee to consider called in items.

**What will it cost and how will it be financed?**

**(A) Revenue Costs**

There are no direct revenue costs associated with this report detailing the call-in of the item. Furthermore, the original report to Cabinet Member – Planning and Building Control indicated that:

“The cost of preparing the document is contained within existing revenue budgets”.

**(B) Capital Costs**

There are no direct capital costs associated with this report detailing the call-in of the item.

**Implications of the Proposals:**

The Implications of the Proposals are set out within the attached Cabinet Member report, as follows:

<p><b>Resource Implications (Financial, IT, Staffing and Assets):</b> There are no additional resource implications.</p>
<p><b>Legal Implications:</b> The Conservation of Habitats and Species Regulations 2010, as amended (the Habitats Regulations) require the protection of the internationally important nature sites on the Sefton Coast. Section 15 of the 2021 National Planning Policy Framework reflects this. The Council has a general duty, under section 40 of the Natural Environment and Rural Communities Act 2006, to conserve biodiversity when carrying out its normal functions. The Information Note is a response to these requirements.</p>
<p><b>Equality Implications:</b> There are no equality implications.</p>
<p><b>Climate Emergency Implications:</b></p>

The recommendations within this report will:	
Have a positive impact	N
Have a neutral impact	Y
Have a negative impact	N
The Author has undertaken the Climate Emergency training for report authors	Y
<p>This report to Cabinet Member indicated that the proposed mitigation measures which are the subject of the proposed Interim Approach will affect internationally important habitats at the Sefton Coast. These mitigation measures will have a neutral, or even a positive, impact on both the Sefton Coast and on green spaces elsewhere in the Borough. It is anticipated that this will apply not just to habitats, but also to other green and blue infrastructure benefits such as climate change, flood and coastal erosion risk management, and health and well-being.</p>	

**Contribution to the Council’s Core Purpose:**

The original report to Cabinet Member indicated the following contributions to the Council’s core purpose:

Protect the most vulnerable: Will assist residents and other road users
Facilitate confident and resilient communities: Not applicable
Commission, broker and provide core services: Not applicable
Place – leadership and influencer: Not applicable
Drivers of change and reform: Not applicable
Facilitate sustainable economic prosperity: Helps timely and effective decision making on planning applications and hence the delivery of new homes which will support Sefton’s economy.
Greater income for social investment: Not applicable
Cleaner Greener: Protection of the internationally important nature sites on the Sefton Coast

**What consultations have taken place on the proposals and when?**

**(A) Internal Consultations**

The Executive Director of Corporate Resources and Customer Services has been consulted and has no comments on this report. (FD6635/21)

The Chief Legal and Democratic Officer is the author of this report. (LD4836/21)

**(B) External Consultations**

Not applicable

## Implementation Date for the Decision

To be determined by the decision of the Overview and Scrutiny Committee.

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## Appendices:

The following appendix is attached to this report:-

- Report to Cabinet Member – planning and Building Control dated 26 October 2021 Appendix 1
- Draft Information Note: Managing and mitigating the impact of recreation pressure on the Sefton Coast - Sefton's Interim Approach
- Call-in procedure to be adopted at the meeting – Appendix 2

## Background Papers:

All relevant papers in relation to the Cabinet decision are attached to the report.

### 1. Introduction/Background

#### 1.1 Cabinet Decision

1.2 The report attached as **Appendix 1** to this report was considered by the Cabinet Member – Planning and Building Control on 26 October 2021.

1.3 The decision of the Cabinet Member – Planning and Building Control is set out below:

**Decision Made:** That the Draft Information Note 'Managing and mitigating the impact of recreation pressure on the Sefton Coast - Sefton's Interim Approach':

- (a) for public consultation; and
- (b) for development management purposes (and so that this draft Information Note supersedes the 2018 Information Note for development management purposes)

Be approved.

## Reason for Decision:

- (a) To carry out public consultation on the Draft Information Note.
- (b) to enable the draft Information Note to be taken into account as a 'material consideration' in the assessment of planning applications, superseding the current 2018 Information Note which no longer has the support of Natural England.

## **Alternative Options Considered:**

Not to update the note. Natural England no longer support the current 2018 Information Note, and hence there is a risk of challenge to decisions which rely on it. The Information Note relates to legal requirements to protect internationally important nature sites on the Sefton Coast, and so a replacement Information Note is needed as soon as possible. Without an Information Note, the merits of each application would need to be assessed at length in relation to the Habitats Regulations. This would lead to increased workload for planning and other officers and to delays in the assessment of planning applications. This could lead to delays for developers and poor performance against Council and national targets for dealing with planning applications.

## **2. Details of the Call-In of the Cabinet Member Decision**

2.1 The following Members of the Council (who are not Members of the Cabinet) signed the requisition for the call-in, in relation to the Revised Recreation Pressure Information Note – Draft for consultation and development management purposes, in accordance with the provisions of the Overview and Scrutiny Committee Procedure Rules in Chapter 6 of the Council's Constitution:

- Councillor John Sayers
- Councillor Yvonne Sayers
- Councillor Wilson
- Burns
- McKinley

2.2 In the requisition for the call-in, the following reasons were given by all the above Members:

“We seek to gain more understanding of the decision and its implications, for example, Park & Sudell wards will see a top slice of section 106 monies of approximately £132,000 leave the wards and fund Green Sefton's attempts to divert our residents from the Coast, however Green Sefton has no land or offer within our wards.

We question the decisions soundness as we feel these facts have not been taken into account, we wish to alert the Cabinet Member and Officers of these anomalies which we believe have been overlooked.

In its current format we believe this decision will go against Council policies and wish to avail ourselves of the opportunity to alert the Cabinet Member that we feel this decision is not sound and we wish to make further recommendations to Cabinet”.

2.3 The Constitution sets out the following requirements with respect to call-in:

“All requisitions for call-in shall refer to a specific decision and provide a reason. A decision may only be the subject of one call-in. A decision may only be called-in for the following purposes:

- a) to seek more understanding of the decision and its implications;

- b) to question the soundness of the decision based on facts taken or not taken into account;
- c) to identify the need for Council policies to guide decisions;
- d) to make recommendations to the Cabinet and/or Council;
- e) to question whether the decision conforms with agreed policies.”

2.4 Members are asked to consider the requisition cited above (in paragraph 2.2) and determine which ground or grounds apply to the requisitions, if any. If the Committee determines that the requisitions fall within one of the grounds, then it can proceed to consider whether it is concerned with the decision.

2.5 The Secretary of State in his guidance recommends that the Overview and Scrutiny Committees should only use the power to refer matters to the full Council if they consider that the decision is contrary to the policy framework or contrary or not wholly in accordance with the budget.