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Report to:	Cabinet Member: Planning and Building Control	Date of Issue:	26 October 2021
		Date of Decision:	3 November 2021
Subject:	Revised Recreation Pressure Information Note – Draft for consultation and development management purposes		
Report of:	Chief Planning Officer	Wards Affected:	(All Wards);
Portfolio:	Planning and Building Control		
Is this a Key Decision:	No	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

Summary:

The purpose of this report is to seek the Cabinet Member's approval of the revised Draft Information Note 'Managing and mitigating the impact of recreation pressure on the Sefton Coast - Sefton's Interim Approach' for public consultation and for development management purposes; and for this draft Information Note to supersede the 2018 Information Note for development management purposes.

Recommendation(s):

That **Cabinet Member** approves:

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).

Reasons for the Recommendation(s):

- (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 and Rejected: (including any Risk Implications)

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.

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What will it cost and how will it be financed?

(A) Revenue Costs

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

(B) Capital Costs

There are no direct capital costs associated with the recommendation in this report.

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets):	
There are no additional resource implications.	
Legal Implications:	
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.	
Equality Implications:	
There are no equality implications.	
Climate Emergency Implications:	
The recommendations within this report will	
Have a positive impact	Y/N
Have a neutral impact	Y/N
Have a negative impact	Y/N
The Author has undertaken the Climate Emergency training for report authors	Y/N
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.	

Contribution to the Council's Core Purpose:

Protect the most vulnerable: n/a
Facilitate confident and resilient communities: n/a.
Commission, broker and provide core services:

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n/a
Place – leadership and influencer: n/a
Drivers of change and reform: n/a
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: n/a
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

Informal stakeholder consultation with Merseyside Environmental Advisory Service.

The Executive Director of Corporate Resources and Customer Services has been consulted and comments have been incorporated in the report (FD 6569/21).

Chief Legal and Democratic Officer has been consulted and has no comments on the report (LD 4770/21).

(B) External Consultations

Informal stakeholder consultation with Natural England.

Implementation Date for the Decision

Following the expiry of the “call-in” period for the Minutes of the Cabinet Meeting

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Background Papers:

* Draft Information Note 'Managing and mitigating the impact of recreation pressure on the Sefton Coast - Sefton's Interim Approach' (attached as annex 1)

* Joint evidence report (LCR Recreation Management Strategy evidence report -see http://www.meas.org.uk/media/11039/LCR_RMS_EvidenceReport_v24_Optv2.pdf

* Sefton Leaflet 'Respecting Nature in Sefton' for new householders – see http://www.meas.org.uk/media/11047/lcr_leaflet_sefton.pdf

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1. Introduction/Background

- 1.1 The 2015 and 2016 Habitats Regulations Assessment Reports for the Sefton Local Plan identify the potential for new housing development in Sefton to increase recreation pressure on the internationally important nature sites on the Sefton Coast; and the need to mitigate this pressure to less than significant. Applicants need to demonstrate how they have achieved this so that the Council can carry out a Habitats Regulations Assessment to confirm this. The revised draft Information Note sets out how this is to be achieved.
- 1.2 Similar issues arise for neighbouring authorities, in relation to both the Sefton Coast and the coast elsewhere in the region. The Sefton Local Plan (chapters 11 and 12) includes a commitment to partnership working across the Liverpool City Region, including with Natural England and other partners, and to a joint approach to recreation management.
- 1.3 The draft Information Note sets out a revised Interim Approach to managing and mitigating the impact of recreation pressure on the Sefton Coast, pending collection of further evidence and future agreement of a LCR-wide Recreation Mitigation Strategy approach. It would replace the existing interim approach set out in the 2018 Information Note, which would then be revoked/superseded. This 2018 Information Note is no longer supported by Natural England. This proposed Interim Approach is itself only intended to be a temporary measure until the City Region approach is completed (as set out in chapter 12 of the Sefton Local Plan).
- 1.4 The revised Interim Approach draws on collaborative work (including supporting evidence) carried out so far. This reflects joint working with Natural England, Merseyside Environmental Advisory Service, the other greater Merseyside local authorities, West Lancashire Council and the National Trust and has been endorsed by Natural England.

2. Revised Draft Information Note 'Managing and mitigating the impact of recreation pressure on the Sefton Coast - Sefton's Interim Approach'

- 2.1 The Revised Draft Information Note 'Managing and mitigating the impact of recreation pressure on the Sefton Coast - Sefton's Interim Approach' is attached as Annex 1.
- 2.2 The proposed Interim Approach puts forward a standardised 'opt in' approach. In effect Sefton Council has already carried out a Habitats Regulations Assessment and has considered, costed and assessed the likely:
 - Scale of housing development in Sefton (and beyond)
 - Levels of visitor pressure from different parts of Sefton, *and*
 - Measures that will mitigate recreation pressure from this housing to less than significant on the Sefton Coast.This has been achieved through joint working and the joint evidence set out in the Liverpool City Region Recreation Management Strategy Evidence Report).
- 2.2 Developers who wish to opt-in to this Interim Approach will sign a s106 planning obligation to pay a commuted sum towards mitigation measures within Sefton.

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Opting in will help officers to assess planning applications in a timely and effective manner.

2.3 For applicants opting in is likely to be more efficient, reducing time, costs and risks during the planning process. This compares to completing site-based impact assessments, consulting and agreeing mitigation packages on a bespoke basis, which would be the alternative. If applicants do not wish to opt-in, they must consider their individual scheme and any 'in combination effects' and make sure they provide sufficient bespoke information to enable the Council to make a Habitats Regulations Assessment. This will almost certainly require them to seek specialist, technical advice, and the assessment is likely to be more time consuming for the Council.

2.4 Where developers chose to opt in, the proposed Interim Approach would mean a s106 contribution for each new home (net new home) of:

- £299 per new home in the core zone (closest to the Coast). This includes Bootle, Crosby, Formby and Southport.
- £63 per new home in the outer zone (away from the Coast). This includes most of Sefton East.

A map showing these zones is part of the draft Information Note attached as Annex 1. The amounts are 2021-22 prices, which would be adjusted each year in line with inflation.

2.5 This would only apply to proposals for:

- Schemes of 10 (net) new homes or more (Use Class C3 Dwellinghouses). Proposals for less than 10 new homes (net) would be exempt
- Houses in multiple occupation (HMOs) within Use Class C4 (HMOs) designed for 18 or more residents (based on standard methodology and multipliers)

This also applies to housing developments permitted under permitted development/prior notification.

2.6 The s106 contributions that are secured towards mitigation measures on the Sefton Coast would be spent both at the Sefton Coast and at existing greenspaces away from the Sefton Coast.

2.7 Mitigation measures may include enhancing visitor facilities in less sensitive areas (such as paths, boardwalks, signage) and temporary or long-term restrictions on visitors allowing habitat enhancement (such as zoning, vehicle and access restrictions) and an increased warden /ranger presence. Enhancing visitor facilities in existing greenspaces could relate to paths, circular walking and cycling routes, signage, access for all, car parks and facilities for example. Sefton's potential greenspaces for improved visitor facilities include 'main parks', the Leeds and Liverpool Canal; Marine Lake and Pier, Southport, Countryside areas away from internationally important nature sites, the Trans Pennine Trail (including Cheshire Lines Path) and public rights of way which help link the above sites.

2.8 More information about how these figures, zones and mitigation measures have been determined is set out in the joint evidence report.

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- 2.9 Also, all major housing schemes would also be required to provide a colour leaflet setting out information about the Sefton Coast to all first-time occupiers of new homes. This leaflet has already been prepared.
- 2.10 The commuted sums would be monitored as part of Sefton Council's monitoring of all s106 commuted sums. Sefton Council and partners such as Merseyside Environmental Advisory Service and Natural England will monitor the condition of the internationally important nature sites on the Sefton Coast and visitor pressure.

3. Commentary

- 3.1 There are three key differences between the current and proposed approaches.
- 3.2 In terms of the development thresholds to which the requirement applies, the 2018 Information Note sets the threshold at 85+ homes. The new threshold would be 10 or more homes (major housing development), and Houses in Multiple Occupation designed for 18 or more residents. The new threshold takes account of Natural England advice and national good practice.
- 3.3 Secondly the amount of the commuted sum per new home would be significantly reduced from a starting point of £2,215 to a fixed cost of £299 in the core zone and £63 in the outer zone (2021-22 prices; to be adjusted each year in line with inflation). This is on the basis of more up to date, fully costed evidence. So, while more development would be affected, the commuted sums required would be relatively, significantly reduced. Thirdly, in terms of the type of mitigation the proposed approach focuses much more on use of commuted sums for off-site solutions. Again, this is line with national good practice.
3. As the commuted sums relate to legal requirements under the Habitats Regulations, they cannot be reduced due to viability considerations. They may, however, have an impact on the viability of other planning obligations.
- 3.5 The overall responsibility for the direction, spending and monitoring of 'recreation pressure commuted sums' lies with the Local Planning Authority. In practice, the measures which it will be spent on will lie within the remit of Green Sefton and to a lesser extent the Local Highways Authority or other departments. Inevitably, there will be some time lag between the grant of planning permission and the commencement of development/receipt of commuted sums. Nevertheless, planning officers will begin discussions with Green Sefton and other relevant officers regarding a costed action plan and priorities for later approval by the Cabinet Member for Planning and Building Control.

4. Next steps

- 4.1 It is proposed that public consultation take place on the revised draft Information Note. The consultation would be based on the agreed consultation methods for Supplementary Planning Documents A 6-week consultation is proposed.
- 4.2 However, Cabinet Member for Planning and Building Control is asked to approve the revised draft Information Note for immediate use for development management purposes. The revised draft Information Note would be a material

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consideration in the assessment of planning applications, with immediate effect. In effect, this would also see the suspension of the existing 2018 Information Note.

- 4.3 There are several reasons why it is requested that the revised draft Information Note be approved immediately for development management purposes; in summary:
- (a) Natural England no longer support the current 2018 Information Note, and hence there is a risk of challenge to decisions which rely on it.
 - (b) Accordingly, it is considered inappropriate for Sefton to continue to use the 2018 Information Note; it should be given almost no weight as a material consideration for assessing planning applications
 - (c) The Information Note relates to legal requirements to protect internationally important nature sites on the Sefton Coast. A 'fit for purpose' Information Note is needed at the earliest possible date to provide clarity and greater certainty to applicants, officers, members, stakeholders and the wider public
 - (d) This would help the assessment of planning applications to be carried out in a timely and effective manner
 - (e) The proposed approach is 'opt in' - it is not compulsory, and applicants must choose to use it. Applicants who do not accept the opt in approach, whether immediately or after its adoption, can instead choose to complete site-based impact assessments, consult and agree mitigation packages on a bespoke basis, to enable the Council to carry out a Habitats Regulations Assessment.
- 4.4 In the light of the above, Cabinet Member for Planning and Building Control is asked to approve the recommendations set out at the beginning of the report.

Attachments: Annex 1 – the revised draft Information Note