

Information Note: At what dwelling threshold should housing development mitigate increased recreation pressure on the Sefton Coast?

Summary of comments during Dec 2017- Jan 2018 consultation on draft Information Note

Responses received, from:

- Bellway Homes Ltd (Cushman & Wakefield Planning on behalf of Bellway Homes Ltd)
- Council for the Protection of Rural England – Sefton District Group (CPRE- SDG)
- Environment Agency ('no comment')
- Grasscroft Homes and Property Limited (Hourigan Connolly on behalf of Grasscroft Homes and Property Limited)
- Historic England ('no comment')
- Natural England

Consultee	Summary of comments made	Council's response	Action required
Bellway Homes Ltd	<p>The emerging Information Note will impact upon Bellway's ability to deliver new homes on its housing sites as its level of assumed contributions was not costed at the time of entering into the option agreements for these sites and as such has the ability to detrimentally impact on the viability and deliverability of these developments.</p> <p>The final Information Note/SPD/Policy that is adopted must be sufficiently flexible to account for viability, so that it does not deter much needed housing development within the Borough.</p>	<p>The need to mitigate the adverse impacts from recreational pressure on the Sefton Coast's international nature sites is a legal requirement which is set out in the Habitat Regulations Assessments of the Local Plan. The requirement is to secure the protection of the integrity of the network of internationally important nature sites. In many cases mitigation will be possible on site, but where this is not possible a financial contribution will be secured.</p> <p>The Information Note is an interim approach until the LCR Visitor Management Strategy is completed and delivery and implementation mechanisms are proposed. Viability will be taken into account in determining mitigation priorities, there is no provision in the Regulations for viability to outweigh the protection of the assets.</p>	No change required.
Bellway Homes Ltd	The current approach to managing recreational pressure set out in paragraph 3.29 of the adopted Nature Conservation SPD provides	Paragraph 3.29 gives examples of mitigation for recreational pressure. Some relate to provision of off-site open space as set out in the Open Space	No change required.

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	<p>flexibility. The appropriate mitigation measure or measures put forward are proportionate and reasonably related to the proposed development. These measures are “based on survey information and the net number of new dwellings” as opposed to a ‘one-size fits all’ approach.</p> <p>By contrast the proposed approach put forward in the draft Information Note is too rigid and inflexible and does not consider the mitigation hierarchy or take account of the points raised in Paragraph 204 and 205 of the NPPF, to ensure that proposed commuted sum costs are reasonable and proportionate.</p>	<p>SPD. The appropriate form of mitigation will be assessed on a site by site basis.</p> <p>Where off-site provision is deemed by the LPA to be required or to be more appropriate than on-site provision, the proposed commuted sum is based on the sum for off-site improvements as set out in the Open Space SPD. This will be reviewed as part of the Liverpool City Region Visitor Management Strategy currently being prepared.</p>	
Bellway Homes Ltd	<p>There is no evidence provided as to why the threshold figure of 85 or more dwellings has been suggested. Firstly, this rudimentary figure fails to account for sites which are closer to the Sefton Coast and which could have a significant effect on recreational pressure as a result.</p> <p>Secondly, the draft Information Note states that this threshold is intended to capture 75% of the proposed development within Sefton over the Local Plan period. It is not clear why the figure of 75% was chosen, although the 75% figure leads to an assumption that a growth in Sefton housing of 25% would have no impact on recreational disturbance of the coast.</p> <p>As such there is an argument that this Information Note is not required until 25% of</p>	<p>The threshold figure of 85 or more dwellings is based on specialist ecological advice, and accounts for 75% of Sefton’s housing requirement over the Local Plan period. The Information Note only applies to sites where the Local Plan does not set out specific requirements for mitigation on certain sites close to the Coast, where individually recreational pressure from the development is likely to impact on the protected habitats and species present.</p> <p>The threshold was calculated using the indicative site capacities, build rates, and projected delivery timescales for the Local Plan housing allocations and sites in the most recent SHLAA (2016). The figure of 75% was chosen to capture most of the development taking place on larger allocated and other known sites.</p>	<p>Amend the Information Note to say that This threshold of 85+ dwellings captures 75% of all housing growth intended over the Local Plan period (i.e. 75% of Sefton’s agreed housing requirement). The 75% figure is based on specialist ecological advice. The subsequent 85+ dwellings threshold figure is derived from an analysis of housing sites allocated in the Local Plan and sites in the 2016 Strategic Housing Land Availability Assessment (SHLAA). This assessed cumulative total and their percentages of Sefton’s housing requirement, taking into</p>

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	<p>housing growth in Sefton has been completed, which could negate the need for the interim Information Note as the Visitor Management Strategy may then be in place.</p>	<p>This does not mean that 25% of the housing proposed in the Local Plan would have no impact, but would be very difficult to administer as it would mean that a block would have to be imposed on all sites limiting the amount of development that could take place until suitable mitigation measures were put in place. The threshold will apply until it is superseded by the emerging Liverpool City Region Visitor Management Strategy.</p>	<p>account indicative site capacities, build rates where known and projected delivery timescales.</p>
<p>Bellway Homes Ltd</p>	<p>The draft Information Note indicates that the Council may seek a financial contribution as part of the mitigation package, based upon the approach within Appendix C of the Open Space SPD. This SPD (paragraph 6.16) sets out that there is flexibility to depart from the open space requirements on the grounds of economic viability. Bellway would therefore want to ensure that this provision is also incorporated into any Information Note related to Recreational Pressure to account for individual site circumstances.</p> <p>While we understand that the measures listed within the Nature Conservation SPD may be necessary to mitigate for recreational disturbance on the coast, we are concerned that they may mean some development is rendered unviable due to the costs, if the commuted sum is favoured by the Council over other means such as leaflet provision or on-site recreational space.</p>	<p>This is not possible - there is no provision in the Habitat Regulations for viability to outweigh the need to protect the integrity of the network of internationally important nature sites.</p> <p>The mitigation measures proposed will be appropriate to the potential harm caused by the development. Many will be able to be provided on site, but where this is not possible, or off-site contributions are also required, this will be assessed on a site by site basis. It is not envisaged that these will make any development unviable, but as this is a legal requirement, other requirements may have to be sacrificed if non-viability can be demonstrated to the LPA's satisfaction.</p> <p>The Information Note will be amended to clarify that that each case where the requirement applies will be considered on its merits and that it may be that a mix of on-site and off-site mitigation is required. It will also clarify that where financial</p>	<p>Amend Information Note to say:</p> <p>Each planning application, and its assessment and mitigation of recreation pressure on the Sefton Coast, will be considered on its merits. It may be that a mix of on-site and off-site mitigation is required. Financial contributions may be sought as part of off-site contributions. The final package of mitigation measures will be agreed as part of the planning process.</p> <p>Where financial contributions are sought, these will be based on the approach set out in Appendix C of the Open Space SPD; commuted sum payments of £2,050 per new home (net) at 2017-2018 prices with additional</p>

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		contributions relate to only part of the mitigation measures, commuted sums will be sought on a pro rata, proportionate basis.	sums if site-specific circumstances make this necessary. Where financial contributions relate to only part of the mitigation measures, commuted sums will be sought on a pro rata, proportionate basis.
Bellway Homes Ltd	A hierarchical approach should be used, in line with the NPPF and NPPG (Paragraph 018, Reference ID: 8-018-20140306), where avoidance (leaflet provision), on-site mitigation (provision of open space on-site), nearby mitigation (provision of off-site recreational areas) and finally compensation (financial contributions to the management of the Sefton Coast) is sought in that order. We would welcome this being formally clarified within forthcoming adopted documents including the Visitor Management Strategy.	Local Plan policy NH2 'Nature' already sets out a hierarchical approach to measures to deal with potential harm to internationally important nature sites. The Nature Conservation SPD sets this out in more detail, and in paragraph 3.29 gives examples of mitigation for recreational pressure. However, the purpose of the Information Note is not to provide more detail about possible mitigation or the hierarchical approach to measures to deal with potential harm, but to justify the interim threshold which has been set.	No change required.
Bellway Homes Ltd	The use of a housing figure threshold will not necessarily bring about the recreational mitigation measures required. This is because developers may subdivide their sites into smaller parcels of 84 or less units in order to avoid the requirement for mitigation measures. The housing stock and population of Sefton would increase, but there would be no mitigation for the associated risk of recreational disturbance and the cumulative impact of these developments combined. This could result in an increased risk of adverse effects on designated habitats and species on the Sefton Coast through	The Council will amend the Information Note to clarify that applications for parts of sites, where the whole site's capacity is considered to be 85 or more dwellings, will be required to consider and include measures that will mitigate recreation pressure on the Sefton Coast on a proportionate basis. This is line with the application of Local Plan policy EQ9 'Provision of public open space, strategic paths and trees', and so would not create a precedent.	Amend the Information Note to clarify that applications for parts of sites, where the whole site's capacity is considered to be 85 or more dwellings, will be required to consider and include measures that will mitigate recreation pressure on the Sefton Coast on a proportionate basis.

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	<p>recreational disturbance. As such, it is considered that the application of an arbitrary 85 or more dwellings threshold figure is not an appropriate way forward to securing mitigation for recreational disturbance effects.</p>		
<p>Bellway Homes Ltd</p>	<p>Need to consider the best solution for Sefton, recognising the local economic context. Instead of the current approach, the Council should review sites on a case by case basis, i.e. on their individual merits, reflecting their specific context and unique circumstances. This would be a fair and just way of ensuring appropriate mitigation, as opposed to a threshold approach which does not reflect individual site conditions.</p> <p>Taking account of what Bellway consider to be good practice around the country, Sefton's final approach should be based on the distance the development is from the coast, the proximity of transport links to the coast and the other areas suitable and available for recreational use in the immediate vicinity of the development, and viability. This would mean that any increase in recreational use of the Sefton Coast will be adequately mitigated for by all developments as relevant and not just the larger sites.</p> <p>This way, larger developments, some distance from the coast, with poor connectivity to the coast and with adjacent areas of recreational space may not need to contribute. However smaller scale developments in areas such as Formby or Southport may need to contribute</p>	<p>The establishment of a threshold sets out when these HRA impacts needs to be mitigated. The appropriate form of mitigation will be assessed on a site by site basis. This is considered to be a fair and proportionate approach. The alternative which has been ruled out was to assess every application or set a lower threshold, but this would be more difficult for the LPA to administer and more onerous on developers of smaller sites where the impact would be less.</p> <p>The Information Note refers to the fact that the Local Plan already sets out specific requirements for mitigation on certain sites close to the Sefton Coast. Whether a different approach needs to be taken, including the introduction of a graded approach depending on distance from the Coast, will be assessed in the emerging Liverpool City Region Visitor Management Strategy.</p>	<p>No change required.</p>

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	<p>towards addressing the increase in recreational disturbance, as residents within these developments would be likely to use the coast more frequently than the further afield developments due to ease of access.</p> <p>The developer would need to provide some supporting information to demonstrate that the development would not lead to an increase in recreational disturbance on the Sefton Coast, e.g. transport links to the coast, proximity to the coast and proximity to other areas suitable for use as recreational areas, along with any commitments to leaflet provision and on-site recreation as part of the evidence.</p>		
Bellway Homes Ltd	A "one size fits all" approach may render certain sized developments unviable as it seeks financial contributions or land provision for all developments, and thus would not be appropriate to apply to the Sefton local context.	Paragraph 3.29 of the Nature Conservation SPD sets out a range of examples of mitigation measures. Not all require financial contributions or the setting aside of land provision except in a number of instances which are set out in the Local Plan.	No change required.
Council for the Protection of Rural England (CPRE) – Sefton District Group	<p>Local Plan policy NH2 'Nature' is very detailed in relation to all sites of natural significance in Sefton. It reflects the priority of no net loss, as set out in paragraph 11.36 of its explanation. The draft Information Note would deny this protection to sites on which 84 or fewer houses are to be built; this would be substantial diminution of the protection afforded by the Local Plan.</p> <p>The 'Nature Conservation' SPD provides significant detail as to how mitigation or</p>	<p>The Information Note recognises the existing protective framework based of the Habitats Regulations, Local Plan policy NH2 'Nature' and the Nature Conservation SPD.</p> <p>The purpose of the Information Note is to set out the threshold for the number of new dwellings which triggers the need for mitigation of recreation pressure on the Sefton Coast. It does not to set out how mitigation or compensation should be provided. This will be addressed in the emerging Liverpool City Region Visitor Management</p>	No change required.

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	<p>compensation may be provided. An Information Note which added further detail as to how mitigation may be achieved would have been useful – the draft Note does not do this.</p> <p>The draft Information Note is an unacceptable erosion of the protections required by the policies of the Local Plan and it should not be adopted.</p>	Strategy.	
Environment Agency	No specific comments at this stage.	Noted.	No change required.
Grasscroft Homes and Property Limited	The draft Information Note is ad-hoc. It sets a proposed trigger of 85 or more dwellings (net additional units), and states that this captures 75% of all housing growth intended over the Local Plan period. No justification or reasons as to why 75% should be considered a relevant figure is provided or referenced within the document. The 85 dwelling trigger is a completely arbitrary figure with no basis or specific link to potential recreational pressure on the Sefton Coast.	The figure of 75% reflects specialist advice. The threshold of 85 dwellings or more is not arbitrary as it captures 75% of the housing requirement included in the Local Plan period. This is based on an analysis of housing sites both allocated in the Local Plan and included in the 2016 Strategic Housing Land Availability Assessment (SHLAA) which assessed indicative site capacities and projected delivery timescales. This is an interim note and the thresholds will be re-assessed as part of the emerging Liverpool City Region Visitor Management Strategy.	Amend the Information Note to say that This threshold of 85+ dwellings captures 75% of all housing growth intended over the Local Plan period (i.e. 75% of Sefton's agreed housing requirement). The 75% figure is based on specialist ecological advice. The subsequent 85+ dwellings threshold figure is derived from an analysis of housing sites allocated in the Local Plan and sites in the 2016 Strategic Housing Land Availability Assessment (SHLAA). This assessed cumulative total and their percentages of Sefton's housing requirement, taking into account indicative site capacities, build rates where known and projected delivery timescales.

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Grasscroft Homes and Property Limited	<p>The Note references the adopted Supplementary Planning Document on Nature Conservation, which was adopted in September 2017, and paragraph 3.29 provides examples of mitigation measures. In relation to financial contributions the Note states: <i>“these will be based on the approach set out in Appendix C of the Open Space SPD; commuted sum payments of £2,050 per new home (net) at 2017-2018 prices with additional sums if site-specific circumstances make this necessary. The final package of mitigation measures would be agreed as part of the planning process.”</i></p> <p>No further reference is made to any assessment which has been undertaken in relation to the £2,050 figure and why this figure might be appropriate to mitigate for recreation pressure. Sefton Council is seeking to adopt a figure which has been assessed for the purposes of meeting need for the provision of open space rather than mitigation. The figure is therefore of no relevance to the mitigation of potential recreational pressure.</p>	<p>Examples of mitigation measures set out in paragraph 3.29 of the Nature Conservation SPD include:</p> <ul style="list-style-type: none"> • “Contributions towards enhancing and/or managing existing public open space or Countryside Recreation Areas away from the Coast, and / or improving access to it ... to encourage use away from the internationally important nature sites”. • And “design and management of public open space” within or outside the development site, for the same purpose. <p>The figure of £2,050 (2017-2018 prices) is for off-site improvements to existing public open space, if this is more appropriate than on-site provision.</p> <p>As these examples of mitigation relate closely to provision of off-site open space, it is considered reasonable to use this sum as the basis for contributions towards mitigation of recreational pressure, where this requirement cannot be met on site.</p>	No change required.
Grasscroft Homes and Property Limited	<p>The Council's current approach to mitigation is not evidence-based; it fails to meet the statutory tests on use of s106 planning obligations set out in Regulations 122 & 123 of the Community Infrastructure Levy (CIL) Regulations 2010, as amended. As the 85 dwelling figure is arbitrary and it is proposed to adopt a charge of £2,050 per dwelling, the proposals set out in the Information Note fail to meet any of the three</p>	<p>As set out above, the current approach is evidence-based, and takes account of the NPPG, PPG and the CIL Regulations.</p> <p>The Information Note does not seek to require a charge on a per dwelling basis. Its purpose is to set out the threshold for the number of new dwellings which triggers the need for mitigation of recreation pressure on the Sefton Coast as set out in</p>	No change required.

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	<p>tests set out in Regulation 122.</p> <p>The adoption of such a mitigation charge could result in difficulties in terms of any future CIL Charging Schedule.</p> <p>Adoption of an Information Note should be postponed until the relevant studies have been completed and the options for mitigating the related impacts have been fully assessed. If a charge is eventually introduced in Sefton, this should apply to all dwellings.</p>	<p>paragraph 3.28 of the Nature Conservation SPD, and the mitigation examples set out in paragraph 3.29. The commuted sum relates to some of the examples for mitigation set out in paragraph 3.29.</p> <p>Mitigation measures should be appropriate to the potential harm caused by any proposed development on any site. These may be provided on-site. If not, a financial contribution is required to enable off-site compensation or mitigation to take place.</p> <p>The Information Note is an interim approach until the preparation of the Visitor Management Strategy and its delivery and implementation mechanisms to mitigate harm from recreation pressure for the internationally important nature sites in the Liverpool City Region (including on the Sefton Coast).</p>	
Historic England	No comments at this stage.	Noted.	No change required.
Natural England	<p>Welcomes the draft information note and understands that the proposal would be an interim measure until completion of the Visitor Management Strategy across the Liverpool City Region. This strategy will aid the evidence base on which to determine appropriate mitigation for housing developments for recreational pressure.</p> <p>Natural England would welcome further discussions with Sefton Council on developing a suitable threshold for housing development in due course.</p>	<p>Noted.</p> <p>Natural England is on the Steering Group for the Liverpool City Region Visitor Management Strategy and this will provide a key opportunity for them to have an input to thresholds for housing development (and to any distance 'thresholds').</p>	No change required.

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Natural England	<p>Acknowledges the threshold of 85 dwellings or more, represents 75% of Sefton's agreed housing requirement; however we advise for completeness that evidence and reasoning should be provided to explain why 75% was used to calculate the threshold figure.</p>	<p>The threshold figure of 85 or more dwellings is based on specialist ecological advice, and accounts for 75% of Sefton's housing requirement over the Local Plan period. The Information Note only applies to sites where the Local Plan does not set out specific requirements for mitigation on certain sites close to the Coast, where individually recreational pressure from the development is likely to impact on the protected habitats and species present.</p> <p>The threshold was calculated using the indicative site capacities, build rates, and projected delivery timescales for the Local Plan housing allocations and sites in the most recent SHLAA (2016). The figure of 75% was chosen to capture most of the development taking place on larger allocated and other known sites.</p>	<p>Amend the Information Note to say that the percentage of development is based on specialist ecological advice. The subsequent 85+ dwellings threshold figure is derived from an analysis of housing sites allocated in the Local Plan and sites in the 2016 Strategic Housing Land Availability Assessment (SHLAA). This assessed cumulative total and percentages, taking into account indicative site capacities, build rates where known and projected delivery timescales.</p>
Natural England	<p>85 dwellings is quite high as a threshold for the requirement for mitigating recreational pressure. Other local authorities have a lower threshold e.g. Wyre Borough Council requires developments of 10 or more units to provide public open space or where appropriate a financial contribution to improving quality and accessibility of existing nearby open space.</p> <p>Natural England uses the Impact Risk Zone threshold of 50 houses to determine when they should be consulted on developments, and when applicants should seek advice on the nature of any potential impacts.</p>	<p>The threshold of 85 dwellings or more reflects specialist advice and is an interim measure. The thresholds will be re-assessed in the Liverpool City Region Visitor Management Strategy.</p> <p>The threshold of 50 dwellings was considered, but rejected, as this would only capture a few more developments, and the specialist advice was that 75% would be acceptable as an interim figure.</p> <p>Natural England is on the Steering Group for the Liverpool City Region Visitor Management Strategy and this will provide a key opportunity for Natural England to have an input to thresholds for housing</p>	<p>No change required.</p>

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	<p>Acknowledge the range of mitigation measures set out within the Nature Conservation SPD but ask the Council to consider the scope for any of mitigation measures to be applied to housing developments of less than the 85 dwelling threshold. Would welcome further discussions with Sefton Council about the suitability of the 85 dwelling threshold.</p>	<p>development (and to any distance 'thresholds').</p>	
<p>Natural England</p>	<p>Sefton Council should also consider the relevant distance of the designated sites to proposed allocations, to determine a tiered approach to the suggested mitigation measures could be used.</p> <p>The Recreational Disturbance Study in Morecambe Bay (Footprint Ecology, 2015) identified a distance of 3.454 km for visitors to access designated sites; Lancaster [City] Council's Local Plan HRA Report says that development sites within this distance of designated sites are vulnerable to recreational pressure. Wyre Borough Council requires residential developments within 3.5 km of Morecambe Bay to prepare homeowner packs highlighting the sensitivities of Morecambe Bay.</p>	<p>The Information Note refers to the fact that the Local Plan already sets out specific requirements for mitigation on certain sites close to the Sefton Coast.</p> <p>The figure of 3.454 km (3.5 km) used by Lancaster and Wyre is specific to the Morecambe Bay designated sites Sefton Council does not currently have evidence to justify a distance specific to the Sefton Coast for this interim Information Notes .</p> <p>However, it is anticipated that that distance will be addressed in the emerging Liverpool City Region Visitor Management Strategy. Natural England is on the Steering Group for this Strategy.</p> <p>A straight line 3.5 km distance from the landward edge of the Sefton Coast designated sites would include most of Bootle, Litherland and Crosby, parts of Netherton, and virtually all of Formby and Southport, but would exclude Sefton's east parishes where approximately 25% of Sefton's new housing is planned.</p>	<p>No change required.</p>