

Wiltshire Council

Cabinet

7 May 2024

Subject: **Revised New Forest Mitigation Strategy to manage recreational pressures on the New Forest Protected Sites**

Cabinet Member: **Cllr Nick Botterill - Cabinet Member for Finance, Development Management and Strategic Planning**

Key Decision: **Key**

Executive Summary

Approval is sought to update the Council's current interim strategic approach to mitigating the visitor and recreational pressure on the New Forest internationally protected sites which comprises the New Forest Special Protection Area (SPA), New Forest Special Area of Conservation (SAC) and New Forest Ramsar site (hereafter referred to as the New Forest protected sites) arising as a result of development in Wiltshire.

These international statutory wildlife site designations are legally protected. For planning applications and plans that will result in new residential and tourism development within the zone of influence from the New Forest protected sites, and which therefore have potential to adversely affect the protected sites due to an increase in recreational pressure, appropriate assessments must be carried out by Wiltshire Council. This is in line with the Conservation of Habitats and Species Regulations 2017 (as amended).

To enable such applications and plans to be approved there must be certainty that new development can be appropriately and adequately mitigated and that effects on the New Forest protected sites can be suitably offset. Accordingly, for planning permission to be granted the appropriate assessments need to be concluded favourably.

The current strategy comprised an interim approach which would apply until a co-ordinated strategic approach is agreed with the New Forest National Park Authority and other neighbouring planning authorities. It was reviewed by Natural England in March 2023 with full acknowledgement that the strategy would require further review and revision to support the emerging Local Plan Review (draft Local Plan). Therefore, a revised longer-term strategic approach is now proposed.

The revised strategic approach has been developed alongside the draft Local Plan and will support delivery of planned growth within the 13.8km and 15km zones of influence, by ensuring that mitigation is delivered to address the potential for effects on the New Forest internationally protected sites as a result

of the increase in recreational pressure that will be generated by new residential and tourism development.

The allocations in the draft Local Plan and any windfall development coming forward for new residential and tourism development over the next plan period will need to adhere to the revised requirements in the new mitigation strategy, in respect of Suitable Alternative Greenspace (SANG) / Green Infrastructure (GI) and a contribution to Strategic Access Management and Monitoring (SAMM) measures, as follows:

- All residential and tourism development, whether that be smaller scale (1-49 dwellings) or large scale (50+ dwellings), within the 13.8km zone of influence will need to contribute towards the funding of the package of mitigation measures set out in the New Forest SAMM report produced by Footprint Ecology at the rate of £600 per new dwelling/unit.
- All allocations and applications for development of 50 or more dwellings within the 13.8km zone will be expected to provide SANGs / GI, ideally on site.
- Developments of 50 and more dwellings beyond the 13.8km zone, and out to 15km may also need to provide mitigation. This is consistent with the approach currently adopted under the interim strategy, and the requirement for mitigation will be assessed on a case-by-case basis and will apply where HRA demonstrates a potential for adverse effects on the New Forest protected sites and / or where development necessitates an Environmental Impact Assessment (EIA).
- Proposed tourism accommodation developments of more than 50 units within the 13.8km zone will need to be assessed on a case-by-case basis, and where HRA demonstrates potential for adverse effects on the New Forest protected sites, there may be a need for mitigation in the form of appropriate SANG/GI. In instances where such development would trigger the requirement for GI, there will still be a requirement for the £600 per unit tariff to be secured towards strategic SAMM measures.

Securing SAMM contributions for all developments, in combination with the requirement for SANG / GI where appropriate, will provide mitigation for growth. This approach recognises that whilst provision of SANG / GI can offset a proportion of impacts upon the New Forest protected sites by reducing the number of visits by people from new residential and tourism development, provision of green space alone cannot wholly eliminate and offset all potential additional visitor and recreational pressure.

The revised proposed approach will apply to any future development, including those granted planning permission and coming forward via permitted development rights that result in a net increase in residential units (i.e. C3 Use Class), located within 13.8km of the New Forest protected sites. The rationale for the proposed change in approach is augmented by the evidence presented in the New Forest SAMM report.

Implementation of the proposed revised strategic approach to mitigation will ensure a consistent strategic approach across the local authority areas that lie within the zone of influence and co-ordination with the other Local Planning Authorities on the New Forest Strategic Mitigation Project Steering Group. It will

also ensure that in-combination effects of housing across the zone of influence can be suitably addressed and offset.

Proposals

That Cabinet

- 1) Approve the revised strategic approach to mitigating the visitor and recreational pressure on the New Forest protected sites arising as a result of development in Wiltshire.
- 2) Agrees that in accordance with the requirements of the Habitats Regulations and case law the revised strategic approach applies to all qualifying development seeking outline, full, reserved matters and discharge of condition approval.
- 3) Agrees the initial price for the SAMM will be £600 (plus legal and admin fees) per dwelling, subject to annual review.
- 4) Notes that the ring-fenced CIL fund will cover all completions covered under the interim strategy until the new strategy is in place and that any remaining CIL fund will be used to help deliver a transition phase for live planning applications.
- 5) Delegates authority for the Corporate Director of Place in consultation with the Cabinet Member for Finance, Development Management and Strategic Planning to finalise the new strategic mitigation strategy.

Reason for Proposals

To demonstrate the Council's ongoing commitment to deliver a recreation mitigation strategy that is sufficiently robust to address recreational pressure on the New Forest protected sites arising from development in Wiltshire. To seek approval for revisions to the Council's New Forest recreation mitigation strategy, given that the current strategy comprises an interim strategy; to set the price for revised strategic mitigation and to agree the revised funding mechanism.

Also, to ensure consistency of approach with other Local Planning Authorities (LPAs) whose authority areas likewise fall wholly or partly within the defined 13.8km zone of influence that is applicable in respect of recreational pressure on the New Forest protected sites.

Parvis Khansari
Corporate Director - Place

Subject: Revised New Forest Mitigation Strategy to manage recreational pressures on the New Forest Protected Sites

Cabinet Member: Cllr Nick Botterill - Cabinet Member for Finance, Development Management and Strategic Planning

Key Decision: Key

Purpose of Report

1. The purpose of this report is to:

Confirm the revised strategic approach that Wiltshire Council will adopt in order to mitigate recreational impacts associated with new developments within the identified zones of influence on the New Forest protected sites.

Relevance to the Council's Business Plan

2. The Business Plan 2022-2023 'Sustainable Environment' seeks to improve and protect biodiversity and to promote and encourage sustainable sympathetic development. Delivery of new homes where they are needed through implementation of the Wiltshire Core Strategy and Local Plan Review in a way to ensure a 'Thriving Economy'.

Background

3. The New Forest comprises one of the largest tracts of semi natural vegetation in the country and has been afforded three international statutory wildlife site designations: namely the New Forest Special Protection Area (SPA), New Forest Special Area of Conservation (SAC) and New Forest Ramsar site, hereafter referred to as the New Forest protected sites. The New Forest has also been designated as a National Park which encompasses the whole of the area comprising the New Forest protected sites, as well as a stretch of coastline.
4. The council as Local Planning Authority (LPA) is required under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) to ensure that any adverse impacts arising from development can be mitigated to avoid harm to internationally important nature conservation sites, which are protected by law. This requirement applies at both the plan-making and decision-taking stage.
5. The council uses 'Appropriate Assessment' to test whether proposals meet the requirements in the Habitats Regulations. It is unlawful for the council to permit planning applications unless these assessments can be concluded favourably. The council as competent authority under the Habitats Regulations, must consult Natural England and have regard to their advice in preparing assessments.

6. The New Forest National Park comprises the most intensively visited of England's National Parks (New Forest National Park Authority (NFNPA), 2010) and the New Forest protected sites are likewise subject to substantial levels of visitor and recreational pressure. In 2018, six local planning authorities (LPAs) (Eastleigh Borough Council, New Forest District Council, NFNPA, Test Valley Borough Council, Southampton City Council and Wiltshire Council) secured funding via the Government's 'Planning Delivery Fund' to support work to enable planned development to come forward whilst protecting the integrity of the New Forest's internationally protected sites.
7. The funding secured was used to commission Footprint Ecology to conduct visitor surveys; update the evidence regarding recreational effects from planned development on the New Forest protected sites; and undertake research into the potential approaches to mitigation. A key finding from the surveys was that 75% of visitors originated from residences within 13.79km (straight-line distance) of the New Forest protected sites, which rounded up, gives a distance of 13.8km.
8. The research reports produced by Footprint Ecology (2020 and 2021) identify that increased housing around the New Forest protected sites will exacerbate existing recreational impacts resulting from a marked increase in recreational use of the protected sites. Natural England confirmed that the Footprint Ecology research reports (2020 and 2021) provide a strong evidence base and that the research represents the best available information to inform the work of the LPAs as 'competent authorities' under the Habitats Regulations 2017.
9. A Memorandum of Understanding (MOU) dated 28th September 2022, has been drawn up between the relevant LPAs. The MOU describes how each planning authority within the identified 13.8km 'zone of influence' will ensure that additional recreational impacts arising from new residential and other forms of overnight accommodation development are mitigated so that it does not have an adverse impact on the New Forest Protected Sites. This enabled new development to progress.
10. The evidence identifies a 'zone of influence' of 13.8km from the New Forest Protected Sites where new development would need to either mitigate its impacts; or put forward evidence to justify that the proposal would not lead to a likely significant effect when considered alone or in combination.
11. The work also highlighted that mitigation may be required for developments outside the revised zone of influence of 13.8km and potentially up to 15km from the New Forest Protected Sites.
12. The council's current interim strategy was originally endorsed by Natural England in 2021 and involved funding SAMM measures through the CIL fund and larger developments delivering on-site Suitable Alternative Natural Greenspace (SANG) and Green Infrastructure. A report to Cabinet on 27th September 2021 updated the priority projects for CIL funding to include an allocation of up to £750,000 for mitigation to ensure there is no adverse impact on the New Forest protected sites from recreational pressure arising from new development.
13. This interim approach ensured that planning applications could continue in the zone of influence. It was always the intention to review the interim strategy and to revise it following the completion of the New Forest SAMM report to ensure that robust

mitigation is delivered to address the potential for effects on the New Forest internationally protected sites.

Main Considerations for the Council

14. The proposed revised strategic approach to mitigation entails changes to the current approach to ensure forthcoming development will deliver robust mitigation and can offset recreational impacts on the New Forest protected sites.
15. The revised approach is proposed for outstanding committed development and for development coming forward as part of the emerging Local Plan. The proposed revised strategic approach has been formulated alongside the draft Local Plan and will support delivery of planned growth set out in the draft Local Plan within the 13.8km and 15km zones by ensuring that robust mitigation is delivered to address the potential for effects on the New Forest internationally protected sites.
16. The main change is that SAMM contributions will be collected by developer contributions via planning obligations for all qualifying developments within the 13.8km zone of influence. The proposed revised approach reflects evidence detailed in the report titled New Forest Strategic Access Management and Monitoring Strategy 2023, produced by Footprint Ecology.
17. Under the interim strategy, SAMM contributions were required for all developments except 5 housing sites allocated under the Wiltshire Housing Sites Allocation Plan (WHSAP) as these sites were already delivering on-site SANG or GI measures. These contributions were covered by a ring-fenced fund of £750,000 from CIL as approved by Cabinet in September 2021.
18. The recent evidence base requires SAMM contributions for all development in the zone of influence, therefore the early phases of the 5 WHSAP sites that are live applications are now included. This approach recognises that whilst provision of SANG / GI can offset a proportion of impacts upon the New Forest protected sites by reducing the number of visits by people from new residential and tourism development, provision of green space alone cannot wholly eliminate and offset all potential additional visitor and recreational pressure.
19. The New Forest SAMM report sets out a series of detailed recommendations and a package of SAMM measures to help address recreational impacts from planned new development within the 13.8km zone of influence and across all affected authorities. The package of mitigation measures relates to access infrastructure, engagement and monitoring and the combined costs for all LPAs will be around £21m. All authorities have agreed to adopt the recommendations set out in the final version of the New Forest SAMM report.
20. The New Forest SAMM report provides a per dwelling tariff of £600 (plus legal and admin fees) for all residential developments coming forward within the zone of influence that falls within Wiltshire. Developer contributions will be secured by means of Section 106 or Section 111 agreements, or possibly via unilateral undertakings with planning applicants.
21. Large developments of 50 and above dwellings beyond the 13.8km zone, and out to 15km may also need to provide further mitigation such as SANG. This is consistent with the approach currently adopted under the interim strategy and is also suggested

in the New Forest SAMM report. The requirement for mitigation will be assessed on a case by case basis and will apply where HRA demonstrates a potential for adverse effects on the New Forest protected sites and / or where development necessitates an Environmental Impact Assessment (EIA). Tourism development is also covered by the strategy and depending on its size and location will need to provide at least the SAMM contribution but also SANG in exceptional circumstances. The proposed mitigation approach is summarised in Table 1 below.

TABLE 1: Mitigation approach to be set out in revised strategy

Development class	Distance from protected sites	Development type	Mitigation approach
Residential	0-13.8km	Greenfield and brownfield sites – 1-49 units	Contribution of £600 per dwelling for SAMM (via S106 or S111)*
		Greenfield and brownfield sites - 50+ units	Provision of SANG and contribution of £600 per dwelling for SAMM (via S106 or S111)
	13.8-15km	Greenfield and brownfield sites - 50+ units	Mitigation to be determined on a site by site basis for EIA scale development and / or where HRA demonstrates potential for adverse effects
Visitor accommodation	0-13.8km	1-49 units	Contribution of £600 per unit for SAMM (via S106 or S111)
		50+ units	Contribution of £600 per unit for SAMM (via S106 or S111) and need for mitigation in the form of appropriate GI to be determined on a site by site basis and / or where HRA demonstrates potential for adverse effects
	13.8-15km	Larger developments - EIA scale development	Mitigation to be considered on a site by site basis for very large developments where HRA demonstrates potential for adverse effects

* Move to developer contributions rather than CIL; contributions to be collected via S106 or S111.

22. Each LPA will be responsible for securing and collecting developer contributions for SAMM that will form part of a combined fund overseen by a dedicated Project Manager that will be appointed by NFNPA. The Project Manager will liaise with a working group and delivery bodies (e.g. Forestry England, NFNPA) to deliver mitigation measures set out in the SAMM report and will report to an oversight group who will sign off on funds and authorise budget and spend.
23. The New Forest SAMM report, covers the period up to 2036 but should be reviewed and updated on a 5-year basis.
24. The current interim mitigation strategy has enabled the progression of housing permissions using the ring-fenced CIL fund of £750,000. Since commencement of the interim strategy, the drawdown from the CIL fund for planning completions between April 2015 and 31st March 2023 totals £406,656. Housing and tourism completion data from April 2023 onwards is not available yet. However, the remainder of the ring-

fenced CIL fund is expected to be sufficient to cover the planning completions for the period April 2023 to May 2024.

25. It is proposed that any remaining CIL fund will also be used to help deliver a transition phase for planning applications currently under consideration in terms of initial phases of live applications for WHSAP allocations.

Safeguarding Implications

26. There are no safeguarding implications associated with the proposal.

Public Health Implications

27. There are no direct public health and wellbeing implications associated with the proposals. However, the ability to secure provision of housing while protecting the integrity of wildlife sites and maintaining a healthy and resilient environment helps to meet the needs of a growing population in a sustainable way that supports the well-being of communities.

Procurement Implications

28. Procurement will be undertaken in accordance with corporate procedures.

Equalities Impact of the Proposal

29. There are no equalities impact implications or requirements in relation to the proposal.

Environmental and Climate Change Considerations

30. The proposal will ensure that there are no adverse effects from visitor and recreational pressure arising from development in Wiltshire on the integrity of internationally important wildlife sites. Land secured for SANG may also serve to fulfil other local and central government objectives unrelated to recreation e.g. natural flood management and carbon sequestration.

Workforce Implications

31. There will be additional work entailing the securing and collecting of developer contributions for SAMM. Ongoing involvement with the Steering Group comprised of the LPAs who signed up to the MOU. Contributions from all LPAs collating funds for SAMM measures will then form part of a combined fund which will be overseen by a dedicated Project Manager who will work to deliver the package of mitigation measures set out in the SAMM report and will report to an oversight group who will sign off on funds and authorise budget and spend. The oversight group will include at least one member of each LPA, plus Natural England. As such, there will be ongoing need for a Council employee to be part of the oversight group, and this will be covered by a Senior Ecologist in the Ecology Team funded from the administration charge.

Risks that may arise if the proposed decision and related work is not taken

32. There will be insufficient certainty under the Habitats Regulations that development will not have an adverse effect on the integrity of the New Forest protected sites if the Council does not secure funding via developer contributions for all new development

within the 13.8km zone of influence in order to deliver suitably robust mitigation in the form of SAMM measures.

- 33.If the proposed revised strategic approach is not adopted, the plan-led development and allocations in the draft Local Plan cannot be brought forward with certainty that there would not be an adverse effect on the integrity of the New Forest protected sites.
- 34.The council's mitigation strategy will not align with the approach being adopted by the other LPAs who have signed up to the MOU.
- 35.The council's mitigation strategy will not reflect the latest advice from Natural England that securing contributions towards SAMM measures for all residential / overnight accommodation within the 13.8km zone of influence to ensure mitigation is suitably robust should be undertaken in accordance with the best available evidence.
- 36.Risk of legal challenge, reputational damage and / or challenge from other LPAs who are signatories to the MOU and sit on the Steering Group.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

37. Risk of challenge / objection to the proposed revised approach to recreation mitigation from developers associated with the tourism and accommodation sector / industry. However, the revised strategy is based on best available evidence and has been agreed by the local planning authorities in the zone of influence and Natural England.

Financial Implications

- 38.The financial risk of repayment of developer contributions via planning obligations applies in accordance with the usual provisions of a planning obligation if the payments are not allocated within the reasonable period (usually 10 years).
- 39.Staff resource costs to deliver the strategy will be covered by the admin fee associated with this strategy.

Legal Implications

40. In the case of CG Fry & Son Ltd v Secretary of State and Somerset Council [2023] EWHC 1622 the Court held that the requirements imposed under Regulation 63 of the Habitat Regulations 2017 to ascertain that the proposal will not adversely affect the integrity of the site apply whenever the competent authority gives "*any consent, permission or other authorisation for a plan or project*" and it is the whole project that is to be assessed. Therefore, the requirement for recreational pressures on the New Forest protected sites to be adequately mitigated applies at all stages of the Planning Process and must be assessed by the Council throughout the life of the development.
41. In accordance with the Habitats Regulations, all development proposals which could have a likely significant effect on the integrity of the New Forest Protected Sites due to an increase in visitor and recreational pressure must demonstrate that the project can mitigate these impacts. Before the planning permission can be granted the mitigation measures necessary to prevent a development impacting on the New Forest protected sites must be secured. Contributions towards strategic mitigation, i.e. SAMM, from applicants / developers will be secured through planning obligations pursuant to

Section 106 Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972. The council, as competent authority, will be required to ensure that the mitigation projects are maintained and monitored in perpetuity to ensure that phosphorus neutral development is delivered.

Overview and Scrutiny Engagement

42. A briefing with the Environment Select Committee chairs will be undertaken at a date to be determined.

Options Considered

43. The proposed revisions to the council's New Forest recreation mitigation strategy are based on, and accord with, the latest evidence base and recommendations collated and put forward by Footprint Ecology on behalf of the LPAs who are signatories to the MOU and sit on the Steering Group. The proposed revised approach has been agreed to by all the relevant LPAs and is deemed to comprise the most appropriate and robust mitigation approach. Furthermore, Natural England has expressed support for this approach and has been in attendance at meetings between the LPAs. Thus, there are no other options that are as sufficiently robust and no other options viable for consideration.

Conclusions

44. New residential and overnight accommodation in the New Forest protected sites zone of influence will need to be sufficiently mitigated to ensure no adverse effect on the integrity of the protected sites. This paper sets out the details of a revised strategic approach funded by developer contributions via planning obligations (section 106 legal agreements, section 111 agreements, Unilateral Undertakings).

Sarah Valdus, Director - Environment

Report Authors:

Emma Fisher, Senior Ecologist, Emmal.Fisher@wiltshire.gov.uk, Tel: 01225 718688;
Lynn Trigwell, Head of Climate and Environment, Lynn.Trigwell@wiltshire.gov.uk, Tel: 01225 718479;

Appendices

Appendix A – 13.8km and 15km Zones of Influence Pertaining to Recreational Pressure on the New Forest Protected Sites

Background Papers

[Interim Recreation Mitigation Strategy For the New Forest Internationally Protected Sites \(Wiltshire Council, January 2022. Version 1.1 21 March 2023\).](#)

Liley, D., Caals, Z., Shellswell, C. & Lake, S. (2023). New Forest Strategic Access Management and Monitoring Strategy 2023. Report by Footprint Ecology, 17 October 2023. Version: Final.

Liley, D. & Caals, Z. (2020). Discussion and analysis relating to the New Forest SAC/SPA/Ramsar and a zone of influence for recreation. Footprint Ecology.

[Lake, S., Liley, D. & Saunders, P. \(2020\) Recreation use of the New Forest SAC/SPA/Ramsar: Impacts of recreation and potential mitigation approaches. Unpublished report by Footprint Ecology.](#)

[Liley, D., Clarke, R.T., Panter, C. & Saunders, P. \(2019\). Recreation use of the New Forest SAC/SPA/Ramsar: Overview of visitor results and implications of housing change on visitor numbers. Unpublished report by Footprint Ecology.](#)

Guidelines for Creation of Suitable Alternative Natural Greenspace (with reference to the Thames Basin Heaths), Natural England, August 2021.

Appendix A – 13.8km and 15km Zones of Influence Pertaining to Recreational Pressure on the New Forest Protected Sites

