

Committee Name: Cabinet

Committee Date: 09/03/2022

Report Title: Adoption of Norfolk Green Infrastructure and Recreational Avoidance and Mitigation Strategy (GIRAMS)

Portfolio: Councillor Stonard, Cabinet member for inclusive and sustainable growth

Report from: Executive director of development and city services

Wards: All Wards

Purpose

To ensure that the Council continues to meet its legal duty under the Conservation of Habitats and Species Regulations 2017, authority is sought for the adoption the Norfolk Green Infrastructure and Recreational Avoidance and Mitigation Strategy (GIRAMS) and the collection of related obligations from applications for residential development, and other relevant development proposals, in accordance with the GIRAMS evidence and Policy 3 of the Greater Norwich Local Plan (GNLP).

Recommendation:

It is recommended that Cabinet

- adopts the Norfolk Green Infrastructure and Recreational Avoidance and Mitigation Strategy (GIRAMS) and approves the requirement for contributions from applicable planning applications for residential development and other relevant development proposals received from 31st March 2022, in line with the requirements of Policy 3 of the Greater Norwich Local Plan (GNLP)
- sets the level of contribution for 2022/23 at £185.93 and agrees that the level in future years can be set by the independent board
- appoints the cabinet member for inclusive and sustainable growth and head of planning and regulatory services to represent the City Council on the independent board, and
- agrees in principle the broad governance arrangements set out in paragraph 14, and delegates powers to the executive director of development and city services, in consultation with the cabinet member for inclusive and sustainable growth, to agree the detailed governance arrangements.

Policy Framework

The Council's key corporate priorities are based around the following three themes:

- People living well
- Great neighbourhoods, housing and environment
- Inclusive economy

This report contributes to meeting the corporate priorities Great neighbourhoods, housing and environment.

This report addresses 'Continue sensitive regeneration of the city that retains its unique character and meets local needs' objective in the Corporate Plan, in particular working to bring forward development in the city in accordance with the adopted development plan.

This report helps to meet Policy 3 in the emerging Greater Norwich Local Plan which is due for adoption by the Council and the other Greater Norwich authorities in late 2022.

This report helps to meet the Housing Regeneration and Development objective of the COVID-19 Recovery Plan, specifically to make progress on the Greater Norwich Local Plan to put in place a framework that will guide development.

Introduction

1. In exercising their duties as a local authority, the Council has a legal duty to comply with the Conservation of Habitats and Species Regulations 2017. This requires the authority to assess the impacts of all plans and programmes (including Local Plans and Planning Applications) that may affect the protected features of any site protected under those regulations. Such sites are referred to as “habitat sites” in the National Planning Policy Framework (NPPF).
2. Where an adverse effect on the integrity of a habitat site cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if compensatory measures are secured which obviate those adverse effects.
3. Recreational pressures from growth and the resultant impact on designated habitat sites is a cross boundary issue affecting all local plans in Norfolk including the Greater Norwich Local Plan (GNLP). Assessment work carried out in connection with the production of the Norfolk Strategic Planning Framework (NSPF) and as part of the GNLP has identified that residential, and other relevant accommodation e.g. tourist accommodation, will have a likely impact on designated habitat sites, and that this needs to be avoided as much as possible through local open space / green infrastructure provision, and also mitigated by a package of soft and hard mitigation measures at the habitat sites themselves.
4. Compensatory measures to mitigate the recreational impacts have been identified within the Norfolk Green Infrastructure and Recreational Avoidance and Mitigation Strategy (GIRAMS) which was commissioned on behalf of all Norfolk authorities given the cross-boundary nature of this issue, as part of the Duty to Cooperate. The requirement to seek tariff contributions (referred to below as the RAMS tariff) towards mitigation measures at designated habitat sites themselves and to provide appropriate contributions to green infrastructure are included within Policy 3 of the GNLP, which was approved by the Council for submission to the secretary of state for independent examination on 26 July 2021.
5. To ensure that the Council continues to meet its legal duty under the Conservation of Habitats and Species Regulations 2017, it is proposed that the Council adopts the GIRAMS and resolves to begin collecting obligations from applications for residential development, and other relevant development proposals in line with the requirements of Policy 3 of the GNLP. Without a relevant policy and mitigation strategy in place all local plans in Norfolk could face legal and soundness challenges and there is a possibility that Natural England could start to object to planning applications on the basis that there is no mitigation strategy in place to address the cumulative impacts of growth, thus potentially affecting housing delivery. Whilst some of the Norfolk authorities currently collect similar tariffs towards mitigation measures at

designated habitat sites, the intention is that all Norfolk authorities will collect the RAMS tariff from 31st March 2022.

6. A report on the GIRAMS and tariff will be considered by Sustainable Development Panel on 7th March. Any comments made by the Panel will be verbally reported to Cabinet on 9th March.

GIRAMS and tariff

7. A commissioned survey by [Footprint Ecology](#) undertaken in 2016 collected visitor data from a range of habitat sites (or 'Natural 2000 sites') in Norfolk. This survey demonstrated that there would be an increase in recreational pressure on habitats sites resulting from housing and population growth across Norfolk. In recognition of this evidence, the Norfolk Strategic Planning Framework (NSPF), the latest version of which was endorsed by Norwich City Council on 14 April 2021, identified in agreement 28 that: 'In recognition of: a) the importance the Brecks, the Broads and the Area of Outstanding National Beauty, together with environmental assets which lie outside of these areas, brings to the county in relation to quality of life, health and wellbeing, economy, tourism and benefits to biodiversity; b) the pressure that development in Norfolk could place on these assets; and c) the importance of ecological connections between habitats Norfolk Planning Authorities will work together to complete and deliver the Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy (GIRAMS) which will aid Local Plans in protecting and where appropriate enhancing the relevant assets'.
8. In complying with its duty under the Conservation of Habitats and Species Regulations 2017 the Council has also commissioned its own Habitat Regulations Assessment (HRA) as part of the production of the Greater Norwich Local Plan (GNLP). The GNLP HRA also concludes that residential, and other relevant accommodation e.g. tourist accommodation, will have a likely impact on habitat sites, and that this needs to be mitigated by a package of soft and hard mitigation that includes measures at the habitat sites themselves as set out in the GIRAMS. This conclusion is shared by Natural England.
9. As a consequence of the HRA's conclusion, Policy 3 of the submitted GNLP includes the following requirement:

All residential development will address the potential visitor pressure, caused by residents of the development, that would detrimentally impact on sites protected under the Habitats Regulations Directive through:

- the payment of a contribution towards the cost of mitigation measures at the protected sites (as determined under the Norfolk Green infrastructure and Recreational Impact Avoidance and Mitigation Strategy plus an allowance for inflation); and,
- the provision or enhancement of adequate green infrastructure, either on the development site or nearby, to provide for the informal recreational needs of the residents as an alternative to

visiting the protected sites. This will equate to a minimum of 2 hectares per 1,000 population and will reflect Natural England's Accessible Natural Greenspace Standard.

10. This policy was agreed individually by all the Greater Norwich authorities as part of the decision to submit the GNLP for independent examination. Norwich City Council Cabinet agreed to submit the GNLP at its meeting on [7 July 2021](#).
11. The Norfolk GIRAMS was completed in March 2021. This Strategy, included as a linked document [here](#), considered relevant baseline information across Norfolk, identified opportunities for improvement of the Green Infrastructure Network, and set out proposals for a Recreational Avoidance and Mitigation Strategy (RAMS).
12. The RAMS strategy comprises the delivery of a mitigation package costing just under £8m as set out in Table 10 of the GIRAMS document. The mitigation package is to be funded through developer contributions. At the time the strategy document was completed the cost per dwelling was calculated as £185.93 per dwelling. This figure was calculated by dividing the total cost of the mitigation package by the number of planned dwellings to 2038 that had not yet secured planning permission i.e. the number of dwellings on which developer contributions could be sought. After adoption, the tariff will be subject to an annual adjustment for inflation as set out in the GNLP policy.
13. An interim Statement of Common Ground (SOCG) has been agreed with Natural England as part of the submission of the GNLP for independent examination. This confirms agreement to bring forward procedures for the collection of a county wide tariff of £185.93 per dwelling (the RAMS tariff, evidenced in the GIRAMS).
14. At its meeting on 14th December the Norfolk Strategic Planning Member Forum agreed to endorse a county-wide SOCG between the Norfolk local authorities relating to the collection and implementation of the RAMS tariff. This is set out at Appendix 1. Members also agreed that a new independent board will be set up, made up of Members from all Norfolk local authorities and ecologists / planning officers from all Norfolk planning authorities, and a delivery officer employed to oversee the work. It was agreed that Norfolk County Council would act as host and full arrangements for this will be finalised once collection of the tariff is in operation.
15. The work programme being taken forward under the NSPF will also include a review of the GIRAMS and the mitigation package to ensure that it is as effective as possible. The intention is to complete the review of the GIRAMS within 18 months from adoption of the Norfolk wide SOCG to inform the delivery of specific mitigation projects.
16. Whilst these matters are being finalised the Greater Norwich partners will adopt the GIRAMS and implement the RAMS tariff as the best available evidence.

17. The residential development that the tariff will apply to is set out in paragraph 3.4.1 of the GIRAMS and comprises:
- all new residential development in current site allocations and windfall (excluding replacement dwellings and extensions);
 - houses in multiple occupancy;
 - student accommodation;
 - residential care homes and residential institutions (excluding nursing homes);
 - residential caravan sites / mobile homes / park homes; gypsies, travellers, and travelling showpeople plots; and
 - residential moorings, holiday caravans, touring pitches and campsites.
18. The strategy recommends adopting a similar approach to student accommodation as agreed by Natural England for the Essex Coast RAMS and suggest that the Norfolk LPAs apply the RAMS tariff on a 'per 2.5 student accommodation unit ratio'. This is based on guidance contained in the Housing Delivery Test Measurement Rule Book (MHCLG, July 2018).
19. The tariff (set at £185.93 per dwelling) will apply to planning applications for relevant development submitted from 31st March 2022 and will be payable upon commencement of development via a legal agreement to be submitted with the application, in accordance with an update to the local Validation Checklist.

Current position

20. The emerging GNLP policy (policy 3), which has been agreed as being sound by Greater Norwich Authorities, sets out a specific requirement to make contributions towards the cost of mitigation measures at protected sites, as determined under the GIRAMS, and to secure the provision of adequate green infrastructure. This is to ensure that the Council meets its obligations under the Conservation of Habitats and Species Regulations 2017.
21. Obligations policies set out through a Local Plan would typically only come into force following its adoption. However, the Council's obligations under the Conservation of Habitats and Species Regulations 2017 also apply in the discharge of its responsibilities in granting planning permission for development. In this instance, compliance with the Council's legal duty supersedes such typical practice in this instance. As noted at paragraph 4 above non-compliance could mean that Natural England starts to object to planning applications which would impact on housing delivery.

Proposed action

22. Taking account of the Council's approval of the GNLP policy in relation to requiring contributions to the RAMS tariff, in order to ensure that the Council continues to meet its legal duty under the Conservation of Habitats and Species Regulations 2017 it is proposed that the Council adopts the Norfolk GIRAMS and resolves to begin collecting the tariff from applications for residential development, and other relevant development proposals in accordance with the requirements of Policy 3 as set out in the recommendation of this report.

Consultation

23. Cllr Stonard is the relevant portfolio holder for this report and sits on the Norfolk Strategic Planning Members' Forum where the GIRAMS has been discussed in detail.
24. The GIRAMS is an evidence document for the GNLP and as such was subject to public consultation as part of the Regulation 19 GNLP in early 2021.

Implications

Financial and Resources

25. Any decision to reduce or increase resources, both expenditure or income, must be made within the context of the council's stated priorities, as set out in its Corporate Plan and Budget.
26. There will be some additional costs to the authority related to the introduction of the RAMS tariff including for example the extra administrative burden on the Planning validation team, collection of the tariff and monitoring of commencement on sites and registering on the land charges system. The resources to monitor delivery are being considered as part of a review of the planning team and it is expected that other costs can largely be met within the existing resources of the Planning service. Costs associated with the implementation and programme management of the RAMS mitigation would be funded through the collection of the tariff contributions. Whilst there will be no direct ongoing financial implications because of the introduction of the tariff and operation of the governance arrangements, there will be a resource implication arising from member and officer attendance at Board and other relevant meetings.
27. The estimated costs from mitigation measures have been estimated at £8m for the period to 2038 (Table 10 in linked GIRAMS report). It is important that these costs are contained against the yield from the proposed levy and that accountability for meeting the cost of any adverse variance is made clear formally as part of the partnership arrangements. It is also suggested in the report that the levy will increase annually in line with inflation and the process for implementing these increases following approval will need to be determined.

Legal

28. Norwich City Council has a legal duty to comply with the Conservation of Habitats and Species Regulations 2017. This requires the authority to assess the impacts of all plans and programmes (including Local Plans and Planning Applications) that may affect the protected features of any site protected under those regulations.
29. Where an adverse effect on the integrity of a habitat site cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if compensatory measures are secured which obviate those adverse effects. It is not possible to seek such payment of the tariff by planning condition so this will have to be secured by way of a legal agreement with the applicant/developer. The preferred route is by way of a planning obligation.
30. All planning obligations sought through development must meet the tests of contained in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. Namely that any obligation is:
 - a) necessary to make the development acceptable in planning terms;
 - b) directly related to the development; and,
 - c) fairly and reasonably related in scale and kind to the development.
31. Legal advice has been sought from Nplaw on whether the Council can legally commence collection of a tariff to mitigate the impact of new residential development on protected sites as required under the Habitats regulations, ahead of the adoption of the GNLP. The advice is that the Council has a legal duty to take into account the requirements of the Habitats Regulations when determining a planning application and to give it substantial weight, and they consider that there is no legal reason why such a payment cannot be requested in advance of the relevant GNLP policy being adopted.

Statutory Considerations

Consideration	Details of any implications and proposed measures to address:
Equality and Diversity	There are not considered to be any individual equalities implications resulting from the adoption of the GIRAMS and implementation of the relevant section of Policy 3 of the GNLP. Wider equalities implications were considered through the equalities impact assessment that accompanied the GNLP.

Consideration	Details of any implications and proposed measures to address:
Health, Social and Economic Impact	The proposal will support healthy lifestyles and communities by enabling the implementation of GNLP policy 3 in particular the provision or enhancement of adequate green infrastructure to provide for informal recreational needs of residents as an alternative to visiting protected sites. The proposal is not considered to have any significant implications in terms of economic impact.
Crime and Disorder	The proposal is not considered to have any significant implications in terms of crime and disorder.
Children and Adults Safeguarding	N/a
Environmental Impact	The adoption of the GIRAMS is a key part of complying with the Council's duty under the Conservation of Habitats and Species Regulations 2017. The adoption of the GIRAMS and implementation of the relevant section of Policy 3 of the GNLP will ensure, beyond reasonable doubt, that the implementation of the Council's planning strategy does not have an adverse impact on habitat sites protected under the Conservation of Habitats and Species Regulations 2017 as a result of increased recreational pressure resulting from household and population growth.

Risk Management

Risk	Consequence	Controls Required
The risks of not adopting the GIRAMS and approving the tariff are set out above.	See paragraph 5 above and paras 32-33 below. This could result in challenge from Natural England for failing to apply the Habitats Regulations	

Other Options Considered

32. The Council may choose to delay adoption of the Green Infrastructure and Recreational Avoidance and Mitigation Strategy (GIRAMS) and implement the related section of Policy 3 of the GNLP or choose not to adopt the GIRAMS.
33. The full implications of taking either of these other options would be related to the reasoning behind the decision. However both options would, in principle, present a material risk to the soundness of the GNLP and the legal robustness of decisions to approve planning applications for residential and other relevant types of development. The related section of Policy 3 is based on the GIRAMS and its evidence, and so any alternative approach to be considered would be dependent on

further work being undertaken to identify and evidence an appropriate alternative way forward. This would likely impact on the determination of relevant applications for planning permission.

Reasons for the decision/recommendation

34. For the reasons set out within the report, in particular at paragraphs 1 to 5 above, it is proposed that the Council adopts the Norfolk GIRAMS and resolves to begin collecting obligations from application for residential development, and other relevant development proposals in line with the relevant section of Policy 3 as set out in paragraph 9.

Background papers: none

Appendix:1 (County-wide statement of common ground)

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APPENDIX 1: Statement of common ground in relation to Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy

Statement between:

**Breckland District Council,
Broadland District Council,
Great Yarmouth Borough Council,
South Norfolk Council,
The Borough Council of King's Lynn and West Norfolk
North Norfolk District Council
Norwich City Council
Broads Authority
(together "The Norfolk LPAs"),
and
Natural England**

On the Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy ("the GIRAM Strategy"). The GIRAM Strategy is a strategic approach to ensure that there are no adverse effects caused to European sites across Norfolk by the proposed level of residential development, as detailed in the relevant local plans. It supports Local Planning Authorities (LPAs) in Norfolk in their statutory requirement to produce legally compliant Local Plans.

GIRAM Strategy Report dated March 2021 ("the Report") is an evidence base which informs The GIRAM Strategy.

The Statement

Background

Under the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations") the Norfolk LPAs have a duty to test if new plans or project proposals could significantly harm the designated features of a European site, and to mitigate any likely significant effects.

Pursuant to this duty, Norfolk LPAs are working collaboratively to adopt and deliver a GIRAM Strategy to ensure that the cumulative (in-combination) impacts of additional visitors arising from additional qualifying developments¹ ("Qualifying Developments") to European sites will not result in any likely significant effects which cannot be mitigated.

The GIRAM Strategy is owned by the Norfolk LPAs.

Natural England in its role as statutory conservation adviser will support the Norfolk LPAs in their duty to produce Local Plans compliant with the Habitats Regulations, by providing advice about recreational pressure on, disturbance of, and appropriate

¹ See Section 3.4.1.1 of the GIRAMS report

mitigation for European Sites in relation to the GIRAM Strategy generally and the action plans and tariff (below) specifically.

The Interim Action Plan and Tariff

Pursuant to the GIRAM Strategy, the Norfolk LPAs have identified the nature of visitor pressures and put together an interim action plan of mitigation measures (“the Interim Action Plan”) intended to be finalised in due course (into “the Revised Action Plan”).

The cost of these mitigation measures has been calculated in accordance with a mitigation scenario outlined in Table 10 of the GIRAM Strategy Report dated October 2020 (“the Report”). The Report, one of a number of documents intended to inform the GIRAM Strategy as it evolves, currently forms the best available estimate of the cost of likely mitigation actions.

On the basis of the Report, each LPA has agreed to bring forward procedures for the collection of the county-wide tariff of £185.93 per new dwelling in each Qualifying Development (“the Tariff”).

Should mitigation measures be revised as a result of the Review (below), this will be reflected in an updated tariff. However, notwithstanding the potential for later revision, all Norfolk LPAs will adopt and start to apply this Tariff to all Qualifying Developments not later than 31 March 2022. All moneys collected before the completion of the Review and Revised Action Plan must be spent in accordance with Interim Action Plan and the Report.

The Review and Revised Action Plan

Having established the Tariff on the basis of the Report and having implemented the Interim Action Plan, the LPAs are mindful that areas within the Interim Action Plan (governance, success factors and other process points including distribution, joint decision-making and prioritisation) still need to be finalised (into a “Revised Action Plan”). During this process, the LPAs, will individually collect the Tariff for qualifying developments. Tariff money spent should be recorded and evidenced.

In order to achieve the Revised Action Plan, all Norfolk LPAs commit to an early review of both the Interim Action Plan and the Tariff (“the Review”). The Review will be completed within 18 months from adoption of this Statement by the Norfolk LPAs.

The Review will consider all aspects of the GIRAM Strategy including recreational impact avoidance and mitigation measures as specified in Section 3 and Table 10 of the Report, and the associated revenue/capital funding of any revised GIRAM Strategy actions if deemed to be necessary.

Any revisions to the Tariff or Interim Action Plan should:

- a) be recommended in the Review and,
- b) must meet the following criteria: be evidence-led, legal, deliverable, and effective in that they materially mitigate the recreational pressures and disturbance impacts of the Qualifying Development in question in such a way

that there will be no likely significant effect on the integrity of European sites across the Norfolk.

More generally, the Norfolk LPAs accept that any revisions to the Interim Action Plan must be implemented in a manner which meets all legal requirements and delivers the objectives of the Habitats Regulations. To this end, the parties agree that the Revised Action Plan must be evidence-led, incorporate robust governance, a prioritisation of mitigation actions and clear success factors/measures.

The Revised Action Plan should also be accompanied by:

- A workable process model so it is clear to those Qualifying Developments subject to the charge precisely where their contributions have been applied, and how; and
- Policies and procedures to ensure resources are apportioned to maximise the effectiveness of the overall mitigation package over the life of the Action Plan.

Subject to resource provision, Natural England will support the LPAs by providing advice on any proposed amendments to the Revised Action Plan and accompanying documents, models and policies, as applicable.

Providing the above criteria are met and that the implementation of the Revised Action Plan does not conflict with any of the Partners' statutory responsibilities, either under the Habitats Regulations or any other legislation, all Norfolk LPAs commit to implementing any agreed revisions identified in the Review into a Revised Action Plan (subject to consultation with Natural England) as soon as is reasonably possible and no later than 6 months from the date of the Review.

Ongoing Monitoring and Adaptation

The mitigation delivered as a part of both the Interim and Revised Action Plans will be monitored by Norfolk LPAs and the outcomes fed into any subsequent review(s) of the Revised Action Plan and Tariff, to assess the effectiveness of the mitigation with any changes to the Revised Action Plan and Tariff. Natural England will provide a consultation response to any changes, subject to their resource provision, prior to finalisation.