

CABINET



Report subject	Poole Harbour Recreation Supplementary Planning Document
Meeting date	20 December 2019
Status	Public Report
Executive summary	To seek approval for the adoption of the Poole Harbour Recreation Supplementary Planning Document
Recommendations	It is RECOMMENDED that: (a) Cabinet recommends that Council adopts that the Poole Harbour Recreation Supplementary Planning Document; with (i) any minor changes delegated to the Director of Growth and Infrastructure in liaison with the Portfolio Holder for Strategic Planning.
Reason for recommendations	<p>The document will have weight in decision making, when determining planning applications for new housing and tourism development. It will enable the decision maker, as Competent Authority under the 'Habitats Regulations', to have certainty that the impact of development will be mitigated avoiding an adverse effect upon the Poole Harbour Special Protection Area and Ramsar Site.</p> <p>The document is prepared jointly with Dorset Council and minor modifications may be requested by either Council which will need authorisation.</p>

Portfolio Holder(s):	Margaret Phipps (Portfolio Holder for Strategic Planning)
Corporate Director	Bill Cotton, Corporate Director for Regeneration and Economy
Contributors	Julian McLaughlin, Director for Growth and Infrastructure Nicholas Perrins, Head of Planning including Building Control Steve Dring, Senior Planning Officer
Wards	Alderney & Bourne Valley, Bearwood and Merley, Broadstone, Canford Cliffs, Canford Heath, Creekmoor Hamworthy, Newtown & Heatherlands, Oakdale, Parkstone, Penn Hill, Poole Town, Talbot and Branksome Woods
Classification	For Recommendation

Background

1. Poole Harbour is an outstanding natural feature on the south coast of England and is designated as a Site of Special Scientific Interest (SSSI), Special Protection Area (SPA) and Ramsar Site, which are subject to statutory protection when it comes to development that are identified to have a significant effect on environmental status.
2. Natural England advises that the cumulative effect of further residential and tourism development will have a significant effect on these protected sites. In particular, population growth will increase recreational activities in and around the harbour causing direct or indirect disturbance to protected birds. Disturbance can be defined as any human activity that influences a bird's behaviour or survival. Studies show that public access in and around the harbour, and various forms of recreational activities can cause disturbance, e.g. boats, walkers, dogs, bait digging, etc.
3. To conform to the requirements of the Conservation of Habitats and Species Regulations 2017 ('Habitats Regulations'), the Council, when planning development, has to be certain that development will not have a significant adverse effect upon the Poole Harbour SPA and Ramsar Site. Where the Council is not certain on the impact from development, it should not grant planning permission highlighting the need to have in place effective planning policy controls.
4. Based upon evidence, the Poole Local Plan (2018) Policy PP32 *Poole's nationally, European and internationally important sites* includes the requirement for any net additional housing or tourist accommodation to provide mitigation to enable the Council to grant planning permission for these types of development.
5. The Poole local plan states that the mitigation strategy will be set out in a supplementary planning document. The Poole Harbour Recreation Supplementary Planning Document at **Appendix 1** is that strategy. It only applies

to the area covered by the Poole Local Plan within BCP Council area and the area covered by the Purbeck Local Plan within the Dorset Council area.

6. This Supplementary Planning Document (SPD) was prepared jointly with Dorset Council with the advice of Natural England as the issue of managing recreation impact is a cross border issue between both administrative areas.

Public Consultation

7. Consultation on this SPD was held for the statutory period of 4 weeks between 4 February and 4 March 2019, attracting 58 responses, which were generally supporting the SPD. The feedback to the consultation is summarised in a consultation statement in **Appendix 2**.
8. There was general support from ecological and conservation bodies. Some of the issues raised are:
 - concern over the effectiveness of the measures set out in the SPD including the extent of the example projects;
 - concern about potential restrictions;
 - more emphasis on water based recreational activities;
 - the extent of the Poole Harbour recreation zone;
 - misunderstanding that this SPD is about recreation rather than wildlife;
 - avoiding harm by reducing housing growth, rather than mitigating growth;
 - overlap with mitigation of nitrate issues in the harbour; and
 - general debate about dog walking issues.
9. As a general response, the role of the SPD is not to introduce additional restrictions, but is to provide a framework for securing contributions from developers to be spent on positive management of the harbour edge. The aim is to continue to enable positive public access through the provision of better facilities. If these can be delivered in such a way as to avoid sensitive areas and by raising awareness of the issues, users may choose to alter their behaviour. Concern was also raised about the 4 week consultation period being too short. However four weeks is the statutory period for consultation on an SPD. The feedback was used to prepare the SPD for adoption.

The Strategy

10. The SPD covers a 5-year implementation period from 2019-2024. The mitigation strategy is in two parts (i) Strategic Access, Management and Monitoring (SAMMs) and (ii) Poole Harbour Infrastructure Projects (PHIPs). SAMMs will be spent on day to day management, wardening and raising public awareness to enable people to choose to alter their behaviour. The PHIPs are physical infrastructure projects designed to promote positive management of the harbour and ensure visitors don't cause disturbance to the protected birds. PHIPs will be funded from community infrastructure levy (CIL) receipts.

11. The cost of SANGs for housing development within the Poole Harbour Recreation Zone works out as £140 per house and £96 per flat. The Council will require developers to pay this charge as a planning obligation.
12. The Council has been operating an interim SAMMs charge since February 2019 in order to grant planning permission and ensure compliance with the Poole Local Plan and Habitats Regulations. The interim rates are £139 per house and £95 per flat. The small increase (£1) reflects inflation. The SPD will replace the interim scheme and put in place a five year implementation strategy.

Implementation and Governance

13. At this stage it is important to adopt the SPD to ensure the ongoing collection of SAMM payments is secured and enable wardening, education and coordinating structures to start being set up. The SPD will also act as the framework from which the local planning authority can continue to grant planning permission in compliance with the Habitats Regulations for development affecting Poole Harbour.
14. Beyond the adoption of the SPD, it will be important for the Council to establish appropriate governance to ensure that delivery of mitigation, including identification of projects, is overseen in an open and transparent way. The consultation highlighted that a number of organisations and the public would be interested in these projects. Accordingly, no infrastructure projects are included in the SPD as further work is needed by the Council to work with local landowners and organisations to develop an agreed programme of project delivery. Instead the SPD now only includes examples of the types of projects that could be considered.
15. In devising projects in the future, it will be important that the Council has due oversight to ensure that they are consistent with the Corporate Strategy and achieve the appropriate balance between positive management of the harbour to mitigate impact, as well as supporting other strategic initiatives where appropriate.
16. To achieve this, it is proposed that a member advisory group is set up, jointly with Dorset Council, to act as the oversight of project development and delivery. A similar arrangement, the Dorset Heathlands Advisory Group (DHAG), has operated for many years to guide the mitigation of Dorset Heathlands. The DHAG operates to oversee and guide officers in devising projects with the express purpose of mitigating residential development's impact on protected heathlands with several notable successes such as Upton Farm SANG.
17. One option for governance for Poole Harbour is to expand the DHAG to also include overseeing responsibilities for the harbour, and in effect create a Dorset Heathlands and Poole Harbour Advisory Group. There is a case for this as many of the same officers and partner organisations are involved in both SPAs and therefore having a coordinated approach for both will have efficiencies as well as greater knowledge share of good conservation practice.

18. The full details of the governance arrangements will need further work, including liaison with Dorset Council. At this stage, the governance arrangements based on work undertaken to date are envisaged to comprise:

- Establish Dorset Heathlands and Poole Harbour Advisory Group (by extending the existing arrangements for Dorset Heathlands). This could be made up of three members from both BCP Council and Dorset Council, with at least one member from each being able to represent Poole Harbour matters either by ward location or knowledge of the area.
- The Advisory Group would at the start of any given municipal year receive a Poole Harbour Monitoring, Projects and Implementation Plan (MPIP) for consideration. The MPIP would be prepared by officers, including the proposed Environmental Coordinator role that will be funded from SAMM receipts, with input from partner organisations with interests in Poole Harbour mitigation. The Advisory Group would then review and endorse the final MPIP to go onto to Cabinet for approval.
- Cabinet would then receive and approve the Advisory Group's endorsed MPIP on an annual basis. Once agreed, the MPIP then becomes the implementation plan for the year ahead. Once the MPIP is agreed the Advisory Group would also oversee its delivery alongside the operational work of officers. The Advisory Group would meet as required, likely between 2 and 4 times a year.

19. Once the above officer work on governance is concluded, the proposed governance structure and process will be brought back to Cabinet for approval in early to mid-2020.

Summary of financial implications

20. The Council will secure approximately £400,000 of SAMMs payments from developers over the five-year period of the SPD. This income will be ring fenced for spending purely on Poole Harbour mitigation including wardening, education and monitoring. An admin fee will be charged at a minimum of £25 and capped to a limit of £330. PHIPs projects will be funded from CIL and the amount of spending will be determined by the types of projects that provide suitable mitigation. The strategy is self-financing with no additional costs borne by the Council. The SPD enables the Council to continue granting planning permission for residential development, which will pay Council Tax and Business Rates.

Summary of legal implications

21. Each planning permission will need to be supported by a Section 106 Agreement, unilateral undertaking or payment under Section 111 of the Local Government Act (1972). Legal support will be required for Section 106 Agreements.

Summary of human resources implications

22. The mitigation strategy will fund 2 additional staff - a project co-ordinator and warden/ranger, paid entirely via SAMM receipts. The admin fee for the collection of SAMMs finances the administrative process.

Summary of environmental impact

23. The mitigation will avoid harm to the Poole Harbour SPA, SSSI and Ramsar Site. Therefore this strategy will have a positive effect upon the environment.

Summary of public health implications

24. PHIPs could provide new public open space and improved paths, providing a positive effect upon public health.

Summary of equality implications

25. All developers of housing will have to pay a set payment (SAMMs) towards mitigation, which is a fair and certain process. Some developments may be required to provide PHIPs, where the development is not contributing CIL and developers of such schemes may argue that they have been unfairly treated. However these issues are not considered to have equalities implications.

26. Provision of mitigation projects will be overseen by the Advisory Group and will be reported back in a monitoring and implementation plan. There are no known equalities issues at this stage.

Summary of risk assessment

27. SAMMs paid by each developer will fund mitigation for one year. Development in the following year will fund the following year's mitigation. As the harbour is a finite area, the annual cost is not expected to increase, other than by inflation. The mitigation has to be provided for the lifetime of the development also known as 'in perpetuity' (in legal cases this varies from 80-125 years).

28. There is a risk that if in future years SAMMs are no longer paid by developers, the annual funding of the SAMMs will have to be borne by the Council to continue to mitigate the homes it has previously granted permission for.

29. However without the mitigation provided by the SPD, the decision maker will not be able to grant planning permission for residential development, which poses a significant risk to the local economy, local population and the Council. The risk of development not paying SAMMs in future is therefore outweighed by the risk of no development at all.

Background papers

Poole Harbour Recreation Background Paper

Appendices

Appendix 1: Poole Harbour Recreation SPD

Appendix 2: Consultation Report