Delegated decision report

DECISION UNDER DELEGATED POWERS

**DECISION CANNOT BE TAKEN BEFORE
31 MAY 2018**

Title	**REVOCATION OF SOLENT SPECIAL PROTECTION AREAS SUPPLEMENTARY PLANNING DOCUMENT**
Report of	**CABINET MEMBER FOR PLANNING AND HOUSING**

EXECUTIVE SUMMARY

1. The purpose of this report is to agree the revocation of the Solent Special Protection Areas Supplementary Planning Document (SSPASPD), which has been superseded by the full Solent Recreation Mitigation Strategy (SRMS) introduced by Bird Aware Solent.

BACKGROUND

2. In 2012/13 the Isle of Wight Council worked with neighbouring local authorities along the Solent to develop and introduce a mitigation strategy linked to the need to plan for development and growth, but also to evidence that the council was undertaking its duties required by the Conservation of Habitats and Species Regulations 2010 (The Habitats Regulations). In the first instance, an interim strategy was developed, which enabled development to continue coming forward whilst the full strategy was being prepared. This was implemented by the council through the Solent Special Protection Areas Supplementary Planning Document (SSPASPD), which was adopted in 2014. It was always intended that that the SSPASPD would be replaced once the full strategy was completed.

3. The final mitigation strategy (the SRMS), which can be found at www.birdaware.org, has now been introduced throughout the Solent and is supported by the council. The revocation of the council's superseded SSPASPD is a technical exercise, for which the council's scheme of delegation requires a Cabinet decision which can be undertaken by the relevant cabinet member.

4.   It was not considered necessary to adopt the full SRMS as a replacement SPD because:

- It has been endorsed by the Partnership for Urban South Hampshire (PUSH), of which the council is a member.
- There is a sufficiently robust existing legal and policy mechanism for mitigation to be brought forward.
- The SRMS is clearly publicised on, and accessible from, the council's website.
- A SPD would unnecessarily duplicate the SRMS.
- The cost and time involved in following due process for adopting a SPD.
- Advice from Legal Services.

STRATEGIC CONTEXT

5.   The [Island Plan Core Strategy](#) policies contain a specific requirement for proposals that contribute to delivering development to demonstrate that there will be no significant impact on the integrity of European designated sites.

6.   A developer contribution is required for every net additional dwelling within 5.6 kilometres of the boundaries of the Solent Special Protection Areas. The council's preferred method of providing mitigation is through the SRMS. Alternatively a developer can demonstrate to the satisfaction of the local planning authority and Natural England that it will provide alternative 'bespoke mitigation' which will fully mitigate the recreational impact of the development.

CONSULTATION

7.   There is no requirement for consultation to be undertaken in relation to a revocation of a SPD. However, the council is required to take steps to draw the revocation of the SPD to the attention of persons living or working in the area and to cease to make any documents relating to the revoked SPD available. This will be achieved by consideration of this report and following the decision on this matter by updating the relevant sections of the council's website.

FINANCIAL / BUDGET IMPLICATIONS

8.   There are no direct financial implications of revoking the SPD.

LEGAL IMPLICATIONS

9.   Under the Habitats Regulations the Isle of Wight Council is identified as the 'competent authority' for the purposes of assessing whether or not a proposed plan or project (such as new housing proposed through a planning application) is likely to have a significant effect on the conservation objectives of the Solent Special Protection Area.

10.   Regulation 15(2) of the Town and Country Planning (Local Planning) (England) Regulations 2012 sets out the process for the revocation of an SPD. The council's scheme of delegation requires a Cabinet decision, which can be undertaken by the relevant executive member.

EQUALITY AND DIVERSITY

11.   The council, as a public body, is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

12.   As the revocation of the SPD is a procedural process it is not considered that an equalities impact assessment is required.

OPTIONS

13.   The options are set out as follows:

a) To agree the revocation of the Solent Special Protection Areas Supplementary Planning Document.

b) To not agree to the revocation of the Solent Special Protection Areas Supplementary Planning Document.

RISK MANAGEMENT

14.   If the SPD is not revoked there is the potential for conflict between the final mitigation strategy and the now superseded SPD. This is because if the current SPD is not revoked it remains a material consideration and should the council make a decision to refuse planning permission for inadequate mitigation based on the final strategy yet the application be based on the superseded SPD, the decision could be open to challenge.

EVALUATION

15.   Revoking the SPD is a technical exercise which will remove the possibility of challenge to the implementation of the final mitigation strategy.

RECOMMENDATION

16.   To agree the revocation of the Solent Special Protection Areas Supplementary
        Planning Document.

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WENDY PERERA
Head of Place

COUNCILLOR BARRY ABRAHAM
*Cabinet Member for
Planning and Housing*

Decision

Signed

Date