



**CORPORATE AND ENVIRONMENTAL
OVERVIEW AND SCRUTINY
COMMITTEE**

**MEMBERS UPDATE - 2021/22
ISSUE: 3**

Article of: Corporate Director of Place and Community

Relevant Portfolio Holder: Councillor Gaynar Owen

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**SUBJECT: Exemption from Contracts Procedure Rules: Liverpool City Region
and West Lancashire Joint Recreation Mitigation Strategy**

Wards affected: Borough wide

1.0 PURPOSE OF ARTICLE

1.1 To brief Members on an exemption from West Lancashire Borough Council's Contracts Procedure Rules, which was sought from and granted by the Chief Operating Officer, in relation to the Liverpool City Region and West Lancashire Joint Recreation Mitigation Strategy.

2.0 BACKGROUND

2.1 West Lancashire Borough Council is producing a new Local Plan and as part of doing so is required to produce a range of supporting evidence to justify the strategy, policies and site allocations contained within it. Included amongst this is the need to undertake a Habitats Regulations Assessment (HRA), as required by Article 6 of the EC Habitats Directive (1992) and interpreted into British law by the Conservation of Habitats and Species Regulations (2010) and subsequently consolidated by the Conservation of Habitats and Species Regulations (2017) (the Habitats Regulations). The aim of the Habitats Directive is to conserve natural habitats and wild species across Europe by establishing a network of sites known as Natura 2000 sites (these are often referred to as European sites). AECOM were recently appointed to undertake the HRA for the new Local Plan and have commenced work.

2.2 The HRA needs to identify those European habitat sites to be considered and the likely significant effects of the emerging Local Plan upon them in combination with other plans and projects. This requires consideration of "impact pathways" including:

- Air pollution;
- Water resources;
- Water quality;
- Loss of habitat, including as a result of coastal squeeze; and
- Disturbance / displacement as a result of urbanisation, visitors and recreation.

If the HRA identifies that one or more of these impact pathways needs to be considered in more detail then in order to satisfy the Habitats Regulations additional evidence, beyond the initial scope of the HRA, may be needed.

2.3 West Lancashire Borough contains two sites that are designated under the Habitats Regulations which are the Martin Mere Special Protection Area (SPA) and Ramsar site, and the Ribble and Alt Estuaries SPA and Ramsar site; the Borough is also within several kilometres of a variety of other such designated sites, most notably the Sefton Coast Special Area of Conservation (SAC) which is located within 500m of the Borough boundary at its closest point.

2.4 The habitats legislation operates under the precautionary principle which means that the default position in law in the case of disturbance / displacement as a result of urbanisation, visitors and recreation is that there will always be significant harm from new housing or other development which would increase visitor numbers to these designated sites. Recreational activities would include (but not be limited to); hiking, dog walking, cycling, and water sports. New development increasing visitor numbers would arise through the granting of planning permissions or the allocation of development sites in the West Lancashire Local Plan.

2.5 Plans and projects (which include local plans and planning applications) are therefore required to provide mitigation for recreation disturbance upon protected European habitats sites and if development is proposed without an agreed mitigation solution, irrespective of the effect on scheme viability, then the plan or project cannot be lawfully permitted.

3.0 CURRENT POSITION

3.1 Work on the ceased West Lancashire Local Plan Review (in 2018) elicited a response from Natural England (NE), who are a statutory consultee, in relation to the matter of recreational disturbance. Part of the response stated that NE encourage all Local Planning Authorities to consider adopting a strategic solution (i.e. across administrative boundaries) for managing recreational disturbance impacting on both coastal designated sites and functionally linked land (including the Sefton coast). They indicated that joined up and consistent approaches with

neighbouring LPAs would be encouraged on this issue, wherever possible. In addition, paragraph 1.21 of the adopted West Lancashire Local Plan 2012-27 DPD also recognises the issue of recreation disturbance and states that the Council will, where appropriate, work in partnership with other local authorities and relevant

bodies to manage the impacts. These comments, coupled with the need for residential planning applications to address this matter, make it clear that the emerging West Lancashire Local Plan 2023-2040 needs to be supported by both a Habitats Regulations Assessment and a Recreation Mitigation Strategy ('RMS').

3.2 The Merseyside Environmental Advisory Service (MEAS), who operate within Sefton Metropolitan Borough Council, have been acting on behalf of the Liverpool City Region Authorities (Halton, Knowsley, Liverpool, Sefton, St Helens and Wirral Councils) to jointly undertake a Recreation Mitigation Strategy. Consultants, Footprint Ecology, have been commissioned to undertake this and work has been ongoing since 2018. MEAS recently extended an invitation to West Lancashire Borough Council to join this project, which has been prompted by the initial contract with Footprint Ecology requiring extension for additional work. This invitation was time limited due to the need to commence survey work for the RMS at a particular time of year and, as the contract extension was being procured using Sefton Metropolitan Borough Council's policies and procedures, an exemption to West Lancashire Borough Council's Contracts Procedure Rules was required. MEAS will continue to act as project manager for the RMS.

3.3 The Recreation Mitigation Strategy is planned to be completed in 2023 and represents the strategic solution (i.e. across administrative boundaries) referred to at paragraph 3.1 above for dealing with recreational disturbance at European habitats sites, arising as a consequence of planned new development.

4.0 ACTION BEING TAKEN

4.1 The purpose of this update is to notify Members that a request for exemption from West Lancashire Borough Council's Contracts Procedure Rules has been sought from, and granted by, the Chief Operating Officer for the reasons set out above. A separate Record of Decision has been published which contains more detailed information in terms of the issues and expected outputs from the RMS, as well as the alternative approaches that were considered and rejected.

5.0 SUSTAINABILITY IMPLICATIONS

5.1 As this report is for information purposes, there are no significant sustainability impacts associated with it and no significant impact on crime and disorder. The RMS will have positive sustainability implications environmentally, in that it would help to maintain the integrity of European designated habitat sites by developing a strategy for implementing recreation mitigation measures.

6.0 FINANCIAL AND RESOURCE IMPLICATIONS

6.1 The cost to West Lancashire Borough Council for joining procurement of the emerging Liverpool City Region Recreation Mitigation Strategy is a fixed fee of £25,000 which will be paid through existing Strategic Planning revenue budgets. As indicated above, as the procuring body Sefton's policies and procedures would be used to acquire the services required and therefore West Lancashire Borough Council's own procurement procedures are being waived. These Rules indicate that for contracts over £10,000 but under £50,000 the appropriate Senior Officer shall obtain not less than three written quotations. A separate Request for Exemption from Contracts Procedure Rules has been sought from, and approved by, the Chief Operating Officer in this regard.

6.2 It is likely that the Council will have further costs associated with developing and, once completed, delivering the RMS but that is not a part of the contract. There will be staff resource implications including staff time in attending project group meetings, supplying data, commenting upon draft documentation and in the subsequent implementation of the RMS. Presently, this would be covered within existing Council revenue budgets.

7.0 RISK ASSESSMENT

7.1 This Article is for information only and makes no recommendations. It therefore does not require a formal risk assessment and no changes have been made to risk registers. A separate published Record of Decision considers wider risks relating to the project in greater detail.

8.0 HEALTH AND WELLBEING IMPLICATIONS

8.1 There are no health and wellbeing implications arising from this report.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Article.

Equality Impact Assessment

This article is for information only and does not have any direct impact on members of the public, employees, elected members and/ or stakeholders. Therefore, no Equality Impact Assessment is required.