

Note for Inspectors

Strategic Access Management and Monitoring (SAMM) Contributions and Infrastructure

On Tuesday 2nd April (Hearing Day 1) of the Examination, the Inspector requested the Council to prepare a short note about the collection of contributions towards the Strategic Access Management and Monitoring Strategy (SAMM) and whether it constitutes “infrastructure” within the meaning of the CIL Regulations.

Most of Thanet’s coastline is designated for its environmental significance under the international designations of Special Protection Areas, Special Areas of Conservation and Ramsar sites. The Special Protection Area was designated under Article 4 of the Birds Directive and the Habitats Regulations 2017 require appropriate steps to be taken to avoid pollution or deterioration of habitats or any disturbance affecting the birds that contribute to the qualifying features of the SPA.

Natural England identified the Thanet SPA sites as being exposed and sensitive to recreational pressure - this would likely increase as a result of the 17,140 houses proposed in the Local Plan. The SAMM provides mitigation measures against this.

The SAMM requires a contribution from every residential development towards the mitigation measures against the additional recreational pressure that may be created by new development. This applies to all proposed development on sites allocated in the local plan and all windfall sites since there is no difference in the potential impact on the SPA. The SAMM tariff is applied to proposals for residential development anywhere in Thanet since there is no ‘buffer zone’ due to the geography and peninsular character of the district.

The tariff is collected via S106 agreements and is set out in Table 8 of the Local Plan. The tariff comprises two elements - funding annual expenditure to operate the mitigation actions during the Local Plan period, and funding a capital investment (not less than 76% of total funds) required in order to fund the mitigation strategy in perpetuity or for as long as the mitigation is required.

The proposed mitigation in the SAMM comprises wardening, co-ordination, education and enforcement and monitoring via the following projects:

(a) Warden

- A warden post employed by TDC with experience in the sector and the authority to enforce legal orders and local byelaws;
- Responsible to a co-ordinating role/organisation;
- Required for the peak period of time when Turnstones are present i.e. October to April;

(b) Co-ordination role

- Activities, preparation of plans and operating the Volunteer Scheme are all year round tasks needed to operate the mitigation scheme, so this role is required to a

greater or lesser extent all year round to manage staff, volunteers and activities, and act as main liaison for the mitigation scheme;

(c) Education and Enforcement

- Interpretation programme - to include interpretive signage at intervals throughout the period; Review of all information signage along the coastal strip;
- Leaflets and web presence;
- Interpretive display at focal points plus mobile displays;
- Amendments/extensions to existing Dog Control Order sites and associated (and improved) signage; legal costs and advertising.

(d) Monitoring

- Bird surveys
- Visitor Surveys

Residential developments will not adversely impact on the integrity of the SPA if the mitigation measures are provided as stipulated by the SAMM and funded through the S106 contributions.

There will not be a conflict if the Council introduces a CIL charging scheme which would prevent more than five separate planning obligations from funding the same infrastructure project or type of infrastructure (Reg 123). The SAMM contributions are not considered to be infrastructure as the mitigation measures proposed are an on-going concern, as demonstrated by the need for a capital investment in perpetuity, and are not an infrastructure project or type of infrastructure. This is a similar approach taken by Inspectors in appeal decisions:

APP/N1730/W/14/3001528 - The Inspector made the following comment re SAMMS contributions to the Thames Basin Heaths SPA:

The SAMM contribution would be focused towards employing staff to educate visitors to the SPA and promote the use of the SANGs. As such it would not fund the provision of infrastructure and is not caught by the provisions of Regulation 123(3).

APP/Y3615/W/15/3035790 - The Inspector made the following comment re SAMMS contributions to the Thames Basin Heaths SPA:

As the SAMM contributions relates to access management and monitoring it does not amount to 'the funding or provision of an infrastructure project or type of infrastructure'. Accordingly, it is not subject to the pooling restrictions imposed by Regulation 123(3) and the contribution sought is therefore relevant.

This note has been shared with Natural England who have confirmed their agreement that SAMM contributions do not pertain to infrastructure.