

Cannock Chase Special Area of Conservation (SAC) – Revised Memorandum of Understanding and Financial Agreement



Cabinet Member for Economic Development, Leisure & Local Plan

Date: 8 February 2022
Agenda Item: 9
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Key Decision? YES
Local Ward Members All wards affected

Cabinet

1. Executive Summary

- 1.1 The purpose of this report is to seek approval to formally agree and sign a revised Memorandum of Understanding (MoU) and associated Finance Agreement relating to the Cannock Chase Special Area of Conservation (SAC) Partnership. The updated MOU and Finance Agreement are set out in Appendix 1 and appendix 2 respectively together with the supporting Planning Evidence Base Report at Appendix 3.
- 1.2 The existing MOU and Finance Agreement sets out how the Cannock Chase SAC partnership will seek to mitigate and fund the impacts of new residential development upon Cannock Chase SAC and was the subject of a previous decision by this authority on 8th September 2015
- 1.3 The Cabinet decision on the 8th September 2015 agreed to the then Cabinet Member for Economic Growth, Environment and Development representing the Council on the Cannock Chase Special Area of Conservation Joint Strategic Board (JSB). Cllr Eadie is the current incumbent on the JSB and has been kept informed of the Planning Evidence Based Report supporting the need for the revised MoU and associated Finance Agreement and has along with officers reviewed the revised MoU and Finance Agreement drafted by the Cannock Chase SAC partnership and which are attached to this report.
- 1.4 The Planning Evidence Based Report has been reviewed by Local Plan Task Group on the 16th December 2021 and will be published as part of the Local Plan Evidence Base.

2. Recommendations

- 2.1 That Cabinet approves the revised Cannock Chase Special Area of Conservation (SAC) 'Memorandum of Understanding' and associated 'Finance Agreement' (Appendix 1) between the members of the Cannock Chase SAC Partnership.
- 2.2 That cabinet approves the Cabinet Member for Economic Development, Leisure & Local Plan on behalf of Lichfield District Council to formally sign a sealed version of the MoU and Financial Agreement appended to this report.
- 2.3 That Cabinet delegate authority to the Cabinet member for Economic Development, Leisure & Local Plan in conjunction with the Head of Economic Growth to continue to agree ongoing mitigation measures relating to the Detailed Implementation Plans (DIPs) schemes.

3. Background

- 3.1 The main heathland areas of the Cannock Chase Area of Outstanding Natural Beauty (AONB) have been designated as a Special Area of Conservation (SAC) under European Directive 92/43/EEC (The Habitats

Directive) and are afforded the highest degree of policy protection. The Directive was enacted in the United Kingdom by the Habitats Regulations (2017 as amended). Cannock Chase SAC represents the largest area of lowland heathland habitat surviving in England; and is of a very high nature conservation importance. Following the United Kingdom's exit from the European Union the Government has committed to protecting sites designated under the European Directive and to support the objectives of maintaining and where appropriate restoring habitats and species.

- 3.2 Visitor pressures have been identified as a significant risk to the integrity of the SAC. A recently finalised Planning Evidence Base Review (2017&2021) highlighted the continuing pressures being faced by the SAC as a result of high visitor numbers, including habitat fragmentation and species invasion consistent with nutrient enrichment arising from dog-fouling. Additional housing numbers in areas surrounding the Chase is expected to lead to increased visitor pressure and impacts on the SAC unless measures are taken to mitigate the potential harm.
- 3.3 The protection afforded to the SAC means that there is a legal duty on Local Planning Authorities when determining planning applications and producing Local Plans to consider the potential impacts of any new development on the integrity of the SAC. If adverse impacts are identified, applications should be refused, and development proposals abandoned unless appropriate mitigation is in place.
- 3.4 The Cannock Chase SAC Partnership was formed in 2007 and provides a framework for co-ordination between statutory bodies with planning and land use responsibilities in relation to the SAC. A key objective of the Partnership is to develop evidence-based mitigation measures to ensure that new residential development can occur without adversely impacting on the Cannock Chase SAC. This includes mitigating the potential impact from Local Plan policies and site allocations, as well as proposals contained in individual planning applications and projects; thereby ensuring that the integrity of the SAC is maintained, and the requirements of the Habitats Regulations are met.
- 3.5 The current MOU (2016) emerged from the evidence base which was produced to support the current round of adopted Local Plans, including the Lichfield Local Plan Strategy (2015) and the Lichfield Site Allocations Document (2019). The current MoU was agreed by Cabinet at its meeting 8th September 2015. This evidence base identified that the planned level of housing growth within a 15 kilometre radius (Zone of Influence) of the SAC was likely to have a significant negative effect on the designated site, with a greater part of this impact arising from new housing development within a 0-8km zone. Mitigation measures totalling approximately £1.9 million were identified at this time, with the focus of payment concentrated within the 0-8km area, termed the 'charging zone'. This resulted in a figure of £232 per net dwelling (plus £100 admin charge per Unilateral Undertaking agreement).
- 3.6 The revised MOU at appendix 1 has been produced in response to updated evidence and the nationally driven demands being placed on Local Planning Authorities to deliver new housing development. An updated Planning Evidence Base Review at appendix 3 (2017 & 2021) examined the effectiveness of the existing mitigation measures and explored options to address future challenges. The studies concluded that the existing 15km Zone of Influence remained valid and was supported by updated visitor survey information. An increase in funding was identified as necessary to support measures to mitigate the impact arising from the housing figures being promoted within ongoing Local Plan reviews undertaken by the Partnership authorities. Detailed Implementation Plans (DIPs) have been produced identifying mitigation measures totalling an additional £6.29 million. The Partnership authorities agreed that the funding of this uplift should apply equally throughout the 15 km Zone of Influence. Should this be funded on a per dwelling basis going forward this would equal a requirement of approximately £290/dwelling. The amended document therefore results in a net increase of £58 per dwelling. A modest fee of £100 is currently charged to the applicant to support legal costs associated with Unilateral Undertaking preparation. It is proposed that fee charges from the 1 April 2022 should capture legal costs plus

administration costs leading to a revised fee of £179. Given the proposal to extend the payment area more locations within Lichfield District Council will be captured and developments within these areas will be required to contribute to SAC mitigation.

- 3.7 The Financial Agreement at appendix 2 is prepared in tandem with the MOU. The agreement commits the member authorities to collect and remit funds for SAC mitigation to Stafford Borough Council who act as the financially accountable body. The agreement also places a responsibility on all the member authorities to indemnify Stafford Borough Council with respect to the financial costs associated with employing dedicated SAC officers. This includes any costs associated with recruitment and redundancy payments. This includes any reasonable costs associated with recruitment and redundancy payments. It is not considered that this indemnity poses any undue or unacceptable risk to the Council as any costs associated with the indemnity would be appropriately apportioned with all member authorities thereby reducing risks to the Council and can be met through the Council's reserves in the unlikely event of being called upon.
- 3.8 In addition to ratifying the revised MOU, this report seeks delegated authority to agree to future amendments to mitigation measures which may arise during the implementation period of the Detailed Implementation Plans. It is, however, confirmed that any materially significant changes to the MOU and financial agreement will require future cabinet approval.

Alternative Options	<ol style="list-style-type: none"> 1. An alternative option would be not to engage with Cannock Chase SAC Partnership. It would then be incumbent on the Council as part of the Local Plan Review to identify what separate measures would be necessary to mitigate against potential negative impacts arising from new residential development proposals, in order to meet its statutory duties under the Habitats Regulations 2017 (as amended).
Consultation	<ol style="list-style-type: none"> 1. The Cabinet member for Economic Development, Leisure & Local Plan has been presented with the finding of the Planning Evidence Based Report via his role on the Cannock Chase SAC Joint Strategic Board. He has also been consulted on the draft MoU and Finance Agreement appended. 2. The Planning Evidence Based Report has been reviewed by the Local Plan task Group at its meeting on the 16th December 2021.
Financial Implications	<ol style="list-style-type: none"> 1. Costs are incurred in terms of officer time preparing Unilateral Undertaking agreements to secure financial contributions which are then submitted to Stafford Borough. A modest fee of £100 is currently charged to the applicant to support legal costs associated with the UU. It is proposed that fee charges from the 1 April 2022 should capture legal costs plus administration costs leading to a revised fee of £179
Approved by Section 151 Officer	Yes
Legal Implications	<p>The Memorandum of Understanding and the Finance Agreement are important legally to be able to show how:</p> <ol style="list-style-type: none"> a) the Council is addressing its responsibilities as a Competent Authority under the Habitats Regulations 2017 and

	<p>b) to ensure that the Council meets its ongoing and future obligations as regards the Cannock Chase SAC as set out in the adopted Local plan Strategy adopted in 2015, the Allocations Plan adopted 2019 and the emerging review of the Local Plan.</p> <p>If the Council as a Competent Authority is faced with an application for development in the zone of influence which would negatively impacting on the Cannock Chase SAC, then it is required to refuse permission unless either:</p> <p>i) it considers that the proposed mitigation can mitigate the adverse effects – which is what the steps outlined in the MOU and attached documents are intended to do for most applications, provided the developer agrees to take the steps suggested, or</p> <p>ii) if the mitigation options cannot avoid adverse effects, then development consent can only be given if stages 3 and 4 are followed.</p>
Approved by Monitoring Officer	Yes

Contribution to the Delivery of the Strategic Plan	<ol style="list-style-type: none"> 1. Supports the priority of ‘Shaping Place’ through the Local Plan preparation for allocation of new land uses, preserving the districts assets and ensuring growth is done sustainably and with balanced infrastructure provision. 2. Supports the priority of ‘Developing Prosperity’ through the Local Plan preparation which makes provision for land use allocations including employment and residential use, thereby encouraging economic growth, enhancing the district and providing certainty for investment. 3. Supports the priority of being a ‘Good Council’ by accountability, transparency and responsiveness as the update enables the community, business, developers, service and infrastructure providers and other interested organisations to know how Lichfield intends to undertake its competent authority duties.
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Equality, Diversity and Human Rights Implications	<ol style="list-style-type: none"> 1. There are no equality, diversity and human rights implications
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Crime & Safety Issues	<ol style="list-style-type: none"> 1. There are no crime and safety issues.
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Environmental Impact	<ol style="list-style-type: none"> 1. The Council has a responsibility as a competent authority under the Habitat regulations to ensure that the Council meets its ongoing and future obligations as regards the Cannock Chase SAC as set out in the adopted Local plan Strategy adopted in 2015, the Allocations Plan adopted 2019 and the emerging review of the Local Plan.
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GDPR / Privacy Impact Assessment	There are no GDPR / Privacy Impact Assessment issues
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	Risk Description & Risk Owner	Original Score (RYG)	How We Manage It	Current Score (RYG)
A	Development Industry challenge the findings of the PEER and the	Likelihood – Yellow	By agreeing the approach across the partnership, the risk of challenge is reduced.	Likelihood – Green

	approach in the MoU and finance agreement	Impact - yellow Risk - yellow		Impact – yellow Risk - Green
B	The updated financial agreement provides for responsibility on the member authorities to indemnify Stafford Borough Council with respect to the financial costs associated with employing dedicated SAC officers. This includes any costs associated with recruitment and redundancy payments	Likelihood – Green Impact -Yellow Risk - Green	The agreement has had legal input and discussion through the Partnership. No such costs have arisen in the partnership to date. The approach in the MOU requires dedicated SAC officers. Apportionment of any associated risk of costs within the partnership approach remains the most cost-effective way for LDC to meet its competent authority responsibilities This includes any reasonable costs associated with recruitment and redundancy payments. It is not considered that this indemnity poses any undue or unacceptable risk to the Council as any costs associated with the indemnity would be appropriately apportioned with all member authorities thereby reducing risks to the Council and can be met through the Council’s reserve in the unlikely event of being called upon.	Likelihood – Green Impact – yellow Risk - Green
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D				
E				

	Background documents Cabinet report 8 September 2015
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	Relevant web links Cabinet report 8 September 2015 – item 5
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