

Report to: Cabinet



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## **In Perpetuity Funding for Management of Clyst Meadows SANG**

### **Report summary:**

This paper provides Cabinet with an update on the management funding for Clyst Meadows Countryside Park (10Ha Suitable Alternative Natural Greenspace (SANG)) at Station Road, Broadclyst which sits within the wider Clyst Valley Regional Park. The paper also provides estimated costs for future SANG delivery to mitigate the impact of residential allocations in the emerging Local Plan.

The delivery of Clyst Meadows will ensure that the planning authority is able to meet our statutory duty to preserve the integrity of nearby internationally designated habitat sites. This project also assists in delivery of Clyst Valley Regional Park objectives. Clyst Meadows is adjacent to Cranbrook, and close to Broadclyst and Mosshayne/Tithebarn, and will facilitate the delivery of the Station Road-Mosshayne strategic cycle link.

The total budget for delivery of the site works at Clyst Meadows is £1.63M (excluding land purchase and management costs). This is funded through CIL contributions, s106 agreements and £200k from the capital programme. A further £200k of UK SPF funding is also allocated for delivery of the shared cycle path.

In order to meet in perpetuity (minimum 80 years) management costs Cabinet approved (1<sup>st</sup> May 2024) an estimated further £2M, subject to CIL Member Working Party's Decision, to fund an Endowment to provide an annual return to fund maintenance and capital replacement costs for 80 years.

Subsequently Strategic Planning Committee (19<sup>th</sup> May 2025), following CIL Member Working Party's advice, approved the funding for site works, but based on the estimated £2M investment requirement on other CIL funded infrastructure projects, supported the following recommendation:

*4. That Members advise Cabinet that they do not agree to funding an endowment to cover the maintenance costs of the SANG at Station Road, Broadclyst as per Cabinet's resolution of the 1st May 2024 and recommend that Cabinet agree that these costs be funded through an annual contribution of £40k from CIL for the first 3 years after which these should be reviewed.*

A draft report to Cabinet was prepared early this year, and further work was requested due to concerns about the financial risk to the Council of delaying in-perpetuity funding arrangements until 2028. This approach secures short-term management funding, but in the longer term an annual draw down creates risks for the Council. Should CIL funding be insufficient or on-site capital replacement costs exceed the value of the sinking fund management and site works would need to be funded from the Council's revenue and/or capital funds.

Subsequent work has been undertaken to more accurately quantify the value of the investment required to generate sufficient funds to manage Clyst Meadows in perpetuity. Advice from an Independent Financial Advisor and CCLA Investment Management indicate that an appropriate low-risk investment to secure in-perpetuity funding would be £1.1M (to be funded from CIL).

In addition to the financial risks outlined above the timeline approved by Strategic Planning Committee will intersect with Local Government Re-Organisation and require the newly created authority to receive a report on the in-perpetuity funding of Clyst Meadows early in 2028 - when the new authority will focus on reorganisation and a significant number of other priorities. It is therefore considered that either an earlier decision to set up the in-perpetuity investment, or an extended timeline for an interim annual payment, would minimise the risk to the Council.

This report therefore asks Cabinet to review Strategic Planning Committee's recommendation to fund management costs at Clyst Meadows through an annual contribution of £40k from CIL for 3 years, and delegate authority to officers to set up and arrange for the management of a £1.1m investment fund, funded from CIL, to secure the in perpetuity funding for the management of Clyst Meadows.

**Is the proposed decision in accordance with:**

Budget Yes ☒ No ☐

Policy Framework Yes ☒ No ☐

**Recommendation:**

That Cabinet:

1. Approves the creation of an investment fund of £1.1m, funded from CIL, to secure the in perpetuity funding for the management of Clyst Meadows, and
2. Delegates authority to the Assistant Director Planning Strategy and Development Management, Finance Director, Place Director and Director Governance, in consultation with the relevant Portfolio Holders, to set up and arrange for the management of this fund.

**Reason for recommendation:**

East Devon District Council, as the competent authority, have a legal responsibility to ensure that SANG are provided and managed in-perpetuity as part of the Mitigation Strategy for the SE Devon Internationally Protected Habitats. The delivery and in-perpetuity management of Clyst Meadows SANG is one of the mitigation measures identified through the Habitat Regulations Assessment process, ensuring East Devon meets our legislative requirements when permitting housing development through the Local Plan.

Officer: Paul Osborne, Green Infrastructure Project Manager  
Email: [Paul.Osborne@eastdevon.gov.uk](mailto:Paul.Osborne@eastdevon.gov.uk), T: **07745 667146**

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Portfolio(s) (check which apply):

- ☐ Assets and Economy
- ☐ Communications and Democracy
- ☐ Council, Corporate and External Engagement
- ☐ Culture, Leisure, Sport and Tourism
- ☒ Environment - Nature and Climate
- ☐ Environment - Operational
- ☐ Finance
- ☒ Place, Infrastructure and Strategic Planning
- ☐ Sustainable Homes and Communities

**Equalities impact** Low Impact

## Climate change Low Impact

**Risk:** Medium Risk; EDDC, as the competent authority, are required to ensure mitigation is provided as set out in the SE Devon Protected Site Mitigation Strategy – including the management of SANG ‘in perpetuity’. Failure to deliver SANG to mitigate the impact of residential development on the SE Devon Internationally Protected sites may impact on housing delivery in East Devon and across the wider Habitat Regulations Partnership. Funding for management is proposed through an annual draw down from CIL. Should CIL returns be insufficient to meet management costs (including capital replacement) any deficit will need to be met from the authority’s other budgets. An investment is proposed to fund SANG management to reduce EDDC’s financial risk - requiring higher upfront cost and an impact on other CIL expenditure (£1.1M).

**Links to background information** Cabinet 1<sup>st</sup> May 2024 (item 194) - [Agenda for Cabinet on Wednesday, 1st May, 2024, 6.00 pm - East Devon](#); Cabinet Strategic Planning Committee Minutes – 19<sup>th</sup> May 2025 (item 265) - [Agenda for Strategic Planning Committee on Monday, 19th May, 2025, 10.00 am - East Devon](#); South East Devon European Site Mitigation Strategy - [Liley et al. - 2014 - South-east Devon European Site Mitigation Strategy.pdf](#)

### Link to [Council Plan](#)

Priorities (check which apply)

- ☒ A supported and engaged community
  - ☒ Carbon neutrality and ecological recovery
  - ☐ Resilient economy that supports local business
  - ☐ Financially secure and improving quality of services
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## Report in full

### Background

- 1.1 Clyst Meadows Suitable Alternative Natural Green Space (SANG) will deliver a 10Ha Country Park as part of the SE Devon European Site Mitigation Strategy to mitigate the impact of residential development at Cranbrook and the wider West End area on the Exe Estuary and the East Devon Pebblebed Heaths Special Protection Areas (SPA's). This project also assists in delivery of Clyst Valley Regional Park objectives. Clyst Meadows is adjacent to Cranbrook, and close to Broadclyst and Mosshayne/Tithebarn, and will facilitate the delivery of the Station Road-Mosshayne strategic cycle link.
- 1.2 East Devon District Council, as a Competent Authority, is legally required to ensure that the impact of residential development on the SE Devon European Wildlife Sites is mitigated. SANG are one of the required mitigation measures and are delivered through a number of approaches. It is delivered directly by Developers on larger development sites (such as Cranbrook), and by the relevant local authorities for strategic sites (funded through CIL contributions from all residential development). The legal requirement for delivery of SANG at Clyst Meadows sits with EDDC through the s106 agreements for Cranbrook Phase 1 (which identified a requirement for 13.97Ha SANG to be delivered in the Appropriate Assessment for 18/1237/MRES).
- 1.3 SANG must meet Natural England requirements in relation to their scale, character and design, delivery in advance of the developments they are mitigating, and be maintained in perpetuity (80-100 years).
- 1.4 Advice from Natural England is that a legal agreement to secure the management of the SANG by East Devon District Council is not required. The Council is a Competent Authority and is legally obliged to secure the mitigation set out in the Habitat Assessment to the Local

Plan and meet the requirements of s106 agreements for Cranbrook Phase 1. It is proposed to amend the planning conditions for Clyst Meadows (24/2049/MFUL) to state that the SANG will be managed for 80 years in accordance with the SANG Management Plan.

- 1.5 If SANG are not delivered, or are not managed 'in-perpetuity' Natural England could block the development of further housing within the district (in the same way that development in the River Parrett catchment was blocked until nutrient neutrality issues were resolved), and the Council would be at risk of legal challenge from 3<sup>rd</sup> parties for failing to meet our mitigation requirements (as set out in the SE Devon European Wildlife Sites Mitigation Strategy).

- 1.6 May 1<sup>st</sup> 2024 Cabinet resolved that Clyst Meadows would be managed by East Devon's Countryside Team and approved, subject to CIL Member Working Party (MWP) decision re CIL funding, the budget of £4.114M, which was broken down as follows:

Land acquisition	£485,000
Site Works (including fees, contingency and inflation)	£1,629,000
Management (Endowment)	£2,000,000

Additional funding of £200k from the UK Shared Prosperity Fund will fund the delivery of the cycle path through Clyst Meadows – and the total budget for site works is therefore £1.829M

- 1.7 Funding for purchase and establishment of Clyst Meadows is from a combination of CIL, s106 agreements and the capital programme (with potential to be recouped from future BNG receipts) as follows:

S106	£530,358
Capital	£200,000
CIL	£1,383,642*

- 1.8 On 19<sup>th</sup> May 2025 Strategic Planning Committee approved CIL Member Working Party's recommendation (from 27<sup>th</sup> February 2025) for the expenditure of CIL for the site works (\* £1.38M), but rejected the proposed £2M endowment (subject to expert financial advice) in favour of an annual sum of £40k from CIL to reduce the short-term impact to other CIL expenditure. The working party and Strategic Planning Committee were concerned that the upfront cost of £2 million would take vital funding away from infrastructure projects that are needed now and could not otherwise be funded. At the time of the Strategic Planning Committee meeting on 19<sup>th</sup> May there was just over £12M held in the CIL pot but with bids totalling over £17M difficult decisions had to be made over which projects to support and ultimately some worthy projects could not be supported. The position would have been significantly more difficult had the £2million endowment also been agreed and so this was not prioritised.

- 1.9 In April 2025 Cabinet supported the tender for and appointment of contractors to deliver the required site works, and delegated authority to the Assistant Director – Countryside & Leisure and/or the Assistant Director Place, Assets and Commercialisation, in consultation with Director of Place, to authorise entering into contract with the selected contractor. Works are now progressing on site with estimated completion and opening in Spring 2026.

- 1.10 In the short term these risks are low (as capital replacement requirements are unlikely, unless extreme weather conditions or flooding caused extensive damage, as the site is currently under construction). Officers were requested to undertake further work to review the investment required to generate sufficient funding for in-perpetuity management. This is summarised in section 2 of this report below.

- 1.11 In addition to the financial risks outlined above the timeline approved by Strategic Planning Committee will intersect with Local Government Re-Organisation and require the newly created authority to receive a report on the in-perpetuity funding of Clyst Meadows early in 2028 - when the new authority will focus on reorganisation and a significant number of other priorities.
- 1.12 It is also noted that postponing a decision on in-perpetuity funding for Clyst Meadows is likely to mean that the CIL funding is required alongside funding for further Strategic SANG to meet the Council's future Habitat Regulations mitigation requirements.

## **2. Future Management Funding for Clyst Meadows Country Park**

- 2.1 The Strategic Planning Committee decision to allocated £40k per annum from CIL (for 3 years) for management of Clyst Meadows is based on an assessment of the annual maintenance costs which are considered to be in the range of £15,000-£30,000 per annum (excluding inflation and including staff/management costs, and an allowance for contingency and risk), plus the capital replacement programme.
- 2.2 The capital replacement programme costs (for maintenance/replacement of paths, car park fencing, boardwalks, bridges and site furniture) were identified as follows for each period (excluding inflation):
- 5 years        £18,020
  - 10 years      £12,000
  - 15 years      £26,600
  - 25 years      £128,950
- 2.3 The total cost of capital replacement costs, excluding inflation, is in the order of £930,000 – which averages out at an additional c£12,000 per annum. This brings the total maintenance costs to c£40,000 per annum.
- 2.4 The total cost of this approach (over 80 years) is estimated to be up to £3.33M (annual maintenance costs at £30k/pa, totalling £2.4M, plus total capital replacement costs of £930k (excluding inflation)), compared to the estimated endowment costs of c£2M.
- 2.5 Officers have sought further advice from Global City Futures, an Independent Financial Adviser and CCLA Investment Management to review and model the investment required to generate sufficient returns to fund the management of Clyst Meadows and capital replacement works for 80 years. Options considered include a privately managed investment fund and investment in CCLA Local Authority Property Fund. Officers also undertook a due diligence review to consider alternative management options (such as transfer to the Land Trust or English Estates) – these options would be more expensive than the proposed approach due to the additional management fees incurred by 3<sup>rd</sup> party organisations.
- 2.6 Based on average inflation of 3% and an average investment return (gross) of 6.5% a sum of £1M is required.
- 2.7 As with any investment there is a risk the investment will not perform as expected and fail to generate sufficient returns for periods during the 80-year management period. Therefore it is recommended that a further £100,000 is saved in a ring-fenced high-interest account to provide a back-up fund for annual management costs should the investment perform poorly in any period or if there are exceptional capital replacement costs (e.g. after a flood event) – minimising the risk of additional funding being required at a later date.
- 2.8 The total cost of an investment to fund the management of Clyst Meadows in perpetuity is therefore estimated at £1.1M. (Note that this investment is based on 2025 estimates of financial performance and are likely to vary depending on market performance.)

### **3 Proposed Options**

- 3.1 In the context of the updated investment cost, financial risks and LGR timeline set out above, officers have considered the following 3 options.

#### **Option 1**

Proceed with Strategic Planning Committee's recommendation to fund management of Clyst Meadows through an annual contribution of £40k from CIL for the first 3 years (until 2028) and prepare a further report, at such a time as to ensure continuity of management from 2028 to consider future, in-perpetuity, funding for the management of Clyst Meadows.

#### **Option 2**

Extend Strategic Planning Committee's recommendation to fund management of Clyst Meadows through an annual contribution of £40k from CIL, including an annual increase in line with inflation, for 5 years (until after the formation of the new authority) and to prepare a further report at such a time as to ensure continuity of management from 2030 to consider future, in-perpetuity, funding for the management of Clyst Meadows.

#### **Option 3**

Review Strategic Planning Committee's recommendation and create an investment fund of £1.1m, funded from CIL, to secure the in-perpetuity funding for the management of Clyst from 2026.

- 3.2 Having considered the risks and timescale, and in the context of reduced investment costs, Officers recommend that an earlier decision to set up the in-perpetuity investment would minimise the financial risk to the Council, secure the long-term management of the SANG and reduce future pressure on CIL for Habitat Regulations mitigation.
- 3.3 This report therefore asks Cabinet to review Strategic Planning Committee's recommendation to fund management costs at Clyst Meadows through an annual contribution of £40k from CIL for 3 years and approve creation of an investment fund of £1.1m, funded from CIL, to secure the in-perpetuity funding for the management of Clyst Meadows.

### **4. Future Strategic SANG delivery and maintenance costs**

- 4.1 Members are also asked to note that the potential future costs of delivery and management for Strategic SANG across the Habitat Regulations Partnership are likely to be significant and require additional CIL funding.
- 4.2 Officers are preparing a Strategic SANG Delivery Strategy (2025-2040) which will set out the SANG required to mitigate the impact of consented residential development and further housing identified in the current and emerging Local Plans on the Exe Estuary and the East Devon Pebblebed Heaths Special Protection Areas (SPA's).
- 4.3 Currently 8.6% of East Devon's CIL is top sliced to fund Habitat Regulations Infrastructure. Future costs are estimated to be in the order of £400,000 per annum – which will equate to approximately 20% of forecast CIL receipts over the next 5 years. (Exeter City Council and Teignbridge District Council will also need to proportionately contribute to the Strategic SANG Delivery Strategy.) A future report will be brought to Members to present the Strategic SANG Delivery Strategy and estimated costs.
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### **Financial implications:**

The financial details are contained within the report. There is liability for the Council to provide funding in perpetuity to maintain the SANG to an appropriate standard which is estimated at a cost of £40k per annum (excluding inflation). This liability should not be a direct call on the Council's finances but needs to be met from CIL, in whatever form that takes either an annual payment or through an investment. Appropriate due diligence has been undertaken to ensure the proposed investment will meet the funding requirements for the management of Clyst Meadows – with a low financial risk to the Council (albeit that there remains a financial risk from all investments). Delays to setting up the investment may increase the initial funding required (depending upon inflation, fees and investment performance).

### **Legal implications:**

The Council is a Competent Authority, and is legally obliged to secure the mitigation set out in the Habitat Assessment to the Local Plan and meet the requirements of s106 agreements for Cranbrook Phase 1.

If Clyst Meadows SANG is not managed in-perpetuity in, accordance with the SANG Management Plan, we would be in breach of our planning consent and Cranbrook Phase 1 s106. We would also risk Natural England blocking the development of further housing within the district and the potential for legal challenge from Natural England or 3<sup>rd</sup> parties for failing to meet our mitigation requirements (as set out in the SE Devon European Wildlife Sites Mitigation Strategy).

### **ELT Recommendations**

ELT recommends that Members select Option 3 as this represents the lowest financial risk to the authority, and overall is the lowest cost option, and provides certainty in relation to the in-perpetuity management of Clyst Meadows SANG – ensuring the Council meets the Habitat Regulations requirements of the Local Plan and s106 agreements. In addition, this option removes concerns about the requirement for a decision on this issue in early 2028 when the newly created authority will focus on reorganisation and a significant number of other priorities.