

Executive
18 March 2021

Title: Protection of Nesting Birds and associated issues at St Mary's Lands, Warwick

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Portfolio Holder: Cllr Alan Rhead, Neighbourhood Services

Public report

Wards of the District directly affected: Aylesford, Warwick

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: No

Included within the Forward Plan: No

Equality Impact Assessment Undertaken: Not Applicable

Consultation & Community Engagement: Discussions with various groups on the St Mary's Lands Working Party over a 2 year period.

Final Decision: Yes

Accessibility Checked: Yes

Officer/Councillor Approval

Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	26.02.21	Chris Elliot
Head of Service	26.02.21	Julie Lewis
CMT	26.02.21	Chris Elliot, Andrew Jones, Bill Hunt, Dave Barber
Section 151 Officer	26.02.21	Mike Snow
Monitoring Officer	26.02.21	Andrew Jones
Finance	26.02.21	Mike Snow
Portfolio Holder(s)	26.02.21	Cllr Alan Rhead

1. Summary

- 1.1 At the 17th November 2020 Executive Committee was asked to note the recommendation that the Working Party prepare an access strategy to protecting ground nesting birds and identify any additional maintenance costs for subsequent Committee approval.
- 1.2 The ecology report recommended that additional measures are implemented to reduce the impact of disturbance and trampling of ground nesting birds through the use of temporary barriers to protect nesting sites during the breeding season (Mid-February to August).

2. Recommendation

- 2.1 That the results of the St Mary's Lands Working Party's assessment of access be noted and the measures for controlling access to sensitive breeding areas be supported.
- 2.2 That a review after the breeding season be undertaken involving the St Mary's Lands Working Party and the review findings be reported back.
- 2.3 That the Executive reviews the basis of participation of groups on the St Mary's Lands Working Party.
- 2.4 That the St Mary's Lands Working Party's Terms of Reference; mode of working; and, the basis for public participation be reviewed and submitted to the Executive for approval.

3. Reasons for Recommendations

Recommendations 2.1 and 2.2

- 3.1 At its meeting in November 2020 the Executive Committee agreed the following:
 - "2.1 That the Executive reviews the options for the flying hours of model aircraft as set out in Appendix 1 of this report and considers the St Mary's Lands working Party recommendation to adopt the hours recommended by the model flyers with the Working Party's recommended amendment to review the impact after a year.
 - 2.2 Subject to recommendation 2.1 above being agreed, that the hours of operation are made known via the Council website and on-site signage.
 - 2.3 That the results of the St Mary's Lands Working Party's assessment of access be reported back to the Executive for a decision on controlling access to sensitive breeding areas, including the costs of additional barriers / site notices."
- 3.1 This report seeks to follow up on recommendation 2.3 above.

- 3.2 Members will know that St Mary's Lands is a large public open space on the western side of Warwick lying between the edge of town and the countryside leading to the A46. It is an area that falls wholly within the town's Conservation Area; houses a Grade II Listed Building with also the listed Hill Close Gardens immediately adjoining; and, is partly a Local Nature Reserve.
- 3.2 St Mary's Lands is also home to a variety of uses and activities many of which are historic in nature; e.g. racecourse; golf course; football; local community use (Corps of Drums); walking, running, dog walking, wildlife watching, etc. In addition, the area has for over 90 years been used as an area in which people can use to fly model aircraft. This makes it one of the oldest venues, if not the oldest, in the country for flying of model aircraft. It is also one of the oldest locations for a golf club in the country and is the 3rd oldest racecourse in the world.
- 3.3 The improvement of St Mary's Lands area is one of the Council's key projects, the Council having agreed in August 2017 to a Master Plan ([available on the Council's website](#)) for the area as well as a delivery plan which is now being implemented. A significant amount of the elements of the masterplan have now been implemented. The Working Party brings together the organisations involved with the area and is now focusing on the implementation of the Master Plan. Since July 2017 the local association of model aircraft flyers have been represented on the Working Party. In October 2017 a presentation to Working Party was given by the model flyers' representative in support for a re-introduction of the more extensive hours of operation that used to operate prior to the last consideration of this issue by the Council in 2004.
- 3.5 St. Mary's Lands is also an important site for wildlife recognised by its Local Nature Reserve status. A key objective of the masterplan is increasing the site's wildlife value and overall biodiversity. The model aircraft are flown over areas that are used as breeding grounds by ground nesting birds. Whilst it is an offence to intentionally or recklessly disturb at, on or near an 'active' nest under the Wildlife and Countryside Act 1981, the Wildlife Watching group have witnessed unintentional disturbance and the nesting populations at St. Mary's Lands is at best stable. There have been very recent news articles in the Times on this very issue nationally.
- 3.6 Following the November 2017 Executive Committee approval, an ecology study was commissioned immediately afterwards. The ecologist undertook 3-site visits over a 7-month period and reported on its findings in August 2018. The findings were inconclusive in that it could not identify any adverse impacts of model flying but could not confirm that they did not exist. The wildlife group were also concerned that whilst 3-site visits were undertaken, none of these coincided with the beginning of the breeding season (mid-February – early-March). Consequently, it was agreed that a more extensive ecological evaluation covering a full 12-month period would be required. A revised brief for the new survey was agreed and the works tendered. The ecologist was appointed in February 2019 and an interim report was issued in the summer of 2019 and a final report after the 12-month study in March 2020.

- 3.7 The ecology report identified the site as having high-ecology value for nesting birds and these are being affected by a cumulative impact from various disturbances. It identified the model flying having a low to medium disturbance impact. A higher level of disturbance was being made by dogs running into the nesting sites. The cumulative effect of both the model flying and dogs were seen to be detrimental to nesting birds. The ecologist's report therefore recommended some physical restrictions are made to prevent dogs from being able to access the sensitive breeding sites and that the model flying hours were adjusted to give a beginning and end of day periods without interruption from flying. The previous roping off of bird nesting sites offered little protection from dogs and the use of temporary physical barriers combined with site notices will assist in identifying and managing the nesting sites.
- 3.14 It was agreed in November 2020 that an assessment of the potential type and extent of barrier restrictions be undertaken and developed with the Working Party before the next breeding season started in mid-February 2021. Once that information had been collected and it demonstrated no significant issues then a formal public consultation was to be carried out based around site notices and information displays. It was felt at the time that this approach would allow all the issues to be properly examined and considered and this is important given the potential risks that may arise.
- 3.15 However, working up suitable proposals took longer than anticipated and draft proposals were not able to be put to the Working Party till 12th January 2021. The proposal that emerged is set out on **Plan 1** and shows a relatively small area of the St Mary's Lands that would be subject to a temporary barrier for a set period of time. Associated signage is also attached. However, this process meant that there was insufficient time to be able to undertake a formal public consultation prior to undertaking the works. Given the impending nesting season the Chief Executive authorised the operational works to be undertaken. It is however, proposed that the Council review the effects of this proposal with the Working Party, report back and consider proposals for the year 2022 onwards.
- 3.16 Although a wider public consultation was not undertaken there was extensive discussion both at the Working Party meeting in January and by email subsequently. With the exception of the Friends of St Mary's Lands all the other member organisations to the Working Party agreed the proposals, this included the nature conservation interest.
- 3.17 The Friends position has been to deny that there is a problem. It did subsequently raise a different response which was to propose to move the nesting birds site to the "Straight" part of the racecourse, which is west of the Gog Brook. This land is not in the control of the Council and the Jockey Club which does control that land, pointed out the conflict it would have operationally with their use of that land, so it was not felt to be a feasible option. It is also doubtful whether the nesting site could be moved as was being suggested. The Friends group has nevertheless continued to raise objections. Sadly, the Friends have declined an offer for its Management Committee to discuss this and other matters with the Leader of the Council

and the Chief Executive. It is even suggesting now that it will undertake a public consultation of its own volition.

Recommendation 2.3 and 2.4

- 3.18 This suggestion however, and the comments coming from it cannot be taken as credible since the members of the Management Committee of the Friends, other than the Secretary, are not disclosed. This raises a wide issue and so it is proposed therefore that in order that the Working Party representation is clearly accountable that all groups participating should be: recognised and organised by Company or Charitable law or similar legal arrangements; or where that is not the case by disclosing their management arrangements to the Council.
- 3.19 It is felt timely that after operating since late 2015 that the Working Party review its Terms of Reference; its mode of operation; and that how public participation is organised and managed, for consideration and approval by the Executive.

4. Policy Framework

4.1. Fit for the Future (FFF)

The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects. This report shows the way forward for implementing a minor part of one of the Council's Key projects.

4.2 FFF Strands

4.3 External impacts of proposal(s)

People - Health, Homes, Communities – St Mary's Lands enables free to access to a range of opportunities for improved health outcomes with specific reference to physical and mental well-being. The proposal will not impact on this commitment to access to the open space.

Services - Green, Clean, Safe - The Council is committed to maintaining St Mary's Lands and preserving and enhancing public access as well as ensuring the area is well looked after especially given its bio diversity importance. The proposal may have an impact on the bio diversity but the other protective measures may act as appropriate mitigation.

Money- Infrastructure, Enterprise, Employment - The proposal enables an existing recreational opportunity to continue to be enjoyed and so will be beneficial in attracting visitors and so the local economy.

4.4 Internal impacts of the proposal(s)

People - Effective Staff – No impact

Services - Maintain or Improve Services – the proposal recognises customer needs and will improved service provision in line with these

Money - Firm Financial Footing over the Longer Term – the proposal will have minimal impact on the Council's budgetary situation.

4.5 Supporting Strategies

The adopted St Mary's Lands Master Plan is relevant to this issue since it is a key objective to protect and enhance the wildlife value and biodiversity.

4.6 Changes to Existing Policies

Not relevant.

4.7 Impact Assessments – Not relevant.

5. Budgetary Framework

- 5.1 The estimated costs of the temporary barriers plus information notices is circa £2,500 and would be capable of being funded from the capital allocation for the St Mary's Lands works. Otherwise there is no additional budgetary implication of this proposal. This is a one-off cost, as the barriers can be taken down, stored and re-erected the following year.

6. Risks

- 6.1 Not recognising the need to protect the Local Nature Reserve could result in the denudation of the bio diversity and loss of a rare bird species in the District.

7. Alternative Option(s) considered

- 7.1 The Council could decide to take out the measures but given that the breeding season has started this is unadvisable. The Council could stick with roping off the area, the measures that is has previously adopted, but the ropes are often ignored and proved to be insufficient for the purpose.

8. Background

- 8.1 The St Mary's Lands Working Party which has been operating since late 2015 in its current form is made up of representatives as follows:

Warwick Town Council – 2 members
Warwick District Council – 5 members but only 2 names given
Warwickshire County Council – the ward member
Jockey Club – one person
Racing Club Warwick – one person
Hill Close Gardens Trust – one person
Warwick Golf Centre – one person
Corps of Drums – one person
Model Aircraft Flying Group – one person

Friends of St Mary's Lands – one person
Warwick Society – one person
Wildlife Watching Group – one person

- 8.2 Support is provided by Plincke Landscape who have acted as Project Co-ordinator and by the Chief Executive with other Council officers as required. Chairing has been rotational though rather ad hoc.
- 8.3 The Working Party has operated without a formal set of terms of reference but largely in an understood way of being able to discuss issues in confidence. It is not a Council Committee and so has no formal authority, rather it has influence. Any conclusions/recommendations it makes are fed either into Council officer delegated decisions; or into reports to the Council's Executive; or, into the decision making processes of the other participating bodies.