

Title: St Mary's Lands, Warwick
Lead Officer: Chris Elliott
Portfolio Holder: Councillor Liam Bartlett
Wards of the District directly affected: Aylesford, Warwick

Summary

This report:

- a) Sets out the evaluation of the nesting bird protection measures undertaken last year, other comments received and proposes that the measures be continued for the next two years to allow for a longer period to review the impact.
- b) Sets out the review of the terms of reference and participation on the Working Party and requires a further report on public participation to be prepared for further discussion.
- c) Sets out the principle for all of the Council's work with groups on governance requirements.

Recommendation(s)

- (1) That Cabinet notes the ecologist's report commissioned by the Council, the comments of the Friends of St Mary's Lands (FoSML) and those of other groups (Appendices 2,3,3a and 4).
 - (2) That Cabinet agrees to continue the protection measures as set out in Plan 1 to be implemented and be continued for a further 2 years but are then subject to a full evaluation and review.
 - (3) That Cabinet agree the revised terms of reference for the St Mary's Lands Working Party attached at Appendix 5.
 - (4) That Cabinet agree that all organisations participating or working with the Council on projects or partnerships, for example, such as the St Mary's Lands Working Party (SMLWP) are asked to disclose their governance arrangements to ensure that they are open and transparent, and that non-disclosure of such arrangements will mean that such groups are excluded from participation.
 - (5) That Cabinet ask that a further report on how the SMLWP engages with the wider community be brought forward for consideration.
-

1 Background/Information

1.1 In March 2021 the Cabinet received a report which agreed that:

"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."

That report is attached as Appendix 1

- 1.2 The background to this decision was the need to introduce measures to protect ground nesting birds from disturbance over their nesting and chick rearing period (broadly February to August) on part of St Mary's Lands by introducing temporary barriers to people and dogs. Plan 1 shows the areas protected. Plan 2 shows the proposed protected measures in the context of the whole of St Mary's Lands.
- 1.3 Prior to implementing the measures, advice was sought from Warwickshire Wildlife Trust, who supported the initial proposals. Karl Curtis, The Director of Reserves and Community Engagement at WWT, stated:

"To successfully breed, these species need wide areas of long grass, which aren't bordered too closely with other vegetation such as trees and hedges, the area chosen is therefore the perfect habitat. It's essential that space is made for nature and by protecting the small area from disturbance for the breeding season means that local people's visit to St Mary's Land is enriched with the sweet song of Skylarks, just a stone's throw from Warwick town centre."
- 1.4 This measure was introduced and by and large was received well. The ecologist who carried out the initial evaluation undertook some repeat visits, and their subsequent evaluation report is attached at Appendix 2. It recommends a continuation of the protective measures as they have been accompanied by an increase in breeding pairs.
- 1.5 However, the Friends of St Mary's Lands (FOSML) have challenged the proposals and have produced their own report. The report was presented to the Leader, Portfolio Holder and the Chief Executive and is attached at Appendix 3 and a response to it is attached at Appendix 3a. In contrast though the Warwick Natural History Society (Appendix 4) support the continuation of measures advised by the ecologist's report as do the representative of the local wildlife group participating on the SMLWP. The professional opinion of the Council officers responsible for the management of the area also support the measures.
- 1.6 The portfolio holder has offered to host a site visit to discuss the differing views with a representative of the FOSML and the ecologist to see if an accommodation could be reached. However, the FOSML initially declined to participate but then suggested a meeting at short notice which the portfolio holder undertook which the ecologist advising the Council was not able to be present. This site meeting generated some questions that will be responded to via an addendum.
- 1.7 Given that the period when measures need to be introduced is near it is proposed that the protective measures be continued for this year and next, after which a full review is proposed. This will allow for a wider and longer-term

assessment of the ecological impact and give a proper opportunity for public consultation based on evidence.

- 1.8 The decision last March also required a review of the terms of reference and governance generally of the Working Party. In addition, the Working Party has been operating since 2015 and has largely worked well but the time has perhaps come to review and formalize it. It is proposed that the draft terms of reference attached at Appendix 5 be agreed. It has been circulated to all groups and their views have been sought and will be reported.
- 1.9 The focus of the SMLWP moving forward is to oversee and co-ordinate the elements of the masterplan rather than focusing on the day-to-day maintenance issues. It is proposed that these are directed toward the Portfolio holder and/or the 2 ward Councillors supported by the appropriate officers with the capacity to refer to the Working Party if the issue(s) is of wider significance.
- 1.10 The Working Party last met in January 2021. The papers for that meeting have always been treated as private and confidential given that it is an advisory body but sadly at the last meeting one party decided to make public a draft paper the day after it had been discussed. The name of the Chair and other officers of that Group are not publicly identifiable to discuss this matter, and this raises an issue of openness and transparency especially given the emphasis upon the Council to behave this way.
- 1.11 The Council works with many groups across the District, and many have registered as Charities, some run web sites with the minutes of their meetings published and are open and transparent about their governance arrangements and their elected officers. This however is not universal.
- 1.12 It is proposed that where community groups are working with the Council that all participating groups and their representatives provide details of their Governance arrangements. If such details are not offered, then such groups should not be allowed to participate in the Council's deliberations until they do so. Some groups will however be new and inexperienced and will require assistance to put effective governance in place and this support is available.
- 1.13 There is still an outstanding issue to conclude on how the Working Party engages with the wider community as it takes forward the Masterplan proposals and it is proposed that this be subject to a further report.

2 Alternative Options available to Cabinet

- 2.1 The Cabinet could decide to vary the protection measures or not undertake any albeit that carries potential reputational and legal implications.
- 2.2 The Cabinet could also vary or not require terms of reference or not seek to address the governance issues of the Working Party.
- 2.3 The Cabinet could decide to disband the Working Party and take forward the masterplan proposals separately.
- 2.4 None of the above alternative options above are recommended.

3 Consultation and Member's comments

- 3.1 The feedback on the proposals is set out as appendices to this report and views on the terms of reference and on the content of the draft report will be circulated.

3.2 The portfolio holder is also one of the local ward Councillors and has had input into the issues covered in this report.

4 Implications of the proposal

4.1 Legal/Human Rights Implications

4.1.1 There are no legal or human rights implications of the proposals aside from the implications of not protecting the ground nesting birds.

4.2 Financial

4.3 The cost of the measures is circa £1,000 plus VAT and the review is £1,100 (to be undertaken in 2023/24 year) which can be funded from the St Mary's Lands budget.

4.4 Council Plan

4.4.1 The St Mary's Lands Working Party has been in place to help create and then implement the masterplan for the St Mary's Lands open space. Its effective governance is therefore important to the delivery of the masterplan. The work to date has already improved the open space and this accords with the Council's objectives.

4.5 Environmental/Climate Change Implications

The subject matter of this report doesn't have any direct impact on Climate Change, but the protection measures are part of the Council's attempts to protect and improve the biodiversity of the District.

4.6 Analysis of the effects on Equality

4.6.1 Not relevant.

4.7 Data Protection

4.7.1 There are no data protection issues arising from the proposals.

4.8 Health and Wellbeing

4.8.1 The proposals will enable all the public footpaths and tracks to remain open all year so that people (and their dogs) can continue to take walks which contribute to their health and well-being.

5 Risk Assessment

5.1 There is a legal risk in not taking effective measures to ensure the protection of ground nesting birds that have legal protection. There is also a reputational risk in not ensuring effective governance and that participatory bodies have clear lines of accountability. This report seeks to address these risks with appropriate mitigation measures.

6 Conclusion/Reasons for the Recommendation

6.1 This report asks Cabinet to note the impact from last year, approve the proposals to ensure protection measures are in place for ground nesting birds for the next 2 seasons and that the governance of the Working Party is updated to ensure that it remains effective.

Appendices

Appendix 1: Report of March 2021

Appendix 2: Ecologists Evaluation Report

Appendix 3: FoSML Report on Proposals

Appendix 3a: Response to FoSML Report

Appendix 4: Letter from Warwick Natural History Society

Appendix 5: SMLWP – Proposed Terms of Reference

Plan 1: Map showing location of measures

Plan 2: Maps showing measures in context of the whole of St Mary's Lands

Appendix 1 – March 2021 Report

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, 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 ([link to be inserted](#)) for the area as well as a delivery plan which is now being 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 group have witnessed unintentional disturbance and the nesting populations at St. Mary's Lands is at best stable.

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 it 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 Group – one person

Friends of St Mary's Lands – one person

Warwick Society – one person

Nature Conservation 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. Chaining 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. Any conclusions/recommendations it makes are fed either into Council officer delegated decisions; into reports to the Council's Executive or into the decision making processes of the other participating bodies.

Report Information Sheet

Please complete and submit to Democratic Services with draft report

Committee/Date		
Title of report		
Consultations undertaken		
Consultee *required	Date	Details of consultation / comments received
Ward Member(s)		
Portfolio Holder WDC & SDC *		
Financial Services *		

Legal Services *		
Other Services		
Chief Executive(s)		
Head of Service(s)		
Section 151 Officer		
Monitoring Officer		
CMT (WDC)		
Leadership Co-ordination Group (WDC)		
Other organisations		
Final decision by this Committee or rec to another Ctte/Council?	Yes	Recommendation to: CabinetCommittee
Contrary to Policy/Budget framework	No	
Does this report contain exempt info/Confidential? If so, which paragraph(s)?	No	
Does this report relate to a key decision (referred to in the Cabinet Forward Plan)?	Yes	
Accessibility Checked?		