

Open Report on behalf of Andy Gutherson, Interim Executive Director of Place

Report to:	Councillor E J Poll, Executive Councillor for Commercial and Environmental Management
Date:	Between 26 April to 10 May 2019
Subject:	Declaration of Lincolnshire County Council (Lincolnshire Coastal Country Park) Local Nature Reserve no 1 (2019)
Decision Reference:	I017961
Key decision?	No

Summary:

To secure the Executive Councillor's approval to declare Lincolnshire County Council (Lincolnshire Coastal Country Park) Local Reserve No 1 ("the Proposed Reserve") a Local Nature Reserve under the National Parks and Access to the Countryside Act 1949, section 21.

Recommendation(s):

That the Executive Councillor for Commercial and Environmental Management authorises the Chief Executive to enter into a declaration of the Proposed Reserve as a Local Nature Reserve and all other such steps as are necessary to achieve this.

Alternatives Considered:

1. None

Reasons for Recommendation:

The declaration of the Proposed Reserve as a Local Nature Reserve ("LNR") is part of the work of Environmental Services to benefit the community, visitors and wildlife. It will contribute to a sustainable, varied and attractive coastal landscape, rich in wildlife and attractive to visitors and residents in every season.

1. Background

As part of the aims of delivering the Coastal County Park Project Lincolnshire County Council (LCC) is committed to providing a high quality natural environment and the designation of this LCC owned land as a Local Nature Reserve meets that aim.

LNRs

LNRs are for both people and nature - they are places with wildlife or geological features that are of special interest locally. Through good management it is possible to give people opportunities to study and learn about them or simply enjoy and have contact with nature. There are over 1000 LNRs in England ranging from windswept coastal headlands, ancient woodlands and flower meadows to former inner city railways, long abandoned landfill sites and industrial areas. In total they cover over 40,000 hectares, forming an impressive natural resource which makes an important contribution to England's biodiversity. However, in Lincolnshire (excluding North and North East Lincolnshire), LNRs are comparatively scarce with only 16 recognised sites totalling 367.61 ha.

LNR designation serves to:

- increase community awareness and enjoyment of the natural environment
- provide an ideal environment for everyone to learn about and study nature
- build relationships between local authorities, national and local nature conservation organisations and local people
- protect wildlife habitats and natural features
- offer a positive use for land which local authorities would prefer to be left undeveloped and make it possible to apply byelaws which can help in managing and protecting the site

Legal Power to declare a Local Nature Reserve

Section 21 of the National Parks and Access to the Countryside Act 1949 gives local authorities the power to acquire, declare and manage nature reserves.

The responsibility for selecting, acquiring and making arrangements for the management of LNRs lies with local authorities. Section 19 of the 1949 Act sets out the procedures for the declaration of nature reserves. Declaration establishes formal proof of the LNR and informs the public of its existence.

Environmental Services has consulted Natural England and therefore may legally declare the Proposed Reserve a LNR.

Ownership

All of the Proposed Reserve was acquired on a freehold title basis by Lindsey County Council as a result of the Sandhill's Act. It was perceived that uncontrolled development along 40 km the Lincolnshire coastline was having a detrimental effect on the area. In 1932 parliament passed the Lindsey County Council

(Sandhills) Act, which conferred unprecedented powers to secure the optimum use and management of the sand dunes by means of planning controls and land acquisition. Following local government reorganisation in 1974 Lincolnshire County Council became the successor in title to Lindsey County Council and therefore became freehold owner of the Proposed Reserve. This ownership is nonetheless still subject to the requirements of the said 1932 Act and including those in Section 9 of the said 1932 Act summarised as follows:

Section 9 – Controlled Sandhills to be an open space

The County Council shall have rights, powers and authorities under this Act but shall treat the lands as if the Sandhills were vested in them as an open space

The County Council must submit to the Secretary of State or the Minister of Health and by-laws made under the Open Spaces Act 1906 and at the same time send to the Minister of Agriculture and Fisheries"

Management of the Proposed Reserve must continue consistently with the said Sandhills Act in addition to the legislative requirements should the Proposed Reserve be declared a LNR.

One consequence of the Proposed Reserve being land acquired under the Sandhills Act 1932 is the deeming of what is defined as "Controlled Sandhills" as open space. Where this is the case the Council may not take any decision on a proposed disposal (including for example a lease to an organisation for management of land proposed as a LNR) without first complying with the open space advertisement obligations in section 123 (2A) of the Local Government Act 1972. The required advert notifies intention to dispose and indicates an address for communication of objections. Any objections received must be considered by the Council before any decision as to a proposed disposal is taken.

Management plan of Lincolnshire County Council

The Proposed Reserve is situated within the Lincolnshire Coastal Country Park between Chapel St Leonards and Sandilands and extends to 58.75 ha. See Appendix A, Location map. The proposed area includes beach, sand dunes and wetland habitats. It also contains several coastal access points with car parking, public toilets and an all ability track. The North Sea Observatory lies at the southern end and the England Coast Path runs its length.

The CCP Management Plan (Appendix B) and The access, interpretation and community plan (Appendix C) contain a full description of the sites value for people and wildlife and details how it will be cared for over the coming years.

Official Declaration

If the decision to declare the Proposed Reserve as an LNR is approved, a LNR declaration will be sealed by Lincolnshire County Council in due course.

Creation of byelaws

As there will be general access to the Proposed Reserve it may be advisable to establish by-laws to provide support for any staff or the police in controlling undesirable and unacceptable activities. Once the Proposed Reserve has been declared a LNR the Lincolnshire County Council may decide to make by-laws to protect the Proposed Reserve. Under the Council's constitution by-laws must be made by the full Council. Thereafter, before they can be implemented by-laws must be confirmed by the Secretary of State.

Legal Issues

Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- * Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- * Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- * Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- * Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- * Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- * Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding

Compliance with the duties in section 149 may involve treating some persons more favourably than others

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is

identified consideration must be given to measures to avoid that impact as part of the decision making process

An Equality Impact Analysis has been undertaken; see Appendix D which identifies how the Councils Equality Act duty has been taken into account.

Joint Strategic Needs Analysis (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision

The JSNA and JHWS have been taken into account in preparing this report. The declaration of this LNR will contribute to achieving the JSNA priority – physical activity through the provision of accessible public open space and volunteer opportunities.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area

Lincolnshire County Council currently actively manages this land and works closely with the Police and other Local Authorities to reduce prevent crime and disorder. The declaration of the LNR will have no impact on this approach.

2. Conclusion

The Proposed Reserve has been assessed by Lincolnshire County Council's Environmental Services and Natural England. It is deemed to meet the criteria for Local Nature Reserves.

3. Legal Comments:

Under section 21 of the National Parks and Access to the Countryside Act 1949 as amended by schedule 11 of the Natural Environment and Rural Communities Act 2006 the Council has power to declare Lincolnshire County Council (Lincolnshire Coastal Country Park) Local Nature Reserve No 1 (2018) as a Local Nature Reserve.

Provided it is within the budget the recommendation is lawful and within the remit of the Executive Councillor for Commercial and Environmental Management.

4. Resource Comments:

There are no financial implications arising from acceptance of the recommendation in this report.

5. Consultation

a) Has Local Member Been Consulted?

Yes

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

This has not been considered by a scrutiny committee.

d) Policy Proofing Actions Required

None

6. Appendices

These are listed below and attached at the back of the report	
Appendix A	Location map
Appendix B	CCP Management Plan
Appendix C	CCP Access, interpretation and community plan
Appendix D	Equality impact analysis

7. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Matthew Davey, who can be contacted on 01522 552349 or matthew.davey@lincolnshire.gov.uk .