



<u>Committee and Date</u>
Cabinet
14 th August

<u>Item</u>
Public

Delegation of of Powers to Ellesmere Town Council in respect of making a declaration of Birch Road Recreation Area and Pond, Ellesmere as a Local Nature Reserve

Responsible Officer Clare Fildes, Interim Head of Culture and Heritage
e-mail: Clare.fildes@shropshire.gov.uk Tel: 01743 255067

1. Summary

- 1.1 Ellesmere Town Council owns the Birch Road Recreation Area and Pond and would like to designate the area a Local Nature Reserve.
- 1.2 Shropshire Council has the power under the 1949 National Parks and Access to the Countryside Act 1949 to dedicate land as a local nature reserve. This is an executive function for the purposes of the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and accordingly can be delegated to another local authority by Cabinet under sections 13 and 19 of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012. Ellesmere Town Council is also required to formally accept the delegation.
- 1.3 It is considered that it is beneficial to dedicate Birch Road Recreation Area as an LNR because it will:
 - Improve local quality of life, health and wellbeing.
 - Create opportunities for education, enjoyment and recreation, helping attract visitors and preserves links with the local community's past.
 - Safeguard local ecosystem services – the benefits nature provides for people – such as reducing carbon in the atmosphere or absorbing surface water.
 - Protect and enhance the natural heritage as a key part of building sustainable communities.
 - Raise the nature conservation and recreation interest.
 - Give recognition of the site's wildlife value.
 - Give recognition of local community involvement.
 - Offer protection within the planning system from future development.
- 1.4 Ellesmere Town Council has been working with Shropshire Wildlife Trust in respect of this proposal to ensure nature conservation and ecosystem services are safeguarded.
- 1.5 The anticipated benefits if a Local Nature Reserve dedication in this location lead to the conclusion that it would be appropriate to formally delegate the Council's power to make a Local Nature Reserve dedication in accordance with section 21 of the

National Parks and Access to the Countryside Act in respect of the land known as Birch Road Recreation Area and Pond, Ellesmere to Ellesmere Town Council.

- 1.6 Ellesmere Town Council will therefore also be responsible for undertaking the necessary formalities to give effect to the dedication.

2. Recommendations

- 2.1 It is recommended that Cabinet delegate the power to dedicate Birch Road Recreation Area to Ellesmere Town Council.

REPORT

3. Risk Assessment and Opportunities Appraisal

- 3.1 Along with the benefits identified above, LNR designation meets the following Shropshire Council strategic outcomes set out in the following Strategies:
- Shropshire's Great Outdoor Strategy 2018-2028
 - Shropshire's Economic Growth Strategy- developing the visitor economy, agricultural support post - Brexit, developing skills, improving Quality of Life and ensuring attractive environments.
 - Shropshire's Local Plan - Better planning of meaningful greenspace and non-motorised access, new destination country parks, protecting environmentally-sensitive sites.
 - Shropshire's Health and Wellbeing Strategy - harnessing the power of the outdoors to increase physical activity, address mental health issues and help people stay independent for longer.
 - Local Transport Plan for Shropshire - encouraging walking and cycling.
 - Shropshire Council Corporate Plan - helping deliver across the board: resilient communities, healthy people and prosperous economy.

There are no discernible risks to Shropshire Council of making this delegation.

4. Financial Implications

- 4.1 There are no financial implications of the delegation beyond staff time to create this report. Ellesmere Town Council will be responsible for making a formal resolution to accept the delegation from Shropshire Council and a separate resolution to make the dedication. They will then be responsible for undertaking all relevant procedures with Natural England etc to give effect to the dedication.

5. Background

- 5.1 Schedule 11 (12) of the Natural Environment and Rural Communities Act 2006, which replaced Section 15 of the National Parks and Access to the Countryside Act 1949 (1949 Act), describes a 'nature reserve' as:
- land managed solely for a conservation purpose, or

- land managed not only for a conservation purpose but also for a recreational purpose, if the management of the land for the recreational purpose does not compromise its management for the conservation purpose.

5.2 Land is managed for a conservation purpose if it is managed for:

- providing, under suitable conditions and control, special opportunities for the study of, and research into, matters relating to the fauna and flora of Great Britain and the physical conditions in which they live, and for the study of geological and physiographical features of special interest in the area; or
- preserving flora, fauna, or geological or physiographical features of special interest in the area or for both these purposes.

5.3 Land is managed for a recreational purpose if it is managed for the purpose of providing opportunities for the enjoyment of nature or for open-air recreation.

5.4 The power to dedicate a Local Nature Reserve rests with Shropshire Council as the principal authority under the 1949 Act. However, under that 1949 Act, the local authority must first have or acquire a legal interest in the land in question through ownership, lease or an agreement with the owners and occupiers involved. Shropshire Council does not have a legal interest in the Birch Road Recreation Area and Pond, and therefore cannot dedicate it as a Local Nature Reserve.

5.5 Shropshire Council has powers under Sections 13 and 19 of the Local Government Act 2000 and the Local Authorities and (Arrangements for the Discharge of Functions) (England) Regulations 2012 to delegate its functions in this regard to a parish, town or community council. The Council's Constitution allows Cabinet to delegate Cabinet functions to another local authority or Cabinet of another local authority. Declaration of a Local Nature Reserve is an executive function and accordingly can be delegated to another local authority by Cabinet.

5.6 The Council receiving the delegation will need to formally resolve to accept the delegation and then make the dedication and undertake the necessary formalities with Natural England. Ellesmere Town Council will do this by tabling on the agenda for a Council meeting and formally recording the decision. They have the relevant applications for Natural England ready to submit once delegation is agreed.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder)
Cllr Lezley Picton

Local Member
Cllr Ann Hartley

Appendices