

# Brighton & Hove City Council

## Environment Transport & Sustainability Committee

## Agenda Item 96

**Subject:** Wilding Waterhall – Update, Access and LNR Declaration

**Date of meeting:** 15<sup>th</sup> March 2022

**Report of:** Executive Director, Economy, Environment & Culture

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**Ward(s) affected:** Withdean

### For general release

#### 1. Purpose of the report and policy context

- 1.1 The purpose of this report is to provide an update on progress at Waterhall, to ask the committee to consider the level of public access that should be allowed across the site and its designation as a Local Nature Reserve.
- 1.2 It also serves to advise the Committee on the implications of formally designating Waterhall (former) Golf Course as statutory access land as requested by the Tourism, Equalities, Communities & Culture Committee on 24th September 2020
- 1.3 Wilding Waterhall is a key part of the Council's response to the Biodiversity and Climate Emergencies and contributes to the councils Carbon Neutral 2030 programme

#### 2. Recommendations

- 2.1 That Committee agrees that the Wilding Waterhall project area ("the Wilding Waterhall Project Area") should consist of the ex-golf course land and the adjoining land being managed for wildlife under the councils Higher Level Stewardship Agreement, as shown on Appendix 1.
- 2.2 That Committee agrees that the Wilding Waterhall Project Area should be dedicated as access land and delegates authority to the Executive Director Economy, Environment & Culture to take all steps in relation thereto
- 2.3 That a further report be brought to this committee if in the view of the Waterhall Management Advisory Group ongoing monitoring is showing that the agreed public access is having an unacceptable impact on the site's biodiversity
- 2.4 That the Committee delegates authority to the Executive Director Economy, Environment & Culture to take the steps necessary to include the Wilding Waterhall Project Area within the council's dog control zone

- 2.5 That Committee agrees that the Wilding Waterhall Project Area should be declared as a Local Nature Reserve and delegates authority to the Executive Director Economy, Environment & Culture to take all steps in relation thereto

### **3. Context and background information**

#### **Project Update**

- 3.1 Carbon Neutral Funding has been secured to cover the cost of perimeter fencing, the provision of a Water Supply and the purchase of NoFence GPS collars
- 3.2 National Heritage Lottery Funding has been secured as part of the Changing Chalk partnership bid. This provides funding for an Education Ranger (0.8 FTE for which recruitment is underway) with an intended start date of April 1<sup>st</sup>, an interpretation budget and the running costs for the NoFence GPS collars
- 3.3 Countryside Stewardship has been applied for to pay for the grazing starting on January 1<sup>st</sup> 2022 but confirmation of this funding has been delayed. There is a high level of confidence that this funding will be agreed but the director of Economy, Environment & Culture has underwritten this cost as a condition for the Heritage Lottery Funding so the project is not being held up in waiting for it.
- 3.4 A contract has been awarded to the National Trust tenants at Saddlescombe Farm to provide the grazing starting in mid April 2022.
- 3.5 An extensive program of biodiversity monitoring has been taking place largely due to the voluntary effort of local professional Ecologists, and with some funding from Changing Chalk.
- 3.6 A program of events is being organised for the last week in May (half term) as part of a formal launch of the project

#### **Site Definition**

- 3.7 "Waterhall" should be considered to be the ex-golf course and the adjoining land already under conservation management under the council's Higher Level Stewardship agreement, see map, appendix 1.
- 3.8 This land is all part of the same Local Wildlife Site.
- 3.9 While the ex-golf course will initially be under a separate agreement from the adjoining land it is expected that the land will all be put into one agreement when the council is invited to apply for the new agri-environmental scheme (The Environment Land Management Scheme) probably in 2024/5
- 3.10 The intention is to manage all this land as one contiguous block. Bigger sites are more robust and hold a greater variety of species as identified in the

Lawton Report. The Lawton report was a 2010 independent review of the State of nature for the government that led to the Nature Improvement Areas project which highlighted that small disjointed nature reserves are not going to save our biodiversity <https://www.gov.uk/government/news/making-space-for-nature-a-review-of-englands-wildlife-sites-published-today>

3.11 This gives a total area for the Wilding Waterhall project of 90Ha (222 Acres)

### **Access**

3.12 While the golf course was operational public access to the site was only via the public rights of way network. The purpose of this report is to consider whether further public access should be granted.

3.13 Existing access across the golf course is via one public bridleway, one public footpath and a permissive path. 19 Acres and the Conservation Area (see map, Appendix 1) have had de facto public access or some time.

3.14 There is a strong feeling that council owned land should be accessible to the public of Brighton & Hove

- i) As evidence from submissions during the City Downland Estate Plan consultation.
- ii) The Local Access Forum, a statutory consultee on public access have advised the council that there should be more provision of statutory open access around the city, particularly at Waterhall.
- iii) The Waterhall Management Group supported dedicated statutory open access across Waterhall.

3.15 Statutory Open Access can be dedicated under the Countryside and Rights of Way Act 2000. Appendix 2 sets out government guidance on Open Access. Dedication has the advantage of making the land visible on Ordnance Survey maps, so the public are aware that they have access. It limits the council's liability as on non-dedicated land the council could be held responsible for injuries caused by natural features such as trees, ponds or from people climbing fences etc. see appendix 2

3.16 Access to the countryside has been shown to have positive health benefits:

- i) There is a growing body of evidence to show that time spent in open green spaces provides significant benefits to physical, mental, and social health, and disease prevention ([2005 A Countryside for Health & Wellbeing](#))
- ii) Access to good quality green open spaces has a disproportionately positive effect on the least well off in society and can be used to address health inequalities (Health and Natural Environments - An evidence based information pack, March 2012)
- iii) There is strong evidence that the public demand for access to green spaces and outdoor participation opportunities is significant. Sport England figures showed that 8.9m people nationally are already active outdoors but 2.8m want to do more and 18.2m of inactive people would

like to participate in or re-engage with outdoor activities in the next 12 months (2015, Outdoors participation Report, Sport England)

- 3.17 The downside of dedicating open access is that it could lead to associated environmental damage, it is likely to impact biodiversity, it potentially limits future options and could reduce future rental income as tenants may be put off by having public access.
- 3.18 The Waterhall Management Advisory Group (which contains three professional ecologists) discussed the potential for environmental damage:
- i) They felt that grasslands can be resilient to public access especially if negative impacts are actively managed by the use of positive signage see “Manage public access on your land” in appendix 2
  - ii) There could be disturbance impacts on ground nesting birds like skylarks and other species, but it was felt that the improvement in grassland and general habitat management along with positive signage should see an increase in numbers from those under the previous golf course management
  - iii) With respect to non-grassland habitats, they felt positive management and signage should help mitigate any negative effects of increased access
  - iv) However, allowing public access will have some negative impact on biodiversity on all habitats, but this has to be weighed against the positive benefit from increased engagement and understanding of the biodiversity emergency and support for the project
  - v) If continued monitoring indicates that there is a serious impact on biodiversity a further report should be submitted to this committee to consider approaching the relevant authority (the National Park) to restrict public access, see appendix 2
- 3.19 It is highly unlikely that the importance of managing species-rich grasslands for biodiversity is going to decrease in the foreseeable future. Dedication as Open Access land is therefore unlikely to practically limit future management.
- 3.20 On less biodiverse grassland it may limit future options for example conversion to food growing, but development is permitted with appropriate planning permission see “Development on your land” in appendix 2.
- 3.21 With regard to impact on rental income, this is difficult to quantify but should be considered as part of the overall natural capital value of the site. Savings from improved water quality, and from improved public health through improved mental and physical wellbeing of those enjoying the open access (most notably, local communities) should be considered. While there is a potential for a reduction in rental value (where the land is being rented) with agricultural support generally moving towards paying for “public goods and ecosystems services” as well as the potential to obtain funding from Biodiversity Net Gain there is equally a potential that well managed species-rich habitats with public access may attract higher levels of appreciation and overall income

## Dogs

- 3.22 Increasing de-facto public access has brought an increase in the use of the site by dog walkers and in particular professional dog walkers with large groups of dogs
- 3.23 This is an issue due to:
- i) Disturbance to wildlife. Monitoring of the adjacent land at Waterhall has shown a decline in target species (dormice and adders) with increasing dog numbers since the golf course ceased operation
  - ii) Increased amounts of dog excrement have been reported spoiling the enjoyment of the site for other users
  - iii) Nutrient enrichment from dog excrement. A recent study [Nutrient fertilization by dogs in peri-urban ecosystems](#) has shown that dog excrement is particularly damaging to nutrient poor species rich grassland such as at Waterhall
  - iv) Many groups of large numbers of dogs discourages individual dog walkers from using the site as they feel their individual dogs are threatened by “pack mentality” of the groups of dogs
  - v) Conflict between grazing livestock and dogs. The presence of dogs causes stress to livestock as dogs are perceived as predators. The potential for dog attacks on the livestock increases with the number of dogs being walk “off lead” on the site
- 3.24 The dedication of open access land brings with it a reinforcement of controls on dogs specifying that dogs “should be kept on a short lead of no more than 2 meters between 1 March and 31 July each year (during the main bird breeding season) and at all times near livestock”. As the site will be maintained via the use of grazing livestock it is envisioned that it would be applicable to keep dogs on a lead all year round at this site. Monitoring has shown that increased numbers of off lead dogs has coincided with declines in target species on the adjoining conservation land since the closure of the golf course. This will therefore benefit the biodiversity of the site.
- 3.25 While open access controls will greatly reduce the conflict between off lead dogs and wildlife it is recommended that the council extend its Dog Control Orders to require dogs to be kept on short leads at all times while on the site.
- 3.26 This will allow a consistent message to be disseminated and reduce disturbance to species such as dormice outside the bird nesting season and limit the opportunity for confusion as to whether or not dogs are being walked near livestock.
- 3.27 There is still plenty of opportunities to walk dogs off lead in the area less than a mile from Waterhall. Three Cornered Copse, Coney Hill Woodland and Waterhall and Braypool Recreation Grounds are unrestricted and Green Ridge only has restrictions when it is being grazed

- 3.28 The dedicated Waterhall Ranger and the Education Ranger funded through the Changing Chalk National Lottery Heritage Fund will work with the public so that they understand their responsibilities in respect of dogs, and to better their understanding of the importance of biodiversity of their / our landscape.

### **Local Nature Reserve**

- 3.29 As the site is being managed to maximise biodiversity dedication as a Local Nature Reserve would seem a logical step. This will help to send a message to the public that this site is being prioritised as a key part of the council's response to the biodiversity emergency

## **4. Analysis and consideration of alternative options**

- 4.1 Dog control and access could be managed through a dog control order requiring dogs to be on leads and a network of permissive paths rather than dedication of open access.
- 4.2 However not declaring Waterhall as Open Access would go against the advice of our statutory consultee on access, the Local Access Forum, the recommendation of the Waterhall Management advisory Group and the view expressed at the meetings of the Downland Advisory Panel
- 4.3 Dedicating the land under the Countryside and Rights of Way Act limits the owners liability (see appendix 2). If the council wishes to allow public access but does not dedicate the land it would have a greater liability
- 4.4 Monitoring at Waterhall has shown that increased dog numbers since the golf course closed are already impacting wildlife. Without a mechanism to control access with dogs this is likely to increase
- 4.5 Allowing dogs to be off lead risks harm to the free roaming livestock that are to be introduced and will negatively impact biodiversity.

## **5. Community engagement and consultation**

- 5.1 Officers have worked closely with the Waterhall Management Advisory Group, holding monthly meetings. The group is chaired by Councilor Lloyd and includes representatives from the Friends of Waterhall, Brighton & Hove Archaeological Society, Brighton Downland Alliance and Extinction Rebellion along with three professional ecologists and representatives from The Living Coast, Natural England, The South Downs National Park, Kew Gardens, Sussex University, Sussex Wildlife Trust, the National Trust and others.
- 5.2 The recommendations in this report are supported by this group

## **6. Conclusion**

- 6.1 The purpose of Wilding Waterhall is to help meet the council's commitment to combating the biodiversity emergency.

- 6.2 Ad-hoc public access with dogs has been shown to be having a detrimental effect on wildlife in terms of disturbance (evidenced by monitoring) and through the deposition of dog excrement which will have a long-term effect on the species rich grassland.
- 6.3 While there is a desire to increase the public's engagement with nature and their understanding of the biodiversity crisis it should be recognised that allowing public access is likely to have some detrimental effect on the sites biodiversity
- 6.4 Designation as a Local Nature Reserve and as statutory Open Access encourages public enjoyment while providing a mechanism to control damaging access by dogs. This will be enhanced by the work of the Education Ranger funded by the National Lottery Heritage Grant

## **7. Financial implications**

- 7.1 There are no direct financial implications arising from the recommendations of this report. As set out in the report to this committee on the 24<sup>th</sup> September 2020 the rewilding at the Waterhall site would potentially be fully self-funded from external grant funding with limited cost to the council other than officer time.

The recommendation to designate the Wilding Waterhall project area as open access has uncertain financial implications for the value of potential future rental income as set out in the body of the report. The recommendation to include the Wilding Waterhall Project Area within the council's dog control zone would allow Fixed Penalty Charge Notices to be issued as an enforcement measure. Any surplus income from Fixed Penalty Notices, are legally ring fenced to support specific environmental purposes.

*Name of finance officer consulted: John Lack Date consulted: 21/02/22*

## **8. Legal implications**

- 8.1 Section 16 of the Countryside and Rights of Way Act 2000 allows an owner of land to dedicate their land as access land, which will give the public a statutory right of access to that land. As noted in the report, further information on this right is given in Appendix 2. Regulations made under the 2000 Act provide for the information to be included in the dedication document and for notification of dedication to be given to Natural England.
- 8.2 Section 21 of the National Parks and Access to the Countryside Act 1949 allows a local authority to declare that land it controls should be a local nature reserve. Government Guidance provides such sites should have wildlife or geological interest and that Natural England should be consulted. Notice of the declaration should be given in a local newspaper.

- 8.3 Dog Control Orders now fall under the public space protection order legislation contained in the Anti-social Behaviour, Crime and Policing Act 2014.

*Name of lawyer consulted: Hilary Woodward Date consulted 22/2/22*

## **9. Equalities implications**

- 9.1 Designating the site as Open Access and promoting this will allow everyone to enjoy it including those from disadvantaged groups.
- 9.2 Access to the site will be promoted by the Education Officer whose role includes identifying obstacles encountered by some members of the public that would not ordinarily visit the countryside and identifying ways of overcoming them

## **10. Sustainability implications**

- 10.1 These have been covered in the main body of this report but in summary
- i) the designation of the site as a Local Nature Reserve and as Public Open Space will lead to more sustainable management of the site and a greater public understanding of sustainable management of more natural areas
  - ii) This project is one of the council's key responses to the Biodiversity Emergency, declared by full council at its meeting on [13th February 2018](#) where the Policy Resources, and Growth Committee was requested to "consider how the Council can strengthen local protection and enhancement of species, habitats and ecosystems services under available powers"
  - iii) The conservation of semi natural habitats and soils will also contribute to the council's Carbon Neutral 2030 programme The project will contribute positive management to several species prioritised in the council's [2010 Local Biodiversity Action Plan](#), namely Adders, Bats and Dormice which have been recorded utilising the site. It will also make a positive contribution to the management of priority habitats, such as hedges and lowland calcareous grassland

## **Supporting Documentation**

### **Appendices**

1. Map of area covered by this report
2. Government advice on management of Open Access Land