

**NORTH LINCOLNSHIRE COUNCIL**

**PLANNING COMMITTEE**

**ACCESS TO MANTON WARREN**

**1. OBJECT AND KEY POINTS IN THIS REPORT**

- 1.1 To decide whether the public require reasonable access into Manton Warren. If so, what this should constitute, to what extent and where.

**2. BACKGROUND INFORMATION**

- 2.1 The Countryside and Rights of Way Act 2000 (the Act) provides for public access on foot to areas of open space. These include mountain, moor, heath, down and registered common.
- 2.2 Manton Warren is located at Greetwell adjacent to the B1398, just south of Greetwell Crossroads (see maps attached). It covers an area of 27 hectares. It qualifies as an area of open access land designated under the Act. A public document known as the conclusive map records all such land. Manton Warren is included in this document.
- 2.3 A double fence protects the boundary of the site with the highway. The fence is about one metre high and overgrown for much of its length. The Act does not prevent a member of the public from climbing walls, fences, etc, in order to obtain access. If they cause criminal damage however they potentially surrender rights of access for 72 hours thereafter.
- 2.4 Both landowners and the public find these circumstances unsatisfactory. Walkers are inclined not to admit to causing damage in the absence of witnesses. They understandably are on occasions put off from accessing land that is walled or fenced. They are fearful of trespassing. This is despite the Act providing for their access. Some groups of people, including the elderly and disabled also find physical barriers impossible to overcome. This could infringe their rights under the Equality Act 2010.
- 2.5 The owner of the land in question has some concerns about allowing public access. He is however aware of the legal position on these matters. He is worried about the potential adverse effects on wildlife, particularly lichen and nesting birds.

- 2.6 The Act requires that the council try to reach agreement with the landowner to secure public access. This includes who funds any work required to achieve this. The council can contribute to any costs if it sees fit.
- 2.7 If we are unable to reach a satisfactory agreement we can impose the requirement to provide access. We would need to serve 21 days notice. We could then put in hand any works required. We can also seek to recover a contribution to any costs incurred from the landowner. He has a right to appeal to the Secretary of State. The notice needs to include the process for appeals.

### 3. OPTIONS FOR CONSIDERATION

- 3.1 There are three views (or options) the Committee might reasonably take on this matter, as follows.
- 3.1.1 **Option 1** – that the public require provision of reasonable access to Manton Warren by means of two access points.
- 3.1.2 **Option 2** – that the he public require provision of reasonable access to Manton Warren by means of one access point.
- 3.1.3 **Option 3** - that the public already enjoys reasonable access to Manton Warren. We would therefore take no further action.

### 4. ANALYSIS OF OPTIONS

- 4.1 The Committee needs to take a view on how reasonable each option is with reference to the Act. As a guide, officers suggest that the current situation is unreasonable. The spirit of the Act is to prevent unnecessary hindrance to the public in accessing land of this type. Having to navigate two fences and undergrowth, while in itself potentially dangerous and unnecessarily risky, clearly fails to comply with this intended spirit. It is a particular obstacle for the elderly and disabled.
- 4.2 We have discussed the issue of access with the landowner at some length. We have explored a number of options for accessing the land. The landowners preferred option was a single access opposite an old road mid-way between the Northeast and Southeast corners. However this isn't considered practicable due to significant road safety issues.
- 4.3 Given the above, the landowner has agreed to a single access from the Northeast corner of the site. This is much safer and much more convenient, particularly for residents of Greetwell. Securing this agreement is conditional on this as the only point of access.

- 4.4 A second point of access toward the Southeast corner of the site would offer some additional advantages. However this isn't viewed as essential. As such, the Secretary of State might uphold an appeal on this basis. We recommend therefore at this time accepting a single point of access at the Northeast corner as a pragmatic way forward to secure an open access to the Warren in accordance with the Act. A second access might prove achievable in the future if all interested parties viewed this favourably.
- 4.5 The landowner would want to see at the access a suitable gate that is either self-closing or of the kissing variety. It is our policy on public rights of way to use gates that comply with the British Standard on Gaps, Gates and Stiles (BS 5709:2006). This satisfies relevant legislation relating to disabled access and equalities. This is suitable to these circumstances.
- 4.6 The landowner has also requested signage to limit damage to flora and fauna, warn of sheep and to ensure dogs are kept on leads. He has also asked that the access be kept under review. This would allow closure in the future if this were considered desirable. It also provides the equal opportunity to consider potential additional access points. This is reasonable. Any change in future would not take away any rights of public access under the Act. The opportunity to impose suitable access would still exist.
- 4.7 Natural England has powers under the Act to restrict public access. They can only use these in certain specified circumstances. These relate to conservation. They can only restrict access for up to six months without consulting the local access forum. Any restriction they impose is subject to review every five years.
- 4.8 The landowner can also can also exclude or restrict access at his discretion for up to 28 days a year. He has to give notice to Natural England if he wants to do this.

## 5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 Financial
- 5.1.1 The full costs of gates and signs might fall to the council, including future maintenance.
- 5.1.2 Some costs would arise in the event of an appeal. We do not anticipate this if the proposal suggested is agreed.
- 5.1.3 Existing budgets held by the Environment Team will meet any costs that arise.
- 5.2 There are no direct staffing, property or IT implications for the council that arise from this matter.

## **6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)**

### **6.1 Statutory**

6.1.1 The proposal meets the requirements of the Countryside and Rights of Way Act 2000 and Equality Act 2010.

### **6.2 Environmental**

6.2.1 Statutory open access land inevitably includes areas of high landscape value from a nature conservation perspective. This is certainly true of Manton Warren. Natural England is satisfied in this case that an appropriate balance between public access and nature conservation is achievable.

### **6.3 Diversity**

6.3.1 The proposal will ensure that access to Manton Warren is available to the widest possible range of communities including the elderly and disabled for recreational purposes.

### **6.4 Section 17 Crime and Disorder**

6.4.1 None.

### **6.5 Risk**

6.5.1 The approach suggested should minimise current and future risks to all interested parties.

### **6.6 Other**

6.6.1 None.

## **7. OUTCOMES OF CONSULTATION**

7.1 We have consulted widely on this matter. Details are set out in appendix 3 to this paper. The proposal reflects the outcomes of consultation.

## **8. RECOMMENDATIONS**

8.1 That the council offers to enter into an agreement with the owner of Manton Warren under section 35 of the Countryside and Rights of Way Act 2000 to open up, construct and maintain a formal access point into the Warren. The access to be located at the Northeast corner of the site at Ordnance Survey grid reference SE94360460.

- 8.2 That the access comprises a sprung self-closing or kissing gate compliant with BS 5709:2006 erected and maintained thereafter by the council wholly at our expense.
- 8.3 That the council provides clear signage drawing the public attention to the offence committed if breeding woodlarks are disturbed. Also advising them not to damage flora or fauna, not to disturb sheep and to keep dogs on leads.
- 8.4 That the council seeks to impose access, subject to appeal, in accordance with section 36 of the Act if, after entering into an agreement under section 35, the agreement is not complied with.
- 8.5 That the council seeks to impose access, subject to appeal, in accordance with section 37 of the Act if it proves impossible to secure an acceptable agreement with the landowner.

### **DIRECTOR OF INFRASTRUCTURE SERVICES**

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#### **Background Papers used in the preparation of this report:**

- Office file "Manton Warren", held electronically at Church Square House