



## Report to Cabinet

<b>Date:</b>	11 <sup>th</sup> October 2022
<b>Title:</b>	<b>Little Marlow Lakes Country Park</b>
<b>Cabinet Member(s):</b>	Cllr Strachan and Cllr Harriss
<b>Contact officer:</b>	Steve Bambrick
<b>Ward(s) affected:</b>	Flackwell Heath, Little Marlow and Marlow South-East
<b>Recommendations:</b>	<b>For Cabinet to consider and note the contents of this report. It is recommended that Cabinet:</b>

- Consider the report and note the lack of formal designation for Little Marlow Lakes Country Park; and
- Agree in principle and authorise the Service Director of Culture, Sport and Leisure in consultation with the Cabinet Members for Affordable Housing & Resources; and Culture & Leisure to develop a scheme and pursue formal designation of land within the Council's ownership as a Country Park which as a minimum would be a Suitable Alternative Natural Greenspace (SANG) compliant facility; and
- Agree not to pursue formal designation to regularise the status of the whole area allocated in the Wycombe Local Plan (RUR4) as a Country Park as part of the initial phase of delivery but instead to retain a commitment to the wider Country Park as and when circumstances and resources permit; and
- Delegate to the Service Directors of Property and Assets and Culture, Sport and Leisure in consultation with the Cabinet Members for Affordable Housing & Resources; and Culture & Leisure, the authority to agree a suitable business plan and operating model for the Country Park which ensures the facility is delivered as a cost neutral enterprise. The business plan to be brought back to Cabinet for approval; and
- Delegate to the Directors of Property and Assets and Planning and Environment in consultation with the Cabinet Member for Affordable Housing & Resources authority to negotiate and agree a suitable restoration plan in consultation with Natural England for the Spade Oak Lake site which would be SANG compliant; and

- Note the planning and enforcement strategy that may be required in order to protect the Local Planning Authority position and to facilitate an amended restoration plan at Spade Oak Lake.
- Delegate to the Service Director of Property and Assets in consultation with the Cabinet Member for Affordable Housing and Resources and S151 Officer to negotiate and agree funding for the Country Park from S106 monies as set out in this report.
- Delegate to the Director of Property and Assets in consultation with the Cabinet Member for Affordable Housing and Resources authority to enter into negotiations with the Thameside Preservation Trust on terms that would see the Country Park proposed in this report to include both pieces of land set out in the Appendix.

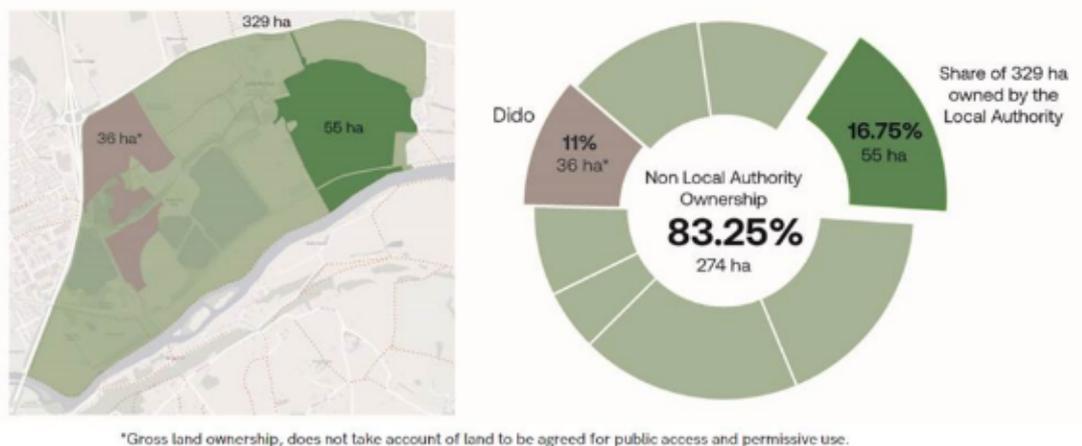
## **1. Executive summary**

- 1.1 This report concerns land between Globe Park/A404 Marlow and Bourne End, bounded to the south by the River Thames and to the north by the A4155. The area is washed over by Green Belt designation, most of it - including the former Gravel Yard at Spade Oak Lake (and the proposed Marlow Film Studios site at Westhorpe) - is former landfill, or former gravel pits. The area is dominated by Thames Water's large sewage works (which uses the Council's Muschallick Road, which also serves the former Gravel Yard, for frequent HGV access).

## **2. Content of report**

- 2.1 Proposals to create a Country Park within the area were first made in the 1960s, but neither the former Wycombe District (WDC) nor Buckinghamshire County Council (BCC) have taken any measures to progress the proposal since their joint publication and approval of the Little Marlow Gravel Pit Supplementary Planning Guidance (SPG) in 2002; until 2019, when the Council acquired Spade Oak Lake at the eastern end of the area. Prior to that, the Council's only land interest in the area was as Trustee of Spade Oak Wharf Trust (now Thameside Preservation Trust), which owns a small section of river frontage to the south of Spade Oak Lake; as leaseholder of land at Westhorpe Farm Lane, on which an athletics track was developed (in about 2018); and freeholder of part of the rugby pitches at the western end of the area.
- 2.2 In October 2017, following a recommendation from WDC Cabinet, WDC Council resolved to provide a Country Park under s.7(1) of the Countryside Act 1968 to be known as 'Little Marlow Lakes Country Park', and delegated to the Head of Community Services in consultation with the Cabinet Member for Community Services, the facilitation of delivery of the park. The Resolution was not however, by itself, sufficient.

- 2.3 The area of land to be designated as a Country Park was and continues to be in multiple ownerships, with the Council owning around 16%. For the designation to be effective, working arrangements with the other owners are required, potentially through a Memorandum of Agreement. This was reflected and acknowledged in the WDC Cabinet report but has not been done and, as such, the designation is not completed.
- 2.4 Public perception, in part is that the designation as a Country Park is already effective, through press statements at the time and statements submitted to the WDC Local Plan examination by organisations such as Little Marlow Country Lakes Country Park Community Partnership, whose membership includes: Little Marlow Parish Council , The Marlow Society, Chiltern Society, and Chiltern Rangers, together with environmental groups and residents associations.
- 2.5 Little initiative has been taken to facilitate and progress development of the Country Park since publication of the SPG in 2002. Recently, Little Marlow Parish Council has established a working group to undertake a project that aims to produce a vision for the park and have recently applied for a grant from the SW Chilterns Community Board to fund this. The Country Park has a web site, a Facebook page and appears in Wikipedia and on Trip Adviser - it is not known who owns/operates these.
- 2.6 The illustration below (prepared in 2021 by Dido) indicates the total extent of the land and the land owned by the Council, and by other parties.



- 2.7 Given that no formal steps have been taken to formally designate the Little Marlow Lakes Country Park. The Council should first consider whether there is any merit in proceeding with the WDC resolution and legacy policy to create a Country Park across the 329ha site.
- 2.8 The steps required to proceed will involve negotiations with existing landowners, most of whom will expect some form of compensation in return for their agreement.

Even then, there can be no guarantee that the landowners will agree at which point the project may be deemed to be undeliverable.

- 2.9 In addition, the Council currently has made no budget provision for either landowner compensation or for the revenue cost of operating a new Country Park in this location. Current Buckinghamshire Council Country Parks cost between £1500 and £2000 per acre per year to manage depending on the site, infrastructure, and visitor numbers. For the whole area (329ha) the costs are estimated to be between £1.22m and £1.62m per annum. However, given that the Council will only be directly responsible for the management and maintenance of the land it owns the Council's liability could be between £135.4k and £180.6k. The other landowners may challenge this as the designation could lead them to incur additional management & maintenance costs resulting from public access on their land.
- 2.10 The Council's current policy requires Country Parks to be self-funded and therefore income generating facilities (significant chargeable car park, catering, indoor facilities, toilets and play facilities as a minimum) would be required to maintain this operational status.
- 2.11 Therefore, provided a cost neutral solution could be delivered, a further option for the Council would be to consider delivering a Country Park on land that is just within the Council's ownership or control.
- 2.12 Following a solicitor's enquiry regarding the status of the Country Park, Counsel's opinion has been sought as to the risks to the Council in Planning terms, because of the lack of a formal designation.
- 2.13 The advice received is that the impact on Planning Policy is likely to be limited. The Local Plan does not purport to make the Site a Country Park. The Site is designated Green Belt and adjacent to the AONB, and any challenge to the policy would now be out of time. It is therefore considered that developers would only be able to argue that the policy should be accorded reduced weight as it was conceived on the understanding that the site was a Country Park. However, Counsel's view is such arguments would be given little weight given the long-standing allocation of the site for outdoor recreation and, moreover, any such developer would also have to address the Green Belt issue. The text of the policy itself allocates the site for outdoor recreation, although importantly it is proposed that the Country Park should act as an alternative leisure destination to the nearby Burnham Beeches Special Area of Conservation (SAC)(see RUR4 attached). This aspect is key to understanding the future potential uses of the site.
- 2.14 In preparing the Wycombe Local Plan, the Council needed to demonstrate that developments allocated in that plan, such as the Hollands Farm and Slate Meadow in Bourne End would not have an adverse impact on the European Protected Habitat at Burnham Beeches. This meant that the plan needed to undertake an Appropriate

Assessment to satisfy Natural England that residents of the new developments had a suitable alternative natural greenspace (known as a SANG) to use rather than to increase the recreational burden on Burnham Beeches.

- 2.15 The Appropriate Assessment that was completed did not rely on this area becoming a designated Country Park, but there was an expectation that the area would be available and used for public recreational purposes as an alternative country park destination, in other words, a SANG;
- 5.5.22 of adopted local plan "by providing an alternative local Country Park destination, improvement to the park provide an opportunity to off-set the impacts of proposed housing growth...."
- 2.16 The definition of what would make an area SANG compliant (in line with Country Park accreditation) is attached as an Appendix to this report.
- 2.17 It should also be noted that the Appropriate Assessment supporting the adopted development brief for the Hollands Farm allocation identified a number of mitigation measures on existing public rights of way that would make access to the Country Park SANG compliant.
- 2.18 If the Council fails to make any land available for recreational purposes, we could no longer rely on this site to mitigate the likely adverse impacts on the SAC. This would lead to restrictions in being able to approve at least one site allocated in the Wycombe Local Plan and possibly more, impacting on the Council's 5-year Housing Land Supply and increasing the risk of speculative development proposals.
- 2.19 The officer assessment of the position is that a suitable area should be provided to support the delivery of a SANG in this area. It is not essential that a formal designated Country Park be provided but a SANG compliant greenspace is essential, in accordance with Natural England's requirements, if the assumptions made when preparing the Local Plan can continue to be supported.
- 2.20 The area of land that should be made SANG compliant will need to be defined in consultation with Natural England in order to provide assurance that the site will be delivered in a reasonable timescale, it would best be provided by the Council resolving to use its own land holdings (55ha) for such a purpose. Much of the land that the Council owns in this area, namely the former Gravel Yard at Spade Oak Lake, is the subject of a restoration planning condition to return the site to a nature reserve. This condition is currently in breach and needs to be complied with by the end of the year (December 2022).
- 2.21 A new planning application is therefore likely to be required to secure amendments to the approved restoration scheme so that a Country Park or SANG compliant solution can be delivered, in accordance with Natural England's requirements. In the meantime, it may be necessary to serve an enforcement notice on the site (to

prevent any immunity from enforcement accruing) and to protect the planning authority's position, noting we have received complaints regarding the breach from residents. However, any such notice can still have a suitably extended compliance period to recognise the work required to deliver a SANG or Country Park.

- 2.22 The total land (329ha) that is proposed to be provided as the Country Park is entirely within the Green Belt. It therefore has very limited development potential. Much of it is also in the flood plain, and has previous gravel workings, with the lakes now used for recreation and inhabited by wildlife. Virtually all the land is in private ownership. The site is currently identified as a Country Park under Policy RUR4 (Little Marlow Lakes Country Park) of the Wycombe District Local Plan (adopted August 2019). There is little benefit, from a landowner's viewpoint, to the formal designation beyond any compensation negotiated through an MOU.
- 2.23 The Council is the owner of some land within the area proposed to be designated and as it stands cannot properly rely on powers in the 1968 Act with regards to Country Parks without formal designation. For example, the power to extend, maintain and manage a Country Park and; (a) to lay out, plant and improve the site, and to erect buildings and carry out works; (b) to provide facilities and services for the enjoyment or convenience of the public, including meals and refreshments, parking places for vehicles, shelters and lavatory accommodation; and (c) to provide facilities and services for open-air recreation (section 7(2)) or the specific powers in relation to sailing, boating, bathing or fishing under section 8 of the 1968 Act).
- 2.24 Planning applications have been made on part of the Council's land holding in this area to facilitate a temporary use involving vehicle storage. If allowed this temporary use would be worth circa £1m over the next 5 years. However, whilst this application has not yet been determined, the current assessment by the Planning Service, is that the use would represent inappropriate development in the Green Belt and there are no special circumstances to justify approval. This report does not pass comment on this current proposal as it will be determined by the appropriate planning committee in due course.

A Country Park can be designated and accredited by Natural England with a minimum of 10ha. Therefore, it is possible for the Council to resolve that instead of progressing the wider Country Park, as envisaged in the Local Plan, it could deliver a more modest Country Park option on land that is owned by the Council. Delivering this option would enable the Council to benefit from the powers conferred by the 1968 Act and would allow for the proper planning of the area, by developing income generating opportunities to make the endeavour cost neutral. Delivering the smaller area as a first phases would not change the Local Plan allocation and would not rule out the future expansion of the site to cover the whole of the RUR4 area, nor would it rule out improvements to adjacent footpaths to improve accessibility in the area, albeit any additional areas of land to be added would need to be the subject of a future Cabinet

decision. In the meantime, the local Community Board has expressed an interest in developing a vision for the wider Country Park area. Whilst this cannot be binding upon any future Council decision, it could be informative to any future direction for this area.

### **3. Other options considered**

- 3.1 If the Council chose not to implement a Country Park of any sort, in order to support the strategy within the Local Plan then a SANG compliant space would still need to be provided. This would almost certainly have to be on Council owned land and whilst would benefit from S106 funding for delivery and ongoing maintenance, would offer limited opportunity for generating future income streams given the lack of benefit if the powers from the 1968 Act
- 3.2 As referred to earlier in this report, there is also a restoration condition on this site, from the previous gravel workings, that is not yet complied with. The Council could therefore seek to amend the restoration plan to achieve an outcome which would more closely resemble a facility that would satisfy the broader planning requirements for the area.

### **4. Legal and financial implications**

- 4.1 The formal provision of this 329ha site as a Country Park requires every owner of land within the designated area to enter a MOU to confirm their agreement. The owners can provide this agreement freely or on terms which can include the payment of monies. At this stage it is not known how many landowners would be affected or what their position on agreement would be.
- 4.2 In the development of the Wycombe Local Plan, Natural England identified that Burnham Beeches – a Site of Special Scientific Interest, a National Nature Reserve and a Special Area of Conservation – is subject to increasing levels of visitor pressure. As a result, Natural England sought provision of Suitable Alternative Natural Greenspace (SANG) to mitigate the impacts on Burnham Beeches. The Council has secured agreement from Natural England that a satisfactory solution to this would be that the Council seeks contributions from the development of allocated sites in Bourne End to increase the accessibility to the Little Marlow Lakes area to mitigate recreational impacts on Burnham Beeches. This is expected to generate more than £1m in Section 106 contributions from those housing sites allocated in the Local Plan. There is also existing Section 106 budgets for signage (c£30K) and ‘Improvement of visitor facilities’ (c£130K).
- 4.3 Providing additional facilities in the Little Marlow Lakes area to these mitigation measures could also be funded through CIL, should the Council give this priority in future funding cycles. As part of the original Appropriate Assessment undertaken by

Wycombe District Council in preparing the Local Plan, an assumption was made that future CIL receipts would be invested in the delivery of the recreational facility in this area. This is however not binding on Buckinghamshire Council.

- 4.4 Therefore, whilst a detailed business case has yet to be prepared, it is entirely feasible that the Council could deliver a SANG compliant Country Park on its land holdings by utilising these available funds and not introducing a significant additional revenue burden.
- 4.5 However, the Council's ownership of Spade Oak Lake carries the burden of outgoings, to maintain public access. There is limited potential for 'enabling development', to generate funding to improve the area due to the policy constraints noting that this site is in the Green Belt. In the past however temporary uses of the Lake's former gravel processing/concrete batching plant area, as a Star Wars film set, was pursued, generating significant revenue.
- 4.6 Two other proposed third-party developments are also ongoing:
- Marlow Film Studios
  - Marlow Sports Hub
- 4.7 Both are contentious in the eyes of Little Marlow residents, but both offer considerable scope for further Section 106 contributions towards the improvement of the area, including the opportunity for the Council to buy-in the freehold of its athletics track and thereby reduce its revenue cost. Nevertheless, as set out above this site is designated Green Belt and adjacent to the AONB and as such there several policy constraints which is a key consideration in relation to further development.
- 4.8 There was also a £0.5m capital budget that came with the acquisition of Spade Oak Lake, which is being used to improve the Perimeter Path and to lay on utilities.
- 4.9 Property & Assets budgets had previously assumed ongoing revenue income of £150k pa would come forward from Spade Oak. This paper sets out a proposal that the facility is delivered as a cost neutral enterprise; income generated from the site would need to be reinvested in running costs, and will not be available to meet Property's Rental Income target. Property & Assets will therefore need to make up the difference with other lettings.
- 4.10 Little Marlow Lakes Country Park Community Partnership has the benefit of a Thames Water Utilities grant of £0.45m (an Environment Agency fine for a spillage). Property colleagues are in discussion about them using BBOWT (Bucks Berks Oxon Wildlife Trust) as the recipient, to undertake habitat improvement works to The Spit, circa 8 ha island in the middle of the Council's Spade Oak Lake, that is informally recognised as a bird sanctuary.
- 4.11 The Countryside and Rights of Way Act 2000 (S 85) imposes a general duty on public

bodies which requires the Council, to have regard to the purpose of conserving and enhancing the natural beauty of an area of outstanding natural beauty when exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty. The land lies between the Chilterns AONB and the River Thames and therefore regard should be had to this in consideration of this matter.

## **5. Corporate implications**

5.1 Any corporate implications have been included within the report.

## **6. Local councillors & community boards consultation & views**

6.1 A consultation/information session was held with all three ward members on 31<sup>st</sup> March 2022. This meeting was chaired by the (then) cabinet member, Cllr Williams. The ward members were disappointed to learn that the Country Park had not been properly made and were keen to stress the importance of delivering a Country Park in this location. They were also keen to point out the relationship between the delivery of a Country Park and the Wycombe Local Plan.

6.2 The Service Director of Planning and Environment has also met with Cllr Wilson (The Wooburns, Bourne End & Hedsor) to explain the current situation. His interest relates to the fact that the Hollands Farm site is in his ward. He has also asked questions at Cabinet and Council about the Country Park and continues to press for a resolution.

6.3 A further meeting with all of the affected local members was held on 5<sup>th</sup> September 2022. It was agreed to give the local members prior access to this Cabinet report and to report their views directly to Cabinet.

## **7. Communication, engagement & further consultation**

7.1 No further engagement has taken place although a communications plan will be prepared to accompany any future Cabinet decision.

## **8. Next steps and review**

8.1 Having considered all of the options, whilst acknowledging the ambition, in time, to create a Country Park which reflect the area of land allocated in the Wycombe Local Plan (Policy RUR4), it is not recommended that the Council seeks to pursue the formal designation of the wider (329ha) site as the Little Marlow Country Park at this time. However, it is recognised given the reliance placed on the designation in the adopted Local Plan, it is essential that a facility in this area is eventually provided.

The facility must be SANG compliant and will need to be implemented in close consultation with Natural England.

- 8.2 The greatest opportunity, in terms of delivery but also in terms of potential income generation to support a cost neutral venture would be for the Council to pursue an appropriately sized Country Park on land within its ownership in this location.
- 8.3 Such a facility could be operated and managed by the Council's Country Parks team but given the considerable local community interest in operating a facility in this area, it will be appropriate to consider the future management arrangements as part of a future Cabinet/Leader decision.

## **9. Background papers**

- 9.1 None

## **10. Your questions and views (for key decisions)**

- 10.1 If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the cabinet member to consider please inform the democratic services team. This can be done by telephone [01296 382343] or email [democracy@buckinghamshire.gov.uk]

