

MAIDSTONE BOROUGH COUNCIL
CABINET MEMBER FOR REGENERATION
REPORT OF HEAD OF SPATIAL PLANNING

Report prepared by Deanne Cunningham
Date Issued: 3 February 2011

1. BOXLEY WARREN LNR BYELAWS

1.1 Key Issue for Decision

1.1.1 To consider the draft byelaws for the Boxley Warren Local Nature Reserve (LNR) which have been given provisional approval by the Secretary of State and are attached at **Appendix A** to this report.

1.2 Recommendation of Head of Spatial Planning

1.2.1 That the Cabinet Member for Regeneration:-

1. Endorses the byelaws for the Boxley Warren LNR, attached at **Appendix A** to this report.
2. Recommends to Council that it:-
 - i. resolves to adopt the byelaws
 - ii. gives delegated authority for the Head of Legal Services to seal and confirm the byelaws following completion of the necessary legal process including the placing of an advertisement in the local newspaper.

1.3 Reasons for Recommendation

1.3.1 Considerations

1.3.2 Boxley Warren forms part of the Wouldham to Detling Escarpment Site of Special Scientific Interest (SSSI), which extends for 10km along the chalk scarp of the North Downs east of the River Medway.

1.3.3 It was originally notified in 1951 under the National Parks and Access to the Countryside Act 1949 and subsequently re-notified under the Wildlife and Countryside Act 1981 in 1990. The SSSI is of special interest for its full range of downland habitats, supporting a great diversity of flora and fauna with many rare species, including the

nationally rare Box tree. The woodland part of the site is also situated within the North Downs Woods Special Area for Conservation (SAC), supporting two habitats listed under Annex 1 of the EC Habitats Directive 92/43/EEC, Yew woodland and Orchid-rich chalk grassland.

- 1.3.4 The site was listed on a European Register in 2001 and is part of a network of the most important nature conservation sites in Europe known as Natura 2000. Accessible from the North Downs Way above the escarpment and the Pilgrims Way at the bottom, Boxley Warren is an integral part of the Kent Downs Area of Outstanding Natural Beauty and a major landscape feature of the escarpment above Maidstone.
- 1.3.5 A plan of the area is attached at **Appendix B** to this report. The western boundary follows the district and ownership boundary but is not clearly defined on the ground by a physical feature such as a footpath.
- 1.3.6 In April 2005, the then Cabinet Member for Regeneration considered a report on the creation of the LNR at Boxley Warren. He authorised the Council to secure its provision, enter into a Land Management Agreement with the landowners, acquire planning permission and make a section 19 Declaration confirming Boxley Warren as a LNR. Planning permission for change of use of the site to a nature reserve was granted on 13 December 2007.
- 1.3.7 The Cabinet Member considered a further report in January 2008 and agreed to declare Boxley Warren as a LNR. He also agreed that an Advisory Committee be created with responsibility for managing the site (which currently meets at least every three months) and that, after declaration, officers procure byelaws from the Secretary of State.
- 1.3.8 The Land Management Agreement was completed on 15 February 2008 for a 21 year term and the section 19 Declaration was made on 27 February 2008. Since then officers have been negotiating out the contents of the byelaws with DEFRA, which department now agrees the contents attached at **Appendix A**.

1.4 Alternative Action and why not Recommended

- 1.4.1 It is recommended the byelaws be enacted as they will address behaviour within the Boxley Warren site which causes a nuisance or danger to others, such as flytipping and trail bike riding. If these restrictions are not put in place, the anti-social activities that the Boxley Warren LNR Advisory Committee is seeking to control could increase, potentially leading to the deterioration of this important landscape.

1.5 Impact on Corporate Objectives

1.5.1 Confirmation of the proposed byelaws will assist in meeting the Council’s objectives for reducing crime, improving confidence and safety and for ensuring environmental excellence and dealing with climate change.

1.6 Risk Management

1.6.1 There are no risks which are likely to arise as a result of this decision.

1.7 Other Implications

1.7.1

1.	Financial	X
2.	Staffing	X
3.	Legal	X
4.	Equality Impact Needs Assessment	
5.	Environmental/Sustainable Development	X
6.	Community Safety	X
7.	Human Rights Act	
8.	Procurement	
9.	Asset Management	

1.7.2 Financial

If the Council has sufficient evidence of an offence and the identity of the offender, then prosecution proceedings could be commenced in the Magistrates Court. The maximum fine on conviction would be £500. The Legal Officer’s expenses would be £200, possibly recoverable from the defendant. Other expenses incurred in gathering evidence are difficult to estimate but may also be recoverable from the defendant. However, all costs would have to be proportionate to the fine and, from past experience, it is highly unlikely that any costs award would ever exceed the amount of fine.

There are, however, currently no identified budgets within the business unit for these purposes.

1.7.3 Staffing

Staffing implications would only arise in relation to prosecutions for breaches of byelaws on a reactive basis. However, if there was a significant problem support would be provided by Regulatory Services.

1.7.4 Legal

Future breaches of the LNR bye-laws may result in the Council commencing prosecution proceedings.

1.7.5 Environmental/Sustainable Development

The main objective for the making of byelaws for Boxley Warren LNR is to help secure its long term future for public enjoyment and to optimise the site's habitat value.

1.7.6 Community Safety

The Management Plan includes an objective to maintain and enhance the current level of control of inappropriate access and misuse in all areas which will obviously help improve public safety generally.

1.8 Relevant Documents

1.8.1 Appendices

Appendix A: Copy of draft byelaws given provisional approval by the Secretary of State

Appendix B: Plan of Boxley Warren LNR

1.8.2 Background Documents

Legal file reference: H626

Report to Cabinet Member for Regeneration, 17 January 2008:
Boxley Warren Local Nature Reserve (file reference: 406/106/10A)

Report to Cabinet Member for Regeneration, 18 April 2005: Creation of
Boxley Warren Local Nature Reserve (file reference: 406/106/10A)

IS THIS A KEY DECISION REPORT?

Yes

No

If yes, when did it first appear in the Forward Plan?

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This is a Key Decision because:

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Wards/Parishes affected:

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How to Comment

Should you have any comments on the issue that is being considered please contact either the relevant Officer or the Member of the Executive who will be taking the decision.

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