

Broads Local Access Forum

Agenda 09 June 2021

2.00pm

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Participants: You will be sent a link to join the meeting. The room will open at 1.45pm and we request that you **log in by 1.45pm** to allow us to check connections and other technical details.

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Introduction

1. Apologies for absence and welcome
2. Declarations of interest
3. **Appointment of Chair**
4. **Appointment of Vice Chair**
5. **To receive and confirm the minutes of the Broads Local Access Forum meeting held on 10 March 2021 (Pages 6-15)**
6. Matters arising from the minutes

Items for discussion

7. **Open Water Swimming**
Presentation from Paul Saunders
8. **Lost Paths in the Broads (Pages 16 -23)**
Report from Richard Atkins
9. **Review of restrictions at Ludham and Potter Heigham Marshes (Pages 24 -39)**
Report by Waterways and Recreation Officer

Other matters

10. Any other business

11. To note the date of the next meeting – **Wednesday 1 September 2021 at 10.00am**

Broads Local Access Forum membership

Member	Address	Phone number	Email	Interest
Linda Aspland	Quercus 229 Norwich Road Wroxham NR12 8SL	01603 951814	linda.aspland@icloud.com	Waterborne recreational users / Paddle sports
Richard Atkins	Riverview Cottage Off Church Lane Surlingham NR14 7DF	01508 538083	richard.p.atkins@btinternet.com	Paddle sports/ Walking
Keith Bacon	Woodcroft Wood Street Catfield NR29 5DF	01692 581314	keithbacon@keme.co.uk keithbacon@broadland.net	Archaeology and landscape heritage
Louis Baugh	Neatishead Hall Neatishead NR12 8XX	07785 224589	lbaugh@netcom.co.uk	Landowners and managers
Katie Baxter	18 Keys Drive Wroxham Norwich NR12 8SS	07917 785282	info@gopaddle.co.uk	Paddle Sports/ Tourism and local business
Harry Blathwayt	20 Broad Reaches Ludham NR29 5PD	01692 678644	Harry.blathwayt@north-norfolk.gov.uk	Local Authority (District Council) / Tourism and local business
Robin Buxton	Speedwell House South Burlingham Road Lingwood NR13 4ET	01493 750102	robin.buxton@buxtonpropertymanagement.co.uk	Landowners and managers/ Tourism and local businesses
Christine Cane	The Roundhouse 160 Tuttlles Lane West Wymondham NR18 0JJ	01953 606019	bhs.southnorfolk@gmail.com	Equestrian riding and driving
Peter Dixon	The Smea Hickling NR12 0YL	078509 30486	Peterjbdixon@hotmail.com	Waterborne recreational users

Member	Address	Phone number	Email	Interest
Tony Gibbons	19 Blithewood Gardens Sprowston NR7 8PS	01603 400973	tonygibbons.ndaa@gmail.com	Angling
Tim Harris	Catfield Hall Catfield NR29 5DB	01692 580220	tim@catfieldhall.com	Nature conservation / Archaeology and landscape heritage
Dawn Hatton	c/o Broads Authority Yare House 62-64 Thorpe Road Norwich NR1 1RY	01603 433174	stock.dawn@gmail.com	Walking/People with disabilities/Access for all
Peter Mason	7 Brick Kiln Gardens Catfield Gt Yarmouth NR29 5DW	01692 583152	peter.mason51@sky.com	Walking/Tourism and local business
John Murray	33 Prospect Road Lowestoft NR32 3PT	07855 385041	john.campbell.murray@btinternet.com	Walking / People with disabilities / Access for all
Steve Read	The Anchorage Broadview Road Oulton Broad Lowestoft NR32 3PL	07720 808715	stevereadcon@btinternet.com	Walking/water borne recreational users
Martin Rendle	62 South Hill Road Norwich NR7 0NG	01603 339133	adventure@norfolkoutdoor.co.uk	Paddle sports/Tourism and local business
Paul Saunders	8 Heathside Road Norwich NR1 1TH	07557 018954	paulandrewsaunders@outlook.com	Open Water Swimming
Richard Webb	9 Bek Close Norwich NR4 7NT	01603 505362	dickwebb@talktalk.net	Walking/sailing
Christopher Yardley	Thorpe Cloud Creake Road Burnham Thorpe PE31 8HW	01328 738705	Cj.yardley@tiscali.co.uk	Waterborne recreational users/ nature conservation

Kylie Moos – Broads Local Access Forum Secretary

Yare House, 62-64 Thorpe Road, Norwich, NR1 1RY

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Broads Local Access Forum

Minutes of the meeting held on 10 March 2021

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Present

Keith Bacon – in the Chair, Kelvin Allen, Linda Aspland, Richard Atkins, Louis Baugh, Katie Baxter, Harry Blathwayt, Robin Buxton, Christine Cane, Peter Dixon, Tony Gibbons, Tim Harris, Dawn Hatton, Peter Mason, Steve Read, Martin Rendle, Paul Saunders, Richard Webb.

In attendance

Dan Hoare – Head of Construction, Maintenance and Environment, Kylie Moos – Administrative Officer, Lewis Treloar – Waterways and Recreation Officer, Gavin Rumsey – Environment Agency, Kellie Fisher – Environment Agency, Ken Hawkins – Norfolk Local Access Forum.

1. Apologies for absence and welcome

The Chair welcomed 6 new members to the Forum; Richard Atkins, Katie Baxter, Christine Cane, Peter Dixon, Martin Rendle and Paul Saunders.

Mike Flett (Vice Chair) and Liz Brooks have resigned from the Forum, the Chair thanked them both for their contributions to the Forum. The election of Chair and Vice Chair will take place at the next meeting in June 2021.

Apologies none.

2. Declarations of interest

Members indicated they had no further declarations of interest other than those already registered and set out in Appendix 1 to these minutes.

3. Minutes of the Broads Local Access Forum meeting held on 2 December 2020

The minutes of the meeting held on 2 December 2020 were approved as a correct record and signed by the Chairman.

4. Matters arising from the minutes

EXPERIENCE Cycle Hubs project

Stephen Read sent a paper to Andrea Auburn presenting a potential cycle route from Norwich to Oulton Broad making use of the ferry crossings at Reedham and Waveney River Centre. A copy of the paper will be circulated to Forum members with the minutes.

5. Broadland Futures Initiative

Kellie Fisher, Flood and Coastal Risk Management Senior Advisor and Gavin Rumsey, Engagement Specialist for the Environment Agency presented to the Forum Broadland Futures Initiative (BFI). BFI is a partnership for future flood risk management in the Broadland area, the main goal is to agree a framework for future flood risk management which better copes with the changing climate and rising sea levels.

Partnership

The Initiative has been set up by organisations responsible for managing coastal and inland flood risk.

- The Environment Agency (technical lead)
- Broads Authority (governance, support and engagement lead)
- Natural England
- County and District Councils
- Internal Drainage Boards
- National Farmers Union
- Water Resources East
- RSPB and Wildlife Trusts

Governance

The BFI will work in partnership with local communities and other stakeholders to identify the way forward. Democracy is at the heart of decision making & engagement central to BFI. The decisions made must be acceptable for local communities, for the environment, and also be technically possible and affordable.

The Stages in BFI Development

- Stage 1- Define the problem and set objectives (current stage)
- Stage 2- Identify the full range of strategic options
- Stage 3- Shortlist the strategic options
- Stage 4- Develop the short list of strategic options
- Stage 5- Compare and select the preferred strategic options
- Stage 6 - Complete the plan and gain approval

Study Reports Available Now

- Origins of the Plan Area
- The Sources and Nature of Flood Risk within the Plan Area
- Coastal Processes within the Plan Area
- Current Approaches to Flood Risk Management within the Plan Area
- The Influence of Flood Risk Management within the Plan Area
- The Futures Impacts of Climate Change

Governance update

The Elected Members Forum is due to convene in spring 2021 where the Terms of Reference will be agreed.

2019-2020 Engagement Activity

- Carrow Road meeting in 2016
- Mid 2019 - a re-engagement survey was released, followed by series of awareness raising events around the BFI Plan area
- 2020- planned face to face events, followed by Covid -19 and re-planning
- Mid 2020 - ongoing digital newsletters and online flood modelling survey
- 2020/2021 - planning and promotion of virtual exhibition

Engagement Update- Online Survey

- Online survey launched 18th January until 11th April. As well as online, stakeholders can also participate via postal submissions or telephone with a member of the BFI project team.
- Virtual exhibition includes 2 videos about flood modelling and the impacts of dredging in the Broads.
- Videos and StoryMaps allow visitors to explore different levels specific to their location.
- Virtual Village Hall events to be held online with three dates bookable via Broads Authority BFI webpage on 17th February, 10 March, and 24 March (7.30-8.15pm).
- Engagement Promotion- newsletter, social media, IPT minutes, press releases and dedicated BFI webpage.

Next steps

- Establish increasing connections with those organisations and individuals that come forward from our engagement activities
- Focus engagement activity to specific demographic groups
- Continue to produce technical baseline reports
- Share a regular newsletter on progress of the initiative with our key stakeholders
- Maintain close links with EA Fens Project
- Embed democratic involvement and governance structure by convening our Elected Members Forum
- Continue to collect evidence and material with support from consultant

Comments and answers to questions

- BFI presented at the first Norfolk Flooding Alliance meeting which was received warmly and look forward to supporting the Norfolk Flooding Alliance.
- BFI is looking to the next 100 years. The strategy is fully funded but individual flood risk management projects fall out of strategies and will require a separate appraisal process.
- BFI recognise that overtopping occurs at Walcott and has been included in the BFI plan area.
- Matthew Bradbury has been nominated to the Elected Members Forum to represent the Broads Authority.
- Previously flood risk management was seen as fragmented with funding and planning of projects difficult, BFI has brought all of this together.
- BFI cannot change Shoreline Management Plan policy but can make recommendations. The Environment Agency have committed to holding the coast line and will continue to do so.
- A barrier is one approach that will be investigated by BFI. Justification for any new physical structure requires a rigorous evidence base and would have to follow the following mandatory tests if funded fully or partly by central government:
 - Is it technically achievable?
 - Is it economically desirable?
 - Is it environmentally acceptable?

6. Integrated Access Strategy: Update

Lewis Treloar provided an update on the highest strategic priority projects identified for delivery by a range of partners as part of the Integrated Access Strategy (IAS).

Broads Mills Trails

Signage is due to be installed this summer across Halvergate Marshes. The programme of projects is still in development, as and when they become available they will be brought to the Forum.

Bure Valley Path

Norfolk Country Council noted that some funding has been given from the EXPERIENCE funds and they will be progressing with additional funding to complete further work on the Bure Valley Path. Installations are due to take place winter 2021/2022.

The path is attempting to connect to the Marriots Way which not suitable as a bridleway due to its narrow width.

Wherryman's Way

Sculptures and signage has been delayed due to the declined funding application, alternative funding solutions are being investigated.

Hoveton Riverside Park

Designs have been received and a paper is being written for the next Broads Authority meeting looking to receive members support to look for additional funding solutions for the park.

Land raising is taking place as part of a landscaping programme at the park, ensuring the land is fit for purpose and benefits from the dredging programme

River Wensum Strategy- Canoe pontoon

An application has been submitted for a new canoe pontoon on the River Wensum following a petition and letters of support from various local group. The exact location of the canoe pontoon on the River Wensum is yet to be determined but is likely to be between Norwich Yacht Station and New Mills, subject to funding bid being successful.

Reedham Permissive Path

The Broads Authority are planning a press release to announce the re-opening of the permissive path.

7. Opening access to EA owned banks: Update

Tony Gibbons provided an update to the Forum on three projects to improve river banks under Environment Agency (EA) control. Due to the high-water table not all banks were accessible to complete the feasibility study. A series of pictures were taken in February highlighting the improvements needed at each location and presented to the Forum.

River Thurne, Potter Heigham

Reedmace within the area has not been maintained in the last 3-4 years. Banks between the Riverside Bungalows have been used for dumping rubbish. Discussions with local residents indicate strong community support for clearing the banks.

The quantity of waste and the narrow path accessing the banks suggests that the waste could be being dumped from the Riverside Bungalows.

Comments

- Section one is in the parish of Repps with Bastwick and the remaining is in the parish of Martham, all of which are owned by EA.
- A s215 Notice (power to require proper maintenance of land) can be served to the landowner if an agreement cannot be met.
- Concerns were raised over rights of access for angling. No clear agreement is currently in place.

- The path is a public right of way and is covered under statutory law, as is the offence of fly tipping.

The Forum recommended Broads Authority Officers contact the Environment Agency (David Horsfall) to discuss the maintenance of the bank.

River Thurne, Womack Water

This stretch of river requires the removal of litter, reeds to be cut and 'No Mooring' signs to be displayed.

Comments

- Opening up the bank may encourage anglers to use the area as an unofficial campsite as it has done in the past. Tony Gibbons noted that any waters leased by Norwich and District Anglers Association (NDA) do not permit overnight fishing, however this area is not within NDA jurisdiction.
- The ownership of the river bank, which has no public right of way, and vehicular access and carparking both need to be addressed before any work is started.

River Ant, Ludham Bridge

This stretch of river requires removal of litter and reeds to be cut to allow for angling access. The potential access points are currently inaccessible due to the high water level.

Comments

- Access to the river (Ant) from the flood bank path is always very soft mud which would be hazardous and not suitable for the project proposal.
- The banks at Ludham Bridge are EA owned up until a point, then privately owned and then reverts back to EA owned.

Dan Hoare agree assist on identification of bank ownership on the River Ant with Tony Gibbons.

8. Any other business

Meeting start times of 10am have been proposed for Broads Local Access Forum in the new committee year (July 2021- June 2022). Forum members agreed to the changed time which would start in September.

Paul Saunders requested an item on the next agenda to present open water swimming to the Forum. The Forum welcomes input and presentations from members on their interests.

Norfolk Local Access forum are working with Norfolk Association of Local Councils to generate interest from parishes within the county for wider engagement and footpath wardens.

There is a planned increase in the Norfolk Trails budget, planned improvements will also need to be an environmental improvement to qualify.

The path near Pyes Mill at Loddon has closed. Lewis Treloar has begun conversations with the parish council to re-establish the path and address any concerns the landowner may have.

Access issues to the staithe at Bungay has been raised by a member of the public. Lewis Treloar welcomed any information on the staithe and ownership from Forum members.

9. Date of next meeting

The next meeting of the Broads Local Access Forum would be held on Wednesday 9 June 2021 at 2.00pm.

The meeting ended at 16.00.

Signed by

Chairman

Summary of progress

Outstanding actions	Meeting date	Assigned to
Assist on identification of bank ownership on the River Ant with Tony Gibbons.	10/03/2021	Dan Hoare
Contact the Environment Agency (David Horsfall) to discuss the maintenance of riverbanks at Potter Heigham	10/03/2021	Lewis Treloar
Contact the Environment Agency asking their opinion as a follow-up from the publication of the staithe report.	04/12/2019	BLAF Chair

Completed actions	Meeting date	Assigned to
Contact the local rangers and Oulton Parish Council regarding the moorings.	04/12/2020	Lewis Treloar
Investigate the footpaths and access towards Moy's Mill.	04/12/2020	Lewis Treloar
Investigate which permissive paths may be lost in the Broads when the Countryside Stewardship expires.	04/12/2020	Lewis Treloar

Broads Local Access Forum

09 June 2021

Agenda item number 8

Lost Paths in the Broads

Report by Richard Atkins (BLAF member)

Summary

A report highlighting two footpaths within the Broads National Park currently regarded by Norfolk County Council (NCC) Highways as being “lost to the river”. This report aims to highlight this issue.

Recommendation

For members to discuss the paths being lost within the Broads and agree on proposals for the next steps to prevent more loss or reverse the status of these paths.

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1. Introduction

- 1.1. Norfolk County Council, as the local Highways Authority have ascertained that two footpaths within the Broads executive area have been “Lost to the River”.
- 1.2. The two footpaths are Surlingham footpath 1 and Bramerton footpath 5. Both have been discussed for many years with input from the landowner, Highways officers, BA officers, the Environment Agency, the local parish councils and county councillors without resolution.
- 1.3. Appendix 1 provides some background information on these two footpaths that the author has become aware of.
- 1.4. There may be other paths lost or at risk within the Broads area.

2. Conclusion

- 2.1. The two footpaths mentioned in the report are currently classed as being “Lost to the River” by the Highways Authority but have not been formally extinguished. This report

is for the attention of the Forum and to open a discussion on any other paths that may also be classified or at risk from falling into the same category.

Author: Richard Atkins

Date of report: 25 May 2021

[Broads Plan](#) objectives: 5.1, 6.1,

Appendix 1 – NCC Highways – “Lost Paths”

Broads Local Access Forum - 09-06-2021

NCC Highways - "LOST PATHS"

Richard Atkins



Introduction.

Norfolk County Council Highways team have asserted that two paths in the Broadland National Park have been “Lost to the River” . There may be others. This paper gives some background on these two paths namely Surlingham FP1 and Bramerton FP5. It is the view of the author that the assertion by NCC Highways that these paths have been “lost” and that as such they no longer have a duty to maintain them in good repair is unsound. In order to assess the scope of the issue in the Broads National Park area I would like to request that the BLAF submit a formal request to the NCC Highways team to identify all paths shown on the Definitive Map that they assert have been “Lost to the River” and their reasoning against each, so that a plan for their protection can be agreed..

Background Case 1

Definitive Statement

Surlingham FP1 Footpath No. 1 (St. Mary's Church to Ferry House Public House). Starts from the public highway at St. Mary's Church at its junction with the eastern end of Footpath No. 12 and runs north north-westwards to the south bank of the River Yare. The path then follows the course of the river along this bank to the Ferry House Public House, then turns south eastwards along Ferry Lane passing the north eastern end of Footpath No. 2 to join the public highway.

Overview-

- A request was made to the NCC Highways and Boundaries team (ref 19767) to determine the status of Surlingham FP1 over the section between its junction with Surlingham FP3 and the Ferry House public house. The highway is shown on the definitive map and was formerly part of the Wherryman's way trail. Its position against the current river bank and the route of the “permissive path” is required in order to establish how best to secure and protect public access for the future.
- The research was undertaken by NCC using historic O/S mapping, the definitive map and old aerial photography. The research concluded that the majority of this section of the highway's route as depicted on the definitive map had been subject to riverbank erosion such that it is now covered by water on all but the lowest river levels.
- Whilst the NCC highways team (Lawrence Malyon - Senior legal orders officer @ NCC Community and Environmental Services) have confirmed that the path has not been legally extinguished, it is their assertion that the section of the path in question

(approximately 300m of a 1.5km path) has been “Lost to the River” and as such the Highway department no longer have a duty to maintain it.

- The NCCs position has been challenged based upon my own research - Highways Act, Ramblers Association “Rights of way a guide to law and practice” and discussion with other PC’s the Broads Authority and at the Parish Paths seminar managed by the Norfolk Local Access Forum
- The NCC have maintained their view that the path is Lost to the River

Additional Information -

At Surlingham PC Meeting held 18-02-2020 the PC unanimously supported the following statement - “Surlingham PC in recognising the outstanding amenity value of footpath No1 and its importance to parishioners, visitors and local businesses are committed to retaining this public right of way and will reject and oppose any attempt to extinguish it either in whole or in part.”

Background Case 2

Definitive Statement

Footpath No. 5 (Bramerton Footpath No. 1 to Surlingham Footpath No. 4). Starts from Mill Road, Bramerton Footpath No. 1, ia a gate to the garden of Kingfishers Old House and runs north easterly for 53 metres through the garden of Kingfishers Old House to a gate, then follows the river bank along open marshland, for 430 metres in a north easterly direction, and finally turns south easterly for 45 metres to the north west corner of O.S. No. 134 to join Surlingham Footpath No. 4. The length of the path is approximately 528 metres and its width varies but is not less than 1 metre.

- Bramerton FP5 was also formerly part of the Wherryman's Way Trail.
- It has not been maintained by the NCC Highways team for many years such that it now has several areas of flooding and is impassable in summer due to overgrown brambles. It has also been deemed by NCC to be “Lost to the River”.
- The landowner took NCC to Norwich Magistrates Court (Case 1445 18-01-1993) under the provisions of section 56 (4) of the Highways Act 1980 which ordered NCC to put the said portion of the Highway into proper repair. This order was met but the path hasn’t subsequently been adequately maintained.

Supplementary Information -

- **Highways Team - Extract from e-mail received 18-05-2020 referencing - Maisemore case Mrs Justice Hallet 01-12-2000** “The Maisemore case provides that the weight of authority is against there being any general duty upon highway authorities to repair river banks for the purposes of stopping their footpaths eroding away. Sections 77 and 102 provide a power to do so but not a duty. In any case these sections would appear not to be of relevance any more bearing in mind the contention that the path has been lost”.
- **Ramblers Association** - Advice received 14-05-21 The law is in a rather uncertain state for dealing with this sort of case. By the “Maisemore” case the council means *R (on the application of Gloucestershire County Council) v Secretary of State for the Environment, Transport and the Regions* [2001] JPL 1307. It appears that where the erosion is so gradual that people continue to walk above flood level, a right of way can continue to be established through common law dedication. It also appears that the duty of a highway authority to maintain a way ceases to exist only once the path itself has physically ceased to exist, for example where the bank has completely collapsed. It seems from the Maisemore case that it will be a question of fact and degree, to be determined by a court, as to whether the duty really has ceased to apply. It seems that where the erosion, or the flooding of the path, is gradual, the court is entitled to find that the duty still applies. It could well be that a section 56 notice case would succeed here. We suppose it would take a technical expert to be called as an expert witness in order to persuade the court of the continuing existence of the duty to maintain.

It's interesting that it was the landowners themselves who brought section 56 proceedings in the past. Does this mean that the landowner is sympathetic to the issue? If so, then it would be open to the landowner to dedicate a right of way on their land, further away from the river. Or, would the highway authority be persuaded to make an order under section 26 of the Highways Act 1980 creating a new right of way away from the river? – this provision empowers the making of such an order where it appears to a council that there is a need for a public footpath (or bridleway, or restricted byway), having regard either to the extent that the new path or way would add to the convenience or enjoyment of a substantial section of the public, or would add to the convenience of persons resident in the area. It sounds like both, but certainly the first, of those criteria engage here, in that the flooded path had been very popular, and led to a specific public place (namely a pub which we should think is a popular one). This is a discretionary power, and councils can be reluctant to use it, not least because compensation can be payable, though our limited experience suggests that in a case like this (where there was a path already which has become unusable) it is unlikely to be very great. So it may be that what is needed is a good bit of political lobbying of elected councillors, to get them to use the power, rather than a legalistic approach with an esoteric case about whether the old path is still a public right of way or not.

Conclusion

- **Riverside Paths are a rare and extremely important asset in the Broads National Park.**
- **These paths are particularly vulnerable due to the recent increased footfall on their soft and muddy surfaces and rising water levels throughout the Broads.**

-
- **The current NCC Highways policy means that Public Rights of way are effectively “silently disappearing” without the scrutiny and opportunity to challenge afforded by the Highways Act extinguishment process.**
 - **Continued lack of clarity surrounding NCC Highways duty to maintain these paths and their legal status as Public rights of way is inhibiting attempts to repair them.**
 - **It is important to understand how many paths depicted on the Definitive Map are deemed to have been “Lost to the River” or at risk of being labelled so by NCC Highways.**
 - **I request that the BLAF submit a formal request to the NCC Highways team to identify all paths shown on the Definitive Map that they assert have been “Lost to the River” and their reasoning against each, so that a plan for their protection can be agreed.**

Broads Local Access Forum

09 June 2021

Agenda item number 9

Review of access restrictions at Ludham and Potter Heigham marshes

Report by Waterways and Recreation Officer

Summary

The Broads Local Access Forum has a statutory role in both the initial and formal consultation stages regarding the restriction of public access on Open Access land, as administered by the Broads Authority. This report gives an opportunity to refresh Forum members on the process and introduce the initial consultation for a site requiring a periodic review of an existing access restriction within the Broads area. This report provides information to the Forum so that comments to the Broads Authority can be gained as part of the initial consultation on the review of restriction of dog access on Open Access land at Ludham and Potter Heigham marshes.

Recommendation

To review the details of the restriction and provide the Broads Authority with the Forum's initial feedback, prior to the opening of the public consultation period by the Broads Authority.

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1. Introduction

- 1.1. Under the Countryside and Rights of Way (CROW) Act 2000, the Broads Authority is obligated to consult on new applications, or review any long-term restrictions over Open Access land within the Broads Authority executive area. Such reviews are expected every five years until the restriction is revoked or expired, as required by the CROW Act, section 27 (3).

- 1.2. This particular direction at Ludham and Potter Heigham Marshes is for the purposes of protecting sensitive wildlife under section 26(3)(a) of the Countryside and Rights of Way (CROW) Act 2000.
- 1.3. The nature of the restriction means that public access by virtue of section 2(1) of the CROW Act to the land highlighted on the map is not exercisable by any persons accompanied by their dogs.

2. Natural England

- 2.1. In November 2011 Natural England decided that all parts of eligible National Nature Reserves (NNRs) should be dedicated for permanent public access unless there are compelling reasons on particular sites not to do so.
- 2.2. Ludham and Potter Heigham Marshes is highly compartmentalised by a network of dykes across much of the site, which practically impedes access use. There are a number of existing access routes around the site on public rights of way, which are located on land adjacent to, but outside of, the boundary of land owned by Natural England.
- 2.3. There was however one short section (320m) of land across the NNR that was deemed suitable for access rights, and would allow for a complete circular walk around the marshes. After consulting with the Natural England Responsible Officer for the site, the decision was to allow public access along a narrow path, as long as a restriction was imposed by not permitting dogs.
- 2.4. The restriction first came into effect on the 17th of November 2016 and was carried out by Natural England as the Broads Authority did not have the staff availability at the time. This report aims to reinstate the Authority's role in consulting and determining the continued relevance of such restrictions.

3. Reviewing the access restriction process

- 3.1. The following timeline and list of actions demonstrates the process for reviewing long term restrictions on Open Access Land which must take place every five years –
 - Before the review, the Broads Authority is to carry out an initial consultation with the Broads Local Access Forum, the applicant (usually the landowner) and Natural England. (for example Appendix 2 – statements from NE officers)
 - If all parties agree with Natural England and their reasoning (for example Appendix 3 – Initial screening report of the site). Then the process can proceed to the formal consultation.
 - Broads Authority to inform the Open Access contact centre (OACC) of the consultation and the period that this will run. OACC to generate the maps.

- Broads Authority to submit initial consultation report to the OACC who will upload it with the maps to the GOV.UK website. Broads Authority to serve direction notices to the statutory consultees and erect signs on site.
- Public consultation period commences.
- Public consultation period ends and Broads Authority complete the consultation outcome report and send to OACC with the direction notice.
- OACC will create the exclusion maps and upload them along with the outcome report on GOV.UK website
- The restriction is then complete and will need to be reviewed after five years by the Broads Authority.

4. Conclusion

- 4.1. The Broads Local Access Forum will be consulted formally, with a direction notice sent to the chairman in the coming weeks, regarding the renewal of this restriction.
- 4.2. It is the view of Natural England that a restriction should remain in place on Ludham and Potter Heigham Marshes National Nature Reserve to prevent access for dog walking given the continued sensitivity of birds breeding and feeding on the site.
- 4.3. This site is particularly sensitive to disturbance by human activity as it is designated as a Site of Special Scientific Interest in part due to its assemblage of wintering birds and breeding birds including small numbers of Redshank, Lapwing, Oystercatcher, Snipe and Yellow Wagtail.

Author: Lewis Treloar

Date of report: 21 May 2021

[Broads Plan](#) objectives: 2.4,2.5

Appendix 1 – NE Map of restriction

Appendix 2 – Statement from NE Officers

Appendix 3 – Access sensitive features appraisal

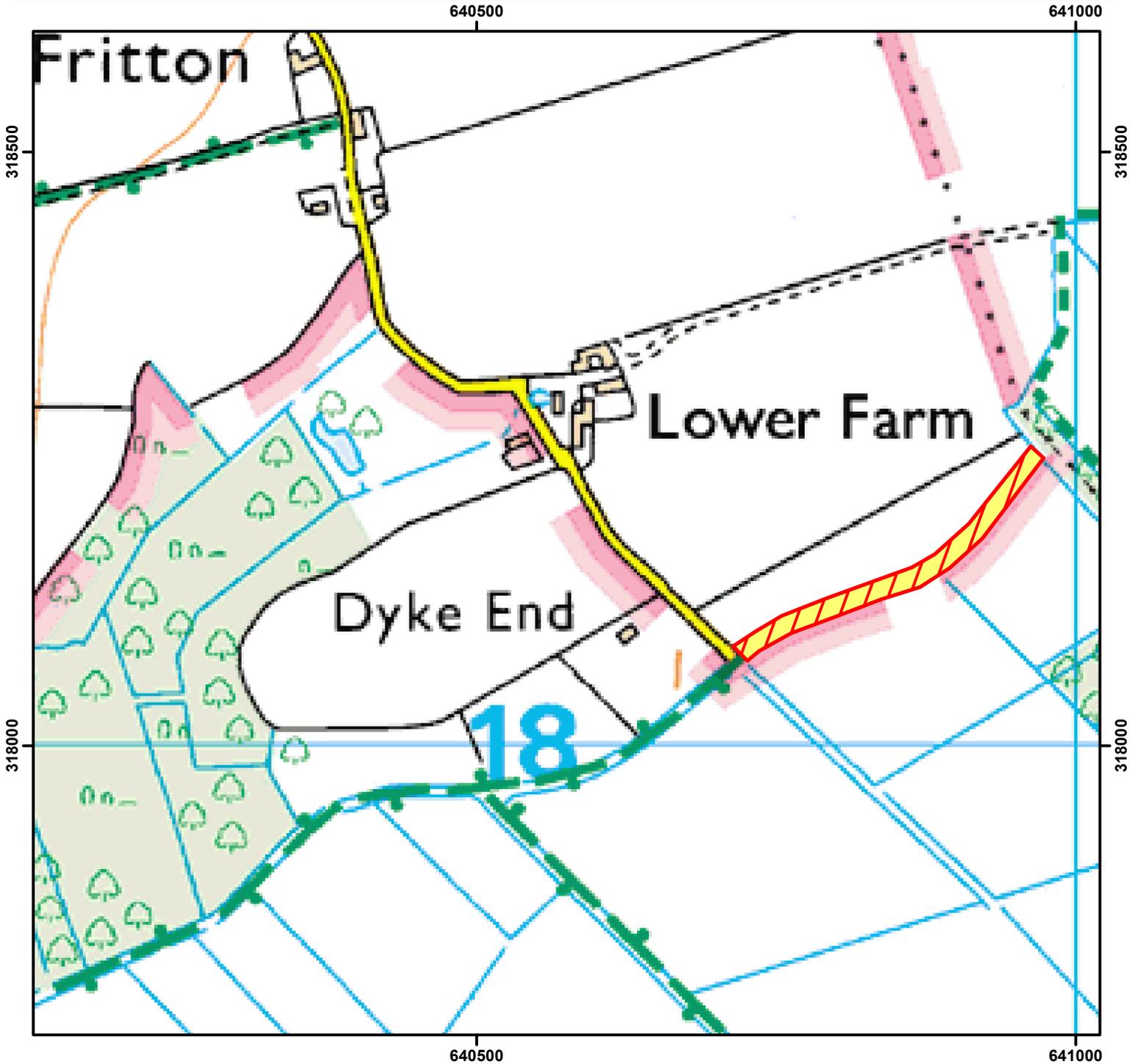
NATURAL
ENGLAND

NO DOGS

To protect sensitive wildlife, dogs are not allowed on open access land shown hatched on the map below. This does not apply to registered assistance dogs and dogs kept under effective control on Public Rights of Way. Between: 17 November 2016 and 17 November 2022.



Case Number: 2016088212



0 150 300 Metres

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 Restricted Open Access Land

 Open Access Land

For more information call the Open Access Contact Centre on 0300 060 2091 or visit our website at www.gov.uk/right-of-way-open-access-land/use-your-right-to-roam

14/05/2021

Our ref: Ludham and Potter Heigham Marshes CROW Access

Your ref: 2016088212



Broads Authority,
Yare House,
62-64 Thorpe Road,
Norwich
NR1 1RY

Natural England,
Dragonfly House,
2 Gilders Way
Norwich,
NR3 1UB

Dear Lewis

Natural England's view on CROW Access Restrictions at Ludham and Potter Heigham Marshes

It is the view of Natural England that a restriction should remain in place on Ludham and Potter Heigham Marshes National Nature Reserve to prevent access for dog walking.

This site is particularly sensitive to disturbance by human activity as it is designated as a Site of Special Scientific Interest in part due to its assemblage of wintering birds and breeding birds including "small numbers of Redshank, Lapwing, Oystercatcher, Snipe and Yellow Wagtail". In recent years these species have struggled to establish breeding populations on the site. Any further disturbance might well cause these species to abandon nesting attempts entirely and thus lead to the site entering Unfavourable Condition. Ludham and Potter Heigham Marshes are also designated as a part of the Broadland SPA and The Broads SAC due to its role in providing habitat for both the species listed above, as well as others such as otters, which might also be vulnerable to disturbance by dogs. Brown hare and water vole, both Section 41 Species species, are also present on site and vulnerable to disturbance.

In addition to protecting the designated features of the site there is also a concern for the health and safety of any dog walkers who might wish to use the site. In order to promote the plant and bird communities for which the site is designated it is vital to graze the site with cattle. Whilst these should not present a threat to humans normally, interactions between dogs and cattle increase the risk of a health and safety incident.

Yours

Ezra Lucas

Lead Adviser – Broads and River Wensum

Rick Southwood

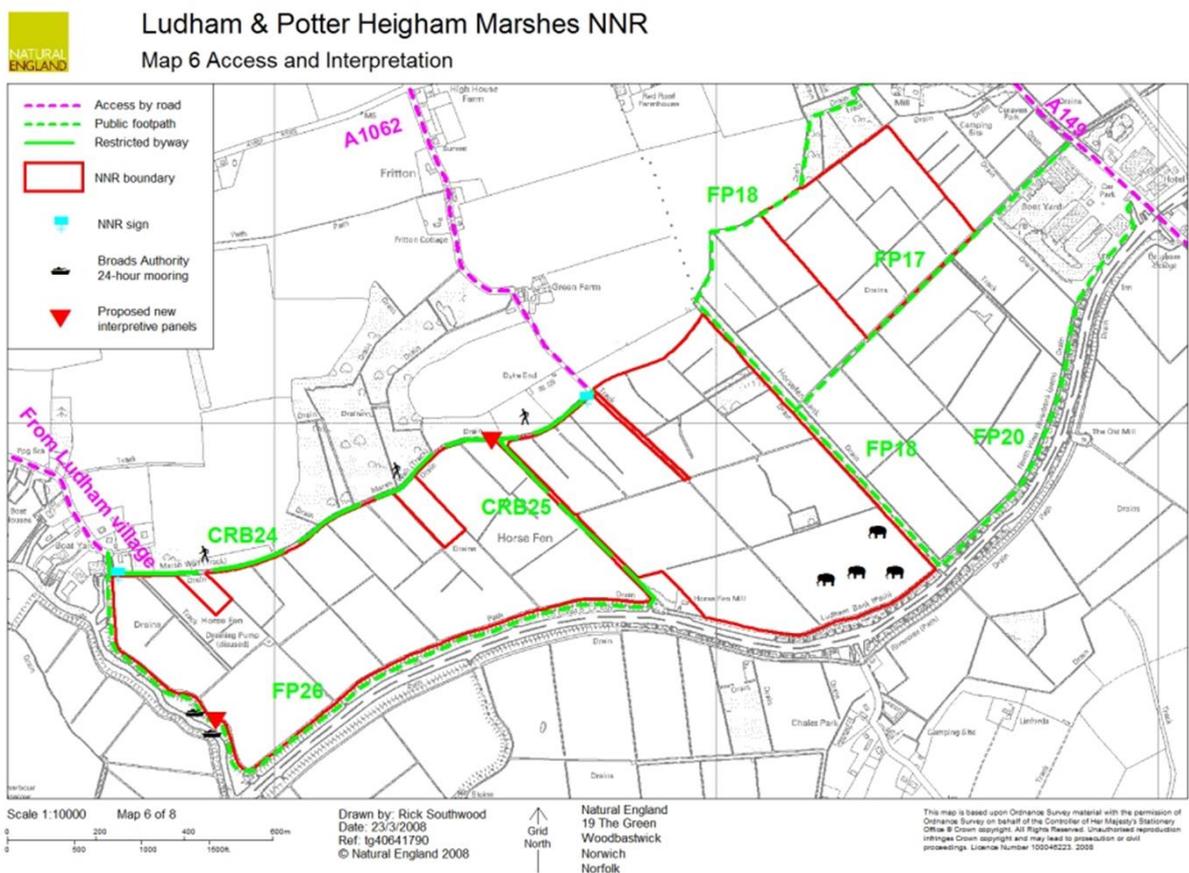
Senior Reserves Manager – The Broads

Access and Sensitive Features Appraisal

Programme	NNR Dedication
Proposal title	Ludham and Potter Heigham Marshes NNR, Norfolk
Aim and location	Dedication of linear route on freehold NNR owned by Natural England in the Norfolk Broads
Report Status	Final
Date	27 October 2015
TRIM reference	
Access Case Officer	Sarah Haigh
Site Responsible Officer	Diane Monsey

Section 1: SITE MAP(S) AND OVERVIEW OF NEW ACCESS PROPOSAL/ CONSIDERATION

Map



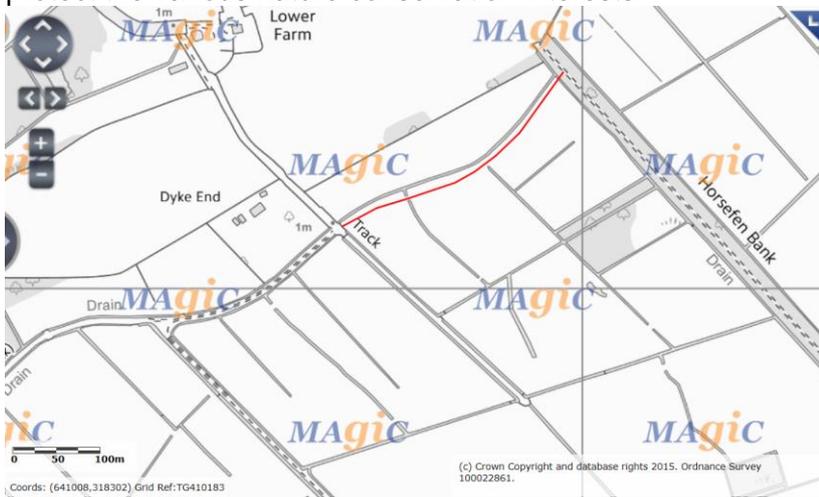
Land within NNR boundary is freehold owned by Natural England.

Proposed new access provisions

In November 2011 the Natural England Board decided that all parts of our eligible National Nature Reserves (NNRs) should be dedicated for permanent public access unless there are compelling reasons on particular sites not to do so.

Ludham and Potter Heigham Marshes is highly compartmentalised by a network of dykes across much of the site, which practically impedes access use. There are a number of existing access routes around the site on public rights of way, which are located on land adjacent to, but outside of, the boundary of land owned by Natural England. There is also an existing informal route accessed by the public on foot along the southern side of Ludham Marshes linking the existing public footpaths. This informal path is located on land adjacent to, but outside of, the boundary of land owned by Natural England.

Considering the practical difficulties in accessing the site and the existing network of paths around the site that offer good views across it, we have decided not to dedicate permanent public access on foot across the whole site. However, permanent public access on foot will be dedicated in perpetuity under Section 16 of the Countryside and Rights of Way (CROW) Act 2000 on land owned by Natural England along a linear route on the northern side of Ludham Marshes (indicated in red on the map below). The new access provision will introduce CROW open access rights on foot, linking to the current established access provided by Public Rights of Way. To maintain the current circumstances where dogs are not present on the site, a year round exclusion on dogs will be given to continue to protect the various nature conservation interests.



The dedicated route has been assessed as unsuitable for use by horses or bikes. There are no other paths or tracks on land that we own here to assess for suitability for higher rights, and there are no other opportunities to extend access on horses and bikes beyond that which already exists on adjacent public rights of way.

Section 2: PREDICTED CHANGE IN PUBLIC USE OF AREA

[For completion only if the Responsible Officer has initial concerns about the potential impact of the new access proposal on our conservation objectives]

How do visitors already use the site?

Ludham and Potter Heigham Marshes are located within the Norfolk Broads, covering 86 hectares. The NNR has two sections of land; the larger, western area is Ludham Marshes and the smaller, eastern area is Potter Heigham Marshes.

The public have views to the site using the public rights of way shown on the map. Level of usage is generally low. No recreational use is made of the reserve other than walking, dog walking and occasional horse riding on the public rights of way. The public rights of way (footpaths and a Restricted Byway) which surround the site offer linear and circular walks, with views from the elevated riverbank, giving considerable opportunities to appreciate its qualities, without compromising nature conservation interests or grazing.

A Broads Authority 24-hour mooring at Womack water gives views over the NNR and access to the footpath system. There are no visitor facilities present on the site, other than the public rights of way, the condition of which varies from wide hard-surfaced tracks to narrow footpaths. NNR signs are in place, and there is scope for interpretive panels.

How is the new access proposal likely to affect use of this site by the public?

There is no evidence of demand for additional access to the site by the public, and it is anticipated that the current use of the site is unlikely to change significantly with the dedication of the linear route with CROW access rights in the immediate future. However, it is anticipated that the new access right will provide a useful link between the existing public rights of way, enabling a larger circular route around Ludham Marshes for access use.

Concerns raised by the Senior Reserve Manager

Wintering birds (from 1st October to 31st March) – easily disturbed, by as little as one person crossing the marshes, and especially by dogs. This is at a time when we would expect little or no human presence, since there is no need for graziers to be onsite.

Breeding birds (from 15th March to 31st July) – ground-nesting waders are currently at very low numbers, both locally and nationally. We have been trying to make the site more attractive for breeding waders by water level and predator management. Human disturbance can be a contributory factor in both site selection (failure to use otherwise suitable habitat) and nest failure. Dogs are inimical to nests, eggs and unfledged young.

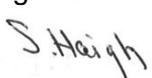
Otter (SAC), brown hare (BAP), water vole (BAP) are all susceptible to disturbance, particularly by dogs. Brown hare probably most susceptible, others are semi-aquatic.

There is no existing public access with dogs on the NNR, but the linear route will cross open compartments of land. The introduction of dogs onto the site would have a detrimental impact on wintering and ground nesting birds, and on the otter, water vole and brown hare population. To maintain the current circumstances where dogs are essentially excluded from the site, and to protect the various nature conservation interests at risk from disturbance from the presence of dogs, Natural England recommends that dogs are excluded from the site entirely, all year round.

Regarding concerns of disturbance from people to wintering birds and ground nesting birds, people with dogs are generally considered as a more disturbing factor than people without dogs. Given that we are only dedicating a linear route across a small area of the NNR, we believe that a dog exclusion is sufficient in preventing disturbance, with the proviso that we will revisit this arrangement if circumstances change.

The Norfolk Broads Authority are the Relevant Authority, and will need to give the direction described above. Interpretation boards will need to be updated to reflect the restriction that will be put in place.

Access case officer

Signed: 	Name: Sarah Haigh	Date: 27 October 2015
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Section 3: POTENTIAL IMPACT ON FEATURES FROM NEW ACCESS PROPOSAL

Broadland SPA & Ramsar, The Broads SAC, Ludham-Potter Heigham Marshes SSSI									
	SPA	p/SPA	SAC	p/SAC	Ramsar	p/Ramsar	SSSI		
Designation types present	X		X		X		X		

Potential concern about new access proposal (summary)

Wintering birds (from 1st October to 31st March) – easily disturbed, by as little as one person crossing the marshes, and especially by dogs. This is at a time when we would expect little or no human presence, since there is no need for graziers to be onsite.

Breeding birds (from 15th March to 31st July) – ground-nesting waders are currently at very low numbers, both locally and nationally. We have been trying to make the site more attractive for breeding waders by water level and predator management. Human disturbance can be a contributory factor in both site selection (failure to use otherwise suitable habitat) and nest failure. Dogs are inimical to nests, eggs and unfledged young.

Otter (SAC), brown hare (BAP), water vole (BAP) are all susceptible to disturbance, particularly by dogs. Brown hare probably most susceptible, others are semi-aquatic.

Concerns about existing public use and action already taken to address this (summary)

None.

Key sensitive features relevant to site (detail)

Feature	Any potential sensitivity to visitors	Any likely impact
(Full breakdown in NNR management plan) SAC: Natural eutrophic lakes, Molinia meadows, Alluvial forests, Lutra lutra; Otter SPA/RAMSAR: Wintering waterfowl assemblage, Cygnus columbianus bewickii; Bewick’s swan, Cygnus cygnus; Whooper swan, Anas strepera; Gadwall,	<i>In each case give details of the location or distribution of this feature within the site (show on the map as appropriate) and the nature of any known sensitivity to visitors.</i> Wintering and breeding bird assemblages are susceptible to disturbance from visitors, particularly those with dogs. Otters (SAC), hares (BAP) and water voles (BAP) are susceptible to disturbance from visitors, particularly those with dogs.	<i>State in each case whether the access proposal (incorporating any special measures that are now proposed) adequately addresses the known sensitivity of this feature.</i> Existing patterns and levels of visitors on foot across the site are unlikely to change as a result of this proposal. To maintain the current circumstances where dogs are not present on the site, a year round exclusion on dogs will be given, to continue to protect the various nature conservation interests. As a result, no likely impact is anticipated.

<p>Anas clypeata; Northern shoveler, Philomachus pugnax; Ruff</p> <p>SSSI: Assemblage of breeding birds, including Vanellus vanellus; Lapwing, Gallinago gallinago; Snipe, Alauda arvensis; Skylark, Tringa tetanus; Redshank</p> <p>Circus aeruginosus; Eurasian marsh harrier</p> <p>BAP: Lepus capensis; Brown hare</p>		
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Note: If the table suggests unacceptable residual impacts on the features in question, the norm is to repeat the earlier process of consideration, and complete when ready a further version of the template. But if at this point the access case officer and responsible officer cannot agree whether the access proposal adequately addresses the potential sensitivities, the case should be referred to the Access and Nature Conservation Review Panel.

Section 4: FINAL CONCLUSIONS

THIS FINAL STAGE SHOULD ONLY BE COMPLETED AFTER THE ACCESS CASE OFFICER AND RESPONSIBLE OFFICER HAVE REACHED AGREEMENT, OR FOLLOWING ESCALATION TO THE ACCESS AND NATURE CONSERVATION REVIEW PANEL

[Inapplicable sections below should be left blank]

4A: FINAL CONCLUSION - EUROPEAN SITE

Screening for Likely Significant Effect under Habitats Regulations – alone

In relation to the new access proposal detailed in sections 1 and 2, taken alone, Natural England has concluded on the best available evidence and information that:

[Mark one box with an X only, and complete that entry as shown]

A. **It can be excluded that the new access proposal, taken alone, will have any effect** on any of the features listed in section 3 above for which the European site has been designated or classified, for the following reasons:

[Summarise reasons here]

B. While it cannot be excluded that the new access proposal taken alone will have an effect, **it is not considered that the effect is likely to be significant**, for the following reasons:

With a dog exclusion and a very small area of the site that could be affected by the dedicated route, no likely significant effect is anticipated.

C. **It cannot be excluded that the new access proposal, taken alone, will have a significant effect** on the following feature(s) for which the European site has been designated or classified, for the following reasons:

[Specify relevant feature(s) here and summarise reasons]

Screening for Likely Significant Effect under Habitats Regulations – in combination
(See Notes on Completion)

Other relevant plan or project	Is each other plan or project clear and specific enough for a judgement to be made at this stage about the probability or risk of its having any <i>similar</i> effect on the features in question? <i>(see notes)</i>	Where the answer in Column 2 is Yes, what effect is it considered the other plan or project is likely to have in its own right on the features in question? Enter <u>one</u> of the following values, with brief reasons: <ul style="list-style-type: none"> • No effect • A non-significant effect • A significant effect Where the answer in Column 2 is No, enter “Not applicable” in this column.

Conclusions of screening in combination *(leave blank unless In Combination Table used)*

Having considered the best available evidence and information on any other qualifying plans or projects that might operate in combination with the new access proposal detailed in sections 1 and 2, Natural England has concluded that **it can/cannot be excluded** *[delete as appropriate]* that the new access proposal, in combination with any such qualifying plans or projects, will have a significant effect on any of the features for which the European site has been designated or classified, for the following reasons:

[Summarise reasons for conclusion]

Overall Screening Decision for European site/features

Accordingly, taking into account the preceding screening both alone and, where appropriate, in combination, Natural England has concluded:

[Mark with an X as appropriate]

No likely significant effect – the new access proposal may proceed as finally specified, subject to any separate considerations in relation to SSSI features etc (see below);

OR

Likely significant effect - appropriate assessment is required to consider whether the new access proposal may proceed.

[Continued]

PART 4B: FINAL CONCLUSION – SSSI

Conclusion

In the light of the analysis in section 3, Natural England has concluded that the new access proposal detailed in sections 1 and 2:

[Mark one box with an X only below]

complies with NE’s duty to further the conservation and enhancement of the notified features of the SSSI, consistent with the proper exercise of its functions¹ - and accordingly the new access proposal may proceed as finally specified in this template

would not comply with the duty referred to in (a) – and accordingly permission/ authorisation/ assent for the new proposal should not be given, for the following reasons:

[summarise reasons here if this option is selected]

[Continued]

PART 4C: FINAL CONCLUSION - Other features about which concerns have been expressed

Conclusion

In the light of the analysis in section 3, Natural England has concluded that:

[Mark one box with an X only below]

the appropriate balance has been struck by the new access proposal between NE’s conservation and access objectives, duties and purposes - and accordingly the new access proposal should proceed as finally specified in this template

the appropriate balance referred to above has not been struck – and accordingly the new

1

access proposal should not proceed in the form specified in this template, for the following reasons:

[Summarise reasons here if this option is selected]

[Continued]

SIGNATURE COVERING THE WHOLE OF PART 4:

Responsible officer		
Name: Diane Monsey	Signed: 	Date: 28/10/2015

Access and Sensitive Features Template - Notes On Completion

Purpose

1. We use this template where a Natural England programme is developing proposals for new or improved public access that might potentially impact on key sensitive features that occur on designated or other sites. This is to ensure that levels of protection appropriate to the status of the sensitive features in question are built in to proposals at the design stage, and that a proportionate audit trail is kept according to the circumstances.

Process

2. The template should be used wherever access programmes interface with designated conservation sites. A number of designated sites within the same area may be grouped together for this purpose if the responsible officer agrees this is the most efficient way to consider the issues. The template may also be used to provide an audit trail for decisions relating to non-designated sites.

3. Only the relevant parts of the template should be completed. For example if the features for which a site is designated are not sensitive to access at all, it may be appropriate to leave section 2 uncompleted and simply complete the overview of section 3, and then proceed to the conclusions at section 4. Where there are known to be potential sensitivities, it is important that preliminary discussions (see below) clarify potentially viable access options that can sensibly be considered and evaluated, rather than completing the template mechanically for access options that are never going to be viable.

4. The key stages in the process are:

1. Map affected area and summarise new access proposal.
2. If there are potential concerns, predict how public use of area likely to change.
3. Document sensitivities and consider whether proposal deals with them.
4. Record formal conclusions for affected European site, SSSI or other areas.

5. In practice the process is highly iterative between the Access Case Officer and the Responsible Officer. It also involves as appropriate discussion with other key interests, such as site staff, local conservation organisations, the local access authority and subject specialists - so that the relevant expertise and information can be applied to the case, any concerns identified early and constructive discussions held. For Coastal Access projects, specific commitments in this respect are set out in section 4.9 of the statutory Scheme.

6. The template is designed so that only the necessary sections have to be completed in each case. Even so, it may be necessary in some cases to complete more than one version of sections 1 to 3 before the right solution is identified, and the final conclusions are then recorded at section 4. The template refers to this possibility.

Who does what

7. The Access Case Officer should take the lead in completing all sections of the form, drawing extensively on the views expressed (or evidence supplied) by the Site Responsible Officer or others. Ultimate responsibility for quality assuring the resulting content is colour coded like this in the different section headings of the template:

Access case officer

Responsible officer

8. These two officers have to sign sections 2 and 4 respectively, once the final version of the template has been agreed. The formal set of conclusions at section 4 should be something the two officers have agreed upon. If this does not prove possible, the case should be referred to the Access and Nature Conservation Review Panel for advice before section 4 is signed off. Should appropriate assessment under the Habitat Regulations exceptionally prove necessary, customised advice should be sought on appropriate documentation.

9. The final version of the template will usually be made available via our website but all completed versions of it should be stored on Trim as part of the audit trail for the case.

Map (Section 1)

10. As noted in the template itself, the map used for Section 1 may be any suitable existing map, suitably annotated in relation to the issues mentioned there. It need not be (but may be) a specially produced electronic map.

In combination screening (Section 4A) – some detailed guidance

11. The table in the second part of section 4A only needs to be completed where in the first part of the same section, Box B is ticked to indicate that:

- it cannot be excluded that the new access proposal taken alone will have any adverse effect, but
- it is not considered that the effect is likely to be significant.

In this situation (only), the In Combination table is completed. Do not complete the table if Box A or Box C have been ticked in the first part of section 4A.

12. Where the table is used, a separate row should be completed for each other current or forthcoming plan or project in the vicinity.

13. Where the entry in the third column is “Not applicable” because a proposal currently lacks sufficiently clear and specific information to enable an informed prediction to be made of its likely impact on any of the features for which the European site has been designated or classified, in combination screening is **not** appropriate.

14. Similarly, where the prediction in Column 3 is No Effect or A Significant Effect, in combination screening is **not** appropriate.

15. The possibility of an in combination effect **may** need to be considered for any rows in the table where the prediction in Column 3 is A Non-Significant Effect – ie that:

- it cannot be excluded that the ‘other’ proposal taken alone will have any adverse effect, but
- it is not considered that the effect is likely to be significant.

Where this is so, the further question to be clear about is whether the Non-Significant Effect that is predicted relates to the same feature(s) as the one to which the Non-Significant Effect of the access proposal relates:

- if yes, then in combination screening **is** needed;
- if no, then in combination screening is **not needed**.

16. Where in combination screening is needed, the Responsible Officer must also complete the further statement found immediately below the table, headed “Conclusions of screening in combination”.

17. Further information on In Combination Assessment can be found in the Habitats Regulation guidance linked below if required.

Resources and further guidance

18. The following resources and guidance may be useful when working through this process:

- Webmap provides details of designated sites.
- For advice on potentially vulnerable habitats and species, please see the published Wildlife and Access Advisory Group Guidance reports NECR012 and NECR013.
- The current conservation objectives and notified species or habitats for European Sites are available [here](#)
- The corresponding SSSI information is available [here](#)
- Internal Habitats Regulations operational guidance is available [here](#)