

Report to: Lead Cabinet Member for Transport & Environment

Date of Meeting: 18 January 2021

By: Director of Communities, Economy and Transport

Title: Power to designate Local Nature Reserves

Purpose: To seek Lead Member's agreement that the County Council delegate its powers to designate a Local Nature Reserve to Ninfield Parish Council.

RECOMMENDATION: The Lead Member is recommended to:

- (1) agree the delegation to Ninfield Parish Council of the County Council's power under section 21 of the National Parks and Access to the Countryside Act 1949 to designate as a local nature reserve land at Church Wood;**
 - (2) to recommend to the Governance Committee to agree the delegation to Ninfield Parish Council of the Council's power under sections 20 and 21(4) of the National Parks and Access to the Countryside Act 1949 to make byelaws in relation to land at Church Wood designated as a local nature reserve; and**
 - (3) delegate authority to the Director of Communities, Economy and Transport to enter into agreements and to take any necessary actions in respect of the above recommendation.**
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1 Background Information

1.1 Ninfield Parish Council has requested that the County Council designate a new Local Nature Reserve (LNR), at Church Wood (Appendix 1). Under Regulation 5 of the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012 the County Council can, with the agreement of both parties, delegate its executive powers to declare a LNR to a Parish Council. It is proposed that the future arrangements shall not require the County Council to be involved in site management.

2. Supporting Information

2.1 A LNR is a statutory designation made under Section 21 of the National Parks and Access to the Countryside Act 1949 (as amended by Section 11 of the Natural Environment and Rural Communities Act 2006) ('NPACA'), by principal local authorities such as County Councils. Appendix 2 provides more detail on LNRs.

2.2 Under Sections 20 and 21(4) of the NPACA the County Council has powers for the protection of a LNR. Under section 101 of the Local Government Act 1972, it is proposed that these powers be delegated to the Parish Council, subject to consultation with the County Council.

2.3 It is understood that the Parish Council has the support of the local community and Natural England for the designation of Ninfield Woods as a LNR. The land in question is within the ownership of the Parish Council, the site does meet the criteria required for designation as a LNR and its designation as a LNR would not undermine any Development Plan policy relevant to the area and site.

2.4 It is proposed that the County Council enter into a Delegation Agreement with the Parish Council to formally delegate the power to designate a LNR and to, subject to agreement by the Governance Committee, make byelaws in relation to the LNR. Whilst the County Council will remain ultimately responsible for the management of the LNR once powers have been delegated, it is proposed that the Delegation Agreement will include an indemnity clause, similar to indemnity clauses used when the Council has previously delegated the power to designate a LNR and to make byelaws in relation to the LNR to

other Parish and Town Councils. The delegation and subsequent designation will not result in an increased financial burden on the County Council.

2.5 It is recommended that the delegation of powers under section 21 of the National Parks and Access to the Countryside Act 1949 to designate as a LNR land at Church Wood take effect immediately upon completion of the Delegation Agreement. The timescale to implement the relevant elements of the process to ensure a satisfactory transfer of roles and responsibilities will be established with the Parish Council. It is therefore proposed that authority to enter into any necessary agreements and to any required actions be delegated to the Director of Communities, Economy and Transport.

2.6 It is envisaged that Church Wood will continue to be managed in line with the existing management plan (attached as background document), and there is no conflict between the proposed LNR and the existing, or evolving local development plan.

3. Conclusion and Reason for Recommendation

3.1 It is considered that the Delegation will support Ninfield Parish Council and enable an increase in well managed ecological sites for the benefit of the local community, in line with the East Sussex Environment Strategy. Therefore the Lead Member is recommended to:

- 1) approve the delegation of power under section 21 of the National Parks and Access to the Countryside Act 1949 to designate as a LNR land at Church Wood;
- 2) recommend to the Governance Committee to delegate the powers under sections 20 and 21(4) of the National Parks and Access to the Countryside Act 1949 to Ninfield Parish Council to make byelaws for the protection of the LNR; and
- 3) delegate authority to the Director of Communities, Economy and Transport to enter into any agreements and take any actions necessary in order to facilitate the above recommendations.

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LOCAL MEMBERS

All

BACKGROUND DOCUMENTS:

Church Wood Management Plan

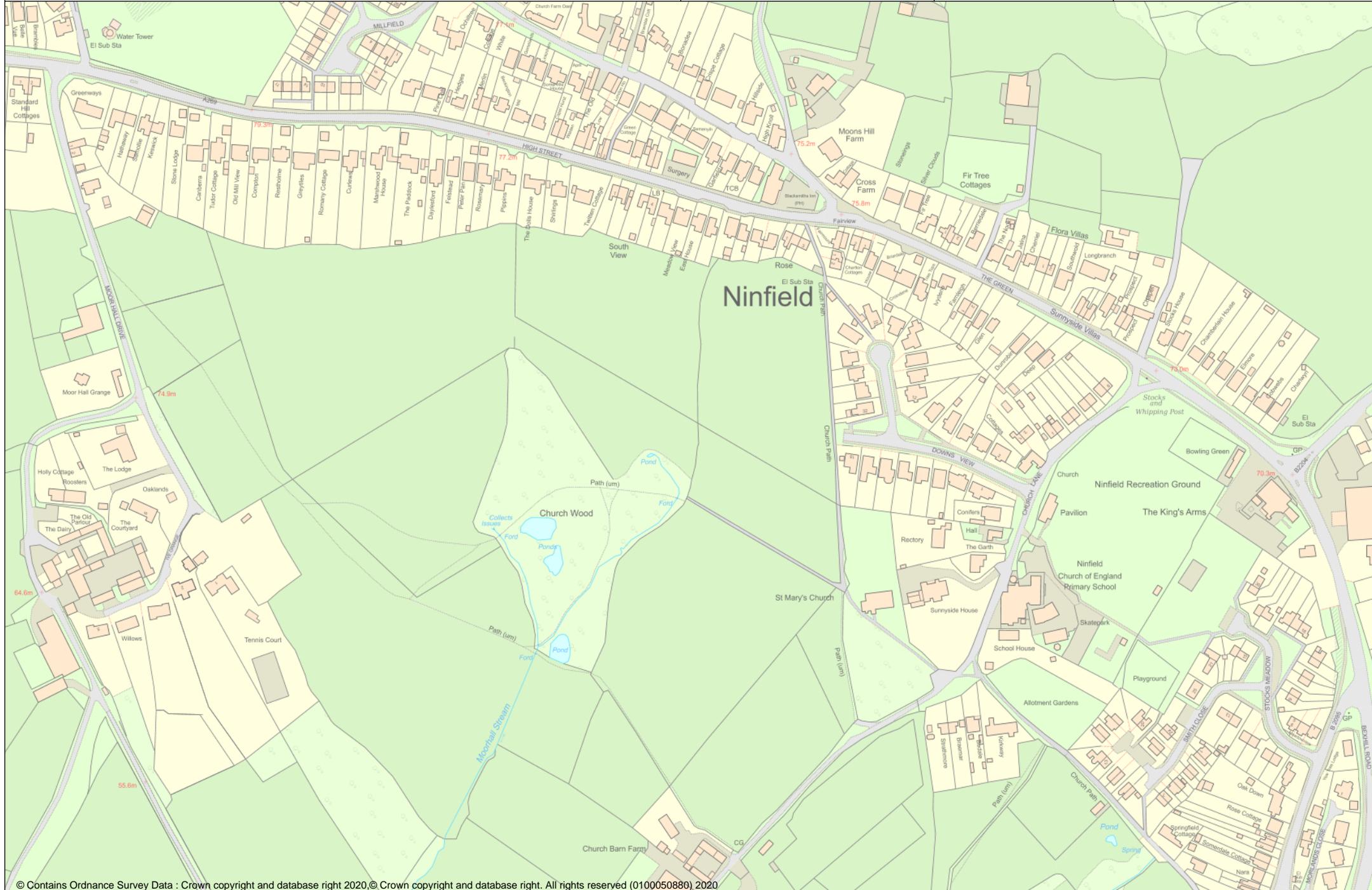
Ninfield's Church Wood

Site

Ninfield CP

Author:

Date: 09/12/2020



LOCAL NATURE RESERVES (LNRs) – BACKGROUND INFORMATION

Introduction

- LNRs are places with wildlife or geological features that are of special interest locally.
- Natural England (NE) recommends LNRs should be: (a) normally > 2ha; (b) capable of being managed with conservation of nature and/or maintenance of special opportunities for study, research or enjoyment of nature as the priority concern.
- Should also be either: (a) of high natural interest in the local context; or (b) of some reasonable natural interest and of high value in the local context for formal education or research; or (c) of some reasonable natural interest and of high value in the local context for the informal enjoyment of nature by the public.
- They are important for biodiversity conservation, the protection and interpretation of features important in earth sciences and in helping to reach BAP targets (and therefore in fulfilling biodiversity duties under the Natural Environment and Rural Communities Act, 2006). They are also of value for the contribution they make to the quality of the environment for local people, the part they play in community development and their values in education.

Declaration of LNRs

- LNR is a statutory designation made under Section 21 of the National Parks and Access to the Countryside Act 1949, and amended by Schedule 11 of the Natural Environment and Rural Communities Act 2006, by principal LAs (i.e. a county, borough or district).
- Under Section 101 of the Local Government Act 1972, a principal LA can, with the agreement of both parties, delegate its powers to declare a LNR to a Parish or Town Council.
- To establish a LNR, the declaring Local Authority (LA) must first have a legal interest in the land concerned, i.e. owning the freehold, leasing it, or having a nature reserve agreement with the owner. In the latter case, if the land is subject to a tenancy, both owner and tenant must be parties to the agreement. The powers given in Section 16 of the 1949 Act form the basis for any agreement. Any agreement needs to make absolutely clear what is agreed and who is responsible for doing what. So long as the legal advisors of all parties to the agreement are satisfied, this is all an agreement requires.
- The land need not lie within the area which the declaring authority controls but if it does not, the authority within whose jurisdiction the land falls must be in agreement.
- The responsibility for selecting, acquiring and managing LNRs is the LAs'.
- In declaring a LNR, a LA accepts a commitment to manage the land as a nature reserve and to protect it from inappropriate uses or development.
- The 1949 Act gives powers of compulsory purchase to LAs in establishing LNRs, however these can only be used where LAs are convinced that they cannot arrive at a satisfactory agreement on reasonable terms. Where a breach of any nature reserve agreement occurs which prevents or jeopardises the proper management of a LNR, compulsory purchase is one possible solution.
- The process of selecting, acquiring, declaring and managing LNRs can be made easier if LAs use the expertise and advice offered by NE.
- The LA should also consult local communities and voluntary conservation bodies and put together outline management proposals for the site, making it clear what the long term objectives are.
- Thought should be given as to how the desired management of the site could be funded and any other costs involved.

The LA needs to write formally to the NE regional team to the effect that it intends to make the LNR declaration. The following steps should then be taken:

- a formal declaration document should be drawn up (needs only be one side of A4) accompanied by a map at a scale which accurately shows the LNR boundary;
- the declaration should be agreed by the relevant LA committees;
- a public notice announcing the declaration should be placed in a local paper and copies of the declaration and map made available for the public to inspect free of charge;

- the LA should formally notify the NE regional team of the LNR declaration in writing and send them a copy of the declaration, together with maps and any other details required about the reserve. NE will advise on what these are.
- LNR marked on Structure Plan maps and Local Development Framework proposal maps.
- Extensions to existing LNRs require the same procedures.

Management of LNRs

- A LNR must be managed so that the features which gave the place its special interest are maintained. Good management is needed if the value of a reserve for its wildlife or geological interest is to be enhanced.
- When declaring a LNR, the LA accepts responsibility for ensuring that the special interest of the land is maintained. It must, therefore, consider carefully exactly how the reserve is to be managed, and by whom and what resources will be needed.
- Producing a simple management plan will help and all LNRs should have one.
- A growing number of LNRs is managed by local community volunteer groups, "Friends of" groups or organisations like county Wildlife Trusts, in agreement with the LA.
- Where the reserve is managed by the LA itself, management committees with representatives of local organisations can offer helpful advice.
- All LNR managers should seek the involvement of the local education authority so that the full potential of the LNR for education is realised.
- It may be desirable or necessary to apply bye-laws to any LNR, depending largely on the degree of public access to the LNR. Bye-laws cannot override existing rights over land and it is recommended that only one set of bye-laws be applied to any piece of land.

Why declare LNRs?

- Should be seen as a useful planning tool. They:
 - increase people's awareness and enjoyment of their natural environment;
 - provide an ideal environment for everyone to learn about and study nature;
 - can help build relationships between LAs, national and local nature conservation organisations and local people;
 - protect wildlife habitats and natural features;
 - offer a positive use for land which LAs would prefer was left undeveloped;
 - make it possible to apply bye-laws which can help in managing and protecting the sites.
- In addition, as LNR is a statutory declaration, it is a very clear indication to a local community of the LA's commitment to nature conservation.
- LNRs can help LAs meet Biodiversity Action Plan (BAP) and Sustainable Development targets.
- NE recommends that LNRs should be provided at 1 ha per thousand population and accessible natural greenspace at levels ranging from 20 ha to 500 ha.

NE recommends that people living in towns and cities should have:

- a) accessible natural greenspace less than 300m (in a straight line) from home;
 - b) at least one accessible 20ha site within 2km of home;
 - c) one accessible 100ha site within 5km of home;
 - d) one accessible 500ha site within 10km of home;
 - e) statutory LNRs provided at a minimum level of 1ha per thousand population.
- In some areas, these levels of accessible natural greenspace provision will be hard to achieve in the short term, but they should nevertheless remain a long term aim.
 - Ideally, LNRs should be placed in a clear strategic framework for accessible natural greenspace set out in Development Plans, other formal LA documents or Local BAPs. They could be seen as nodes in green networks which have a variety of uses.