

Malvern Hills Trust
Land Management Committee
Manor House, Grange Road, Malvern
Thursday 11 April 2019 7.00pm

Present: Mr D Baldwin, Dr S Braim, Mr R Hall-Jones (arrived during item 6), Mr D Hawkins, Mrs G Rees (Chair), Mr C Rouse, Ms H Stace (arrived during item 5), Mr T Yapp.

In attendance: Secretary to the Board, Conservation Manager, Community and Conservation Officer (CCO), Mr M Davies, Mr P Watson, 7 members of the public.

No attendance: Mr J Michael, Mrs C O'Donnell.

Mrs Rees welcomed everyone to the meeting. She asked if the Committee would agree to take agenda item 8 before item 6 as the applicant was present at the meeting.

1. Apologies for Absence

Chief Executive Officer (CEO), Mr M Gardner, Dr P Forster, Mr S Freeman, Mr A Golightly, Ms S Rouse.

2. Declarations of Interest

There were none.

3. Chairman's Communications

There were none.

4. Public Questions

Questions had been received from 1 member of the public. See Schedule.

5. Matters Arising from the meeting of 6 December 2018

The Secretary to the Board reported as follows:

Bus shelter Poolbrook Road

A draft licence had been agreed and was awaiting signature.

Stowe Lane easement

The CEO and Mrs Rees had met the landowner before the last Committee meeting. The CEO had understood that the landowner or his agent would confirm his position in writing but nothing further had been heard.

Brockhill Road easement resurfacing

The CEO had had 2 meetings – one to discuss an alternative method of resurfacing and the other to hear proposals about setting up a Residents' Association.

Lake House

Mr Frost had put in a new planning application to remove the conditions contained in a s106 agreement linked to his previous planning permission.¹ Mr Frost had not been in touch. If the planning permission was granted, that would establish uses for the property for which Mr Frost did not have an easement. The Secretary to the Board's view was that if that happened, the Trust would have to take action to ensure the easements were not being used for unauthorised purposes.

Wall at North Malvern

The work would be carried out on 13 April.

Belvedere Shelter

The CEO was trying to obtain a start date from the builders.

Car park ticket machines

These would be installed after Easter, probably in the week commencing 29 April.

British Camp toilets

The septic tank was being emptied regularly. The CEO had obtained one quote for a self-contained treatment unit but everything was on hold until the question of ongoing maintenance was resolved with Herefordshire Council. This would not be dealt with until after the election in May. A water leak had also been discovered at the meter. That had been repaired and may have been contributing to the drainage problem.

The Purlieu

Herefordshire Council had put in a refuge for a bulk bin half way down, but no bin had been installed.

The Conservation Manager confirmed that there had been a meeting for landowners at Eastnor to talk about potential issues arising from the spread of wild boar.

6. **Easement Pound Bank Road**(agenda item 8)

The Secretary to the Board went through the paper, which set out the relevant considerations. She pointed out that Mr Zikking's planning permission required the first 5 metres of the easement (measured from the carriageway) to be surfaced in a bound material. In order for him to comply with this condition the Trust's standard conditions for easements would have to be varied. Mr Zikking's planning permission was for a stone surface and there was also a planning condition requiring approval of drainage arrangements. The Conservation Manager confirmed that he had no concerns.

On the proposal of Mr Baldwin, seconded by Mr Rouse it was **RESOLVED** (with 1 abstention as Mr Hall-Jones had not been present throughout the debate) that the Land Management Committee recommend to Board that the application for an easement be approved subject to:

- The existing footpath be taken up and replaced with turf and

¹ 07/00872/FUL

- the Trust's standard conditions as annexed to the Easement Policy with the exception that the applicant be permitted to use a binding material either for the whole of the drive or the 5 m nearest the carriageway, such material to be approved by the CEO before installation

because of the urban location of the easement and in order that the applicant could comply with his planning permission.

Mr Zikking and another member of the public left the meeting.

7. Easement 2 Spa Cottage (agenda item 6)

The Secretary to the Board reiterated that the matter was not for decision at this meeting. She went through the paper. Because of the length of the easement and the engineering works required, the CEO had asked the applicant whether it might be helpful to get a Committee view on the principle of permitting the easement before the applicant incurred significant costs.

Issues which had been raised at the site meeting had been noted as follows:

- Drainage
- Use of sleepers for retaining walls and whether this was in keeping
- An engineering drawing would be required to ensure the proposed structures to retain the earthworks were adequate
- The drop above the turning circle would require safety fencing
- Excavation of the turning circle would cause damage to the nearby tree roots, possibly resulting in their loss
- Steps by the turning area were shown but the levelling of the ground might result in more steps than was indicated on the drawing
- Was there an alternative route along the fence line?
- Would a larger turning area be required in practice?

When the new property was being built, the owner had asked to create a track and put in a parking area whilst the building works were ongoing, which was similar to the current application. The Conservation Manager had not been prepared to give consent, as he did not think it was suitable. The applicant then proposed using powered wheelbarrows, and this enabled the building works to go ahead. The Conservation Manager felt the proposed earthworks were significant, would take away part of the hillside and would have a significant effect on the landscape and the local ecology. He was not in favour of granting this easement.

The Committee commented:

- the current drawing did not give sufficient information
- there would be a significant loss of land
- the Trust should not be permitting digging out of the hillside
- a significant amount of earthworks would be required, with a large retaining wall
- in principle it would be perfectly proper to help the owner to get a vehicular access, but the engineering works seemed excessive
- consideration had been given to whether the track could be relocated but this did not appear feasible

The Secretary to the Board said that the issue before the Committee was whether, given the amount of engineering work which would be involved, they might grant the application if they had a more detailed application (which would mean the applicant would have to incur significant professional fees) or whether they would not consider granting the easement in any circumstances. On the proposal of Mr Hall-Jones, seconded by Mr Hawkins it was **RESOLVED** (with one abstention) that from the evidence available, the Committee could not see any way in which an easement along these lines could be approved.

8. Easement Ridgeway, Beacon Road (agenda item7)

The Secretary to the Board went through the paper. This was a request for a 3m extension to the existing easement, along a pre-existing track. It would result in the loss of a very narrow strip between the track and the section of wall which was to be removed. The strip was of no ecological significance, and the effect on the natural aspect would not be significant. The standard easement conditions would apply to the surfacing of the narrow strip. Mr Hall-Jones suggested (although it was not strictly a matter for the Trust) that the access might be more attractive if the new gate pillar could be built in Malvern stone,. Mr Watson asked if the residents could not turn at the top of the track. On the proposal of Mr Baldwin, seconded by Dr Braim, it was **RESOLVED** unanimously to recommend to the Board that the existing easement be varied to extend the access over a further 3m of the track. The revised easement to be confirmed by deed of grant at the applicants' cost.

9. Visitor Survey results

The CCO went through the paper.

In addition, she read out the analysis of where overnight visitors to the area were from. She said that the AONB were looking at using the report from the Health and Wellbeing perspective. The CEO and the CCO were looking into setting up a count to establish visitor numbers.

Mrs Rees thanked the CCO for the work she had done on the Mountain Biking Campaign.

The Events Programme was now available. It would be possible to set up events for Board members if there was a demand.

10. Donkey Shed

The Secretary to the Board provided amended drawings. She went through the paper. The aim was to restore what was believed to be the last remaining donkey shed on the Hills. A planning application would be submitted once a bat survey had been completed. Mr Baldwin asked how much the budget was. The Secretary to the Board said she understood that the intention was to seek grant funding.

11. Project progress update

The Conservation Manager highlighted the key points and said, in relation to the paths' restoration project, that it was intended in the coming year to carry out work on the path leading south from Gardiner's Quarry, and to some of the bridleways on Link Common. The CCO reported that the route cards for all 3 waymarked mountain bike routes had been completed, and the publicity for the third route would be launched on 15 April. All the practical work on the mountain bike campaign had been finished.

The tender documents for the work at the Community Woodland were in preparation.

The Conservation Manager said that the necessary consents were now in place to carry out the delayed British Camp repairs. There would be a trial repair using the selected materials within the next week. Signs would be in place to explain the work which was going on.

Coppicing at Park Wood would cease to be part of the Projects' Report as they were now part of the Countryside Stewardship Scheme. A new coppicer had been working on a trial basis over the winter, and would be offered a longer term licence.

The contractor was two thirds of the way through recording the veteran trees on the MHT holding.

Mr Rouse asked if Tank Quarry car park could be re-opened for the summer. The CEO was going to check if it appeared safe to do so. Mr Hawkins suggested signing St Ann's Well from the Wyche Road.

12. To set up working group to review Easement process

On the proposal of Mr Hall-Jones, seconded by Dr Braim, it was **RESOLVED** to set up a working group to review the easement process comprising Mrs Rees, Dr Braim, Mr Davies, Mr Penn, Mr Cordey and an officer.

13. Graziers' Report

There was no report.

14. Conservation Manager's report

The Conservation Manager had prepared a presentation to accompany his report.

Severn Trent had put in some steps without permission on the Shire Ditch (SSSI and Scheduled Monument). These had been removed.

As part of the new Stewardship scheme, MHT had to deliver certain works within the first two years of the scheme (referred to as capital works in the scheme). These included the installation of drinking troughs, the first of which had been put in on Ballard's Land. Another item was crown reduction work to veteran trees to help preserve them.

The Land Management Plan identified a task to improve access to notable geological features. Earth Heritage Trust had helped to identify 10 sites most in need of attention. A grant of £9,000 had been obtained to pay for a contractor to carry out the work.

There was also funding in the scheme for woodland works. This included clearing the laurel in the North Malvern perimeter woodlands. This was being achieved by injecting herbicide into the shrubs.

The Conservation Manager illustrated the scrub clearance which had been carried out at Eight Oaks at Castlemorton, and the clearance of secondary growth of sycamores at Happy Valley. Some trees would be planted in Happy Valley to enhance the Victorian sycamore avenue. Notices had been displayed explaining to the public about the work which was being carried out. The work which MHT was contractually obliged to carry out on the newly acquired land at Holywell Road had been completed.

After consulting the active commoners at Castlemorton, a short term licence had been given to one of the graziers to enable him to use part of the newly acquired land at Castlemorton during the lambing season. The grazier was very grateful to the Board for allowing this use.

The Conservation Manager explained that there were some opportunities to enhance the landscape on the new land. Additional hedging would be planted together with about 20 oak standards. He hoped to get grant funding for this. He had investigated the names of the fields on the tithe map, but they were not of any great interest. He suggested renaming them after recently deceased friends of the Trust – Brook's Meadow after Dudley Brook, Plant's Piece after John Plant and Snooks' Field after Med Snooks. The Committee agreed that this was a good idea and the Conservation Manager would get in touch with the families to seek their agreement.

The Conservation Manager explained about mapping supplements for the Malvern Hills SSSI. The SSSI notification set out what was important on the site. The previous accompanying mapping dated from 1982 and gave very broad habitat information. New maps had been prepared which portrayed more accurately the habitat and gave updated information. Photographs were included which defined more clearly the habitat classes. This would be a great help for land management planning. The Conservation Manager suggested putting the information on the web site, as supporting material for the Land Management Plan.

15. Matters for future consideration

There were none.

16. Urgent business

There was none.

17. Date of next meeting

11 July 2019

The meeting closed at 9pm

Schedule – Public Questions

The answers shown in italics were given by the Secretary to the Board

Questions from Dr G Crisp

- 1) What was the final total cost to the Malvern Hills Trust of considering Chance Lane easement application?

The cost of the reports from Paul Esrich and Bruton Knowles were paid by the applicant.

The cost of Paul Esrich's attendance at and preparation for the meeting was £399. The Trust had to hire a larger than normal venue in order to accommodate the members of the public who it was anticipated would attend and paid £300 to hire the hall at Malvern College.

MHT do not log officer time in dealing with specific issues. The applicant paid a fee of £1,000 to cover staff time in dealing with the application. Many hours of officer time were also spent in dealing with questions from the public, some of which, although not pertinent to the application, involved significant amounts of research and having to seek information from external sources.

In part because of the level of public scrutiny, significant legal costs were incurred in seeking advice in relation to easements, and the conduct of meetings. These were general matters in relation to the legal framework within which the Trust operates and were not specific to this application. Initial costs amounted to £5,200.

Legal costs incurred seeking advice on the matters raised in Mr Huskinson's letter, responding to it and dealing with issues flowing from it amounted to £13,960, including Counsel's fees.

The legal advice received will stand the Trust in good stead in dealing with any similar applications in the future.

- 2) Will the Land Management Committee please consider making applicants for easements for developments of more than a small number of houses, for example five, pay for the legal costs incurred by the Trust in considering the application?

If legal costs are incurred which are specific to the application then the present position is that the applicant pays them, no matter how many properties are served by the easement.