

Malvern Hills Trust
Land Management Committee
Manor House, Grange Road, Malvern
Thursday 12 July 2018 7.00pm

Present: Dr S Braim, Dr P Forster, Mr S Freeman, Mr D Hawkins, Mrs G Rees (Chair), Mr C Rouse, Ms S Rouse (non-voting), Ms H Stace, Mr T Yapp.

In attendance: Chief Executive Officer (CEO), Secretary to the Board, Conservation Manager, Conservation Officer, Mr D Street, Mr P Watson, 4 members of the public (left after item 8).

Mrs Rees welcomed everyone to the meeting.

1. Apologies for Absence

Mr D Baldwin, Mr A Golightly, Mr R Hall-Jones, Mr M Davies, Mr M Gardner.

2. Declarations of Interest

Ms Rouse declared an interest in the HLS Scheme (and Chance Lane easement).

Mr Rouse declared an interest in the HLS Scheme.

Mrs Rees declared an interest in the Stowe Lane easement.

Mr Freeman declared an interest in the Lake House easement.

3. Chairman's Communications

- i. Talk by Katey Stephen on Lower Malvern Common SSSI Wednesday 25 July 7pm, Octagon Community Centre.
- ii. Stroll – British Camp 6.30pm 23 August 2018.
- iii. Chance Lane easement application. This was still in the course of preparation, prior to being put to the Board. The meeting date would be confirmed as soon as possible.
- iv. Land Management Committee walk 7 June. This was poorly attended by only 3 committee members.

4. Public Questions

There were 3 public questions. See Schedule.

5. Matters Arising from the meeting of 12 April 2018

Community Woodland funding – An application was being put together for external funding.

Clevelode – A fishing permit system had been set up. About 12 permits had been issued. The applicants were required to present their Environment Agency licences in order to obtain their permit. There was also a volunteer undertaking regular patrols. He had reported some unwanted activity – static baited hooks – which had been removed. The CEO felt that the arrangements were showing some benefits and would be more fully evaluated at the end of the season.

6. Review of Land Management Plan

The Conservation Manager went through the paper. In conclusion, he felt it was unhelpful to refer to the Plan as a “rolling” plan. Living or dynamic would be a better description. Regular work could be predicted year after year and budgeted into the future but the nature of land management meant that some future work could not be predicted and other work had to be ongoing for a period of years before it could be properly evaluated. The CEO confirmed that there had to be a view beyond the period of the five year plan, to take account of other projects as they arose (eg future thinning at Third’s Wood). The Committee **NOTED** the report.

7. Projects requiring external funding

The Conservation Manager went through the paper, which identified projects, including those from the Land Management and Business Plans, which required additional funding. He asked the Committee for any other suggestions.

The following points were made:

- Could access improvements at the Community Woodland be funded from the money received to manage the land at Townsend Way? The CEO said the project was being put forward for grant funding.
- Putting power lines underground at Old Hollow. The Conservation Manager said that the utility companies had a budget for this type of work, although there was competition for it.

Additional items to be added to the list:

- Funding replacement trees (as a result of ash dieback and other diseases).
- Restoration of the former Victorian gardens near St Ann’s Well.
- Making the roadway up to St Ann’s Well more attractive.
- Improving the contour path to St Ann’s Well.

The results of the discussions would be shared with the FAR Committee.

8. Surfacing easement at Colwall

Mrs Rees declared that she had a potential conflict of loyalty as a Colwall Parish Councillor. Colwall Parish Council owned the land in question (which is under MHT jurisdiction). The Council had been asked about the proposal under discussion and had no views either way. It was agreed that Mrs Rees did not have a material conflict of loyalty in this matter.

The CEO went through the paper. He corrected a statement in the paper – the current surface of the majority of Stowe Lane was patch filled tarmac, and not as stated. Mr Longman had asked to resurface the existing width with an 80mm layer of sub base and a 50mm layer of wearing surface. The CEO had spoken to the Cricket Club, who had no official position on the proposal but were wary of possible ongoing maintenance costs.

The Committee expressed the view that:

- Further tarmac would detract from the rural aspect of the location.

- There were no reasons in this case to depart from the Board's current policy on surface treatment of easements. There was a concern that to depart from the policy where there was no good reason set a bad precedent.
- This application was from the tenant of Brockbury Hall. He was not in a position to enter into an agreement which would bind the property owner to be responsible for maintenance of the easement into the future.

The CEO confirmed that the road was heavily used by visitors to the cricket club. The CEO had been lead to believe that the owner of Brockbury Hall would not give any undertaking in relation to future maintenance.

On the proposal of Mrs Stace, seconded by Mr Rouse, it was **RESOLVED** unanimously to refuse the application.

9. Resurface easement Brockhill Road

The CEO went through the paper. He referred the Committee back to the papers for the Committee meeting in December 2017, which contained background information. He also read out an extract from a letter received from Mr Paul Picton, which set out some of the history of the road.

The CEO asked that the Committee should at this stage consider the principle of allowing the residents to tarmac the easement – much more information would be required about the design for the roadway were the Committee minded to approve the request. The paper contained an analysis of resident's views – of 17 households, 10 were in favour, 3 were against, 1 was neutral and 3 had not responded. One of the residents who was not generally in favour of tarmacking the whole length, supported the resurfacing on the portion of the track owned by MHT.

Points raised by the Committee in discussions were:

- The easement policy referred to a presumption that tarmac was not a suitable surface treatment except on steep slopes or in urban areas. What constituted a steep slope for the purpose of the policy?
- It was clear that there was an issue with water running down the track. Run off from a non porous surface could make matters worse and therefore drainage arrangements would need to be carefully considered. There was no evidence whether tarmacking would make the drainage more of a problem than it was currently.
- The agricultural easement holders appeared not to have been consulted.
- Work was required to restore the surface where Brockhill Road met West Malvern Road.
- MHT made occasionally use of the road for access to Park Wood and the lower part of Brockhill Road.
- There were already some tarmac patches for which authorisation had not been sought.
- The right to use the road by the householders was prescriptive and not governed by any deeds.

- There appeared to have been a lack of maintenance carried out on the track in recent years.
- It was clear that not all the residents wanted tarmac.
- What was the position if MHT authorised something which created a nuisance? The Secretary to the Board suggested that MHT might need to ask for an indemnity. This might be difficult to enforce.
- Tarmacing would change the natural aspect of the common in that area.
- Maintenance of the easement was the responsibility of the properties who had the benefit of the easement.

If the Committee approved the application in principle, MHT would go back to the applicants to ask for a full specification for the surface and drainage proposals. The Secretary to the Board pointed out that the residents did not require MHT consent to surface the track where the land did not belong to MHT.

On the proposal of Mr Freeman, seconded by Mr Hawkins it was **RESOLVED** (with 1 abstention) to refuse the application for the following reasons:

There were no factors in this instance which would persuade the Committee to depart from the policy that tracks should have a loose stone surface treatment. Tarmac was not appropriate to this location.

The effect of tarmac would be to change the natural aspect of this part of the common and add an unacceptable degree of urbanisation.

Not all of the residents were agreed that the road should be tarmacked.

10. Request for bus shelter Poolbrook Road

The CEO introduced the paper. He circulated an additional aerial photograph which showed what he believed to be a more accurate representation of the proposed location of the shelter outside the tree canopy. He understood that the original request came from a Town Council member, Jenny Cain, following a request from around 20 individuals. However, it appeared this had been made by Cllr Cain without a formal proposal from the Town Council as the Town Council were not aware that the request had been put forward to the County Council. The Conservation Manager thought that the design of the proposed shelter - its materials and reflectiveness - was totally out of keeping with a location in the AONB and on the edge of the Lower Malvern Common. Highways by law had to take into account that the location was in the AONB and should not have proposed a low cost, standard shelter. The Secretary to the Board suggested it might be possible to locate the shelter on the north east side of the tree, and so further away from the open common. The majority of the Committee felt that the style of shelter proposed was out of keeping with the location, and a wooden shelter would be more appropriate although it was recognised that a wooden shelter was more likely to be misused.

The Committee asked the CEO to go back to the County Council to ask them to reconsider the proposed location and design of shelter, given its position in the AONB.

11. Easement substitution Lake House

Mr Freeman left the meeting.

The owner of Lake House had asked to “swap” 2 easements. He wished to change a prescriptive agricultural easement to residential use (and to tarmac it), and to downgraded an easement which had been confirmed by deed (dated 17.09.2007) as one for residential purposes for a single dwelling house to agricultural use only, as set out in the paper.

The Committee were concerned that the application did not reflect the reality that there were (on the written admission of Mr Frost) 4 separate dwellings on site, and a business was also being run from the premises. If as result of the change of use, there was an increase in traffic over the easement, there should be consideration payable. It was agreed that Mr Frost should be reminded that the Committee had suggested that should he wish to upgrade the prescriptive agricultural access to residential use, he should give up one of the other access routes entirely.

The Secretary to the Board pointed out that the deed which covered the access routes numbered 2 – 5 specified the use as serving a single dwelling house. Given that it was clear that this was no longer the case, it was not a simple “swap” of the use of 2 access points. (NB the numbers allocated to the various access points were shown on a plan included in the papers for the meeting)

The Conservation Manager pointed out that there were 6 easements of different sorts for one property. It was a great loss to the common and it would be reasonable for the number of accesses to be reduced.

The CEO had spoken to Mr Frost about giving up access 3, but he had indicated he was not prepared to surrender it.

There was a discussion on enforcement as a result of the unlawful use of access 5. The CEO had written to Mr Frost and told him that access 5 had to be used for agricultural purposes only. Taking proceedings would require collection of evidence on use access 5.

The Conservation Manager suggested that the swap might proceed on the basis that access 3 should be grassed over. This work must be carried out before he was allowed to do any work on access 5. He would also be responsible for making any s38 Commons Act application.

On the proposal of Ms Stace, seconded by Mr Hawkins, it was **RESOLVED** unanimously that the CEO should respond to Mr Frost as follows:

The Committee would consider approving the exchange of easements on the basis that access 3 became an agricultural easement, to be restored to grass with no other surface treatment and this work be carried out before any work was commenced on access 5.

The use of access 5 to be varied to provide for residential use for 3 additional dwellings as per Mr Frost’s application, with consideration to be payable by Mr Frost for the value of the additional rights granted. A full specification for the easement to be included in the deed.

Mr Freeman re-joined the meeting.

12. Project progress update

The CEO drew the committee’s attention to the paper. He had attended Parkex and had asked some additional companies to quote to replace the car park ticket machines. He had investigated the possibility of using solar power but this would

not be a workable option for some of the car parks, as he understood that on a busy day, the draw on power would exceed the generation capacity (and some car parks were heavily shaded).

The repairs to the ramparts at British Camp had been delayed for reasons of staff workload.

The Conservation Manager confirmed in answer to a question that there were no present plans to restore a pond on Malvern Link Common. Mrs Rees said that this could be added to the shopping list if Mr Hawkins wished.

13. Review Land Management sections of Schedule of Risk

The CEO confirmed that the Committee had been circulated with the elements of the draft Risk Schedule which were relevant to the work of the Land Management Committee. He highlighted items where changes had been made. The risk in relation to item 3.4 had reduced, as the grant funding for grazing on the Northern and Central hills had been secured for 10 years. The Government had also given indications that after leaving the EU, it would continue to fund work which benefitted the environment. However a degree of uncertainty remained.

Item 4.9 (Tree disease) Although the CEO had not registered an increase in the risk, he believed thousands of ash trees on MHT land could be affected by chalara. The sum being set aside in the budget each year (currently £3,000) was not sufficient. He would look at this again in advance of the FAR Committee meeting. An additional “required control” should be added to provide that additional money should be set aside.

14. Walsh’s Yard

The Secretary to the Board reminded the Committee that there was planning permission to build houses on the site. There was an acknowledged prescriptive easement for industrial purposes. Legal advice had indicated that unless there would be a significant increase in the use of the access as a result of the permission, the prescriptive right would continue to be effective. It was in the Trust’s interest to confirm the proposed revised use of the easement in a deed and this was in hand.

15. Graziers’ Report

The Conservation Manager gave Mr Gardner’s report.

The vegetation in the common was no longer growing because of the lack of rain and this, as well as a lack of drinking water for stock, was posing problems for the graziers. There had been one non-fatal road traffic accident involving a cow. Mr Gardner thanked MHT for cutting back the vegetation along the B4208 at Welland and along the Gullett Road to improve drivers’ views of stock close to the roads.

16. Conservation Manager’s report

The Conservation Manager reported that the legacy leaflet had now been reviewed and reprinted. The Old Hollow tenancy was about to be renewed.

Bracken rolling was underway. The operation of the Northern and Central Hills grazing licences had been reviewed and adverts would shortly be published to invite tenders for the grazing licences for the next 10 years. The outcome of the

tendering process would be known by mid-September and the new licences would begin on 1 December.

The new Conservation Officer, Andy Pearce, was getting on well. The 2 ponds off Guarlford Road had been successfully restored but had become choked with azolla. This would be combatted using weevils.

The hay cut would take place soon and scrub management work would start in September. The Scrub management plan for the winter months would be an agenda item for the October Committee meeting.

The installation of the Waymarkers on the first of the designated cycle route had been completed. The Community and Conservation Officer was arranging for the installation of new interpretation board at Blackhill and Gardner's Quarry car parks.

The CEO said that there had been a serious fire in West of England Quarry. The Fire Brigade controlled the blaze, but were still monitoring the site for "hot spots" 6 days later. The CEO confirmed that it was possible that the fire and loss of vegetation might make the area more susceptible to rock falls. The field staff had replaced the fencing which had been burned.

There were serious ongoing issues at Gullet Quarry. The wardens had been dealing with these on a daily basis with help from the police and fire brigade. On one occasion there were 45 people inside the safety fencing. He intended to review whether the fencing could be improved with the wardens – monitoring the quarry was taking up a huge amount of resources and the wardens had been subjected to abuse.

Mrs Rees thanked the wardens for all their work which had been over and above their normal duties.

17. Matters for future consideration

There was none.

18. Urgent business

There was none.

The meeting closed at 9.40pm

Schedule – Public Questions

Mr Ian Wells

Question 1

An the initial assessment of the 56 plant, 13 bird, 3 mammal and 9 butterfly species I submitted in April, following interest expressed by Land Management Committee members in December 2017, suggests an overwhelming majority of species will benefit from more lenient grazing, not just larks. All the bird, mammal and butterfly species seem to be either neutral or positive and almost all the plant species look to be neutral. I have had no reply since submitting the assessment in April and there has been no discernible loosening of grazing throughout the breeding season. ***Will the Trust engage with this or another study to reassess a regime that is reducing not enhancing species richness?***

CEO response:

We received Mr Wells email and accompanying evaluation back in April. That document had been compiled by Mr Wells himself and one other unidentified individual.

Both the CEO and the Conservation Manger looked at it but neither concur with its very broad-brush evaluations, or its conclusion that only positive or neutral outcomes would result for all species and habitats, should grazing be reduced within the SSSI.

That aside, the management of the Hills currently adopted by MHT is in accordance with its management plan and approved by English Nature, regulators of the SSSI areas. If Mr Wells and his campaign believe that the SSSI's should be managed differently, the body he should engage with is Natural England.

He should forward his comments and evaluation to them. Their professionally qualified ecologists are best placed to undertake any such evaluation, and can advise MHT if changes to management of the SSSI are appropriate.

Question 2

I understand that a pilot plot study to assess the impact of species of grazing was conducted by a third party around 2004 but was shelved as the results did not support the grazing regime. ***Can those results be made public?***

CEO response:

Neither the CEO nor any other staff were aware of a pilot study into grazing on the Hills undertaken in 2004 as described by Mr Wells. If he has any evidence or details to support his allegation then we ask that he make it available to us.

We would like to remind the meeting that there are clear aims for habitat management works in favour of skylarks set out in Objective 17 of the current Land Management Plan.

Dr Crisp

Question 3

I was told in January 2014 by the deputy Conservation Officer that trees felled on Chance Lane would be replaced in the winter of 2015 or 2016. Subsequently I was told that the verges on Chance Lane were the subject of legal dispute and that though the Conservators hold that the verges are theirs, planting of the trees would be a provocative action. What action has been taken to resolve the legal dispute, and what progress has been made over the last 4 years towards planting the trees?

Dr Crisp's question did not identify the trees concerned.

The legal dispute regarding the verges along Chance Lane near the junction with Jackpits Lane still continue, the details of which have to remain confidential. Until such time that there is a determination of the matter, replanting of any trees on that verge will have to wait.

Trees were planted at the southern end of Chance Lane in 2014 to replace some that were felled for safety reasons. One or more of those replacements has failed and so will require replacement.

Dr Crisp added that he felt MHT should give consideration to cutting the grass along the verge, as he felt it was not a good policy to allow Highways to cut it.