

**BOROUGH OF POOLE**

**TRANSPORTATION ADVISORY GROUP – THURSDAY 31 MARCH 2011**

**JOINT REPORT OF HEAD OF TRANSPORTATION SERVICES, HEAD OF PLANNING  
AND REGENERATION SERVICES HEAD OF LEISURE SERVICES**

**TALBOT HEATH RIGHTS OF WAY**

**PART OF THE PUBLISHED FORWARD PLAN – NO**

**1. PURPOSE**

- 1.1 This report updates the 31 July 2010 report to this Group, with a recommendation to inform the Secretary of State of the Council's commitment to protect and enhance the conservation value of Talbot Heath.

**2. RECOMMENDATIONS**

- 2.1 It is recommended that the Transportation Portfolio Holder :
- i. Note the information in this report, including minor revisions to the Draft Management Plan.
  - ii. Approve that Natural England be advised that the Council, as Highway Authority, wish to work with them to modify the Rights of Way network, subject to available funding, to protect and enhance the conservation value of Talbot Heath.

**3. BACKGROUND**

- 3.1 Talbot Heath is a Site of Special Scientific Interest (SSSI) in Branksome East Ward. The SSSI comprises 43.5 hectares and nearly all is in the ownership of the Talbot Village Trust or Borough of Poole. As part of the planning application made by Talbot Village Trust for development in the vicinity of Talbot Heath, they have offered to transfer their heathland to the ownership of the Council. The rights of way network, the land ownership, and surrounding land uses are shown on the attached plan, TH/ROW/1. The SSSI is protected by European legislation, with the important species being sand lizard, smooth snake, Dartford warbler and nightjar. A significant feature is that the northern, western and south eastern boundaries abut residential development, so the heathland is extensively used by local residents for recreation, including dog-walking. Predation by domestic cats, and fire damage are the main dangers to the two protected reptile species, but all of the human-related activity has some effect.
- 3.2 The whole SSSI is Open Access Land, and therefore the public have a right to access all of the land. This, and the existence of Rights of Way network, means that there is inevitable disturbance to the natural habitat and protected species. Indeed there are concerns that habitat damage will eventually lead to the loss of

some or all the four protected species. In managing Talbot Heath there is often significant difficulty in delivering improvements due to the conflicting requirements of the various pieces of legislation which cover this area, including :

- i. Highway legislation, governing the Rights of Way network.
- ii. Countryside Access legislation.
- iii. Habitats Directive – European Legislation protecting species and their habitat.

In 1974 Lord Sandford created as part of the legislation relating to national Parks. This states that where conservation and recreation aims cannot be reconciled by skilful management, conservation aims should come first. While this concept only applies in National Park Authority areas, it can be applied to all situations as best practice.

#### **4. TALBOT HEATH IMPROVEMENTS AGREED BY TAG**

- 4.1 A recent survey of routes on Talbot Heath has shown that some of the rights of way require attention, being of poor condition or impassable due to overgrown vegetation. Furthermore some of the paths do not match that shown on the Definitive Map. The Council, in resolving to grant planning consent for the Talbot Village planning application, agreed a package of measures to deliver improvements to Talbot Heath SSSI and its Rights of Way network. These improvements, and the transfer of land, can only be delivered on the commencement of development. As the Council's decision has been called in by the Secretary of State, and a Public Inquiry scheduled for Summer 2011, it seems unlikely that a decision will be known until the end of 2011. In the meantime, the whole Heath, in both ownerships, is in need of attention and management.

##### **Phase 1**

- 4.2 The July 2010 report advised that the following actions would be carried out as part of the general management of rights of way across the borough :
- (a) a programme of maintenance, including replacement or repair of some bridges
  - (b) appropriate changes to the Definitive Map to ensure that it matches what is on the ground.
- These will be undertaken during 2011/12 as far as possible within the limited available resources.

##### **Phase 2**

- 4.2 The draft framework for a Rights of Way Management Plan (in Appendix A) was approved by the Portfolio Holder, following the July 2010 meeting. If the Planning application is approved by the Secretary of State, the works in the Management Plan would supplement the £1.2m package of works identified in the adopted Appropriate Assessment during the Planning process. The Talbot Heath Rights of Way Improvement would have to be separately funded, through the Heathlands Interim Planning Framework, possibly supplemented by the SE Dorset Transport Contribution Scheme. Subject to securing sufficient funding, and agreeing detailed

outputs with Natural England, it is proposed to implement the Management Plan between 2012 and 2016.

## **5. PLANNING APPLICATION PROCESS**

- 5.1 An outline planning application for the remaining farmland owned by Talbot Village Trust was submitted to the Council in May 2000. The proposals comprise 378 new housing units, 450 student units, 3500sqm of academic floorspace, and 11.42 hectares of Public Open Space. The main reason for the exceptional delay in bringing this major application before Planning Committee was the difficulty in clarifying the position of Natural England, particularly their definitive view of the mitigation measures proposed by the applicant to prevent harm to the Talbot Heath SSSI. These mitigation measures were supported by an Appropriate Assessment, which was confirmed by the Head of Planning and Regeneration in early June 2010. A key component of the proposed mitigation is a cat-proof fence which is designed to ensure that pedestrians and domestic animals from the new development will be more than 400m walk from the nearest heathland.
- 5.2 The application was considered by a special meeting of the Planning Committee on Wednesday 9<sup>th</sup> June 2010. They resolved to grant consent, subject to a Section 106 legal agreement and numerous conditions, many of which are aimed at protecting the adjacent Talbot Heath SSSI.
- 5.3. The application was actually called in by the Secretary of State in September 2010, resulting in a Public Inquiry which is now planned for to commence on 12<sup>th</sup> July 2011.  
A Pre-Inquiry Meeting was recently held on 16<sup>th</sup> March, where a resident stated that they were intending to apply for a review of the Definitive Map, as they considered that there should be a Right of Way leading southwards from Isaacs Close. They asked that the Inspector consider this matter at the Public Inquiry, but were advised that she was not the competent authority to scrutinise such a proposal. The Council is the appropriate Authority in this respect, and should such an application be received the Inspector will be advised of this accordingly. In considering such a proposal if there was opposition then the process, from first application to final resolution, typically takes one to two years.
- 5.4 Natural England, together with the Talbot Village Trust, Royal Society for Protection of Birds, Bournemouth Borough Council and the Borough of Poole will be represented at the Public Inquiry. Subject to approval this will report will be supplied to all of these parties, together with the Inspector.

## **6. FINANCIAL IMPLICATIONS**

- 6.1. Phase 2 of the Talbot Heath Rights of Way Improvement is estimated to cost between £150,000 and £200,000 depending on the detailed requirements of Natural England and any other special interest groups. It is proposed that this would be funded from the Heathlands Interim Planning Framework, possibly

supplemented by the SE Dorset Transport Contributions Scheme. The nominated officers of both schemes are aware of the potential funding bids.

## **7. LEGAL IMPLICATIONS**

- 7.1. As explained in item 3 above there are a number of often conflicting legal requirements with heathland management. Hence a detailed assessment of the legal risks will need to be made prior to commencing Phase 2 of the project.

## **8. RISK MANAGEMENT IMPLICATIONS**

- 8.1. A risk register will be drawn up, and kept up to date throughout the project. As identified above, the conflicting legislative requirements are expected to be the main risk.

## **9. EQUALITIES IMPLICATIONS**

- 9.1. The improvement of key routes to bridleway standard, and the easing of some gradients, will result in more of the local population being able to enjoy Talbot Heath. It should be noted that the Appropriate Assessment would secure some stepped lengths of footpath that would not be suitable for bridleways. However, it would not be possible to improve the network to full DDA standards in compliance with the Equalities Act 2010 without major earthworks and the destruction of internationally protected heathland. Therefore full DDA standards are not recommended for the Rights of Way across Talbot Heath, although the Council has adopted to always take the 'least restrictive option' on a case by case basis.

## **10 CONCLUSIONS**

- 10.1. The project set out in Appendix A is considered to be the optimal approach to improving Talbot Heath for future generations, and the best way of balancing the conflicting requirements of the different interest groups.

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**Background Papers:**

- 1. Transportation Advisory Group, July 2010, Talbot Heath Rights of Way**
- 2. February 2010 Condition Survey for the Rights of Way Network on Talbot Heath.**

**Appendix A - Draft Management Plan**

**Appendix B - Plan of Talbot Heath**

**TAG310311T3A**

## **APPENDIX A**

### **TALBOT HEATH RIGHTS OF WAY NETWORK**

#### **DRAFT MANAGEMENT PLAN**

1. The draft management plan be developed, comprising the following objectives:
  - A reduced network of highways, but all of bridleway status, and usable throughout the year (excepting in extreme weather conditions).
  - Whilst full DDA compliance is impractical, the new network shall be far closer to DDA gradient requirements than the current network.
  - At least one east – west and one north – south bridleway shall be provided.
  - The new network will avoid, where possible, those parts of the heath where human / dog activity is likely to be most harmful to protected species. It is recommended that Leisure Services and Natural England assess whether some public exclusion zones are justified in accordance with the Sandford principle.
  - The new network will be combined with a revised fire access network to improve effective response to heathland fires. (Note this element can only be secured if the Talbot Village Trust development is implemented.)
2. The participation and agreement of Natural England is key to the success of the Management Plan.
3. The phase 2 project would be managed by a part time project manager, reporting to a Board comprising senior officers of the three Service Units and the Ward Members. This is in accordance with the Council's established Project Management protocol, and milestone reports would be considered by this Board.

**Head of Transportation Services**

**Head of Leisure Services**

**Head of Planning and Regeneration**