

**REPORT ON BEHALF OF THE PROPERTY & PROJECTS GROUP**

**SUBJECT: REGULARISATION OF ENCROACHMENT OVER NATIONAL PARK AUTHORITY OWNED LAND AT POPPIT SANDS**

**Purpose of Report**

To seek the resolution of Members for the transfer of NPA owned land into private ownership under our existing policy for regularising historical encroachments in the interests of good estate management.

**Background**

The Authority acquired the freehold of the land shown **edged blue** (see annotated aerial photo below) in 1999 as an addition to its much larger abutting, and pre-existing land ownership. As at the date of acquisition, the land **edged blue** was already subject to a deeded right of way for the benefit of the residential property known as Briar Bank shown **edged green**. That deeded right of way traverses the route **coloured yellow**. In addition, the owners of Briar Bank have managed and maintained the soft landscaped verges on either side of the access way as well as erecting a small storage shed. Both constitute ongoing encroachments over the Authority's land, are limited to the area shown **edged red** which extends to approximately 300sqm and date back to at least 1992 as evidenced by aerial photos from that year.



Your Officers have visited the present owner occupier of Briar Bank, considered the historic evidence prior to 1999 and the respective actions of both parties since 1999. Your Officers have concluded that it would be appropriate to apply the provisions of the Authority's adopted encroachment policy to regularise the continuing use and occupation of land **edged red** by Briar Bank via the formal transfer of our freehold absolute title.

Having regard to the above and following negotiations, your Officers have now provisionally agreed terms with the owner occupier of Briar Bank to transfer the land **edged red** at a price of £3,000 subject to the following conditions:

- The purchaser will be responsible for the Authority's legal costs
- The use of the land edged red shall be limited and restricted to its existing use as at the date of transfer i.e. curtilage and access for the single residential dwelling known as Briar Bank
- Any boundary feature to demark the subject land from the Authority's retained land shall be limited and restricted to that of a native hedge bank
- The Nat Park will reserve a right of way along the length of the access way as a means of accessing its retained land

### **Financial, Risk & Compliance Considerations**

The Authority's adopted policy (approved 17<sup>th</sup> April 2002) authorises the legal transfer of National Park owned land to adjoining property owners in instances where encroachments fall within clearly defined guidelines i.e. the encroachment is longstanding, small scale, does not materially compromise our statutory objectives and does not release significant value to the transferee. Your Officers are of the opinion that whilst the areas of land in question can't be considered 'small scale', in all other respects the characteristics of the land **edged red** meet the criteria of the Encroachment Policy summarised above. In particular it is considered that any significant value which might appear to be released from the transfer of the subject land has already effectively passed to the owners Briar Bank due to their extended period of occupation by way of adverse possession and their pre-existing deeded right of way.

### **Human Rights/Equality Issues**

No issues

### **Biodiversity Implications/Sustainability Appraisal**

No issues

### **Welsh Language Statement**

No issues

### **Summary**

Your Officers are of the opinion that in the absence of any negotiated settlement there is a high probability that an application for adverse possession could be

successfully made by the present owners of Briar Bank for the foot print of the storage shed and the soft verges, whilst retaining ownership of the width of the access way itself would constitute an ongoing liability for the Authority with no corresponding ongoing operational benefits to counter balance that liability.

### **Recommendation**

**In accordance with the Adopted Encroachment Policy it is recommended that Members authorise your Officers to proceed with the transfer of the land edged red to the owner occupiers of Briar Bank on the terms outlined above.**