



REPORT TO TORBAY LOCAL ACCESS FORUM A.G.M. 23RD JULY 2007

Presented by John Gibson on Behalf of the Torbay LAF Members

Members of the Torbay LAF are: Mr John Gibson, Ms June Haywood, Mr Peter Huff, Mr Mike Soper, Ms Julie Green, Mrs Wanda Hollingworth, Mr Robert Boyd, a nominated representative of Torbay Coast & Countryside Trust, and Torbay Council's appointed representative is Cllr Ian Doggett.

The interests which the lay members bring to the LAF are as follows:

Walking and enjoying scenery & open spaces as their common interest + specific input on Tourism, Cycling, Disabled Access, Conservation & Environment, under 5s and Mental Health.

The Explanatory Note, which accompanies the 2002 Statutory Instrument which sets out the Regulations under which Local Authorities [Appointing Authorities] establish LAFs, states simply:

The forums are required to advise about improvement of public access to land in their area for open-air recreational purposes.

In February this year, Defra published its long-awaited *Guidelines on Local Access Forums in England*. The Guidelines took effect on 19th March 2007.

Publication of Natural England's *Handbook for LAF members* - expected during 2006 - is still awaited.

This Report Covers the Period from the Last A.G.M., held on 24th July 2006, to 16th July 2007.

Activities:

1. Gaining New Members – after the July 06 AGM advertisements were placed in the local papers for new members, as 3 members stood down at the last AGM. We are grateful that Ms Julie Green, Mrs Wanda Hollingworth, and Mr Robert Boyd were able to join the LAF bringing with them their useful ideas and contributions. An Introductions Day was held in November, at which a number of helpful suggestions were made, and a joint Training Day followed in December for Torbay, Devon, Plymouth and Cornwall LAFs. This event helped to clarify the role and function of a LAF.

Further recruitment of new members: the LAF is seeking out organisations whose remit have matters in common with those of the LAF. We hope that they will join us particularly with regards the task of responding to the Local Development Framework.

2. Appointment of a Secretary - since 23 October 2006 Mrs Valerie Simpson has taken up the duty of paid secretary to the Torbay LAF. Mrs Simpson has put into place a structured secretariat, so that the LAF can be seen to operate independently from the Council. As mentioned in the report to the previous AGM, this role is essential to the proper function of the Torbay LAF.

3. Meetings Held – meetings were held in public on the following dates:

- 30th January 2007
- 18th April 2007.
- 4th July 2007.
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Notes of these meetings are posted on the Torbay LAF's webpage www.torbay.gov.uk/localaccessforum.

4. Appointment of Chairperson – John Gibson was elected as LAF Chairman at the 30th January 2007 meeting. This appointment expires at the July 2007 AGM.

5. Establishment of ROWIP Sub-Group – the LAF Committee referred items to this topic group as mentioned in **Advice Given** (1) and (2) below.

6. Publicity – the LAF has produced an introductory leaflet and poster which has been distributed to all Torbay's libraries for display. The leaflet has also been sent to many organisations within Torbay to give them the opportunity of finding out about the work of the Forum and how it might fit with the work of their organisations. A database of contacts is being developed. In June Peter Huff promoted the TLAF in the Community Partnerships' caravan at the Babbacombe Fayre.

Agreed future work to include:

- The TLAF Website is due for further development.
- Publicity – use Bev Hannah's contacts with local radio stations where LAF could use free air time.
- School 6th Form Visits and contact School Governors to request TLAF gets raised on Governors' Agenda.
- TLAF articles in local newspapers.
- Set up meeting for public to come along and talk to existing members.
- Display information in public areas, e.g. Connexions Offices, Doctors' Surgeries, etc.
- Seek permission from TCCT to advertise in Ocombe Farm Shop and Café and to include TLAF articles in any TCCT Newsletter or similar.

7. Taunton SW LAFs' Conference March 2007– two members of the LAF attended, and their report is recorded in the Minutes of the April 2007 meeting.

8. ROWIP – currently, Torbay Council is preparing its final draft, which the LAF hopes to see for any final comments prior to its presentation to Councillors.

9. Specific Site Matters:

(1) Walls Hill F.P., Babbacombe - LAF alerted to situation on reading correspondence in the *Herald Express*. The old fencing at Walls Hill was put in place by Torbay Council many years ago. The site is now managed by TCCTst. The TCCTst's Countryside Manager informs me that the Trust is planning to remove the temporary Heras fencing and replace this with more permanent post and rail fence. The path to the Redgate beach will remain closed due to previous landslips and instability of the rock (the Trust being unable to get insurance to cover this area).

(2) Access to Oyster Bay, Goodrington – Mr Peter Aunger [Torbay Council's Leisure Resort Manager] assures me that handrails are to be affixed by the stone steps and repairs will be affected to the other steps, which are the property of Torbay Coast & Countryside Trust.

(3) Other Rights of Way which are currently closed or even `temporarily closed`:

TQ/11 + TQ/ 39 are closed due to cliff fall. Torbay Council informs me that they are currently working on a solution to this matter.

BX/24 was temporarily closed due to building work at Astra Zeneca, the order ends on the 2nd July 2007.

10. Bridleways - the LAF will consider this later in the year.

11. Wheelchair-Accessible RoWs - one of our members is reviewing this and will report later in the year.

Advice Given:

The Defra Guidelines [3.2] set out those bodies to which advice must or may be given.

The Torbay LAF was requested, by Torbay Council, for advice on:

(1) an Aspect on the Content of the Draft ROWIP. This was referred to the ROWIP sub-group for consideration. The sub-group requested the Council for sight of the draft ROWIP, updated since the 2006 public consultation, before issuing advice – but did make some observations on what has been presented to it. The sub-group subsequently clarified a comment made in those observations.

No formal advice was given.

(2) the Council's Cyclical Maintenance Programme of its Public Rights of Way - again, this was referred to the ROWIP sub-group, however the sub-group considered that the matter was essentially an operational question. Clearly, Torbay Council has been maintaining Public Footpaths for a very long time, and therefore already has a strategy.

It was therefore the opinion of the sub-group that the programme for cyclical maintenance ought to flow from that strategy which would have a rationale for its content and set out its priorities based upon a number of factors such as levels of use and the frequency of complaints about accessibility during the growing season etc.

The sub-group helpfully suggested to the Council that should the Council feel that the existing strategy is inadequate, then if they would like to present the LAF with the framework for a revised strategy - together with the criteria - the LAF will give it its consideration.

No formal advice was given.

No other bodies requested advice from Torbay LAF, nor was advice offered to any other organisation.

Involvement with Other LAFs and Other Organisations:

The Training Day held in December 2006 [as mentioned above], the SW LAFs Conference in March 2007, and the 2007 AGM were the three occasions when Torbay LAF members had the opportunity to exchange ideas with neighbouring LAFs. This 2007 AGM's topic is 'The role of LAFs in their Local Development Framework' providing us with an opportunity to discover ways in which LAFs can work with other organisations with common interests to participate in the LDF process.

Torbay LAF has added its name to a letter to the government Minister responsible for LAFs to request that the government ensures adequate support to finance the improvements resulting from ROWIPs.

The Torbay LAF has also written to Natural England to express support for both local forums of LAFs and for the need for a National Access Forum.

Members of the Torbay LAF took part in the May 07 English Riviera Walking Festival, and a letter of appreciation was sent to the organisers offering sponsorship for a future event. The TLAF hopes that the 2008 will be better organised, as conflicting information in publicity resulted in one walk having to be cancelled. We hope co-ordination of publicity can be improved for next year. Walking Festivals – and even International Walking Festivals – are being put on locally across the country, as this type of event is proving popular with both tourists and locals alike.

The Torbay LAF was also represented by its Chairman at the 7th June 07 launch of Torbay Council's Community Plan.

Torbay LAF has not been involved in any national consultations. We note the government's intentions to consult the public on plans to open up the whole of the English coastline to walkers - the government's proposal would allow access to about 30% of land currently out-of-bounds.

What the Torbay LAF has set out to do - and how this has been achieved:

1. Make itself better known, and recruit additional members – see item 6 Publicity above
2. Participate in the LDF process – presentation held at 2007 AGM
3. Review ROWIP when available
4. Plan a series of Hearings sessions beginning in the autumn of 2007 on topics relating to the enjoyment of rights of way and public open spaces by different groups which make up the community.
5. Recommend to Brixham's new Town Council to set up a Footpaths Committee – this proposal is on their agenda.
6. Improvement of some seating areas – now listed for action by TCCTst.

Matters Arising from Report Presented at the 2006 AGM:

1. **TQ/86** - Torbay Council had initially supported a landowner's application to have TQ86 extinguished – under a Modification Order. LAF members objected to this, and a Public Enquiry was held on 25th July 2006. Torbay Council, reviewing their own evidence, subsequently decided to abandon their case but then, instead of then taking the position of supporting the continuance of the Right of Way – which one expects a Highway Authority to do, when they are satisfied that the objections to the Modification be upheld - changed its stance to that of a neutral position on the issue. This therefore involved all Objectors – including LAF members - in a lot of additional work, as they had to argue the case on their own without the support of the Highway Authority.

Section 130 of the Highways Act 1980 reads as follows:

- (1) It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority, including any roadside waste which forms part of it.
- (2) Any council may assert and protect the rights of the public to the use and enjoyment of any highway in their area for which they are not the highway authority, including any roadside waste which forms part of it.
- (3) Without prejudice to subsections (1) and (2) above, it is the duty of a council who are a highway authority to prevent, as far as possible, the stopping up or obstruction of –
 - (a) the highways for which they are the highway authority, and
 - (b) any highway for which they are not the highway authority, if, in their opinion, the stopping up or obstruction of that highway would be prejudicial to the interests of their area.
- (4) Without prejudice to the foregoing provisions of this section, it is the duty of the local highway authority to prevent any unlawful encroachment on any roadside waste comprised in a highway for which they are the highway authority.
- (5) Without prejudice to their powers under section 222 of the Local Government Act 1972, a council may, in the performance of their functions under the foregoing provisions of this section, institute legal proceedings in their own name, defend any legal proceedings and generally take such steps as they deem expedient.
- (6) If the council of a parish or community or, in the case of a parish or community which does not have a separate parish or community council, the parish meeting or a community meeting, represent to a local highway authority -

- (a) that a highway as to which the local highway authority have the duty imposed by subsection (3) above has been unlawfully stopped up or obstructed, or
- (b) that an unlawful encroachment has taken place on a roadside waste comprised in a highway for which they are the highway authority, it is the duty of the local highway authority, unless satisfied that the representations are incorrect, to take proper proceedings accordingly and they may do so in their own name.

(7) Proceedings or steps taken by a council in relation to an alleged right of way are not to be treated as unauthorised by reason only that the alleged right is found not to exist.

Objectors understandably felt abandoned by Torbay Council, in that once the Council had decided that it could no longer support the Order which it had made, it was surely incumbent on the Council to abide by sub-section (1) above. An explanation is due as to why this sub-section was not implemented. We hope that this does not set a precedent in Torbay, especially when recorded/numbered Rights of Way are challenged in the future.

2. Fishermen's Way (Brixham) Footpath BX/30 - an appeal taken to the Planning Inspectorate was upheld, and the Planning Inspectorate authorised the Council to issue a Modification Order to reinstate this footpath. This has resulted in both local support and objections, and a local public enquiry is due to be held later this year. TLAF notes that Torbay Council had to make a second Modification Order [the first Modification Order, sent in March 07, did not satisfy the Planning Inspectorate – due to a technical error], and hope that the making of any future Modification Orders will proceed more smoothly, as this required objectors/representors having to write in a second time.

3. LAF members are pleased to see that subsequent to their raising the issue of the closed section of the RoW/South West Coast Path [which skirts Thatcher Rock]; it reopened again in early June 07 after having been closed for 10 years.

4. In November 2005, I met with Mr Yeo [Strategic Director of Environment] to request that he reconsider Highways' decision not to investigate the adoption of the publically used footways linking Brixham's Harbourside Walk with the road running above – on following this matter up with an exchange of emails with Mr Yeo in November last year, he replied: *`I note the comments that you make and will ask that they are looked into further although, as I said in my previous email, there are more pressing issues that are currently needing to be addressed.`* The LAF hopes that in the forthcoming 12 months we will receive more positive news on this matter.

LAF Running Costs – Torbay Council's estimate of the annual cost of the LAF is £3,000; this includes the secretarial cost, room bookings, refreshments and training for the Members as required. This does not include other staff time such as support for the secretary and officer time to attend meetings etc.

Appreciations:

- LAF members wish to express their sincere thanks to both Mr. David Eeles and Mr. Ken Robertson, who stood down at the last AGM. Their input in the early stages of the ROWIP was very helpful. Mrs. P Doughty-Mortimer, who had served on the LAF from its early days, stood down in August 2006, having chaired the LAF 2004/05. We are grateful for the continuity of her service and for the advice and guidance which she gave to fellow members.
- LAF members also wish to express their sincere thanks to June Haywood – standing down at the forthcoming AGM - who has served on the LAF since its beginning, and will very much miss her contribution especially regarding matters relating to the South West Coast Path.
- LAF members are also grateful too to Mrs Hilary Winter for her ongoing patience and support as regional LAF secretary. We also appreciate the quiet advice given us by Bob Harvey, Chair of the Devon LAF.
- And finally, our acknowledgement both to Mrs Simpson for her work as LAF Secretary and to Council Officers for responding to our enquiries.

John Gibson, Chairman
16th July 2007.