

14 June 2018

## Malvern Hills Trust

Ordinary Meeting of the Board

Council Chamber, Avenue Road, Malvern.

Thursday 13 September 2018 7.00 pm

**Present:** Mr D Baldwin, Dr S Braim, Mr D Bryer, Mr M Cordey, Mr M Davies, Dr P Forster, Mr S Freeman (Chair), Mr D Hawkins, Mrs L Hodgson (arrived during item 8), Mr C Penn, Professor J Raine, Mr C Rouse, Ms S Rouse, Mr D Street, Mr P Watson, Mr T Yapp.

**In attendance:** Chief Executive Officer (CEO), Secretary to the Board, Conservation Manager, Finance and Administration Manager, Mr I Burrows (Brewin Dolphin). 17 members of the public

**Non-attendance:** Mrs E Holton, Mr J O'Donnell.

### 1. **Apologies for absence**

Mr R Bartholomew, Ms C Bovey, Mrs P Cumming, Mr A Golightly, Mr R Hall-Jones, Mr J Michael, Mrs C O'Donnell, Mrs G Rees, Ms H Stace, Ms S Stewart.

### 2. **Chair's announcements**

The application for an easement leading from Chance Lane was unlikely to be dealt with before November. The Governance Committee meeting had been moved to 10 October.

### 3. **Declarations of interest**

Mr Freeman declared an interest in item 8.3, in relation to the easement application for Lake House (neighbouring property).

Prof Raine declared an interest in item 8.3, in relation to an easement at Brockhill Road (his property was served by the easement).

Ms Rouse and Mr Rouse declared an interest in any matters relating to the HLS Scheme.

### 4. **Public questions**

There were 7. See appendix.

### 5. **To confirm the Minutes of the Board meeting held on 14 June 2018**

On the proposal of Mr Penn, seconded by Ms Rouse it was **RESOLVED** to approve the minutes of the Board meetings held on 14 June 2018.

### 6. **Matters arising from previous Board meetings not otherwise on the agenda**

There were none.

### 7. **Investment Review**

Ian Burrow went through his report which had been circulated prior to the meeting. Mr Freeman thanked him for attending.

## **There has been no meeting of the Staffing Committee**

### **8. Land Management Committee**

8.1 On the proposal of Dr Braim, seconded by Dr Forster, it was **RESOLVED** to approve the minutes of the meeting held on 12 July 2018.

8.2 Matters arising Mr Freeman and Prof Raine left the meeting and Ms Rouse took the Chair. Dr Braim went through the minutes. The CEO confirmed that he had written to Mr Frost, but had received no reply. Worcester County Council had confirmed that they would look at an alternative design and location for the bus shelter on Poolbrook Road. They had asked for a contribution towards the cost of a wooden bus shelter, which request was declined as this was outside MHT's purposes. A revised application would be considered at a future Land Management Committee meeting. Mr Freeman came back into the meeting and took the Chair.

Mr Longman was then invited to address the meeting about his application to resurface the easement to Brockbury Hall. He said that when he had moved into the property, he had been told that no one was responsible for the maintenance of the access track, and he had taken on responsibility of filling the potholes since then. He now wanted to resurface the track. He had contacted the MHT office and had been told that he needed to ask for permission to carry out the work. A contractor had inspected the access on his behalf and confirmed that the existing surface was tarmac (although in a poor state). He was disappointed to learn of the Land Management Committee's refusal of his request. To create a gravel surface (MHT's preferred surface treatment) would be very expensive as the whole of the existing tarmac surface would have to be removed. He also felt gravel would not be sufficiently durable as the road was used as an agricultural access by large farm vehicles. He believed the tarmac surface did not look incongruous. He was puzzled that the Trust was now querying the issue of long term maintenance which he understood rested with the users of the track. If nothing was done the condition of the track would get worse and he was concerned that an accident could occur. He asked for a contribution towards tarmacking the access and for the Board to reject the Land Management Committees conclusion.

The CEO commended Mr Longman for his ongoing maintenance of the track as a tenant of Brockbury Hall and confirmed that members of the Committee had inspected the track prior to making their decision. Points made in the following discussions were:

- One of the main issues for Land Management Committee was the use of tarmac.
- This was not an earth track and the fact it had been tarmacked in the past was a relevant factor.

- Mr Longman was a tenant, and the owner needed to be involved in order to resolve the question of long term maintenance.

On the proposal of Dr Brain, seconded by Mr Cordey it was **RESOLVED** to refer the matter back to the Land Management Committee for reconsideration.

Mr Peter Earp then addressed the meeting about his request to tarmac the Trust's section of Brockhill Road (the top 70 - 80 metres). He had held various meetings with the residents of Brockhill Road and he believed he had put forward a proposal which took everyone's view into consideration. He did not agree with the Land Management Committee's conclusion that tarmacking the track constituted urbanisation. There was already tarmac at the top of the track, which was breaking up. When large vehicles (eg refuse wagon) pulled away at the top of the road onto the highway, their tyres threw up the loose surface. In his view, the only viable option was tarmac. The width of the track had spread over time as a result of people trying to avoid the potholes. People now had lot of deliveries to their homes and some companies were refusing to go down the road. Mr Earp had undertaken a lot of the maintenance to the surface of road in the past but the majority of residents were in favour of a long term solution. He felt the proposals were sympathetic to the landscape and he was looking for MHT's support and wanted to find a constructive way forward. Mr Earp confirmed that of the 17 households on Brockhill Road, 5 either did not want to become involved or did not support the proposal in its entirety. Mr Rouse said that the agricultural landowners had not been consulted about the proposal.

The CEO said he understood the proposal to tarmac did not require planning permission but tarmacking the land in MHT ownership would require consent under the Commons Act 2006 (s38). On the proposal of Dr Braim, seconded by Mr Bryer it was **RESOLVED** to refer the matter back to the Land Management Committee.

Prof Raine came back into the meeting.

Mrs Hodgson declared an interest in relation to the bus shelter at Poolbrook Road as she was providing part of the funding in her capacity as a councillor.

On the proposal of Dr Braim, seconded by Dr Forster, it was **RESOLVED** (with one abstention) to adopt the minutes of the meetings held on 12 July 2018 and the recommendations in them, save that the Board would not adopt the recommendations in relation to Stowe Lane and Brockhill Road as set out above.

## **9. Governance Committee**

9.1 On the proposal of Prof Raine, seconded by Dr Braim it was **RESOLVED** to approve the minutes of the meeting held 26.July.2018.

9.2 Matters arising Prof Raine went through the minutes. There had been no decisions made by the committee at the meeting.

9.3 On the proposal of Prof Raine, seconded by Mr Penn, it was **RESOLVED** to adopt the minutes of the meetings held on 26 July 2018

## **10. Finance Administration and Resources Committee**

10.1 On the proposal of Mr Davies, seconded by Mr Cordey it was **RESOLVED** to approve the minutes of the meeting held on 09 August 2018.

10.2 Matters arising Mr Davies went through the minutes. Mr Hawkins questioned the expenditure on architects fees for the renovation of the donkey shed. The CEO confirmed the building was within the conservation area, and MHT had been advised that if any significant changes were made, planning permission would be required. It would require skilled craftsmen to retain as much of the original structure as possible. He had obtained a price for the work from another architect, which was comparable to the quote from Mr Gillick.

10.3 On the proposal of Mr Davies, seconded by Mr Cordey, it was **RESOLVED** to adopt the minutes of the meetings held on 9 August 2018 and the resolution contained in them as set out below.

(NB Approval of the final accounts and Trustees' report will be confirmed at the November Board meeting and some of the decisions were within the committee's delegated authority).

### **8. Amendments to accounting manual**

To approve the amendments as set out below to the Accounting Policies and Procedures Manual

- i) To set a £25 limit of the value of petty cash transactions and
- ii) To require the Chair of FAR to sign off credit card statements
- iii) The minor amendments to reflect matters already approved, as shown in the table:

Page	Item	Update
7	Car park takings	Increase annual amount to current levels
7	Passes	Add in Colwall Library as seller of passes
9	Bank accounts	Delete reference to Scottish Widows Bank and add in new Charity Bank account
12	Credit cards	Update for auditor's recommendation and increased credit limit
14	Petty cash	Update for auditor's recommendation (£25 limit)
16	Employee expenses	Add in expenses for staff attending evening meetings
17	Financial reports	Update distribution details

### 11. Bullying and harassment policy and safeguarding

On the proposal of Mr Freeman, seconded by Dr Braim it was **RESOLVED** unanimously to appoint Mrs Rees and Dr Forster as the Board members to whom reports should be made under the Bullying and Harassment Policy, and to appoint Ms Rouse as safeguarding champion.

### 12. To sign Deed of Trust re land at Hollybed Common

The Secretary to the Board went through the paper. On the proposal of Mr Freeman, seconded by Ms Rouse it was **RESOLVED** (with one abstention) that the declaration of trust should be signed on behalf of the Board.

### 13. Charity Commission Scheme

Updates:

#### Consultations – Commoners, Herefordshire Council and WCC

The Secretary to the Board confirmed that she and the Conservation Manager had held a series of small-group meetings in Castlemorton with some of the commoners (and other interested parties) in order to run through the parts of the Scheme that were relevant to commoners' rights. It was clear that there was a substantial level of mis-information circulating and it was hoped that the meetings would help to clarify the position. This was followed by an evening meeting to go through the content of the Scheme more generally, to which everyone with commoners' rights over CL9 who could be contacted, was invited. Charles Penn had also attended and spoken at that meeting.

Prof Raine and the CEO had met with representatives from Worcestershire County Council (with Mrs Hodgson) and Herefordshire Council to outline the Scheme.

### **To authorise further expenditure on legal costs**

The Secretary to the Board went through the first part of paper. The present position was that BWB (MHT's solicitors) had sent out a final draft of the Scheme, preparatory to a meeting with the Charity Commission and DCMS (Department of Digital, Culture, Media and Sport) on 26 September.

Prof Raine then continued and outlined the "next steps" as set out in the paper. He confirmed that MHT were behind schedule with the consultation but they hoped to be able to carry it out this year. The costs had escalated recently but he felt the Scheme was an investment which would secure a more effective way of working the future. He sought the Board's permission to increase the budget for the Scheme but suggested there should be additional monitoring of ongoing costs.

Mr Davies confirmed that there had been a discussion on how best to monitor and limit escalation of costs. The original £100,000 budget would be sufficient to prepare for the meeting with DCMS, but there would be additional expenditure incurred to cover that meeting and future work. He proposed setting up a monitoring group as described in the paper, which would communicate on a weekly basis, reviewing expenditure and progress. Mr Davies' experience was that if something was closely monitored, then people took more care. Mr Watson felt if £100,000 cost limit was reached MHT should stop work. Ms Rouse said it was important to go to public consultation, and that an additional £45,000 to secure the Scheme should be considered in the light of future costs if the commons were not secured. Mr Cordey said the complexity of the Acts meant that considerable time was taken up in considering whether MHT could carry out actions which it wanted to take. The framework was well overdue for modernisation. The Scheme should enable the organisation to run more efficiently and be better able to fundraise. Mr Yapp said that until MHT was able to fence the Commons it could never modernise the stock management. The CEO made it clear that the Scheme contained a power to fence, which would require a further public consultation before any fencing was carried out.

On the proposal of Mr Freeman, seconded by Prof Raine, it was **RESOLVED** (with 2 abstentions and 1 against) :

1. To increase the designated fund for the costs of the Charity Commission Scheme by £45,000 to \$145,000
2. To set up a working group comprising the Chair of Governance, Chair and Vice Chair of FAR, the Secretary to the Board and the Finance and Administration Manager to meet at least on a monthly basis to monitor costs and progress of the Scheme.

### **14. Urgent Business**

There was none.

### **15. Information**

15.1 AONB Joint Advisory Committee - No meeting

15.2 Wildlife Panel

The Conservation Manager reported that there had been an evening meeting to look for glow worms and other crepuscular creatures. Glow worms had been found in small numbers near the British Camp reservoir and on Black Hill.

15.3 Recreation Advisory Panel - No meeting

15.4 Malvern Spa Association - No report

15.5 Management Report

The CEO said that there had been discussions with the Fire Service, following the fire at West of England Quarry, to look at fire risk and safety fencing. Subsequently there had been 3 fires on Castlemorton Common, and after the Fire Brigade extinguishing the last fire, there was some evidence of an attempt to re-light it by persons unknown. The Fire Brigade were not able to find direct evidence of arson.

In relation to the work carried out at The Purlieu (as a result of the waste contractor refusing to collect from properties down the track), the CEO confirmed that MHT were not responsible for the maintenance of the track but had cut back some of the trees close by. He was awaiting a meeting with Herefordshire Council in relation to any further works that might be needed.

**16. Items for future consideration**

There were none.

**17. Next meeting 8 November 2018**

**18. Resolution to exclude the public**

On the proposal of Mr Freeman, seconded by Mr Davies it was **RESOLVED** unanimously to exclude the public for discussion of the remaining items on the agenda on the grounds that publicity would be prejudicial to the public interest by reason of the exempt or confidential nature of the business to be transacted (commercially sensitive matters).

**The meeting closed at 9.18 pm**

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Schedule

Rosemary Barter:

Will the Easement on Chance Lane be put before the Land Management Committee in advance of the next main Board Meeting and if not why not?

Answer:

As was made clear by the CEO at the public meeting at Guarlford, the application won't be put before the Land Management Committee. The Land Management Committee is not able to make a final decision on the application and it is a matter in which all non-conflicted Board members will want to be fully involved from the outset. On the last occasion there was an "in principle" easement request for this piece of land the LMC declined to make a decision and referred the matter to the Board.

Stuart Brown

Can you confirm that any advice which will be used to consider the application (such as legal advice, environmental studies, etc.) has been paid for by the applicant?

Answer

Yes, with one exception: MHT had taken some generic legal advice in relation to easements, which the Trust would pay for.

Graham Cramp

With reference to the easement application from the Rose Farm Partnership, is it both lawful and good practice for the Trust to involve itself in planning issues by discussing with the applicant the widening of Chance Lane, a public highway?

Answer:

The Trust is not involving itself in planning issues. The Trust have been asked whether they would dedicate land as Highway. This is precisely what the Trust did so that the Local Authority could create the pavement on the other side of Chance Lane.

Graeme Crisp

Does the Trust consider their decision in 2012 to refuse an application for an easement onto Guarlford Road for the development of land between Jackpits Lane and Guarlford Road was lawful? Yes or No.

Answer:

Yes.

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Katherine Harris

If the decision on the Chance Lane easement is to be taken at a special board meeting, what notice will be given to the public and how will they be informed?

Answer:

The minimum amount of notice will be 6 clear days. It will be put on MHT web site and a notice will be displayed outside the office door. More notice will be given if possible (which is more than likely). It won't be in October.

Collis Tideswell

Your letter to residents of Chance Lane concerning the application for an easement advises the primary consideration will be the effect on the natural aspect of the Trust's land. What are the reasons for this letter to go on to say it has to be weighed against the receipt of a capital sum when this is contrary to your easement policy. This says the fee being offered should only be considered once satisfied that there will be no significant adverse impact on the Hills and Commons.

Answer

The Board is obliged to look at the effect on the natural aspect of the Trust's land. It can impose such terms and conditions as are necessary to ensure any adverse effect is minimised. The Trust's decision has to be made in the context of weighing up how the Trust's objects are best served and part of this exercise is to weigh up the benefit which could be achieved by the provision of a capital sum. What was stated in the letter was not contrary to the easement policy.

Stacey Tideswell

*"With reference to the potential easements onto Rose Farm field near Quarford... How many comments have you received?"*

Answer:

54 as at 31.7.2018. There have been more E mails since 1.8.2018 which haven't been counted. All the written comments will be seen by the Trustees before the application is dealt with.