



Malvern Hills Trust

Meeting of the Board

**Thursday 10 September 2020 7.10pm (immediately
following Levy Payers' Meeting)**

By Video/telephone conference

Live stream on: <https://bit.ly/3dbH2AW>

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Thursday 10 September 2020 7.10pm approx (following Levy payers' meeting)

In attendance Ian Burrows

Agenda

1. Apologies for absence
2. Chair's Announcements
3. Declarations of Interest
4. Public statements
5. To confirm the Minutes of the Board meetings held on 06.08.20 Pages 1 - 6
6. Matters arising
From the previous Board meetings not otherwise on the agenda
7. Investment report (Ian Burrows) Paper A CONFIDENTIAL
8. CEO report & project progress update Paper B pages 7 - 10
9. Conservation Department report Paper C pages 11 - 12
10. To approve Risk Management Schedule Paper D page 13
11. To confirm the proposed regime for meetings:
The Covid-19 Contingency Committee should continue in existence as a precaution, in the event of a "second wave"
Committee meetings to be reinstated in accordance with original programme.
Arrangements for the frequency of meetings, use of committees etc to be reviewed and considered at a future Board meeting.
The next Board meeting (Annual Meeting) to take place by video/telephone conference on 12 November 2020
12. Review of Drone policy Paper E pages 14 - 17
13. Brockhill Road update and review of Board decision 08/11/18 Paper F pages 18 - 24
14. Ash Dieback update and funding decision Paper G pages 25 - 31
15. Allocation of funds from Gift Fund – hedge planting Paper H page 32
16. Use of Single Justice Process for byelaw enforcement Paper I page 33 - 34
17. Governance Committee vacancy
18. Urgent Business

19. Information

14.1	Malvern Spa Association	No report
14.2	AONB Joint Advisory Committee	No meeting taken place
14.3	Wildlife Panel	No meeting taken place
14.4	Recreation Advisory Panel	No meeting taken place
14.5	4Cs	No meeting taken place

20. Next meeting: 12 November 2020 (by video conference)

Malvern Hills Trust

Special Meeting of the Board

By video/telephone conference and live stream

Thursday 6 August 2020 7.00 pm

Present: Mr C Atkins, Mr D Baldwin, Mr R Bartholomew, Dr S Braim, Mr M Cordey, Mr D Core, Dr G Crisp, Mr M Davies (Chair), Mr M Dyde, Mr R Fowler, Mr J Michael, Mrs C Palmer, Mr C Penn, Prof J Raine, Mr C Rouse, Ms S Rouse, Ms H Stace, Mr J Watts, Mr T Yapp.

In attendance: CEO, Secretary to the Board, Finance and Administration Manager, Community and Conservation Officer, Shaun Mooney (Bishop Fleming).

Not present: Mr T Johnson.

Mr Davies welcomed everyone to the meeting.

1. Apologies for absence

Mr D Fellows Mrs L Hodgson, Mrs H I'Anson, Dr T Parsons, Mrs G Rees, Conservation Manager.

2. Chair's announcements

- Mr Davies welcomed Shaun Mooney to the meeting. He reminded the Board that although the report under item 5 would be discussed in the open meeting, the report itself was confidential.
- David Bryer had resigned from the Board and would be sadly missed. Mr Davies thanked him for his contribution to the Trust and sent best wishes for the future.
- Work had been carried out on preparing a revised draft of the Code of Conduct, following a meeting of the Chair and then Vice Chair of the Governance Committee with the trustees who felt unable to sign the current code. A revised draft would be circulated and comments invited from Board members, with a view to holding a workshop or meeting in September and putting a revised draft to the Board at the November meeting.
- Board members were aware that the Charity Commission had contacted the Trust to say that they had been notified of a dispute. Mr Watts had contacted Mr Davies, referencing the complaint to the Charity Commission and raising a number of issues. Some of the information Mr Watts had requested had been provided on the basis that it was not to be disclosed to or discussed with anyone who was not a trustee or a senior member of staff. However a process for otherwise resolving the dispute had not been agreed. Mr Davies had written to Mr Watts suggesting they got together to discuss how this could be done.
Mr Davies recognised that some issues raised by Mr Watts and other trustees merited further consideration and Mr Core had offered to carry out a review, but Mr Davies felt that it might be premature to do this before the matters reported to the Charity Commission were addressed.

Other trustees who wished to see the information given to Mr Watts or the correspondence between Mr Watts and the Chair were welcome to request copies, which would be provided on the same terms.

- The CEO was planning to hold a workshop on Tuesday 25 August to go through the Risk Management Schedule.
- There would be a workshop on the Land Management Plan on Thursday 5 November.

3. Declarations of interest

Mr Atkins said that he lived in close proximity to Gullet Quarry.

4. Public Comments

There were none

5. To confirm the Minutes of the Board meetings held on 11 June 2020

Two trustees had notified the Secretary to the Board that they wished to put forward amendments to the minutes and details had been circulated to Board members before the meeting.

Mr Davies said that at the June Board meeting he had summarised the situation in relation to the Charity Commission and confidential information in a misleading way. He had implied that the Charity Commission had taken a position on trustees who had not signed the Code of Conduct, which it had not. The Charity Commission was clear that communications between the Commission and the Trust were confidential. It was also correct that some trustees had taken objection to the sentence in the Code of Conduct requiring them not to disclose certain information to third parties. He had made an error in conflating the two issues and wrongly attributing a position to the Charity Commission on which they had not been consulted.

Mr Fowler said he was saddened by the unfortunate misleading statement which was made by the Chair in relation to the Charity Commission taking a position on the signing of the Code of Conduct.

In response to a question about whether an E-mail had been marked confidential, the Secretary to the Board made it clear that a communication did not have to be so marked in order for it to be confidential and confirmed that the Charity Commission had made it clear that the correspondence between the Charity Commission and the Trust was confidential, and should not be disclosed to anyone who was not a trustee of MHT.

Mr Watts said this illustrated that the problem was prejudging issues.

On the proposal of Ms Rouse, seconded by Mrs Palmer, it was **RESOLVED** (12 votes in favour, 3 against, 4 abstentions) to approve the minutes of the meetings held on 11 June 2020 as circulated.

6. Matters arising

The CEO said visitor numbers continued to be higher than normal and this was reflected in the number of incidents with which the wardens had to deal. Since the last meeting, he had again met with the Fire Service, Police and District Council to discuss issues relating to the management of Gullet Quarry. Some of the fencing had been upgraded by the Trust and anti-climb paint had been used to make the site less accessible. The Environment Agency had agreed to the use of dye in the water, but there remained issues about the outflow from the quarry into an adjoining

watercourse. Natural England had agreed to the installation of a replacement gate and a 6m length of fencing on the south side of the quarry. He had asked RoSPA to review their original report and the measures taken. The District Council had agreed to support the Trust in using the Single Justice Procedure to bring prosecutions under the byelaws. The CEO would prepare a paper for a future meeting on this process. Several ash dieback trees had been identified and further tree safety work would be carried out.

The invitation to tender for work to the sewage system at British Camp had been reissued but had resulted in only one tender. Staff shortages and Covid restrictions were reasons given for failing to tender. The CEO would re-issue the invitation to tender in the hope that things would improve.

A temporary warden had been taken on, but unfortunately he had resigned– he had not expected the numbers of people and the issues he was having to deal with. The CEO had written to offer a temporary contract to another individual but this would be on a part time basis. The new permanent warden was due to start work on 10 August. Mr Atkins asked if the Trust needed to employ more wardens in the current circumstances. Dr Crisp asked if Land Management Committee meetings were going to be reinstated. The Secretary to the Board said that meetings would be an agenda item for the September meeting.

7. Management accounts for the year ended 31st March 2020

The Finance and Administration Manager updated the Board on some points which had arisen since the paper was prepared. Reprinting the pocket guide (General Fund item 2b) was one of the items on hold for the time being as no leaflets were being handed out.

Planning how to spend the generous legacy which the Trust received last year was on hold, but the Finance and Administration Manager hoped work on this could be resumed shortly.

In relation to the pension fund deficit figure, Mr Watts said the Financial Reporting Council had issued an edict that accounting standards could be overruled by a “true and fair” view. Could this be used to substitute the Actuarial valuation of the pension fund deficit for the FRS 102 valuation? Mr Mooney said he had never come across this but would check. Mr Watts added that the pension fund deficit this year was higher than ever before. He referenced previous reports which referred to plans which had been introduced to control the pension fund deficit but said he was not aware what the details of the plan were. He thought details of how the pension scheme deficit was being managed should be included in the trustees’ report. The Finance and Administration Manager said that she was happy to include more information if that was what the trustees wished. The Actuarial deficit was much lower than the FRS 102 valuation and she suggested explaining that difference in the accounts. The funding level under the Actuarial valuation was improving, and it was the Actuarial valuation which was the basis of the Trust’s contributions. Mr Davies suggested referencing the relevant parts of the Business Plan.

8. To review the Audit Completion Report

Mr Mooney went through the report which had been circulated. The audit had run very smoothly and the finance team had done a fantastic job. Bishop Fleming had identified no significant risks and there were no management letter points. The prior year issues had been resolved. Ms Stace congratulated the Finance and Administration Manager and her team on achieving a clear unmodified audit. Mr Watts queried the value of the journals shown in section 5. Mr Moody said in part this was the opening balances transferring across on 1 April – it was an April issue. The Finance and Administration Manager said the Trust had changed ledgers and started using Sage's charity fund functionality which had resulted in a lot of splitting out of transactions. She anticipated the journals would be a lot lower this year. Mr Mooney said he was happy to provide the working if required. Mr Cordey asked that the trustees' appreciation of the finance staff was minuted.

9. To review the Letter of Representation addressed to Bishop Fleming and authorise the Chair of the Board to sign it

On the proposal of Mr Cordey, seconded by Mrs Palmer it was **RESOLVED** unanimously that the Chair of the Board should sign the Letter of Representation to the Auditors on behalf of the Board at the annual meeting of levy payers.

10. To approve the wording of the Trustees' Report and deal with any queries on the accounts

The Finance and Administration Manager explained that a revised draft report had been circulated, together with a number of comments sent in by trustees, and the changes the Officers proposed in response to those comments.

There were comments on various items in the report - numbers refer to the table in Paper D.

D6. Dr Crisp said the Governance changes had been promoted on the basis that they could be achieved through a Charity Commission Scheme, and the consultation document had been so titled. He thought that term should be included. Ms Stace said whether the consultation was titled Charity Commission Scheme or not, the issues which needed addressing and the consultation on them was still valid. She suggested amending the wording to: "A consultation on the changes that might be made through a Charity Commission Scheme...."

D9. Ms Stace said that, contrary to Mr Watt's written comment, making an application for a Countryside Stewardship Scheme for a site as complex as the Trusts was a very considerable achievement and the Conservation Manager should be congratulated on it.

D10. Dr Crisp said the Trust had made no decision on how it would proceed since the Charity Commission had notified the Trust that the DCMS would prefer the changes to be made by private bill.

D14. Mr Mooney explained that it was necessary to include statements in the trustees' report that related to the impact of Covid-19 post year end. The Secretary to the Board confirmed that the report could be updated at any time before it was

approved, in this instance to take in any other impacts of the pandemic which arose prior to that time.

D16. Following Dr Crisp's suggestion, it was proposed that the wording be expanded to include the Board's option to amend committee recommendations. "The Board of trustees considers committee reports and adopts, declines or amends their recommendations..."

D21. Dr Crisp said it was not yet decided to continue work on updating the Acts. It was suggested that the wording "Work on consideration of the consolidation and updating of the Trust's governing Acts ..." might satisfy the point.

On the proposal of Mr Bartholomew, seconded by Prof Raine it was **RESOLVED** (with 2 abstentions) to approve the wording of the Trustees' Report circulated with paper D, subject to 3 amendments:

- i. Achievement and Performance, bullet 2 amend to "A public consultation on the changes that might be made through a Charity Commission Scheme was carried out"
- ii. Committees – amend to "The Board of trustees considers committee reports and adopts, declines or amends their recommendations..."
- iii. Plans for future periods, last bullet "Work on consideration of the consolidation and updating of the Trust's governing Acts..."

The Chair asked if there were questions on the accounts. Mr Watts asked whether the figure of £18,903 in relation to the public consultation ("Significant financial impacts", final bullet) was external expenditure or included overheads and other expenses incurred internally. The Finance and Administration Manager said that the figure was direct costs (including some staff costs and some admin costs) but there was no general allocation. Mr Watts thought it ought to say "direct costs". The Finance and Administration Manager explained in response to a question that the 4 acres of Trust land at Hollybed Common was not part of the Heritage Assets. This was clearly explained in note 14.

Mr Davies thanked Mr Mooney for attending the meeting and for his work on the Audit.

11. Authorising virtual meetings and changes to the protocol

The Secretary to the Board referred to the paper. The CEO explained that the proposed delegation to the Secretary to the Board to update the protocol was precautionary to cover situations where an unforeseen issue arose and needed to be dealt with prior to the Board being able to consider the matter.

On the proposal of Mr Bartholomew, seconded by Mr Corday it was **RESOLVED** (with 1 vote against and 1 abstention) that the Board

- a) agree to hold virtual Board meeting by video/telephone conference until such time as face to face meetings could safely be resumed
- b) gave delegated authority to the Secretary to the Board to keep the protocol agreed at the meeting on 11 June 2020 under review and update it in the light of any unforeseen issues that arose.

12. Approve arrangements for levy payers' meeting

The Secretary to the Board referred to the paper and confirmed that even if the Board wished to hold face to face meetings, neither Malvern College nor the District Council were hiring their rooms to outside bodies at present, so it was not a realistic option at present.

On the proposal of Mr Fowler, seconded by Dr Braim it was **RESOLVED** unanimously to hold the Annual Meeting of Levy Payers as an online meeting before the Board meeting on 10 September 2020.

13. Financial Update

The Finance and Administration Manager updated the Board on the position since the paper was prepared. A report received from Brewin Dolphin confirmed that the value of the Trust's investment portfolios had increased by 10 % since the start of the financial year. The July car park meter takings were £55,000 gross, £45,800 net of VAT. The budget for July's car park takings was £15,500. This gave a measure of the number of visitors to the Hills. This had more than made up the loss from closing the car parks in March. However she proposed keeping in place the cost savings which had been instigated (set out in the paper) as it was difficult to predict what might happen later in the year. The front desk had been reopened for 4 mornings a week for pass sales. This had proved popular, and to date 4,500 passes had been sold for the current year. Most applications were still by E-mail.

Total CEO's delegated expenditure to date was £3,589.

The Finance and Administration Manager was carrying out a review of the deposit accounts held by the Trust.

The CEO confirmed that the British Camp car park machine now required purchasers to input part of their registration number, as many tickets were being passed on. The other machines would also be changed over shortly. Payments by card had advantages (although the commission charge was higher) but there had been some occasions when the card payment system had ceased to work on all machines. If this recurred the Trust would need to swap back to offering a cash alternative. He had asked Inaparc to go back to the transaction provider to find out where the fault lay.

14. Urgent Business

There was none.

15. Next meeting

Annual Meeting of Levy Payers and Ordinary Board Meeting 10 September 2020 7pm

The meeting closed at 9.15 pm

Ordinary meeting of the Board

CEO's Report and Project Progress update

10th September 2020

Visitor Access and related issues

Visitor numbers – these continue higher than normal for the time of year and as anticipated they are being driven by the increased number of people holidaying within the UK. Consequent pressure on the Hills, particularly in the traditionally popular areas, has remained high especially on midweek days. Associated issues such as unlawful parking, fires, barbeques and litter continue, although these have reduced from the extraordinarily high levels experienced in May / June. The number and severity of byelaw incidents occurring at the Gullet has also reduced in recent weeks -while the short term measures carried out to date to prevent access and reduce the appeal of the site may have helped in this regard, the cooler weather pattern has been influential. The weather shift has also assisted in reducing the risks of wildfires around the Hills.

Car parks – increased usage has continued with numbers 2-300 % higher than anticipated at times in some car parks. The pattern of use has returned to a more normal distribution, although locations such as West of England and North Quarry remain highly popular with visitors from the wider Birmingham area, especially in the evening. The ticket machines continue to operate, although intermittent delays in transmission and authorisation of payments have been a recurring problem on busy days at British Camp and West of England. Machine suppliers and payment service providers are investigating the causes, and cash payments were temporarily reinstated at British Camp over the bank holiday weekend to provide an alternative payment method. Public are still encouraged to use cards.

Staffing levels - all staff are back at work, with those who were 'shielding' having returned since August 1st. No staff are on furlough. Covid-safe working practices are in place, with offices having been rearranged to provide sufficient space, and some staff working from home or out on site on a rota basis where necessary. Additional measures are in place for the one member of staff who was shielding.

Wardens – A new full-time warden started work on the 10th August. Following Board approval, wardening capacity was increased with the recruitment of an additional temporary warden in July. Following his resignation after 1 month, an additional part time warden, has been recruited to assist for 5 weeks through to the end of first week of September. With schools re-opening in the week of 1st September, visitor numbers are expected to fall, and some issues reduce, but circumstances may change at short notice.

Volunteers – many of the individual volunteers have resumed their regular roles, where they can safely do so within any Covid appropriate restriction or safeguards - in some cases on a reduced level of activity.

Project progress.

While core operational and maintenance work has been ongoing throughout the past months, a number of projects were suspended during full lockdown and as a result of implementation of tighter financial controls. The overall situation is now returning to a more normal level of operation, and some projects have been recommenced or are now due to restart if resources allow. Some projects have had to be rescheduled to 2021 due to either their longer lead-in times or season-dependency. The Project Progress table below shows the updated status of all those projects listed. There may be amendments in the event of any further local, regional, or national Covid restrictions that might come into force.

Health and Safety Matters

<i>Notifiable Accidents in last 12 months:</i>	None
<i>Reported Accidents – 11/07/20 to 01/9/20</i>	None
<i>Reported Near Misses - 11/07/20 to 01/9/20</i>	1

Covid precautions

Covid-safe working practices for all staff and volunteers are in place, with social distancing, room capacity assessment and cleaning regimes in place for Manor House and Top Shed.

Hand Arm Vibration

Following updated guidance from the HSE, further assessments of use of all vibration equipment (particularly chainsaws and brush cutters) is to be undertaken.

DSE workstation assessments

Following assessment of wardens workstations a number of further minor equipment improvements will be required.

Other work items undertaken by the CEO have included

- Site visits for boundary issues – Windacre, British Camp; Fossil Bank; Blakes Lane, Guarlford; Old Wyche Road; Lower Dingle; 2 on Madresfield Road; Westminster Bank; Old Hills; Colwall; Ballards Land.
- Site inspections and planning application comments – Longridge Road, QinetiQ site, Tank Quarry.
- Attending site meetings pre and post works with utility companies and contractors – Cadent, Balfour Beatty, BT and others.
- Site meetings and liaison with HWFRS, WMP, MHDC, NSPoA and contractors regarding Gullet Quarry.
- Work on Risk Management Strategy and conducting workshop for Board members.
- Work on tender for British Camp sewage treatment facility.
- Further site visits with contractors for car park works – current and future.
- Instigating and monitoring of Covid procedures and precautions for staff and premises.
- Recruitment of temporary warden and induction of new replacement warden.
- Attending virtual Charity Exchange event.
- Liaison with IT providers over security and service provision during pandemic.
- Site meeting at Swinyard with 4C's members.
- Input into audit clearance meetings.
- Liaison with MHDC over Single Justice Procedure option.

D Bridges
CEO
01/09/2020

Project	Approved Budget Actual Cost	2019/20				2020/21				Update	Status
		1 st Q	2 nd Q	3 rd Q	4 th Q	1 st Q	2 nd Q	3 rd Q	4 th Q		
Restoration of access paths	£20,000 Gift Aid Grant		Expected	Ongoing	Ongoing					2019 – Path resurfacing undertaken from Gardners to Thirds Wood plus contour path south.	COMPLETE
Install Cycle Waymarkers	£1,200	Finished								Works completed	COMPLETE
Mountain Bike Campaign	£4,000 (General) £3,052	Ongoing	Finish Expected							Works completed	COMPLETE
Bridleway Link Common	£2,500		Expected	Ongoing	Ongoing		Expected	Expected		Central section resurfaced. Southern section still to do. Delayed during wet weather then Covid restrictions, now expected Autumn	Part Complete
Improve Access Community Woodland	(Grant)	Tender Process	Expected	Delayed	Delayed	Expected	Expected	Expected		Main path works were completed in August. Interpretation and seating elements to be completed	Part Complete
Marking Boundary's	£1,250 (General)			Expected	Expected			Expected	Expected	Volunteer surveys are carried out winter months	
British Camp Repairs	£4,000 (General)	Ongoing	Expected							Structural works complete. Effectiveness being monitored	COMPLETE
Restore Shire Ditch	£3,000 (General)	Expected	Expected				Expected		Expected	Suspended pending evaluation of BC repair technique as above.	Delayed
Survey Vet. Trees	£1000	Expected								Survey Completed.	COMPLETE
NVC Survey	£7,000					Expected	Expected			Project impacted by Covid restrictions. Rescheduled for Spring 2021	Carry over to 2021
Invert. Survey	£3,000					Expected	Expected			Project impacted by Covid restrictions. Rescheduled for Spring 2021	Carry over to 2021

Pond Restore Castlemorton	Gift/grant		Expected	Ongoing	Ongoing		Expected	Expected	Expected	Fencing & plastic sheeting complete. Installation. Effectiveness being monitored	COMPLETE
Hedge laying	£5,000			Expected	Expected			Expected	Expected	Delayed due to weather and then Covid restrictions. Rescheduled for Winter 2020	Delayed
Manor House	£5,000 (Parl Fund)		Expected	Expected	Ongoing	Expected		Expected	Expected	Revised outline costs being determined. To be recommenced following Covid Delays	Ongoing
Manor House Works	£50,000 (Parl Fund)				Expected			Expected	Expected	Dependant on above -now to be split into two phases. Expected now spring summer 2021	Carry over to 2021
Top Shed Pit and storage	Est £12k		Tenders out	Expected	Expected					Infill works completed by Wed 29 th Jan.	COMPLETED
Lower Shed Review				Ongoing	Expected	Expected	Expected		Expected	Detailed specifications in preparation for costing. To be recommenced following Covid Delays	Delayed
Donkey Shed Restoration	TBC	Ongoing	Ongoing	Ongoing	Ongoing		Expected	Expected		Updated cost estimates and funding being sought. Expected now spring summer 2021.	Delayed
BC sewage system	TBC Est £40-50K			Delayed	Expected	Expected	Expected			Tendering process impacted and held due to Covid. New tender round required. Works now anticipated 2021	Ongoing
Implement Building Maint. Sched	£3,000	Expected	Expected				Expected	Expected		Electrical, Fire and Gas certificates all updated.	Ongoing
Belvedere Repair	£7,500 (Gift Fund)		Expected	Expected						Works Completed	COMPLETE
Repairs to Old Hills South C P	£4,500 (Parl Fund)	Ongoing	Expected	Expected						Works completed	COMPLETE
Repairs to B.C. path	£2,600		Complete	Expected	Expected					Patch filling to tarmac path to complete	COMPLETE
Resurfacing Gardiners	£1500 £3240 (Parl Fund)	Finished								Works completed	COMPLETE
N Malvern Wall repair	£4,800 (Gen)	Finished								Works completed	COMPLETE

Repainting lines	£1,000 (Parl)		Expected	Expected	Expected			Expected	Expected	Dependant on Car Park repairs / winter wear.	Ongoing
Update Interp Boards	£15,000 p/a (Gift Fund)	Ongoing	Ongoing	Expected	Expected	Expected	Expected	Expected	Expected	Blackhill complete. Gardner's produced awaiting installation.	Ongoing
Update location signage	£7,000	Expected	Ongoing	Expected	Expected	Expected	Expected	Expected	Expected	All complete other than West of England (underway) and Swinyard Delayed by Covid	Ongoing
Update Car Park signage	£3,000	Expected	Ongoing	Expected	Expected	Expected	Expected	Expected	Expected	All complete other than West of England (underway) and Swinyard. Delayed due to Covid	Ongoing
Update sign St Ann's well	£400		Expected	Expected			Expected		Expected	Roof sign replaced. Cabinet signs to do. Delayed by Covid.	Ongoing
Replace Access Signs	£2,500		Ongoing	Expected			Expected				Ongoing
Car Park Ticketing	£41,000 £40,085	Delayed	Expected							Review of tariff (due August) delayed due to Covid. Additional machine to be trialled at British Camp	Complete
Field Staff Pickup	£18,500 (General)			Expected	Expected			Expected	Expected	Replacement of pick up if required. Quotes received	Ongoing
New tractor	£40k £37,450	Delayed	Expected							Delivered first week August.	Complete
New cut and collect machine	£13,000						Expected				Carry over to 2021
Power tools	£4,000			Expected	Expected			Expected	Expected	Replacement chainsaws/ brush cutters.	Complete

Ordinary Meeting of the Board

Conservation Department Report 11/06/2020 – 10/9/2020

10th September 2020

Conservation Manager (CM)

1. Continued reviewing of the LMP including stakeholder/public consultation and proposing changes to LMC.
2. Negotiated / finalised Countryside Stewardship applications for Southern Hills and Castlemorton Common with Natural England and Forestry Commission.
3. Reviewed comms items (precept payers, events diary, walking/cycling map, various livestock signage, Gardiners Quarry interpretation).
4. Undertook stem injection works with CO at 3 locations.
5. Undertook Ash dieback survey with OM.
6. Arranged contractor works on Japanese Knotweed, hay cuts, stem injection, Ash dieback tree work, thistle topping.
7. Assessed and altered conservation office and staff working arrangements to meet Covid19 regulations.
8. Assessed 5 planning applications with significant issues relevant to MHT including ongoing planning matters at the former QinetiQ site and background work on visitor impacts in relation to SWDP.
9. Successfully applied for ~£5k from Severn Trent Water's biodiversity fund.
10. Dealt with 11 public / utility company queries / proposals.
11. Site meeting at Golden Valley with 4Cs and local residents.
12. Scoring applications for warden's post, interviewing and induction of Warden and temporary Warden.
13. Undertook CCO and CO interim appraisals.

Community and Conservation Officer

1. Published 14 press releases including those relating to hot weather (Gullet & BBQs etc), dog incidents, metal detecting, LMP consultation and Community Woodland works.
2. Oversaw the successful delivery of path improvement access works at Community Woodland, Townsend Way and agreed a contract for the design and production of new interpretation boards.
3. Arranged the installation of the new information board at Gardiner's Quarry.
4. Drew up tree safety inspection work for this autumn and engaged contractor.
5. Dealt with 13 public enquiries relating to trees, in addition to other enquiries relating to events, memorial schemes and filming applications.
6. Produced text and maps for LMP 2021-26.
7. Developed and enacted covid-related press releases, technology and procedures especially relating to meetings.
8. Attended an online introduction to a fundraising platform.
9. Hosting virtual meetings.

Conservation Officer (part time)

1. Seconded as Warden until 15 July.
2. Practical sessions on stem injection, removal of invasive species.
3. Undertaking final works for the Natural Networks-funded pond work and secured final payments.
4. Investigated the unauthorised taking of hay from Bowling Green Meadow.
5. Assisted with Gullet Quarry as necessary.
6. Liaison with graziers and monitoring of grazing sites.
7. Preparation of species status texts for the LMP 2021-26.

Ordinary Meeting of the Board
Risk Management Strategy
10th September 2020

The Risk Management Strategy (RMS) was circulated in draft form to all Board members in July, with comments invited on any of the items within it.

A workshop was held via video and phone link on August 25th, attended by 15 trustees. The CEO explained the background to and structure of the document, and there were discussions on the content and suggested amendments.

The RMS has been amended in light of the various comments and is attached as Ver 2.4. All changes made since the previous circulated version are shown in green.

CEO's Recommendation

The Board is asked to consider and approve the updated Risk Management Strategy.

Duncan Bridges
CEO
27th August 2020

Ordinary meeting of the Board

Review of model aircraft and drone policy

10th September 2020

Background

The Trust's model aircraft and drone policy was adopted by the Board in 2016 and is due for review.

Staff have been able to use the policy effectively during the subsequent years and have responded to and approved a small number of applications each year.

Unapproved flights still occur however, the policy document provides a useful source of information and outlines the reasons for the policy for staff to refer to and to provide to members of the public.

Policy update

A new UK law was introduced in November 2019 for the mandatory registration of those operating and flying model aircraft and drones. The new regulations apply to all model aircraft and drones between 250g to 20kg that are used outdoors.

The requirements are as follows:

- Anyone responsible for a drone or unmanned aircraft (including model aircraft) weighing between 250g and 20kg needs to register as an operator. Operator ID is renewable annually.
- Anyone flying a drone or unmanned aircraft (including model aircraft) weighing between 250g and 20kg must take and pass an online education package. Flyer ID is renewable every three years.
- Drones and model aircraft must be labelled with the operator ID

The policy has been updated to include these requirements. Those making an application to fly on land under the jurisdiction of the Malvern Hills Trust must also provide these details in the application form.

Recommendations

That the Board approves the revised policy.

Beck Baker
Community and Conservation Officer
14th August 2020



The use of model aircraft and drones (Remotely Piloted Aircraft Systems) Policy

Introduction

The Malvern Hills Trust has created this policy in response to an increased number of drone flights and enquiries relating to drones on the Hills and Commons.

This policy applies to model aircraft and all other Unmanned Aerial Vehicles, commonly known as drones but also referred to as multicopters, Unmanned Aircraft Systems, Small Unmanned Aircraft and Remotely Piloted Aircraft Systems. Throughout this policy, for consistency, all the above shall be referred to as Remotely Piloted Aircraft Systems (RPAS). This policy applies to RPAS with and without fitted cameras.

The use of RPAS is regulated by the UK Civil Aviation Authority (CAA) and permission must be sought from the landowner before any flight.

Under MHT's current byelaws RPAS are not permitted and this policy applies to all land under the jurisdiction of the Malvern Hills Trust.

This policy has been put in place to provide clarity and information for those wishing to fly RPAS on or over land under the jurisdiction of the Malvern Hills Trust. This policy aims to protect MHT staff, volunteers, visitors, livestock and wildlife on Trust land and pilots who may be liable should there be an incident.

Byelaws relating to RPAS

MHT byelaws state that:

11. (a) No person shall, except in the case of accident or other sufficient cause take off from or land on the hills any glider manned or unmanned or any other aircraft, save that this byelaw shall not apply, subject to clauses (b) and (c) hereof

- a. To a glider weighing 10kg or less*
- b. To a non-mechanically powered hang glider.*

(b) No unauthorised person shall except in the case of accident or other sufficient cause take off from or land any hang glider on any part of the Hills lying to the north of the Wyche Cutting or on any part of the Herefordshire Beacon (British Camp).

(c) No person shall fly any glider or aircraft on or over the Hills in such a manner as to be likely to cause undue interference with the use or enjoyment of the Hills by persons or animals lawfully thereon.



Malvern Hills Trust

Under MHT's byelaws, taking off from or landing of RPAS on land under the jurisdiction of the Malvern Hills Trust is not permitted.

The Trust do not permit the flying of RPAS over land under the jurisdiction of MHT for the following reasons:

- RPAS should not be flown over people and RPAS with cameras must not be flown within 50 metres of a person (CAA regulations). As much of our land is open access we cannot guarantee an area, even if remote, is completely free from people.
- RPAS could pose a significant risk to other users, particularly hang gliders and horse riders who frequently use the Hills.
- The Malvern Hills and Commons are an important place for wildlife and are covered by national and international conservation designations. Wildlife is sensitive to disturbance and some species are given additional protection that can result in prosecution if photographed in certain situations. Many birds see RPAS as a threat and may abandon nests.
- The Malvern Hills and Commons are grazed by cattle and sheep which are sensitive to disturbance by RPAS. Much of the Hills and Commons are registered Common Land where you should expect to see livestock at any time.
- RPAS with cameras could infringe data protection laws (filming people without permission). Filming and photography of the Malvern Hills from RPAS could contravene Trust's position on filming and photography.
- The presence of RPAS can be detrimental to the enjoyment of the Hills and Commons by other visitors.

Licensing

MHT recognises the value of using RPAS and aerial technology for the management of the Hills. For example, aerial photographs taken from a RPAS could be used to record erosion or to map bracken coverage for management purposes. MHT may also use RPAS footage in the future to promote the charity's work, highlight and identify issues and raise awareness of the important features of the Hills and Commons.

There may also be occasions where local communities, individuals and organisations wish to film or photography using a RPAS.

MHT may issue licences for flights, filming and photography using RPAS for specific purposes and projects where appropriate. Applications for RPAS flights will be reviewed and impacts will be assessed by MHT staff. In their application, pilots must provide evidence of training and pilot qualifications from the UK



Malvern Hills Trust

Civil Aviation Authority (CAA) and Public Liability Insurance Cover. Operator IDs and Flying IDs must also be provided with your application (see below).

Any footage or photography to be used commercially will be subject to MHT's filming and photography policy and must seek further permission.

All RPAS must be flown in accordance with the CAA flight rules. More information can be found here: <https://www.caa.co.uk/Consumers/Model-aircraft-and-drones/Flying-drones/>

This includes the following requirements for all model aircraft and drones between 250g to 20kg that are used outdoors:

- Anyone responsible for a drone or unmanned aircraft (including model aircraft) weighing between 250g and 20kg needs to register as an operator. Operator ID is renewable annually.
- Anyone flying a drone or unmanned aircraft (including model aircraft) weighing between 250g and 20kg must take and pass an online education package. Flyer ID is renewable every three years.
- Label any drones and model aircraft with the operator ID.

Policy statement

Remotely Piloted Aircraft Systems, including drones, are included within MHT's existing byelaws and are therefore not permitted on the Hills and Commons or on any other land under the jurisdiction of the Malvern Hills Trust without their prior authorisation.

MHT will review requests for specific project and may authorise the use of RPAS where appropriate.

Review date

This policy will be reviewed as required, or by September 2023.

For further information, please contact

Beck Baker

Community and Conservation Officer
August 2020

Ordinary Meeting of the Board

Brockhill Road Surfacing

10th September 2020

Background

Papers

LMC Meeting 12th July 2018

LMC Meeting 11th October 2018

Board Meeting 8th November 2018

An application to surface that part of Brockhill Road, West Malvern which crosses land owned by the Trust was initially submitted by Mr P Earp and Mr Raymond in 2017. The matter was considered at LMC meetings during 2017 and 2018, before a proposal was put before the Board meeting on 8th November 2018, at which it was resolved to approve the surfacing subject to certain conditions:

Item 16 of the minutes:

It was resolved to adopt the following recommendations of the Land Management Committee:

(ii) Brockhill Road

a) To permit the top 20m of Brockhill Road from the junction with West Malvern Road to be re-tarmacked using a non-slip surface. (subject as below)

b) To consent to the use of a hard surface treatment over the remainder of the track on MHT land on condition that if tarmac is used, the residents must apply for s 38 Commons Act consent.

c) Such consent to tarmac also to be conditional upon

- the applicant putting forward acceptable proposals for a binding legal agreement for the future maintenance of the surfaces and*
- the applicant providing detailed proposals for passing places, drainage and other associated works which must be agreed by the CEO and the officers.*

The Trust owns the land over which the access track passes from West Malvern Road for a distance of approximately 160m. The Trust has no interest in any work carried out on the lower section of the track which is not in its ownership.

The policy of the Trust in relation to the surfacing of easements is that a loose stone surface is usually appropriate, but other surface treatments may be considered where special considerations apply – for example a steep gradient.

Update

Since November 2018, the residents of Brockhill Road have established a Residents Association – the Brockhill Road Residents Association (BRRA) - which has provided a single collective point of contact for communications about the proposed surfacing, as well as a framework, as between the residents, for the future maintenance of the track surface.

Condition b)

Representatives from the BRRA say that they have found evidence that the track was hard surfaced in the 1930/40's and the current stone surface overlays a degraded concrete and tarmac

layer. They maintain that s38 Commons Act consent is consequently not required as the track has previously been surfaced. It must remain an obligation upon those wishing to carry out the work that they are responsible for obtaining any consents which are required.

Part 1 of Condition C

The Residents Association has provided a copy of their constitution, which includes a provision for responsibility for the maintenance of the track, as between the residents, together with a signed declaration (see attached). Whilst this can be seen as a positive step, it creates no legal obligation to maintain the surface as between the residents and the Trust. Membership of the BRRA is voluntary and any future owners of the properties in Brockhill Road are not bound by the arrangements agreed between the current owners.

It was suggested by the Trust's solicitor that a Deed of Covenant between the Trust and the residents would at least provide a binding arrangement between the Trust and the current owners, but this has not been taken up by the BRRA.

The only way to bind future owners would be through the grant of a deed of easement.

It should be noted that (irrespective of the type of material used to surface the track) the legal position is that if maintenance is to be carried out to the surface of easements passing over the Trust's land, the responsibility for doing the work falls jointly and severally to the owners of those properties which the track serves. It does not lie with the Trust. However, there is no *obligation* on the property owners to carry out any maintenance. The difficulty for the Trust is if the surface of the easement becomes a danger to visitors to Trust land and whether in those circumstances there is a liability on the Trust under the Occupiers Liability Act.

Part 2 of Condition C

In respect of the requirement to provide proposals for passing spaces, drainage and other works, more detailed plans have been provided that show

- the top section to be tarmacked to a 5.5m width (the extent of the current track width) to allow safe passing of vehicles entering or leaving Brockhill Road onto West Malvern Road.
- below this, the track over Trust land to be tarmacked to a width of 3.5 metres (narrower than as current), but with two passing spaces.
- restored grass verges either side of this lower section
- installation of four speed bumps / water throws to take water off the tarmac surface into the adjoining ditch, on the south side, that ditch to be cleared.

These proposed plans are considered appropriate.

CEO's Recommendation

The layout and specification for the tarmacking (part 2 of condition c) is acceptable and this condition has therefore been met.

Consent to carry out those works would be given only on condition that the parties carrying out the work sign a written agreement confirming that:

- They will obtain any necessary consents that are required to carry out the work
- The work will be carried out in accordance with the drawings provided
- They or their contractor provides a method statement to be agreed by the Trust before work is commenced,
- They or their contractors provide evidence of third party liability insurance whilst working on Trust land

The Board's options in relation to liability for future maintenance would seem to be:

To allow the work to be carried out without any enforceable provision for future maintenance (although as a matter of law this is not the responsibility of the Trust)

Or

To insist as a condition of agreement to the resurfacing, that the parties commissioning the work enter into a legally enforceable arrangement, by way of a deed, with the Trust for future maintenance of the surface.

Duncan Bridges
CEO
27th August 2020

BROCKHILL ROAD MAINTENANCE.

DECLARATION FROM THE BROCKHILL ROAD RESIDENTS' ASSOCIATION.

MHT's agreement to the proposal by Brockhill Road residents to create a tarmac surface to that part of Brockhill Road in the ownership of the MHT has been recorded (in the minutes of MHT's Land Management Committee) as being conditional on acceptable proposals being received in respect of future maintenance of that surface. The proposals from the Residents' Association - the plans/diagrams for which have been presented to MHT's CEO - envisage no change in responsibility for maintenance of Brockhill Road, i.e with all maintenance work continuing to be undertaken by residents of the road, rather than by MHT.

Because of the unbound surface, the road incline, and the absence of proper arrangements for water management, significant damage has regularly been caused by normal winter rains. Annual maintenance work has therefore always been necessary, involving the filling of potholes, regrading of the loose stone surface, and repairing the effects of water erosion. Without such regular maintenance, the road soon becomes difficult to navigate.

A bound surface, with appropriate water management, as the Residents' Association now wishes to create, is expected to reduce the maintenance task significantly, as well as providing a more usable surface and improving the overall appearance by narrowing the road (and adding four passing places). It has always been presumed that the road would continue to be maintained by the residents, and our Residents Association was formed in 2019 specifically to give formal and structured effect to this. The significant capital investment in the surfacing work now being proposed by residents is itself an indicator of the residents' intention to keeping the road in a satisfactory condition and, indeed, provides real incentive to so doing.

As the elected officers of the Brockhill Road Residents' Association, we formally confirm that there is no expectation of maintenance work on the road being carried out or paid for by anybody other than the Residents' Association (a point that is specifically expressed within the Association's Constitution - as attached). We also confirm that the Association will at no time in the future seek to impose any such maintenance obligation upon the MHT. In the event that a resident or other party does request such maintenance be undertaken by MHT, this document (which is lodged with the Trust) may be produced as evidence that MHT bears no such responsibility or liability.

Signed on behalf of the Brockhill Road Residents' Association:



John W Raine (Chairman)



Peter Earp (Vice Chairman)



Alan Cowpe (Treasurer)



Phil Hitchin (Secretary)

Dated: 20th July 2020.

BROCKHILL ROAD RESIDENTS' ASSOCIATION - CONSTITUTION

DEFINITION

A body representing all households in the road who wish to join.

PURPOSES

- To provide a forum for discussing and resolving issues of common interest affecting the road.
- To provide a collective basis for funding and arranging the undertaking of any maintenance and development work in relation to the road in accordance with the agreed wishes of a majority of households.
- To represent the views of households to external bodies on matters of common interest.
- To provide a point of contact for external bodies on matters of common interest among residents.

MEMBERSHIP AND ORGANISATION

All households owning property in the road shall be invited to be members of the Association, but membership shall be on a voluntary basis. The unit of membership shall be the 'household' (rather than each user or individual resident within a household). See attached Appendix 1.

Irrespective of whether or not they (or their households) are members of the Residents' Association, all residents are regarded as having rights of access over the entire length of the road, at least from the West Malvern Road to Low Wood for the duration of their residency. However, only those who join the Association as members (and pay a nominal £10 annual membership fee per household) shall be eligible to participate in the Association's management and to vote in any Association-based decision-making (including in the election of office holders for the year ahead).

Each household (with membership of the Association) shall have one vote in the annual election of four Committee Officers - comprising a Chairperson, Vice-Chairperson, Secretary and Treasurer. Each such office-holder shall be elected by majority in a ballot of the membership of households (with each such household having one vote for each role). Elections of office-holders shall ordinarily be held each year, unless all members agree to waive the election, and assuming the existing office-holder(s) are willing to serve for a further year.

The existence of the Residents' Association implies no change to the (unclear) legal position regarding ownership of the road below the uppermost stretch that is owned by Malvern Hills Trust (i.e. the stretch from its junction with West Malvern Road almost to the gate of Newsholme). It does, however, recognize that the Malvern Hills Trust (MHT) accepts no obligation to maintain the stretch of road over land in their ownership, and that residents (now collectively represented by this Association - the Brockhill Road Residents' Association), rather than MHT, shall continue to be responsible for maintaining this upper stretch of road in a usable condition.

Whether or not households volunteer to be Members of the Association, there will be no obligation on any resident at any time to make financial contributions to the Association's Road Repair & Maintenance Fund, or to undertake any other actions recommended or formally agreed by the Residents' Association. All financial contributions, beyond the annual membership fee of £10, will be made on a voluntary basis.

MODUS OPERANDI

The Committee shall be expected to consult with all households (irrespective of their membership of the Association) on any proposed actions or changes planned in or affecting the road and to keep all households informed of all such matters. The aim shall be to ensure that any such actions that are proposed should properly reflect the wishes, and enjoy the support, of a clear majority of the members of the Association (i.e. those who have paid the membership fee for the year), and, it is to be hoped, of all residents in the road as well. All members of the Association shall have the opportunity to vote on every proposal involving expenditure (being able to do so in writing if unable to attend a meeting in person).

A meeting of all members of the Association shall be called by the Secretary (on behalf of the Committee) at least once per year.

FINANCES

Membership of the Association shall be confirmed following the payment of the annual membership fee of £10 (per household) to the Association's funds. Thereafter, any costs incurred in the pursuit of the purposes of the Association (e.g. in repairing or resurfacing the road, and any accommodation hire costs for the holding of meetings) shall be funded by seeking further voluntary contributions from members.

All members of the Association shall have the opportunity to vote on any decisions regarding the nature of any works on the road that might be undertaken and on the costs involved. It shall be the lead responsibility of the Committee members of the Residents' Association to formulate and appraise and consult upon all proposals for such works and to make recommendations to the full membership (and to any other affected parties, including other residents). The Committee shall also take advice from the Treasurer and make proposals annually regarding further financial contributions to cover any necessary maintenance work. The Committee shall also exercise collective responsibility for devising, consulting upon and recommending an appropriate formula for the apportionment of costs between households for any remedial and improvement works. As stated above, however, households/landowners shall be under no obligation to make financial contributions, or to be members of the Association.

Management of the Association's funds shall be the responsibility of the elected Treasurer who will work in conjunction with the other members of the Committee, and on behalf of the Association. The accounts shall be reported to the membership at each annual meeting and shall be available to any member on request at any time.

AGREEMENT ON THE CONSTITUTION

This draft constitution shall be considered and voted upon (with any amendments to be agreed) at the first meeting of the Residents' Association following the election of the officers for the first year in the life of the Committee - and serving from 1st October 2019.

September 1st 2019

Appendix 1: List of Residential Properties served by the relevant section of Brockhill Road.

1. Harcourt Cottage
2. Tarrf
3. Newsholme
4. Greenwood
5. Beacon's Lea
6. Brockhill
7. Tanglewood
8. The Hoo
9. Woodleigh
10. The Coppice
11. Glen Kin
12. Lyra
13. Arden
14. Westcroft
15. Druin
16. Park Wood
17. Badgers
18. Low Wood

Ordinary meeting of the Board

Title: Coping with Ash dieback disease

Date: 10.9.2020

BACKGROUND PAPERS

MHT tree safety policy

Ash dieback paper 1.12.2016 (LMC)

Ash dieback tree owner's guide and toolkit (Tree Council)

Felling dead Ash (Forestry Industry Safety Accord)

BACKGROUND

The chronic tree disease Ash dieback is now affecting trees across the whole of the UK bar northern Scotland. Symptoms were first spotted on trees in the MHT estate in 2017. More information on the disease can be found here:

www.forestresearch.gov.uk/tools-and-resources/pest-and-disease-resources/Ash-dieback-hymenoscyphus-fraxineus/

Predicting an increase in the number of trees that may need work as a result of the disease and the secondary pathogens it permits, the Board approved the creation of a 'diseased tree' budget in addition to the normal tree works budget. Since then, £3000 has been added to this designated fund annually in the hope of dealing with the worst trees each year for the near future. Current total at 31/7/2020 is £12,000.

2020

In early 2020, the additional stresses of a very wet winter and drought of spring have combined with the tree disease to accelerate the deterioration of our Ash stocks.

As part of our duty of care relating to trees, in June and July, the Operations Manager and Conservation Manager undertook a survey of the estate to identify those Ash trees that were in very poor condition (>75 % canopy loss) and were in a high-risk location, e.g. beside a road or property. For background info on assessments see Appendix 2 below.

17 trees were identified as very high risk and in need of felling in the next few months (see Appendix 1 photographs). A combination of using field staff and contractors will be used for that work shortly at a contractor cost of £2110.

What is of more concern is the high number, 200+, of trees found that are in the moderate-high risk categories (25-75 % canopy loss). This will present a large amount of work in the future. Although each tree's rate of decline in condition will vary according to its location, weather, other pathogens present, previous management etc, it is fair to assume that a significant portion will reach the very high category in 2021/22 and this needs to be planned for.

COSTS OF ASH TREE WORK

Costs of dealing with trees with Ash dieback are high because the trees are brittle and often require gradual aerial take downs and because many are roadside trees traffic management costs are also incurred.

Increasingly, contractors are reporting the dangers of felling badly-effected Ash trees. The disease leaves the tree with a very high proportion of deadwood in the crown and no significant fibre strength at felling height. They become very brittle and dangerous to fell from the ground or to climb. Industry advice is to use mechanical harvesting or protected cabs wherever possible and to keep manual chainsaw work to a minimum. The use of harvesters, cherry pickers and other large equipment brings higher costs.

A balance needs to be struck therefore, between felling a tree before it becomes too dangerous and protecting trees that are not worthy of felling (yet).

PLANNING AHEAD

These two factors of rapid decline and higher costs (especially with high risk trees) mean that it is highly likely that over the next couple of years, tree work cost will exceed the disease tree budget.

Disease tree budget today $£12,000 - £2110 = £9,890$

Tree disease budget for 2021/22 under existing measures (assuming no further Ash work this year) $£9890 + £3000 = £12,890$

Of the 200 trees of concern, we can be cautious and estimate that 50 will require tree work in 2021/22. Of these, some will be able to be dealt with by our field staff alone, other trees will require contractors and some will also need specialist machinery and/or traffic management to bring them to an acceptable level of risk. Again, the proportions of which can only be estimates based on experience.

Prices paid for tree works over the last few years can provide a useful guide for forecasting the costs of the tree work. Any tree that requires work that can be solely dealt with by the field staff will generate no extra costs. But given the location of many high-risk Ash trees and the advanced methods required for felling some, it is highly likely contractor help will be necessary either in part (i.e. with help from the field staff) or wholesale. Ash taken by a contractor can have a value which would be deducted from the cost.

An estimate of costs for each scenario is presented here:

- Straightforward tree work – dealt with by field staff - £0
- Tricky tree – contractor with field staff help - £300
- Very difficult tree in complicated location – contractor only - £1500

An estimate of the number of each scenario is presented here and the resultant cost for 2021/22, based on 50 trees.

- Straightforward tree $20 \times £0 = £0$

- Tricky tree 20 x £300 = £6000
- Complicated tree 10 x £1500 = £15000
- Total = £21,000

Given the large amounts of unknown factors involved, this is a precautionary measure that will need to be kept under review. It may be that, come early summer 2021 the Ash resource has declined in condition no further and little work is required, or it could be that 50 is a big underestimate. But the plan aims to be a prudent, precautionary action based on what we see on the ground today.

It is important to note that, infected trees that do not pose a significant risk will not receive tree work, there will therefore be a very large proportion of our Ash resource still present throughout the estate.

Replacement trees could be established where a significant hole has been made either in the canopy or within a tree avenue. Although regrowth of the Ash and other natural regeneration is preferable. Certainly, in highly visible locations it may be prudent to demonstrate replanting with locally native species such as Lime, Oak, Wild Service, Elm (disease-resistant), Crab Apple etc. Replacement trees will add further costs.

Links to examples of Ash dieback management:

www.nationaltrust.org.uk/croft-castle-and-parkland/features/managing-Ash-dieback-at-croft-castle

PROPOSALS

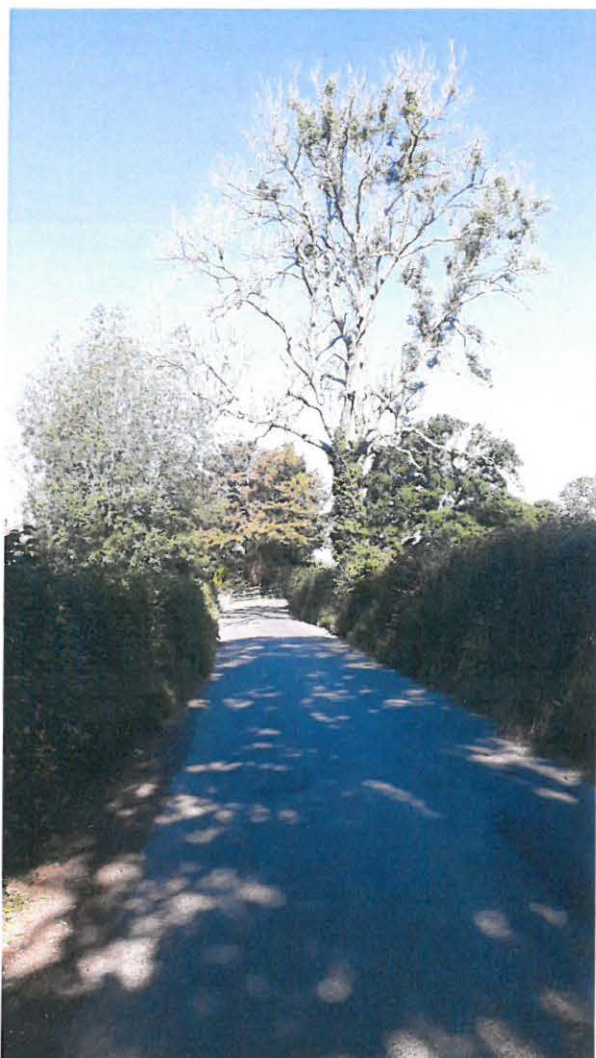
1. Ash surveys should be repeated every June by staff in addition to the professional tree safety inspection in autumn.
2. As with all our tree safety work, we seek to take a balanced and proportionate approach with Ash dieback.
3. To continue with the policy of felling only those trees that absolutely must be felled due to an unacceptable risk to the people and property.
4. Healthy looking Ash trees should not be felled in anticipation of the disease.
5. To use field staff wherever possible to work on trees or assist contractors in more complex scenarios.
6. To increase the tree disease budget for the year 2021/22 to **£22,000** by an addition of £12,110 (instead of the forecast £3000).
7. To keep the situation under review.
8. To be ready in autumn 2021 to review the 2022/23 tree disease budget.

RECOMMENDATION:

That the Board discuss and agree to the proposals as outlined above.

Jonathan Bills
Conservation Manager
25.8.2020

Appendix 1: high risk Ash trees on MHT land at the Hacketts, Mathon Road



1 At the Hacketts, Mathon road.



2 Land at DeWalden road.



3 Tree overhanging Wyche road, Earnslaw car park. 4 Tree within Earnslaw car park.

Appendix 2: Assessment advice from the Tree Council

Spotting ash dieback in your trees | **Section 3**

By looking at the crown of an ash tree, you should be able to place it in one of the following classes. Don't worry if you're not completely sure – just make your best guess:

CLASS 1 100%–76% of the crown remains

CLASS 2 75%–51% of the crown remains

CLASS 3 50%–26% of the crown remains


CLASS 4 25%–0% of the crown remains

This system does not allow you to make specific management judgements about the safety of any individual tree, but it helps to identify trees that may need attention.


If you are concerned about the extent of decline in your tree's canopy (especially if it starts to look like a class 3 or 4 tree), you need to decide how to manage your tree. It is usually best to consult a qualified tree professional who can survey your tree or trees, assessing their condition and the circumstances in which they are growing, to advise you on what action to take. If the tree is assessed as presenting an unacceptable risk to people or property, felling may be recommended. It is important to seek guidance quickly if you think your tree may be in a dangerous condition.

Otherwise, pruning work such as the removal of dead wood, a reduction of the crown, or the removal of a specific limb might manage the safety risk while allowing the tree to continue providing benefits to the landscape and to nature.


For your management options for an ash tree [see page 16](#).




Class 1



Class 2




Class 3



Class 4

All images © Gary Barrett

13 | Ash dieback disease: a guide for tree owners (June 2020)


Ordinary meeting of the Board

Title: Request to spend monies from the Gift Fund

Date: 10.9.2020

BACKGROUND

It was agreed by trustees to add a new, native hedge to one of the boundaries in between the recently-purchased fields 'Snookes Croft' and 'Plants Piece', adjacent to Castlemorton Common.

This work was undertaken successfully in February 2020 by staff and volunteers.

Unfortunately, late winter brought a lot of rain and spring brought drought. This, coupled with a lack of aftercare during the start of the Covid-19 crisis, has meant many of the new hedgeplants, ~75 %, have died.

PROPOSAL

It is proposed to gap-up the hedge this winter, again with help from volunteers. Rather than use core funds to purchase the hedgeplants at this difficult time, it is proposed to use the unrestricted gift fund. The creation of a new, native hedgerow seems like an appropriate use of this fund.

It is also proposed to plant 4 in-field standard trees at the same location, Ballards Land and the Hacketts as part of our ongoing work to maintain landscape character and increase tree cover where possible.

A total of £850 is requested.

RECOMMENDATION:

That the Board approve the expenditure from the Gift Fund.

Jonathan Bills
Conservation Manager
24.8.2020

Ordinary Meeting of the Board

Use of Single Justice Procedure

10th September 2020

Introduction

There is a set of 42 byelaws that apply to land under the Trust's jurisdiction, which have been in place in their current form since 1999. Any person found guilty of an offence under those byelaws is liable for a fine not exceeding Level 2 on the Standard Scale, which currently is £500. In the case of a continuing offence, the court can order a further daily fine.

Day to day enforcement of the byelaws is undertaken by the Officers of the Trust. A prosecution would only be taken forward with the approval of the Board. Previously the Trust has instructed solicitors to undertake prosecutions in the Magistrates Court. This is time consuming and expensive, and has only been carried out as a last resort, as the Trust's true legal costs would not be covered by any award of the court. .

The Trust's policy is to deal with byelaw breaches in the first instant by explanation and education, where possible getting the person concerned "on side" so that they understand the reasons for the restriction and agree to comply. However, there are occasions where the byelaws are broken deliberately by individuals, who are well aware of their existence. It is also possible that a prosecution, for example for swimming at Gullet Quarry, might have a deterrent effect.

Option to use the Single Justice Procedure (SJP)

Following recent meetings with the emergency services and the District Council in relation to issues at Gullet Quarry it was identified that there might be a more expedient and cost-effective route to progress clear cut and straight-forward byelaw offences through the SJP.

Key points on this procedure are as follows

- *A byelaw contravention is a summary only offence. This means that the matter will always be dealt with by a magistrate's court.*
- *Proceedings must be issued by the court within 6 months of the date of the offence. No prosecution can be brought after that time.*
- *As an alternative to a court hearing, summary only offences use the Single Justice Procedure process. This is the court's preferred process for summary only offences.*
- *The Single Justice Procedure process does not require a court hearing and the matter is dealt with by a single magistrate and legal advisor as a paper process provided the defendant does not dispute the offence. If the defendant pleads not guilty; the matter has to proceed towards trial in open court.*
- *If the defendant pleads guilty via the Single Justice Procedure process, the matter is settled there and then and a fine is imposed. No hearing is required, and the defendant will (hopefully) pay the fine and any costs imposed by the court.*
- *A guilty plea via the Single Justice Procedure attracts a 33% reduction in any fine imposed because the defendant has avoided the need for an open court hearing and has saved time for all those concerned.*
- *In relation to costs in general – orders for costs are means tested. So if the defendant has a low income, then not all of the costs applied for will be recouped. Moreover if*

there is relevant mitigation, this can also be reflected not only in the amount of fine imposed by the court, but also the awarded costs.

As mentioned above, if the defendant pleads not guilty, then the matter would have to proceed towards a court hearing, although in some instances the matter can be resolved at an initial hearing prior to going to a full trial.

Support from MHDC

MHDC uses the SJP process on a regular basis and their staff have offered to assist the Trust with advice on using the process, eg

- preparation of standard paperwork to capture and record the required information
- advice on evidence gathering
- preparation of evidence and witness statements

In addition to the above, they have offered to take the first few cases through the process on the Trust's behalf. (Reviewing the evidence, preparing and submitting the paperwork and taking the matter through the SJP process).

Should a defendant plead 'not-guilty' and it appeared at any stage there was a significant risk the prosecution would not be successful, it could be withdrawn at any time up to the start of the full court hearing .

If the Board decide to take up this offer from MHDC, a formal letter of engagement or memorandum of understanding would need to be agreed between the Trust and MHDC.

Risks and Costs

MHDC have indicated they would conduct the first few cases at no cost to the Trust.

Assuming the process is straightforward, it is envisaged that the Trust should be able to process future cases in-house. This would limit any costs for Trust and in some cases, the Court might order that the basic costs of bringing the case should be met by the defendant.

If the defendant entered a not guilty plea, the matter would need to be carefully reviewed in order to weigh up whether it was worthwhile to press on to a hearing. In these circumstances in the event of the court returning a 'not guilty' verdict, the Trust could be ordered to pay some or all of the defendant's costs.

Recommendation

That the Board agree in principle to taking up the offer of MHDC to assist the Trust in using the SJP process.

A further meeting with legal staff of MHDC is due on 3rd September and more information will be available at the meeting.

Duncan Bridges,
CEO, 28th August 2020