

Malvern Hills Trust
Ordinary Meeting of the Board
The Council Chamber, Avenue Road, Malvern WR14 3AF
Thursday 11 July 2024 at 7 pm

Present: Cynthia Palmer (Chair), David Baldwin, David Core, Allan Cottam, Mark Driscoll, David Fellows, Lucy Hodgson, Charles Penn, John Raine, Chris Rouse, John Stock, Frances Victory, Malcolm Victory, Mary Turner, Duncan Westbury, and Sheila Wren.

In attendance: CEO, Secretary to the Board, Governance Change Officer, Conservation Manager, Finance & Administration Manager, Finance Officer, Ed Caswell of Brewin Dolphin (items 1 and 2 only), 15 members of the public.

Absent: Richard Fowler

Cynthia Palmer welcomed everyone to the meeting and displayed the Highly Commended Certificate recently awarded to the Trust by the Civic Society for the Donkey Shed in St Ann's Road.

1. Apologies for absence

Richard Bartholomew, Robert Berry, John Michael, Felicity Robinson, and Mike Wilkinson.

2. Investment Report

Brewin Dolphin's representative, Ed Caswell, was welcomed to the meeting. The Board received, under confidential cover, Brewin Dolphin's investment data report dated 21 June 2024. Mr Caswell went through the slides. Questions from trustees were invited. Mark Driscoll noted that the presentation had referenced the short to medium term risks, particularly the forthcoming US elections, and asked what the medium to long term risks were likely to be and how Brewin Dolphin was managing them. Mr Caswell said he thought the biggest risk was China's relationship with Taiwan; should China invade Taiwan and the US get involved, there was potential for large scale war. Should this occur, Brewin Dolphin would look to reduce equity exposure across the portfolio, both overseas and UK, and it would be likely to increase the fixed income exposure and probably add to the gold, that is, what would typically be considered safe haven assets. He thought there was perhaps a 20% chance of this happening within the next five years; Brewin Dolphin would need to react if it did, but for the moment they were happy with the portfolio position as it was currently positioned.

Ed Caswell left the meeting at 7.17 pm.

Cynthia Palmer said she would now move to item 4 on the agenda.

3. Declarations of interest

Mary Turner declared an interest in the item on signage at Malvern Wells (agenda item 16), being a Malvern Wells resident.

4. Public Comments

Comments were received from John Watts, Malcolm McCrae and Katharine Harris. These are attached at Schedule 1.

5. Chair's Announcements

5.1 Cynthia Palmer reported that Paul Clayburn had resigned from the Board.

5.2 Mrs Palmer announced that she too was resigning and read her resignation statement, which is attached at Schedule 2.

5.3 Mrs Palmer left the meeting and David Core took the Chair.

6. Adjournment of the Meeting

On the proposal of David Core, seconded by Mary Turner, it was **RESOLVED**, with 14 in favour and one abstention, to adjourn the remainder of the business of meeting to a future date.

The meeting was suspended at 7.30 pm

Schedule 1
Public Comments – MHT Board Meeting 11 July 2024

John Watts

The Malvern Hills Action Group has carried out an in depth analysis of the current consultation document and found it riddled with errors and false claims. And I want to address one of those tonight, because it has significance for all trustees here, given the evidence that we have. The issue that we are concerned with is the extension of the levy paying area and this was addressed in the 2019 consultation, and it was also addressed in the latest consultation, and in both of those excuses were made. If I can just remind you of what happened, in 2019 the consultation stated that the current tax base is out of date, illogical and unfair; that's the trustees speaking. The blame for not doing anything about it was put onto the DCMS. The 2024 consultation had something similar, but this time the blame was put onto the Charity Commission. Both claims are evidence-based, untrue. First of all, the 2019 consultation. Two years before that consultation went out, the Trustees voted, without any explanation, unanimously, against incorporating any changes into the levy-paying area in the Section 73 scheme. I have checked, and the DCMS didn't get involved at that stage. In the case of the 2024 consultation, this time it was the Charity Commission being blamed, and that is not true. You, as trustees, should have had a letter from the Charity Commission, a copy of which I have, which made it clear that the Malvern Hills Conservators trustees who requested that no mention should be made of the levy-paying area, full-stop. I will give you a quote, because I've got the document here. I didn't believe it myself, and I got both confirmation from the Charity Commission and I think this is relevant to you. It states that it was a decision of the Malvern Hills Conservators not to seek to include substantive amendments to the levy in the proposed Private Bill. So what we have got here is the Malvern Hills Conservators telling a lie. The Charity Commission did not stop you doing it; you stopped yourselves doing it. And that is now copper-bottomed guaranteed. And that leads to two issues. Who was responsible for this? It is either the trustees as a whole or it is a rogue employee. And I don't know that, but somebody here has been responsible for that.

Malcolm McCrae

My statement addresses dysfunctionality of MHT's Board. I have tried in good faith to interact with this Board for several years but have encountered dysfunctionality unlike any experienced in a long career in the public sector. And I speak as someone who has both sat on and chaired governance boards of organisations with much larger financial responsibilities than MHT's, including some that had acquired charitable status for tax purposes. The dysfunctionality covers a wide range of issues, including continuing to charge the separate special levy set up in the 1924 Act, for some 75 years after the purpose for which it was mandated would have been completed. It includes your predecessors applying to the wrong government department or the wrong government ministry for an uplift in the maximum chargeable some 30 years after it should no longer have been being levied. This has resulted in your current levy being set at some five times

the maximum that you have legal authority to charge. More recently, by approving Annual Accounts submitted to the Charity Commission, which state simply that MHT is an unincorporate charity, the Board has allowed what was sold as a rebranding exercise to be hijacked, leading to the establishment of a separate, stand-alone organisation, distinct from the statutory public body that is MHC. Government defines an unincorporated charity as having no legal standing, making your submitted accounts for at least the last five years delinquent. Finally, there is the on-going drive to use the currently illegally collected taxes of your parent organisation to fund the establishment of a new legal body against the express wishes of more than four times the number of people who made any response, positive or negative, to your previous expensive, doomed attempt to change the Parliamentary mandate of MHC. When you all agreed to serve on the Board of the statutory public body that is MHC, it included an undertaking to adhere to the Nolan Principles of behaviour in public office. I would urge you to abandon your current focus, which I confidently predict will not succeed, without at least a significant, expensive revision and return to operating in a collaborative fashion with the public you serve, rather than continuing with the current confrontational approach as exemplified by agenda item 14.1

Katharine Harris

With respect to the comments in the agenda under item 14.1, nothing of what is said there by our group is toxic or misleading, and actually there are no specifics mentioned. It would seem that the phraseology of the comments are there solely to discredit any opposition and are deliberately misconstruing the situation. Things go wrong when one group tries to control the narrative. Opposing views are not wrong and can lead to more healthy outcomes, rather than trying to shut it down. Such strong language makes one wonder what MHT/MHC are trying to hide. Given that our democratic right to elect our own trustees of parish and ward are likely to be removed and the wish to centralise the power in the hands of a few, it is small wonder that the public are not happy. Precept payers account for over 60% of your annual income and yet you are seeking to remove the right to elect their own representatives. To pretend that a single list from which we 'elect' trustees is not a loss of democracy defies belief. There should be no taxation without representation. The comment accuse us of misinformation but if you look on the frequently asked questions on your web site, there are several examples there; I give but two. It says there that the Bill will not change the precept-paying areas of Malvern, because it was the Charity Commission who barred that. That is not correct, because, as we have already heard, it was because MHT themselves ruled that out. And in May 2023, in a document that was submitted by MHT to the Charity Commission, it said that the trustees' view was that, while it would be fairer to extend the levy, it was likely to prove controversial. Concerns that the inclusion of such changes would mean that the Bill would not proceed to the detriment of other changes, MHC/MHT ruled that out for themselves, and they have repeatedly claimed to us that it was the Charity Commission who did that. The second point is, is MHT/MHC a public body? On the web site it says no. Malvern Hills Conservators and Trust have a dual status as a charity and a public body. According to a dictionary of law definition, a public body is any body, corporate or otherwise, that

performs its duties and exercises its powers for the public benefit, as opposed to private gain. Under the Local Government Act, public bodies include local authorities or those who have powers to issue or levy precepts. It is therefore a public body. We need to see the draft Bill, not a subsidiary document that has been pre-chosen for us. Thank you.

DRAFT

Schedule 2
Statement from Cynthia Palmer

I have been a trustee for almost six years, but since January I have been bullied and belittled by the Trust for telling the truth and it has made me ill.

It is therefore with regret that I am resigning.

I would like to sincerely thank the three trustees who have worked tirelessly to try and clear my name and I wish them well in their future endeavours. I would also like to thank the members of the public who have supported me.

I do not consider that the Trust is ready to push forward with this bill. It would be better to wait for another 12 months and to engage with the levy paying public to settle your differences. The consultation has been a waste of time and money with only 200 responses as opposed by over 1700 people signing the petition.

I consider that those trustees who orchestrated my downfall should be ashamed of themselves and should be seriously considering their position on the board because the only thing I did wrong was to tell the Charity Commission the truth.

I will now leave you to carry on with your meeting.