

Malvern Hills Trust
Ordinary Meeting of the Board
Council Chamber, Avenue Road, WR14 3AF
Thursday 12 September 2024 7pm

Present: John Michael (Chair), David Baldwin, Richard Bartholomew, Mark Driscoll, David Fellows, Richard Fowler, Lucy Hodgson, Charles Penn, Mary Turner, Malcolm Victory (arrived 7.15), Sheila Wren.

In attendance: CEO, Finance and Administration Manager, Governance Change Officer (GCO), 12 members of the public.

1. Apologies for absence

Robert Berry, David Core, Allan Cottam, John Raine, Felicity Robinson, Chris Rouse, John Stock, Frances Victory, Duncan Westbury, Mike Wilkinson, Secretary to the Board.

2. Chair's announcements

- 2.1 John Michael thanked trustees for managing the burden of additional commitments in recent weeks, which had mainly been around discussions on the outcome of the Consultation on proposed governance changes to the Trust. He recorded particular thanks to the Governance Change Officer (GCO) and trustees Mike Wilkinson, Sheila Wren and David Core for the enormous effort they had put into analysing the responses. He reiterated that it was the Trust's intention to make the Consultation responses available to the public in due course, as well as the proposed Bill, once it had been drafted.
- 2.2 John Michael expressed the Trust's gratitude for donations towards its work from members of the public and groups. Recent examples included:
 - £150 from the estate of Peter James Kirk, whose family in Canada had thanked the Trust for its conservation work in protecting the Hills.
 - £500 from the Tribes of Beorma for two events organised at St Ann's Well in 2024; their intention was to run further events in 2025.
 - £376.50 from a raffle organised by Francis of Malvern towards the Ash Dieback Fund.
 - £405 from a musician with local connections.
- 2.3 John Michael was pleased to announce that the long-standing repair to the marble plinth of the fountain at St Ann's Well would be completed during the autumn. He recorded the Trust's thanks to Heritage Stone Access for sourcing and carving the marble to effect this repair.
- 2.4 Lord Attlee had put a question to Parliament as to whether the Trust was a public body.

The question read as follows: *To ask His Majesty's Government whether the Malvern Hills Trust, also known as the Malvern Hills Conservators, is*

considered to be a public body and if so, for what purposes.

The response received from Baroness Hayman of Ullock, Parliamentary Under Secretary of State at DEFRA was as follows: *The Malvern Hills Trust, also known as the Malvern Hills Conservators, is not considered to be a public body.*

John Michael expressed his hope that this would finally resolve the long-held misunderstanding of the Trust's status.

3. Declarations of interest

There were none.

4. Public Comments

Comments were received from Anne Dicks and Katharine Harris, and these are attached at Schedule 1.

5. Confirmation of Minutes of Previous Board Meetings

On the proposal of Sheila Wren, seconded by Lucy Hodgson, it was **RESOLVED** (with three abstentions), to approve the minutes of the meeting begun on 11 July 2024 and concluded on 23 July 2024.

On the proposal of Charles Penn, seconded by Lucy Hodgson, it was **RESOLVED** (with four abstentions) to approve the minutes of the meeting held on 30 July 2024.

On the proposal of Richard Bartholomew, seconded by Lucy Hodgson, it was **RESOLVED** (with four abstentions) to approve the minutes of the meeting held on 8 August 2024.

6. Matters Arising

Richard Fowler asked about the discrepancy between the answer given to Katharine Harris by the Chair at the meeting of 8 August 2024 (Schedule 1 in the minutes) and what she had said concerning the percentage of the Trust's income made up by the Levy.

John Michael confirmed that the Trust would check again that the 45 % figure he had given in his answer to Mrs Harris was correct, pointing out that the percentages would fluctuate dependant on other income received.

7. St Ann's Well

The CEO gave a verbal report. She advised that in July a very slow leak had been discovered behind plasterboard in the residential part of the St Ann's Well building. This had been the subject of a claim under the Trust's insurance policy. It had been necessary to cut a hole in the flat roof of the building to gain access. The Trust had replaced plastic piping with the roof void with copper piping and enhanced lagging, to make it more durable. This had cost the Trust £1800 (as it was an improvement), plus the insurance excess of £500. During the works it had been found that the flat roof itself needed replacement; the Trust was sourcing quotations for the work.

Given the location of the leak it could not have been spotted earlier, but it was clear that the Trust needed to take a more proactive approach to building matters at St Ann's Well, and it was therefore in conversations with a few property management companies.

The Trust had received complaints about the condition of the toilet block. Although cleaning was the tenant's responsibility, refurbishment was a responsibility of the landlord, and the Trust had received a quotation for replacement ceramic toilets and decorating. It might be more sensible to install stainless steel toilets, which were more expensive, but also more hard-wearing.

The Trust had also found that the roof was leaking around the finials. It had consulted the National Landscape Team about a possible grant for Historic Buildings restoration and repair, but unfortunately this (national) grant was fully subscribed at this time.

In summary, the CEO advised that it was likely that she would be asking the Board to allocate £40k over this and the next financial year to repairs and replacements at St Ann's Well. She pointed out that it was possible that further issues would be discovered in a condition survey and confirmed that the £40k would be in addition to monies set aside to address health and safety compliance.

Questions were invited from Trustees. It was confirmed that St Ann's Well was a Grade 2 listed building and that the Trust was in regular contact with the MHDC Conservation Officer. David Fellows asked if listed building consent would be required from Malvern Hills District Council. The CEO said that the roof was part of the listing, but not internal decoration, and repeated that the Trust was in close contact with the Conservation Officer. It was confirmed that the Board would need to approve any expenditure on St Ann's Well that was not included in the current budget, but the CEO said that she expected the expenditure to run across two financial years.

8. Health and Safety Working Group

The Board received draft Terms of Reference for the new Health & Safety Working Group (HSWG). The CEO thanked those who had volunteered to join the Group: Mary Turner, John Stock, Lucy Hodgson and Richard Fowler. In answer to a question, it was confirmed that the Working Group would report to Staffing Committee, or directly to Board in case of any matters that needed to be elevated quickly.

Richard Fowler proposed that the bullet reading 'Act as a repository for positive health & safety reports (monitoring and positive incidents)' be amended to 'Act as a repository for **all** health & safety reports [...]'. It was noted that the use of the word 'positive' was probably industry-related, but this would be checked.

On the proposal of Mark Driscoll, seconded by Richard Bartholomew, it was **RESOLVED** unanimously to approve the Terms of Reference for the HSWG, subject to checking the use of the word 'positive' as discussed in this meeting.

9. Urgent Business

There would be an item of urgent business in the confidential section of the meeting.

10. Staffing Committee

10.1. Adoption of Minutes

On the proposal of Charles Penn, seconded by Sheila Wren, it was **RESOLVED** unanimously to adopt the minutes of the meeting of Staffing Committee held on 22 August 2024, which had been approved by committee members via email.

10.2. Chair of Committee – updates and questions

Charles Penn recorded his thanks to the CEO for all the work she was doing to make sure health and safety issues were given proper attention.

10.3. Resolutions recommended to Board

On the proposal of Charles Penn, seconded by David Fellows, it was **RESOLVED** unanimously to accept the resolutions of Staffing Committee as follows:

- HSWG and the Senior Management Team to review the draft MHT Health & Safety Statement and Policy, and to make a recommendation to the Board for its adoption.
- HSWG to report to the next Staffing Committee or the Board, whichever was the sooner, on a plan for addressing health and safety and fire risk non-compliance and opportunities for improvement.
- Health and safety risks to be updated in the corporate risk register and control measures for the year ahead added.

11. Finance, Administration & Resources Committee

11.1. Adoption of Minutes

On the proposal of Lucy Hodgson, seconded by Richard Bartholomew, it was **RESOLVED** unanimously to adopt the minutes of the meeting of Finance, Administration & Resources Committee held on 29 August 2024, which had been approved by committee members via email.

11.2. Chair of Committee – updates and questions

Lucy Hodgson reported that the Committee had had a full discussion of the Audit Report and the Trustees' Annual Report, both of which had been well-received. The Reports would go to the Annual Meeting of the Board in November for approval and adoption.

11.3. Resolutions recommended to Board

The CEO provided some background information to a proposal to reverse a Board decision in October 2023 to change its data protection provider. There had been a data breach by the provider (not of Trust data) which had led to this decision, but due to the change of CEO it had not been actioned, and the rolling contract would need to have been terminated by May 2024. Since then, the CEO had worked closely with the company, including on an annual exercise, and had been impressed with their professionalism. The Trust had

obtained three quotations from alternative suppliers, all of which were considerably more expensive.

On the proposal of Lucy Hodgson, seconded by Charles Penn, it was **RESOLVED** unanimously to accept the resolutions of the Finance, Administration & Resources Committee as follows:

- The Reserves Policy was approved.
- The Board resolved to confirm to the Auditors that, following review, Malvern Hills Trust is a going concern.
- The Board resolved to reverse its decision of October 2023 and retain Ametros Group as its Data Protection Officer.

12. Governance Committee

12.1. Adoption of Minutes

On the proposal of Richard Bartholomew, seconded by David Fellows, it was **RESOLVED**, with one abstention, to adopt the minutes of the meeting of Governance Committee held on 3 September 2024, which had been approved by committee members via email.

12.2. Vice-Chair of Committee – updates and questions

Mark Driscoll gave a report in the absence of David Core. The Committee had discussed two proposed amendments to Standing Orders, namely a requirement for public comments to be received in advance in writing so that responses could be provided immediately at a meeting, and for the new arrangements for approval of committee minutes by email to be included. The Committee had also considered forthcoming priorities, including a revision to the Disciplinary Procedure for Trustees, an update of the Schedule for approval of Policies by the Board, and any issues that might arise from the Bill Consultation that needed Governance Committee's attention. Mark Driscoll encouraged Trustees to contact him or David Core with any other items for consideration.

12.3. Resolutions recommended to Board

On the proposal of Mark Driscoll, seconded by Richard Bartholomew, it was **RESOLVED**, with one vote against, to update Standing Order 14.9 to reflect the new practice for committee minutes to be approved by email prior to adoption by the Board.

13. Private Bill Update

The GCO reported that Trustees had been working through the Consultation responses. A Board meeting was planned for 19 September to review the recommendations of the Working Group in relation to administration, land management, licences and the objects.. There were further workshops and Board meetings planned to go through Trust governance issues. The Trust's Parliamentary Agent could accommodate the proposed schedule.

The updated cost position was now available on the Members' Area of the web site. Costs this financial year had now reached £60k for Sharpe Pritchard's work, with total costs, including staff costs, at £113k. The project was running slightly ahead of budget; the Parliamentary Agent was aware of this.

The GCO reported that the Trust was now in receipt of some comments from Government departments, which had been supportive and positive.

The GCO referred to the possible requirement for a map to accompany the Bill. This had not been included in the original budget and it was likely that the Board would be asked to approve the additional expenditure in due course.

Finally, the GCO referred to a question that had arisen from one of the workshops whether the duty to keep land unenclosed should go back into the Objects. The Parliamentary Agent had already drafted a separate clause to cover this point

Questions and comments to the Governance Change Officer were invited. Mary Turner expressed her appreciation for the depth of work being undertaken and how seriously consultation responses were taken. It was clear that comments would influence change, and she had been interested to hear how operational policy was being informed too. John Michael stressed that *all* opinions were of value. The CEO said how much feedback was appreciated, for example including comments which could inform the planned review of the Land Management Plan. Lucy Hodgson recorded thanks to those Trustees who had attended the workshops and to the Working Group and staff, acknowledging the hard work they had done. Sheila Wren stressed that it was a team effort, acknowledging how much information and legal advice Trustees had been asked to absorb and she thanked everyone for their support.

14. Easement Updates

14.1. Brooklands, Mayfield Road

The GCO reported that the Conservation Manager was in discussions with the owner of the property, who was considering applying for an easement for a caravan park. This was likely to require a wider splay if it went ahead.

14.2. 2 Spa Cottages

The CEO reported that in March 2024 the owner of 2 Spa Cottages was found to have laid a stone track cutting into the hill bank, causing significant damage to the hillside and trees. The track was very visible, and the stone used not what the Trust would recommend. The property owner had history with the Trust dating back to 2014. In 2019 an item had come before Land Management Committee as a pre-discussion to an easement at 2 Spa Cottages. At that time the Committee said that while they were open to helping the owner to get a vehicular access to his property, the engineering works proposed seemed excessive, and they couldn't see any way in which an easement presented along these lines could be approved.

The CEO had been in correspondence with the property owner since 15 March 2024, when she had written to him to state that the work had been carried out unlawfully and instructed him to remove the stone chippings and restore the topography. She followed up with further communications in June and August. In August, the owner had advised that he was working on a vehicle easement application for which he required third party specialist assistance. The Trust believed that he was planning a turning circle on his land, and a warden had provided him with sample stone. The CEO had expected to receive an easement application to bring to this meeting and had advised the owner that the Board would organise a site visit once this application had been received. However, the application had not been forthcoming, and the CEO had heard nothing from the property owner since 29 August. Although she wished to promote collegiate working, she considered that the Trust had already done everything it could to give the owner a chance to put things right. Moreover, the work done would bring a significant increase in value to the property, and the Trust had received no benefit at all.

The CEO was now in receipt of a complaint from a member of the public, reminding the Trust of the Land Management Committee's view (in 2019) that it was unlikely to be able to approve an easement, and expressing concern about the considerable damage done to the hillside. The GCO reminded the meeting that Trustees had a duty under the Acts to prevent encroachment.

Trustees were invited for their views. There was general agreement that the Trust had acted collegiately giving the property owner ample time to comply, but that it would set a dangerous precedent if the Trust did not now take action. David Baldwin said that he had been present at the site visit by the Land Management Committee in 2019, and that it had been a unanimous decision not to allow the enhancement of the pedestrian track, adding that engineers had warned works could undermine the Beacon Road.

The Board agreed that the CEO should write to the property owner with a fourteen day deadline for compliance, after which the Trust would be obliged to move to legal action. The GCO advised that if an easement application was received, a special Board meeting would be required to consider it.

15. Red flags on the Risk Register

The CEO reported that there were no new risks. It had been hoped to hold a Board workshop on the Risk Register during October, but although this was important work, given the Board's current workload around the Bill, the Risk workshop would need to be postponed, probably to November. The CEO was working to make the Register more succinct and to allocate risks to the oversight of committees.

The GCO cautioned that it had been the Board's practice to approve the Risk Register ahead of the approval of the Annual Accounts and advised that the Trust would need to check whether this was a requirement.

16. Management Accounts to the end of June 2024

The Board received the accounts for April-June, together with explanatory notes prepared by the Finance & Administration Manager (FAM), who went through the paper. It was noted that the accounts had already been scrutinised by FAR at its meeting of 29 August. The FAM drew the meeting's attention to the following points:

- Income to date was in line with budget. Car park takings were on budget and slightly up on the same period in 2023-24. Interest and investment income was slightly above budget.
- Costs were currently under budget. Due to poor weather conditions, some land management works remained outstanding.
- Communications expenditure appeared low, partly due to lack of resource, but also because much expenditure in this area came from designated or restricted funds.
- The main variance to budget was legal fees; the FAM said she would provide a breakdown of these with each management accounts report. She advised a correction to the breakdown: land-based legal advice stood at around £4k and governance-based at £12k. These figures had been corrected in the accounts since the meeting papers were circulated.
- The FAM drew the meeting's attention to the breakdown of Bill costs in her report, cautioning that it wouldn't tally exactly with the report on the web site, because the report figures were correct at the end of June 2024 and the web site report more recent.
- On the Balance Sheet, the FAM advised that quarterly investment portfolio revaluation had been carried out; historically this had only been done annually.

Questions were invited on the Management Accounts. David Fellows asked if there was any update on receipt of monies from the RPA. The FAM said that the Trust had complained about the delay, which it understood was due to lack of staff and resources; there was no concern over recovery. An update had been promised by the end of the week preceding this meeting but had not been received.

17. Dates of next meetings

Thursday 19 September 2024 at 7 pm – Special Meeting

Thursday 10 October 2024 at 7 pm – Special Meeting

Thursday 17 October 2024 at 7 pm – Special Meeting

Thursday 14 November 2024 at 7 pm – Annual General Meeting

The GCO advised that if possible, Special Meetings would be combined.

18. Confidential

On the proposal of Lucy Hodgson, seconded by Charles Penn, it was RESOLVED unanimously to exclude the public for the discussion of items 18-20 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 (personnel and commercially sensitive matters).

The meeting closed at 9.20 pm

Schedule 1

Public Comments

1. Malcolm McCrae

The CEO reported that a written statement had been received from Professor McCrae, but that he was unable to be present. The Trust was not going to read out the statement, since it was not in accordance with Standing Orders.

2. Anne Dicks

Anne Dicks's statement was read out by a representative in her absence.

Can I ask, under the current proposals, will my local walking group which often gets out some 20 to 25 people on good days have to pay a fee and get a licence to use the Hills in future, and demonstrate it has purchased public liability insurance, the cost of which might prevent the activity from happening at all? Likewise would the local bike club that takes children out on Wednesdays in the summer be charged? Would Malvern joggers be charged if their 35/40 runners planned a route across MHT land? Also, what about charity walks who are asked for a voluntary donation at the moment?

The Governance Change Officer (GCO) thanked Mrs Dicks's representative for the question and for its being submitted in advance. She explained that it was proposed that the Bill should make it clear that the Trust had the power to license the holding of events and business activities on Trust land, as it already did, and confirm that the Trust was allowed to make administrative charges in respect of authorising events and to charge for permitting commercial activity where that was appropriate. The Trust would create an underlying policy, to be discussed and agreed at a public meeting, which would set out which events would be charged for. The GCO stressed that the proposal would formalise what the Trust was already doing, pointing out that many similar organisations, such as the National Trust and Forestry Commission, charged for organised events, and all those surveyed by the Trust asked for proof of public liability insurance. The Trust needed to be able to cover its considerable costs in terms of time and trouble, particularly in relation to bigger events.

3. Katharine Harris

1. When will the responses to the Public Consultation be published on your website? Please provide a date.

The GCO said that it was intended to publish the Consultation outcomes following the Board's next meeting on Thursday 19 September; it was likely to be early in the week beginning 23 September, because the Trust did not have staff available on Fridays who could upload information to the web site.

2. What is the up-to-date timetable for events in the lead up to 27 November?
The GCO said that the Trustees would consider the Consultation responses on 19 September. There was then a further meeting planned for 10 October, with a proposal that the final decision on proceeding, or not, with the Bill would be taken on 17 October. She stressed however that these dates were provisional at present.

3. At the MHT Meeting in March, when the inclusion of a general power in the Bill was in the recommendations, a Trustee mentioned that his understanding was that the Parliamentary Agent had advised against its inclusion. Please can you explain therefore, why it continues to be in the Bill? Thank you.
The GCO observed that this comment kept being repeated, but she could assure Mrs Harris that the Parliamentary Agent was perfectly happy with this provision being included in the Bill and he had not advised against it. She added that the Charity Commission's model trust clauses included a general power and that therefore this was not unusual for a charity.