Malvern Hills Trust

Annual Meeting of the Board
Council Chamber, Avenue Road, Malvern.
Thursday 8 November 2018 7.00 pm

Present: Mr D Baldwin, Mr R Bartholomew, Dr S Braim, Mr D Bryer, Mr M Cordey, Mr M Davies, Dr P Forster, Mr S Freeman (Chair), Mr A Golightly, Mr R Hall-Jones, Mr D Hawkins, Mrs L Hodgson, Mr J Michael, Mr C Penn, Mrs G Rees, Ms S Rouse, Ms H Stace, Mr D Street, Mr P Watson, Mr T Yapp.

In attendance: CEO, Finance and Administration Manager, Secretary to the Board, Mr D Butler (Bishop Fleming) (left after item 8), 23 members of the public.

Non-attendance: Mrs E Holton.

Mr Freeman introduced David Butler from Bishop Fleming.

1. **Election of Chair**
   Mrs Rees took the chair for the first item on the agenda. There had been one nomination for Chair of the Board and Simon Freeman was elected unopposed.

2. **Election of Vice-Chair**
   Mr Freeman took the chair. There had been one nomination for the Vice Chair and Sarah Rouse was elected unopposed.

3. **Apologies for absence**
   Ms C Bovey Mrs P Cumming, Mrs C O'Donnell, Mr J O'Donnell, Prof J Raine, Mr C Rouse, Ms S. Stewart

4. **Chair's report for 2017/8**
   See appendix 1.
   Ms Stace thanked Mr Freeman and Ms Rouse for everything which had done over the year and this was endorsed by the Board.

5. **Chair's announcements**
   i. A wreath would be laid on behalf of the Trust on Remembrance Sunday and there would be a gas Beacon on Worcestershire Beacon at 7pm.
   ii. Former Board member John Plant had died.
   iii. A Special Board meeting would be held on 20 November 2018 at the Council Chamber to consider the application for an easement off Chance Lane. The papers for the public should be available on the web site from Monday 11 November. The Chair indicated that he might exercise his discretion to allow members of the public to speak at the meeting. Full details of the arrangements should be published on Monday 11 November.

6. **Declarations of interest**
   There were none.

7. **Public questions**
   See appendix 2

8. **Consideration of the Audit Findings Report**
   Mr Butler said that this was the first year Bishop Fleming had audited MHT's accounts. They found the Trust to be on a secure financial footing and the financial controls in place were operating well. There were no adjustments to the audit and only 3 minor control observations were recorded on the Audit Findings Report. Mr Freeman thanked Mr Butler for carrying out the audit and for attending the meeting.

9. **To authorise signing of the Letter of Confirmation to Bishop Fleming**
   On the proposal of Mr Davies, seconded by Mr Cordey, the Board **RESOLVED** (with one abstention) that the letter of confirmation should be signed.

10. **To approve Schedule of Risk**
    The Schedule had been discussed by each of MHT's Committees in turn and the Governance Committee had recommended the final draft to the Board for approval. The CEO highlighted the red sector items, in particular item 3.4 (Impact of Government Policy, changes in grant funding legislation and regulation). The situation remained very uncertain as a result of the UK leaving the European Union. On the proposal of Ms Stace, seconded by Ms Rouse it was **RESOLVED** unanimously to adopt the Schedule of Risk

11. **Appointment of Committees**
    On the proposal of Mr Freeman, seconded by Dr Braim it was **RESOLVED** with one abstention to appoint the following to the MHT Committees.

Staffing
David Baldwin
Mick Davies
Peter Forster
Charles Penn
John Raine
Gwyneth Rees
Helen Stace

FAR
Richard Bartholomew
David Bryer
Martin Cordey
Mick Davies

Lucy Hodgson
Charles Penn
John Raine
Sarah Rouse
David Street
Pete Watson

LMC
David Baldwin
Stephen Braim
Peter Forster
Simon Freeman
Roger Hall-Jones
David Hawkins
John Michael
Gwyneth Rees
Chris Rouse
Helen Stace
Tom Yapp

Governance
Richard Bartholomew
Stephen Braim
David Bryer
John Raine
Charles Penn
Sarah Rouse
Helen Stace

Appointment of Board members to sit on other bodies
Mr Hawkins asked if the Recreation Advisory Panel should report to the Land Management Committee rather than to the Board. On the proposal of Mr Freeman, seconded by Ms Stace it was **RESOLVED** unanimously to make the following appointments:

Recreation Advisory Panel (4)
Stephen Braim
David Baldwin
Mick Davies
David Hawkins

Wildlife Panel (4)
H Stace
John Michael
Pete Watson

AONB (1)
Gwyneth Rees

Malvern Spa (1)
No appointment

4Cs (Castlemorton Commons Co-ordinating Committee) (2)
C Rouse
M Davies

12. **To confirm the Minutes of the Board meeting held on 13 September 2018**
On the proposal of Mr Freeman, seconded by Ms Rouse it was **RESOLVED** (with 4 abstentions) to approve the minutes of the meeting held on 13 September 2018.

13. **Matters arising from previous Board meetings not otherwise on the agenda**
There were none.

14. **Staffing Committee**
14.1 On the proposal of Dr Forster, seconded by Mrs Rees, it was **RESOLVED** by the committee members present to approve the minutes of the meeting held on 4 October 2018.
14.2 Matters arising
Dr Forster went through the minutes. He confirmed that he, Mrs Rees, the CEO and the Finance and Administration Manager had had some training in support of their roles as the people to whom incidents of bullying and harassment should be reported. He confirmed that it had been agreed that he, as Chair, should highlight any Health and Safety issues reported to the Committee at the Board meeting, as the Board as a whole was responsible for Health and Safety matters.
14.3..Adoption of minutes
On the proposal of Dr Forster, seconded by Mr Baldwin it was **RESOLVED** unanimously to adopt the minutes of the meeting held on 4 October 2018.
(Adoption of resolution to be considered in confidential session)

15. **Governance Committee**
15.1 On the proposal of Mr Penn, seconded by Ms Rouse, it was **RESOLVED** by the committee members present to approve the minutes of the meeting held on 10 October 2018.
15.2 Matters arising
Mr Penn went through the minutes and gave some of the background which had been contained in the paper to the Governance Committee on the Charity Commission Scheme.
15.3 Adoption of minutes
On the proposal of Mr Freeman, seconded by Mr Penn it was **RESOLVED** unanimously to adopt the minutes of the meeting held on 10 October 2018.

16. **Land Management Committee**

16.1 On the proposal of Mrs Rees, seconded by Dr Braim, it was **RESOLVED** by the committee members present to approve the minutes of the meeting held on 11 October 2018.

16.2 Matters arising

Mrs Hodgson declared an interest in matters relating to the Poolbrook Road bus shelter. Mrs Rees went through the minutes.
The CEO gave an update on Stowe Lane. Mr Longman had forwarded a letter sent on behalf of the owner of Brockbury Hall, who had confirmed that he would not enter into any agreement for the future maintenance of the easement. The CEO also confirmed that following the meeting, Mr Earp had indicated he thought it would be impossible to get all the residents to formally agree to take on the maintenance obligation for Brockhill Road. However he had also been contacted by three of the residents who thought that there should be a binding maintenance agreement for the road. It was clear there was no consensus. He felt the Board should require some agreement to cover future maintenance even if not all of the residents would agree.

16.3 Adoption of recommendations and the minutes

On the proposal of Ms Rees, seconded by Ms Stace it was **RESOLVED** (with one abstention) to adopt the following recommendations and to adopt the minutes of the meeting held on 11 October 2018:

(i) Stowe Lane

On the basis that the track had already been tarmacked, the application to resurface with tarmac be approved, on condition that the owner of the Hall enter into a deed of easement setting out the dimensions of the easement and that the responsibility for maintenance lay with the owner of the Hall.
If that condition could not be fulfilled, then the Board consented to patch filling the pot holes with tarmac.

(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.

17. **Revision of easement policy**

The Secretary to the Board explained that following the Land Management Committee meeting, the wording of section 10 (Requests to review decision of the

Land Management Committee) had been revised, and a draft of the full revised policy had been provided with the Board papers.
On the proposal of Mr Watson, seconded by Mr Hall-Jones, it was **RESOLVED** by 13 votes to 3 with 4 abstentions, to change the wording in line 3 of the 3rd paragraph to read "…the best interests of the organisation's charitable objects - …."

Mr Bartholomew left the meeting.

On the proposal of Mr Freeman, seconded by Dr Braim it was **RESOLVED** (with one abstention) to adopt the revised Easement policy as amended above.

18. **Charity Commission Scheme**
The Secretary to the Board confirmed that, at the meeting in September, the Charity Commission and the DCMS had expressed the view that MHT were on the right track with the Scheme. It would be difficult to get the Scheme completed by November 2019 – whilst it was important to MHT, it would not be a priority for Charity Commission or DCMS (who would re-draft the Scheme into parliamentary language) and MHT were in their hands for the completion of some of the stages. The Charity Commission had raised a query about how BWB had interpreted MHT's legal status as set out in the Acts and BWB had now provided an analysis of how they had arrived at their conclusion. The Secretary to the Board had asked the solicitors to press the Charity Commission for an indication of how long it would take for them to respond. The Charity Commission were also considering whether they could extend the life of the Board in order that the current Board members could see the Scheme through, if it were not completed by November 2019.
Mr Davies reported on behalf of the monitoring group. The milestone of meeting with the solicitors, DCMS and Charity Commission had been reached within the original budget of £100,000. The Governance Committee had looked at the estimates received from BWB for the anticipated remaining work. This totalled £34,000. It appeared that the financial situation was under control.

19. **Urgent Business**
There was one item which would be dealt with in the confidential session.

20. **Information**
20.1 Malvern Spa Association – no report
20.2 AONB Joint Advisory Committee – written report provided
20.3 Wildlife Panel – no meeting had taken place
20.4 Recreation Advisory Panel – written report provided
20.5 Management Report
The CEO confirmed that a new member of the Field Staff had been recruited and was currently working a probationary period. Two staff members were on long term sick leave following surgery. The Conservation Officer was working an additional day covering warden's duties. The CEO wished both staff members a speedy recovery. There had been issues with people loitering on Link Common and a significant increase in evidence of drug abuse. An updated protocol had been adopted by the wardens and there had been liaison with the police. He anticipated the issue would diminish as the weather deteriorated.

There had been no progress in relation to British Camp. Severn Trent had changed their engineering consultants.

21. **Items for future consideration**
    There were none.

22. **Confidential item**
    On the proposal of Mr Freeman seconded by Dr Braim it was **RESOLVED** unanimously to exclude the public for discussion of items 23 and 24 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 (staffing matter and commercially sensitive matter).
    The meeting closed at 9.15pm

8 November 2018

Appendix 1

Chairman's Annual Report
November 2018

I think it is fair to say that the past 12 months have been challenging and my prognosis for the next 12 months is that it will be more of the same.

The Statement that accompanied my nomination form for Chair last year listed the following 4 areas as priorities for the Trust and the Board over the ensuing 12 months:

- *Completion of the preparation of the Charity Commission Scheme.*
- *Greater engagement between the Trust and the community.*
- *Reforming the conduct, style and presentation of our meetings.*
- *Establishing a method of regular updates for members on significant operational issues.*

We have made good progress along the road to completing the preparation of a draft Scheme which would be in a fit state to present for public consultation. It has proved to be a far more protracted exercise than most of us had anticipated. The Trust's external lawyers have had to review the 5 separate Acts of Parliament which govern us and produce a draft Scheme consolidating those Acts into a single document and incorporating all the changes agreed by the Board as desirable. The initial draft runs to over 100 pages and, whilst it has now been seen by the DCMS and the CC, it still requires some details to be finalised before it is ready to go out to public consultation. The Board will continue to receive regular updates but there will remain a considerable way to go even following the public consultation.

The Trust's programme of events has continued to receive good levels of support from the public evidenced by excellent attendances at many of the events it has organised. The Malverns by Mountain Bike project to encourage responsible biking on the Hills and Commons has been completed following close co-operation between the Trust and local mountain bikers.

There is however one area where perhaps the Trust has failed to engage as effectively as it might have done and that is to better emphasise the constraints under which the Trust operates both as an organisation governed by statute and a registered charity bound by the regulations of the Charity Commission. Those constraints have been always been a matter of public record, but I acknowledge the complexity of their interpretation and application. Nevertheless, as your Chair, it is a matter of genuine regret to me that this has led to misunderstandings about the role of the Trust amongst some members of a small section of the community and as a consequence unjustified criticism of individual officers of the Trust and of members of this Board.

I am pleased that the changes so far in the conduct, style and presentation of our Board meetings in particular have led to more a more "inclusive" environment for members. I am however not satisfied that we have done as much as we could and, time and resources permitting, I hope to trial some further changes over the next 12 months for members to consider adopting on a permanent basis.

The "News from the Manor" electronic newsletter I believe proved a successful experiment during the months that it ran but time and resources were always going to limit its longevity in that form. The underlying purpose of that newsletter was to encourage a better flow of information between the officers of the Trust and members of the Board on significant operational issues arising between Board meetings. The subplot (if that is not an unfortunate expression in this context) was to extinguish once and for all any remaining vestiges of the "them and us" attitude that had prevailed in the past. I hope that there is now an overwhelming acceptance that the Board's role is to stand well back from strictly operational matters and to limit itself to issues of strategy and oversight. Furthermore I have little doubt that the flow of information about significant operational issues and therefore a far greater degree of openness has been stimulated by our CEO encouraging regular briefings between Chairs and Vice Chairs of Committees with their responsible officers to ensure that where there are matters which need to be brought before Committees that happens promptly. Similarly the Vice Chair of the Board and myself have met regularly with the CEO once a fortnight for an hour to be briefed on any significant issues that might need to be brought to the Board's attention.

Completion of the St Annes' Well refurbishment project earlier this year and the renewal of the tenant's lease, a successful application for renewal of grant funding and a number of land purchases are some of the notable achievements of the past 12 months.

I am very grateful for the support and diligence of members of the Board during the past year. Whilst it would be invidious to single out any one member, I must in particular thank my Vice Chair Sarah Rouse for her invaluable support as well as each of the Chairs and Vice Chairs of the Committees whose contributions have been equally invaluable. Finally, I must thank Duncan Bridges our CEO not only for his leadership of our operations and staff but also for the manner in which he has represented the Trust so effectively and positively at public meetings, in the media and with third parties. He has the support of a first rate team of senior managers and I know members of the Board would wish me to extend our collective thanks for all their hard work and contributions.

Simon Freeman
Chair of the Board

8 November 2018

Appendix 2
Public questions:

Angus McCulloch
1) What is the latest cumulative spend on the Charity Commission Scheme?

   Answer: £99,304

2) Should not the aims of the Charity Commission Scheme and plans for the consultation and ratification stages, as far as they are known, now be promulgated on the MHT website?

   Answer: The proposals have been detailed in the minutes of the meetings but until they have been finalised there is little point in putting out specific information on the web site which then may change, as this is likely to generate comments and questions which will take up officer time. For example, it was hoped that we would be able to start the public consultation in the summer but it hasn't proved possible. When the draft has been finalised and approved by the Board, details will be made public. MHT still hoped to start the public consultation in early spring.

3) Have firm dates and times been fixed for a site visit and the special meeting to decide the Chance Lane easement?

   The meeting would be on 20 November. Date and time for site visit will not be made public.

Graeme Crisp
Does the Trust yet have a complete application for an easement onto Chance Lane for residential access for a residential development? If so how many dwellings will the proposed easement serve and when will the Trust publish the application?

   Answer: Details of the application have now been finalised. It is hoped that the papers will be made available on the web site on Monday 12 November (subject to staff recovering from illness). The application does not specify the number dwellings.

Rob Baker
1) Why has so much been spent on the Charity Commission scheme, I believe the figure is £60,000 so far with a total budget allocation of £145,000, before any public consultation?

   Answer: A complete review of the Acts has been carried out by solicitors, advice has had to be taken on the various proposals and drafting has had to be done. The public consultation cannot take place until such time as there are some proposals to consult on.

2) What will be the outcome if the response from the public consultation is resoundingly negative?

Answer: The legislation needs to be updated and consolidated as some of it is so old it is now no longer fit for purpose. When the consultation takes place, the public will need to take the time to fully acquaint themselves with all the issues surrounding the various changes which are proposed, and all reasoned public comment will be carefully considered and if appropriate changes will be incorporated.

Rosie Barter
Can you please explain why, for the last 3 years, the Trust has not followed the guidance set out in the Natural England documents entitled "A Common Purpose" and "Finding Common Ground"?

Answer: "A Common Purpose" is published by the Foundation for Common Land and "Finding Common Ground" by Open Spaces Society.
Both are guidance documents to enable recognition and collection of local community interests in common land, typically ahead of works such as grazing or fencing, so they can be weighed with all other considerations such as legislation.
The statement is not correct. MHT refers to the guidance whenever such works are considered.
At Malvern Hills Trust, dialogue has been open for over 130 years. Meetings are open to the public, staff are available to the public 364 days of the year and questions can be put to the various meetings. Our Land Management Plan that guides our practical work was preceded by 4 public consultations capturing what the public's "issues and important features" were and then a draft plan was made available for public comment. MHTs Wildlife and Recreation Advisory Panels give a regular voice to local people and groups such as the Disabled Ramblers.
Ongoing engagement also takes the form of an annual public events programme, website and social media plus leaflets such as the recently delivered 'Good Neighbours' Guide'. Any large significant works, such as the thinning of Thirds Wood, are pre-advertised and open workshops held. For any works where MHT is required to apply for the consent of the Secretary of State under the Commons Act 2006, MHT would consult in the context of that application as any other landowner would.
All of the above channels of communication are recommended by the two documents referred to.