

UNCORRECTED MINUTES OF ORAL EVIDENCE

taken before the

MALVERN HILLS BILL COMMITTEE

PETITIONS AGAINST THE BILL

Tuesday, 10 February 2026 (Morning)

In Committee Room 2

PRESENT:

Lord Hope of Craighead (Chair)
Baroness Bakewell of Hardington Mandeville
Lord Evans of Guisborough
Lord Inglewood
Lord Ponsonby of Shulbrede

FOR THE PROMOTER:

Jacqueline Lean, Counsel, Malvern Hills Conservators
Alastair Lewis, Roll A Parliamentary Agent
Susan Satchell, Governance Change Officer

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(At 10.30 a.m.)

1. THE CHAIR: Good morning and welcome to this, the 11th public meeting of the Select Committee on the Malvern Hills Bill. Can I remind everybody in the room to be sure that their phones are on silent and to refrain from having conversations behind the witnesses, to avoid distracting them in this room, which has rather poor acoustics for people at distance?

2. I remind you about the fire alarm system, which is a two-toned siren followed by messages that tell you what to do. If evacuation is necessary, please follow the instructions of the clerk. If you happen to be outside in the corridor, look for the nearest security officer.

3. These proceedings are being broadcast and a full transcript will be taken. If by any chance we need to deliberate, the room will be cleared and we will go out of public session. We will come back in when our discussions are over, but I think it is unlikely that we will need to do that.

4. We are going to proceed now with further evidence from you, Ms Satchell, but, before we start, are there any matters of updating from you, Ms Lean? We have a bundle that has just appeared before us. I have two questions anyway. Should I put my questions first and then you can explain your bundle?

5. MS LEAN: Certainly, my Lord.

6. THE CHAIR: I would like you to look at Clause 8, please, of the filled Bill. It is particularly subsection 3, where it says that the trustees are the “charity trustees of the Trust”. Why is the word “charity” there? Is this an expression that is defined in the Charities Act?

7. MS LEAN: Yes, my Lord. I believe I mentioned last week that the Charities Act 2011 has a definition of who is a charity trustee, being the persons who are responsible for the administration and maintenance of a Trust. Subsection 3 essentially is reflecting that legal position: the trustees of the board of trustees are also the people who would be the charity trustees under the definition in section 177 of the Charities Act 2011.

8. THE CHAIR: That is to link into the statute, is it? That is the purpose of it.

9. MS LEAN: It is drawing that link, as I understand it, my Lord.

10. THE CHAIR: Yes. The other point is 3(a). At the end it says “further the objects”. I know the word “objects” is defined earlier on, but it would be neater if you just simply put at the end of that the objects of the Trust to avoid people turning back. I do not know whether that is a point that has been taken up in discussion. Of course, you have defined words and so on, but it would look neater if it was “objects of the Trust” and everybody understands what they are talking about.

11. MS LEAN: My Lord, we will certainly take that away. For reference, my Lord is right that it is a defined term. It is in Clause 3. Clause 3 defines the objects as meaning the objects of the Trust set out in Section 6(1). The defined term expressly links it to 6(1), but we can certainly take that away as a point of drafting, my Lord.

12. THE CHAIR: I think it rather stops in the middle of a sentence and people wonder what it is you are talking about. Anyway, that is all I have to say at the moment, if you could just proceed to your bundle and explain what it is about.

Statement by Ms Lean

13. MS LEAN: My Lord, in terms of the bundle, these are, broadly, documents that we have put in, I hope, in response to questions or requests that were raised last week.

14. The first document that you have in the clip is a chronology leading up to the deposit of the Bill. We have sought to draw together some of the matters that Ms Satchell referred to that led, in 2014, to a view being taken to look towards perhaps a Charity Commission scheme, the core dates there and a more detailed breakdown of meetings and suchlike that happened between the decision to go to consultation on the Bill in July 2024 and getting to deposit of the Bill in November 2024.

15. The second document is in response to a question from Lord Evans, which was the question about what the proposals were, what it was that we were trying to do with the Bill. What we have provided are extracts from relevant meetings back in 2014, which was, if I can put it in these terms, the kicking-off of the process. At that point it was being looked at as a Section 73 Charity Commission scheme. This was what was being thought about back in 2014 when that workstream started. My Lords, you have almost

the other end of the process in the board minutes from 2024, which were in the bundle of Ms Satchell's evidence that we went to last week. That was when the board resolved that there should be a Bill deposited that should do the following things. There will obviously be changes between what you see in 2014 and 2024 because there was a lot of work done, but that was the initial list, if I can put it in those terms.

16. The third document behind tab 3 is a response to Lord Inglewood's question about whether there are any minutes of meetings of the conservators back at the beginning. I believe the vice-chair of the Trust disappeared into the archives and has pulled out a selection of minutes, which go back to certainly 1899, I am seeing. There is a selection through to 1909 and through to 1925. Somebody has transcribed them. I will say I have been sent a photograph of the original. It is beautiful handwriting but to my eye completely incomprehensible. That is a transcription of some of the minutes, going back to that point.

17. MS SATCHELL: Could I just say that that is an AI-generated transcription? I know that there are some words in there that are wrong. You need to just bear that in mind. I just have not had time to correct it this morning.

18. THE CHAIR: Thank you very much. I think it is good enough for our purpose.

19. MS LEAN: The fourth document, my Lord, is one where we have been trying to be helpful. One of the clauses that there have been a number of amendments to—I think I referred to the fact that discussions were ongoing about this clause last week—is Clause 7 and Schedule 1 of the Bill, which are the administrative arrangements for the Trust. What we have provided in this document is a tracked changes version to show, in slightly clearer form, the amendments that are currently proposed to that clause.

20. My Lord, if I may, only one petitioner is raising an issue to do with any of the provisions of Schedule 1 or Clause 7. That is to do with holding meetings electronically or virtually. If I could respectfully ask to park this document, apart from maybe touching on the arrangements for holding meetings, until we perhaps get to the unopposed clauses section of the committee's proceedings. I am aware that there is an awful lot of red in there, so there are a lot of questions that might be asked, but I think it is only one provision that may be the subject of the petition.

21. The fifth document is the Wimbledon and Putney Commons Act 1871. This was in response to Lord Hope's request, I believe, last Thursday. This is a copy of the 1871 Act, which established the Wimbledon and Putney Conservators, which has been marked up and amended to show changes that have been made over time. This document is taken from the conservators' website themselves, so I am afraid I cannot speak to who has done the marking up. I assume it is somebody associated with those conservators, in the same way that Mr Lewis has done that exercise for the Malvern Hills Conservators.

22. One of the things to flag in there is that, while the Act of 1871 provided for a power to levy, that was superseded or replaced by some particular regulations that were specific to the conservators in 1990 and 1993. I think the copy that you have marked up shows what the changes were. We have not provided copies of the regulations. If you would like them, we can try to dig them out. As I said, this is the marked-up version that is currently on the conservators' own website.

23. Finally, my Lord, the last document: again, Lord Hope, you asked for a clip of the charities legislation that we have been referring to, particularly linked to the note that was provided at the back of Ms Satchell's bundle. You have in there certain provisions from the Charities Act 1960, the ones that were enforced at the time that the Trust was registered, and from the current legislation, the Charities Act 2011. We have provided you with things like, for example, the definition of charity trustees, the provisions of Sections 73 and 74. You can see the power to make a scheme and the requirement for consent to expend funds on promoting a Bill and some of the definitions around what a charity is.

24. My Lord, I hope that is broadly a response to a number of queries that came up last week.

25. THE CHAIR: Yes. Thank you very much indeed.

26. MS LEAN: I am reminded that all those documents are or will be shortly on the Trust's website with the other documents that we are putting up for documents that we hand in to the Committee. The only one that may not be there at the moment is the clip of the charities legislation, but it is all in hand and being done.

27. THE CHAIR: Petitioners who want to see it will be able to access it through the website.

28. MS LEAN: They will be able to access it through the Trust's website.

Evidence of Ms Satchell

29. THE CHAIR: Thank you very much. I think we can proceed, Ms Satchell, with your evidence. We are passing now to Clause 9, are we?

30. MS LEAN: My Lord, I think where we got to at the end of last Thursday was I had done a very, very brief overview of Clause 8, which is the parent clause, as it were, for the changes to the constitution of the board. What I was going to ask Ms Satchell to do, if that is acceptable to the Committee, is really explain why these headline changes were made and to take it in order. Why the change in numbers? Why have they arrived at a six-six split? Then we will go on to look at probably some of the later clauses to do with elections and appointments. We may jump around a bit within what is in Clause 8, but I hope it is a logical order that we have tried to outline.

31. Ms Satchell, can I ask you, firstly, please, to explain—currently, there is provision for 29 conservators. The proposal is to replace it with a board of 12. Two questions: why does the number need to be reduced, in the Trust's view? How is 12 the number that has been arrived at?

32. MS SACHELL: My Lords, we spent more time on this aspect of the changes than on any other provision in the Bill, looking at what the problems were and what we thought might be suitable alternatives. My experience, as secretary of the board and that of the current postholder, is that there are so many problems with the number of trustees and the current process for appointing them that it is almost hard to know where to start.

33. I appreciate there is the issue floating around about the charity status, but we are a charity. We cannot comply with the charity governance code or best practice as outlined in the Charity Commission guidance, because the Acts do not allow for it. The code is, I believe, pages 163 to 209 of the bundle that came with my starting my evidence. I do not think you particularly need to look at it, but that is just to tell you where it is. That is an updated version from the one that we were using at the time we were working up

these provisions. It was updated at the end of last year. It sets out the universal principles for what good governance should look like. The aim of the code is not only to provide good governance, but also so that external stakeholders can look and see whether a body complies with it and get some sort of assurance that the charity or body is being well governed. The code contains aspirations, which is page 206 of the bundle, that the board is of an appropriate size, typically between five and 12 trustees, and that the board has and keeps under review the mix of skills, knowledge and experience, including lived experience, needed to provide direction and oversight. Two pages later, it refers to trustees having a fixed maximum term to enable refreshing of the board.

34. The current position is that the average age of the trustees is 70. We have 20% women on the board. We have no ethnic minority representation. The Trust would really like to strive for a better mix. The representation or composition of the board does not reflect the profile of the users of the hills. One of the other problems is that trustees all finish their term at the same time at the moment, so there is a risk of a high level of turnover and loss of understanding of what is going on and continuity.

35. The key issues in terms of the size of the board—again, I have liaised with the current secretary to the board—are that large numbers are not optimal for discussion and decision-making. We have defaulted to using a committee-based system, which risks having to go through things twice and/or rubber-stamping committee decisions. It is envisaged that, if we had a smaller and more skilled board, matters would be able to go straight to the board and bypass the need for all of the committees except for specific purposes and task and finish groups.

36. A large board also allows trustees to opt out of their responsibilities and leave things to perhaps more outspoken individuals. There are some trustees who very rarely speak. Another point of a large board is that it does tend to encourage it to split into factions. We have some trustees who do not vote, who just make constant abstentions. It is very difficult to communicate with all the trustees if it is urgent, and it is very time and resource-intensive to service that number of trustees.

37. We went through the question of the appropriate number of trustees time and time again. There is no doubt there is support, more or less all-round support, for a reduction in the number of trustees. In the workshops and the board discussions, it really centred

around numbers between seven and 14, and 12 was felt to be a happy compromise.

38. The current split on the board is approximately 38% elected and 62% appointed. It was felt that a 50-50 split would be a fair compromise between the real need for the Trust to be able to appoint trustees for their skills and background and to reflect the contribution of and background to the levy payers' lives. Does that take us through the first part?

39. I think we then move on to term of office. I do not know whether there is anything more on Clause 8 that we need to—

40. MS LEAN: I wonder perhaps if, then, Ms Satchell, we could maybe move to looking at the elected trustees, as we are at the six-six split.

41. MS SACHELL: Yes.

42. MS LEAN: This is Clause 18 of the Bill.

43. THE CHAIR: Just before you move on, if you go back to Clause 8(1)(b), each of the elected trustees are to be elected by the electors of the whole of the Trust's electoral area. That is a major change too, is it not?

44. MS LEAN: Yes, my Lord. We were going to come onto that momentarily. I am sure Ms Satchell could address that now, if you would like a response to that point first.

45. THE CHAIR: I am in your hands, really, as to when you would like to do it.

46. MS LEAN: Perhaps if we could pick it up under Clause 18 with elected trustees because it is partially linked to eligibility to stand. There is Clause 23 that deals with eligibility to vote, and we were going to take those together.

47. My Lords, first, in respect of Clause 18, which is at page 17, in order to be eligible to stand as a trustee, there are some basic requirements. The individual must be 18 years of age or over, be eligible to be a charity trustee and meet the requirements of subsections 2 and 3. Subsection 2 is that the person is listed on the register of local government electors and their address in the register is either within one of the parishes or, if the parishes have changed, a former parish within which any part of the Malvern Hills is located or, if not within that, within one mile of any parish or former parish area

in which any part of the Malvern Hills is located or they have their place of work within the Malvern Hills. There is a requirement in subsection 3 for them to be nominated. There are some other provisions in there, but perhaps I can just ask Ms Satchell, first, to explain how the eligibility to stand as an elected trustee compares to the current situation and why any changes have been made.

48. LORD INGLEWOOD: Chair, could I ask a point? It may be the wrong moment. Ms Satchell said that you are under an instruction from the Charity Commission to try to have trustees who are more representative of the users of the hill. Where do the users of the hill come from? All the trustees, except for some of the appointed ones, seem to be very, very local to Malvern, and you cannot escape that. You may want to answer that later.

49. MS LEAN: I am just checking back on my note. Ms Satchell referred to the desirability in general governance meaning it would be better to have a mix. It is not a requirement from the Charity Commission that there is a better mix.

50. MS SACHELL: No, it is not.

51. LORD INGLEWOOD: There is a tension. That is all I wanted to add. There is just a tension, potentially.

52. MS SACHELL: I think, if I might say so, clearly it is defined where the trustees come from at the moment in the Acts. It is a suggestion in the governance code that charities should have trustees who have the appropriate skills and backgrounds to engage in managing, in our case, 3,000 acres of public access land. Taking aside the charity point, again, it would seem, with respect, to be common sense that you have people managing land who have the appropriate skill set to do so and not people who just arrive with a random skill set, for want of a better expression.

53. MS LEAN: We may come on to answering your question, my Lord, as we go through the eligibility for the elected and the appointed.

54. LORD INGLEWOOD: That is fine.

55. MS LEAN: Just going back to, under the Bill, who can stand to be an elected trustee, is that the same as the current arrangements or is it different?

56. MS SACHELL: It is different. People, at present, who want to stand to be a trustee have to live within the Trust's electoral area. It is fair to say that sufficient people are not motivated to stand from that area. We often get people come into the office and say, "I would like to be a trustee. How do we go about it?" but, if they do not live in the right area or do not have the will to go through the somewhat bruising electoral process, they cannot become a trustee. What we were seeking to do within the provisions of the Bill is to get a bigger pool of local people who have that local connection who can stand for election. We settled on an arrangement that is not dissimilar to the arrangement for standing for a parish council.

57. What we have suggested in the Bill is that people standing for election should either live or work in one of the parishes where the Trust holds land or within a mile of the parish boundary. The parish council system is that you have to live within three miles of the boundary, but the view of the board was that that was a bit too far. However, in order to try to keep the system tied into the electoral area, we have included the requirement that you still have to be nominated by people from the electoral area.

58. MS LEAN: Just to clarify, Ms Satchell, in terms of who can stand as an elected trustee today, how does that correlate to the people who pay the levy?

59. MS SACHELL: The levy-paying area and the electoral area are the same geographical area.

60. MS LEAN: Is this an extension of who can stand to be an elected trustee?

61. MS SACHELL: Yes.

62. MS LEAN: And the requirement that it is somebody whose main place of work is in the parish or former parish—is that something that is provided for today or is that new?

63. MS SACHELL: The current criteria are that you either have to live within the electoral area or your place of work is within the electoral area. Since I have been with the Trust we have had a trustee who lived in Castlemorton, in fact, but he worked in Malvern so he qualified on that basis.

64. MS LEAN: There are also some provisions, if I could just highlight, in Clause 18.

I do not think these are particularly raised by petitions, but just to flag them, as we are in this Clause. A person may not stand unless they have, within a specified period, made a declaration in a specified form. There are penalties that apply if they do not do that. It is for the nominating officer to determine whether or not somebody standing is valid.

65. MS SATCHELL: Yes, and that is a current requirement under the process that we use. You have to say that you qualify.

66. THE CHAIR: Are you able to identify the current equivalent of what we find in 18(2)? If we can compare with the existing statute—someone will have to search for it—it should be a matter of putting the two subsections side by side to see, at a glance, what the change is.

67. MS SATCHELL: My Lord, I think I am right in saying—this is not something that I have revised, so to speak—that the detailed eligibility criteria refer to the process for appointing district councillors.

68. MS LEAN: My Lord, I believe it is Section 9 of the Malvern Hills Act 1924—I am going to ask Mr Lewis for the page in the reference bundle—which, as Ms Satchell indicated, says, “The conservators to be elected by the local government electors of the urban district of Malvern shall be elected in the same manner as urban district councillors are for the time being elected and the conservators to be elected by the local government electors of the parishes of Colwall, Mathon and Guarlford shall be elected in the same manner as rural district councillors are for the time being elected and subject to the provisions of this Act the statutory provisions and rules for the time being in force and governing the elections of urban district councillors and rural district councillors respectively shall, so far as applicable, apply *mutatis mutandis* to the election of such conservators”.

69. I think that is a very longwinded way, my Lord, of saying that it is basically the eligibility and the procedural requirements that apply for urban district councillor elections and rural district councillor elections that apply, which I think from recollection—I am sure Ms Satchell will tell me if I am wrong or we can correct it—set out the requirements of who can stand and formalities that have to be gone through for you to be able to stand.

70. THE CHAIR: Thank you very much.

71. MS LEAN: That is page 204 in your reference bundle that we provided on day 1, where you have the clip of the old legislation.

72. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: These elections will be carried out by the Malvern District Council or whatever it is going to be called when it has morphed.

73. MS SACHELL: Again, I know this is something we were aiming to talk about. I do not know whether—

74. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: It is not envisaged that the Trust would carry out these elections.

75. MS SACHELL: No, although the Trust has carried out the elections in the past, I believe, and Wimbledon and Putney Commons arranges its own elections. The plan is to go to an electoral system that is run effectively by post or electronically. Just to say very briefly, one of the main reasons for that is cost because it is very expensive to run polling station elections.

76. Also, two other points: first, you will see, when we get to some of the other slides, that there is a lack of voter engagement, shall we say. We do not get a very high percentage of the population actually going to the polls. We are hoping that, if we do it on a postal system—like other organisations that now use a postal system, you generally get the option of voting online, if you want to—it might actually encourage more people to participate.

77. The other big advantage of doing that is that—I am sure you probably all belong to bodies that carry out membership elections—with the list of people who are standing, you get a pack with their statements in explaining what their aims are if they get elected. That, again, is one of the big problems at the moment. We ask candidates to give a statement—we cannot make them—and we put it on our website. We get people coming into the office saying, “Well, I do not know who these people are. Who is standing for election?” Generally speaking, there are some very dedicated candidates who will go around and try to leaflet everywhere, but a lot of people who want to stand do not have

the time or the resources to go around every single house with their leaflets. We hope it will create a more engaged and a more informed electorate by doing it by post.

78. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: It is possible that you might ask the Electoral Commission to conduct the election for you.

79. MS SATCHELL: We would probably go for one of the bodies that I have now completely forgotten the names of. Is one of them called Capita? They run elections on behalf of all sorts of organisations, trade unions, charities and Wimbledon and Putney Commons Conservators. That is their sole purpose: to conduct elections.

80. LORD PONSONBY OF SHULBREDE: Can I ask about nominations? Is it just one nomination? Are there ever any issues with getting the right nominees?

81. MS SATCHELL: No. My Lord, you may remember that the arrangements for district council elections pre-Covid were that you had to get 10 people as supporters, but it has now gone down to two. We have stuck with two. It would be probably a little bit bizarre if somebody could not muster two people to sign their form. It would be a bit of a concern.

82. LORD PONSONBY OF SHULBREDE: Yes, so it is never really a problem in practice.

83. MS SATCHELL: It has not been a problem in practice, no. Some people did struggle to find 10 sometimes, but it is certainly not a problem to find two.

84. MS LEAN: My Lords, if I may, just for your note, the requirement to be nominated by two people is in Clause 18(3) of the Bill. It is Clause 24 that deals with the method of and rules about the conduct of elections.

85. I have one final point just to highlight in Clause 18. I am sure Ms Satchell will correct me if I have got this wrong. In the same way as other provisions in the Bill, it ties eligibility to the parish areas as they currently are. If parishes get expanded or renamed, the eligibility is still done by reference to the parish areas as they are today. In the same way that the levy area is tied to parishes as they are today or, if they become known as another parish or the parish becomes bigger, it stays the same area, so too the eligibility requirements do not expand or fluctuate over time, subject to local

government reorganisations.

86. THE CHAIR: We have moved on a bit from Clause 8. We have a number of clauses in between. You have said all you wanted to say about Clause 8 itself, I think.

87. MS LEAN: Yes, my Lord. I think we have said pretty much what we wanted to say about Clause 8. We may come back to the point about a person to act as a representative of each of the areas, which I know was touched on briefly last week.

88. We can use Clause 8(1) to springboard into appointed trustees, but, before I do that, could I ask Ms Satchell to touch on the persons who are entitled to vote? We have done who can stand to be elected. If we can now touch on who can vote for an elected trustee, that is Clause 23.

89. My Lord, again, in headline terms, somebody can vote if they could vote as an elector in a local government election and they are registered on the relevant register. The electoral areas are specified in 23(3) as comprising the parishes that are named in that clause. My Lord, that is the same electoral area as today. That reflects who can vote today. That is correct, is it not, Ms Satchell?

90. MS SACHELL: That is correct, yes.

91. MS LEAN: Just as a reference, that reflects the levy-paying area as provided for in Clause 33(4).

92. THE CHAIR: Thank you.

93. MS LEAN: It has the same provisos. It has the provisos about essentially fixing that area by reference to things as they stand at the date of the Bill. You have that in 23(5) and 23(6).

94. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: You are expanding the area that the trustees stand for, but it is still the levy-paying area. It is not the whole Malvern Hills area. Presumably, if you have six trustees and they are representing the people in these parishes, the electors in these parishes, under Clause 33(4), will have a slate to vote from, which might be just seven and you are electing six, or it might be 33 and you are electing six.

95. MS LEAN: Yes, my Lady. That will be the arrangement. In a nutshell, the people who vote today will still be the people who would vote if the Bill is passed. The people who can stand today will still be able to stand, but more people will be able to stand because the area in which you have to live if you want to stand has been expanded, but yes, it will be.

96. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: The electorate is not expanding to correspond with the area of representation.

97. MS LEAN: The electorate remains the same. The geographical area from within which somebody can put themselves forward as a candidate is increased, but the extent of that geographical area is not carrying with it a right to vote or an obligation to pay the levy. It is just broadening the geographical area so that somebody, for example, who lived in Castlemorton who could not vote today, who could not stand today and who does not pay the levy would be able to stand as a candidate to be elected. One of the petitioners made this point when they came to stand. They could stand for election, but they would not be able to vote for themselves.

98. Yes, it would be, as I am sure Ms Satchell will confirm, a slate, as in everybody in the electoral area gets to vote for the three candidates who are up for election biannually. It will be a list of candidates and they will all be voted for. It will not be, “This is the candidate for this area and this is the candidate for this area”, in the way that it is currently.

99. Perhaps I could ask Ms Satchell to explain why—I am sorry, my Lord; it has a little while to come back to that question—there has been the change to everybody across the electoral area votes in the elections for all of the trustees rather than there being a Guarlford-specific and a Mathon-specific and a Colwall-specific election.

100. MS SACHELL: Yes, if I could just add, the key reason why we have redefined the electoral area and the voting areas is because, as I said before, they are differently defined at the moment and it is really important that we do have the two linked together, I think.

101. On the combined area, I think that the term we would probably use is to say that it is going to be selecting candidates from a single list. It will be the number of places that

need to be filled and everybody will vote for those candidates and, if it is filling three places, the top three by votes will be the ones that go through onto the board.

102. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: Can I ask you why you did not expand the electoral base to cover the whole area that you are representing in terms of the charity and why you are just restricting it to the levy-paying area?

103. MS SATCHELL: Because, my Lady, given that the people who pay the levy are making that financial contribution, they would be perhaps quite rightly annoyed if a wider area was able to vote to elect a trustee and they were not paying the levy. I think, in fairness to the levy payers, the two probably need to be the same area.

104. THE CHAIR: You said there were two reasons. I have not got reason number one yet.

105. MS SATCHELL: This is for combining the areas.

106. THE CHAIR: Yes.

107. MS SATCHELL: Yes, we tried very hard to find a compromise whereby we could combine parishes to get some sort of equality of number and some sort of geographical proximity. Clearly, we have to change the number of elected trustees in order to fit within the parameter of having six elected, if we are going to reduce the number of board members. We came to the conclusion that it just simply was not practical to try to combine the different voting areas to get similar numbers.

108. The slide in front of you now gives an indication, in the second column, of the number of electors in each of, as now, the three wards and the seven parishes that elect. You can see that Colwall elects two trustees and Colwall and Mathon, for some reason lost in the midst of time, also appoint a trustee. There is a vast disparity between the number of electors appointing one conservator or trustee. You can see there that Mathon has 121 electors per trustee, yet the big wards within Malvern have 4,000 or 5,000 per trustee. That does not really seem to be very equitable and certainly would not pass muster for a local government election. The Local Government Boundary Commission would be in trying to regularise the boundaries.

109. I should say that we are still going to have to work from the electoral roll, so we still need to use the electoral roll, which is created on the basis of parishes, in order to conduct the elections. It would be very difficult to try to use a bespoke arrangement that was not conforming to the parish boundaries. There is that problem to overcome of the disparity between the number of electors in each of the areas.

110. There is another slide. I do not have slide bundles. Yes, if we could go on to the next slide—there are actually four slides, possibly, in combination, but just have a look at the current one, I have gone back as far as I can with the statistics, but you can see that, while in theory every area has an opportunity to elect a trustee, the reality of the situation is, because of the number of people who stand, the majority of the elections have been uncontested. The upshot of that is basically all you have to do is stand for election and you get elected unopposed.

111. If we could just go on to the other slides, you can perhaps have a look at these when you have a little bit more time. This pattern of uncontested elections carries all the way through. I am just going to draw your attention on that particular slide to the anomaly of the Link byelection in 2015 where, all of a sudden, from having no candidates or one or two candidates, we suddenly had five. The explanation for that is because High Street Malvern was pushing to try to have a cable car installed going up the Malvern Hills with a café at the top, which certainly got people fairly stirred up. That is why five people suddenly decided to stand, but you will notice that still only 11% of the electorate actually voted in that election. The system, I would say, does not really work very well in terms of giving people a chance to vote and giving people a choice.

112. The other point with combining the electoral areas is that it does reduce the risk of local government boundary changes. If we carefully managed to formulate some combination of electoral areas that added up to more or less the same number of electors and there are local government boundary changes, that would throw everything back up in the air again. The conclusion that the board came to in the end was that it was very difficult to come up with a practical system of keeping six separate electoral areas. It is not a vast electoral area. It is somewhere around slightly over 29,000. It was felt that this system gave people a better chance to actually vote for the candidates.

113. The other point that it does overcome is where you have maybe one or two candidates standing. You might have two really excellent candidates standing against each other and one who is a single-issue candidate. By having them in separate areas you effectively knock out one of the two good candidates whereas, if you have a long list, hopefully the best candidates for the job will be the ones who get elected.

114. LORD PONSONBY OF SHULBREDE: I know I should know this, but, when you vote, do you vote one vote per person? Do you have six votes, effectively, and you do one vote per person or do you rank them?

115. MS SATCHELL: It will not be a ranking. The plan is simply to have—I am not quite sure what my terminology is—a single list. It will be first past the post, effectively. If there are three places to fill, everybody gets three votes. They pick their top three and it is the people who get the most votes.

116. LORD PONSONBY OF SHULBREDE: You pick your top three and you give one vote to each.

117. MS SATCHELL: It is one vote to each. That is correct, yes.

118. THE CHAIR: As you go down the list, you have possibly 10 people and you put a cross against the three that you prefer.

119. MS SATCHELL: Yes, my Lord.

120. THE CHAIR: I see.

121. LORD INGLEWOOD: Can I please ask a question about this too? Is the object of the exercise, this election, to get the best people for the job or to get the local community to have the person it wants as its representative? In particular, I think if we go back to Mr Myatt, he won his election, but I think he would be ineligible to stand now, would he not?

122. MS SATCHELL: No, he would not.

123. LORD INGLEWOOD: We knew in advance of the election, on the basis of his manifesto, that he was against everything or a great deal of what the charity was trying to do. That renders him ineligible, does it not?

124. MS SATCHELL: No, my Lord, he will still be able to stand. He lives within the electoral area. He only has to get his two nominees or supporters, whatever they call them, and he can still stand.

125. LORD INGLEWOOD: He can stand and his problems, if he were to continue now, would arise at the next stage within the internal workings of the Trust. I am just trying to see how this slots together because I am not quite clear. I think this has been at the heart of a lot of the problems we have been talking about—what these people are being elected to do.

126. MS SATCHELL: They are being elected to carry out the duties or the objects that are contained in the Acts for the running of the Malvern Hills.

127. LORD INGLEWOOD: That is good, but, if the people in the various wards do not want them to do that, which appears to be a certain issue, what next? If you get elected to Parliament and you disagree with the manifesto of your party, it poses all sorts of problems, but you still remain a Member of Parliament and so on.

128. MS LEAN: Lord Inglewood, may I possibly jump in there? I think I raised last week that there are some points to do with representation and the interplay between charities and representation, which I was potentially going to deal with in legal submissions once we have gone through the provisions of the Bill. Would it be all right if I took a note to address that point there?

129. LORD INGLEWOOD: Of course it will, yes.

130. MS LEAN: Thank you.

131. LORD EVANS OF GUISBOROUGH: Thank you. Might I ask a slightly big-picture question here, Chair? Clause 23(3), which we are looking at here, lists six parishes effectively in two district councils.

132. MS SATCHELL: Yes.

133. LORD EVANS OF GUISBOROUGH: Herefordshire is a district council. I thought it was a county. Does it count as a district?

134. MS SATCHELL: My Lord, it is quite confusing. Apparently, in technical terms,

for this purpose, it is called a district, but it is a unitary authority. It is Herefordshire Council.

135. LORD EVANS OF GUISBOROUGH: All right, as long as that is not a mistake that I have uncovered there. The big-picture question is you are electing people to cover six parishes. The number of parishes seems to be coincidental with the six you are electing because they are not elected to represent those, although they may then be appointed by the board with the role of representing a particular parish according to that paragraph, going back to Clause 8. Why elect them at all? Why not just ask the two districts to appoint four people and to appoint two people? You will save yourself the cost of the elections. You will maintain a link with the two district councils, which I assume is something that is valuable to you. You will also eliminate the problem with the potential conflict of interest, if people stand for election on a manifesto that is opposed to something that you are doing.

136. MS SATCHELL: My Lord, there are two points there. I am talking on the hoof here, clearly, my Lord, because it is not something that the board have ever discussed. I am not quite sure what would qualify the district councils to make those appointments, given—we will come onto this when we get to appointments—that they are currently struggling to make those appointments. You will see this when we get on to the statistics of the number of vacancies that we have had for council appointments. It would change the circumstances slightly because presumably you would say that they could appoint anybody they liked rather than having to be councillors, but, generally speaking, there has been a massive problem with the councils actually filling the vacancies in their appointed places. Whilst I can absolutely see the logic of what you are suggesting, I am not sure how that would go down with the levy-paying electorate because they view their ability to vote for a trustee as quite important. I am not dismissing it; I am just making those points.

137. LORD EVANS OF GUISBOROUGH: If you live in London, say, which I am more familiar with, there are a variety of organisations that impose a levy via the local council tax. The fire brigade is an example, for instance. When we had a fire authority, people were appointed to that fire authority effectively by the councils rather than being directly elected to them. That, of course, eliminates the problem of people being elected to do something that is diametrically opposed to what the fire authority is actually doing.

You are also able to ask the council for people with particular skills, perhaps. That is a request that you cannot really make to the voters. I believe one of your councillors already appoints people who are not councillors.

138. MS SACHELL: That is correct, my Lord. The only people who have to appoint councillors are Malvern Hills District Council. The other councils do not have to appoint councillors. Historically, Herefordshire and Worcestershire have tended to appoint councillors. I guess one could amend the legislation to require that the appointing councils do appoint for skills and background, but I would point out that I did, when I was secretary to the board, send the councils a list of skills vacancies and said, "It would be nice to have some younger people and some women, if you could possibly appoint them". It did tend to fall on deaf ears because they tended simply to ask for a volunteer. If nobody came forward with those particular characteristics to volunteer, my request for skills fell on stony ground.

139. Yes, you could change the Bill to say that they had to consider that, but, again, it would be putting something on them that we have never raised with them and that I am not quite sure they would feel sat within their obligations as councils. I know councils do appoint a lot of people to outside bodies.

140. LORD EVANS OF GUISBOROUGH: I do not want to detain the committee over this, but it is interesting to see what the thinking is behind retaining the system.

141. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: Given that the parishes find it difficult to find candidates to stand and the district and county council find it difficult to nominate people to stand, there is obviously not a huge number of people desperate to sit on the Malvern Hills Trust. Are you widening the base from which you can draw candidates? Do you think that will increase the number of people that want to stand?

142. MS SACHELL: I think it will, my Lady. I think it widens the pool and we are also widening the pool for who can be appointed.

143. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: But not the electorate.

144. MS SATCHELL: Not the electorate, no. I had thought of something else, but it has now just slipped out of my mind. The parishes in general do not find it quite as hard to find somebody as the district and county councils do. We have reached a bit of an impasse with some of the parishes as well.

145. LORD PONSONBY OF SHULBREDE: When we started off this discussion, my understanding was that you said there were two main reasons for why the change. What I have written down is what I seem to think are the two main reasons based on this discussion.

146. The first is that, if you make the change, it reduces the disparity between the number of electors per individual conservator because all six are done together. That is one reason. You are also more likely to get contested elections and it widens the pool of people. That is the first reason.

147. The second reason that I picked up was, if you move to this new model, it reduces the risks of problems in the future, if there are further changes to parish boundaries or ward boundaries, because you are doing this. Is that right? Have I understood it? Those are the two main reasons as a whole.

148. MS SATCHELL: Yes, that is a good summary, my Lord. The keys were trying to eliminate the disparity between the number of electors per trustee and, yes, finding some way of making sure that there was a genuine choice for electors. Thank you.

149. THE CHAIR: Now, where are we? We have moved through various sections. I think at the moment we are on Clause 24, but can we just track back to Clause 8 and just see where we are now?

150. MS LEAN: Indeed, my Lord, on Clause 8, I think what we have now covered off is Clause 8(1)(b). We have dealt with the elected trustees. What I was going to ask Ms Satchell to turn to next was Clause 8(1)(a), the appointed trustees, to understand what the proposed arrangements are for that, how it compares to today and why the change has been made. This takes us to Clauses 14 and 15, which are at pages 13 and 14 of the filled Bill.

151. If I can do the same quick high-level summary of those clauses before turning to

Ms Satchell to explain what and why, there are six appointments to be made. They are to be made on merit and in accordance with a published recruitment policy. That is Clause 14(2).

152. I hope, picking up on a query that my Lady Baroness Bakewell raised last week about how people will know what is needed, the mechanics are then in (3) and (4), essentially. How this works is that the Trust will appoint, but it does so having had a recommendation from the nominations committee, which I will turn to in a moment. If the Trust wants to reject a recommendation from the nominations committee, they have to pass a special resolution to that effect. Just to note, that is defined in Clause 2(3) as meaning 75% of those present and voting. They have to give reasons for doing that in writing and then there must be a further recommendation from the nominations committee.

153. THE CHAIR: It is a resolution as defined as it passed at least 75%.

154. MS LEAN: “Special resolution” is defined in Clause 2(1), page 5. “A ‘special resolution’ of the trustees means a resolution passed by at least 75% of the trustees present and voting at the meeting at which the resolution is considered”.

155. Sorry, I am told it is Clause 3, not Clause 2. I have got my numbers horribly wrong, sorry. It is Clause 3, not Clause 2. I apologise.

156. THE CHAIR: It is Clause 3, yes.

157. MS LEAN: My Lord, that is the basic mechanics. That is the basic mechanics and what subclause (5), (6) and (7) in Clause 14 deal with are the qualities and the eligibility requirements, if I can put it in those terms, so every person who is an appointed trustee “must be a person who appears to the trustees to have special knowledge, experience or ability”—which is either one of the matters that is specified in subclause (6)—“or is otherwise appropriate to the efficient, effective and economic discharge by the trustees of their functions”, and the matters that you have in subclause (6) are perhaps unsurprising—charity governance, management of land, protection or conservation of the environment and financial, human resources, public relations or legal matters—and then, in subclause (7), it is the more standard points, if I can put it in those terms. They have got to be 18 or over and they must not be someone who is disqualified from being

a charity trustee. That is the basic framework for appointed trustees.

158. Clause 15 deals with the nominations committee. The nominations committee will be a separate established committee of the Trust, whose purpose is to recommend candidates for appointment. Its five members, who have to have a mix of skills and experience—two of them must be trustees—that can be either elected or appointed trustees—two of them have got to be individuals who are appointed by the Trust. They are defined elsewhere in the clause as being independent members. They are people who are not part of, an employee of, an elected trustee of, an appointed trustee of the Trust and the other member is a chief executive or such other employee with senior responsibilities that the trustees think fit but, just if I can pause there, because there is a concern that has been raised by some petitioners about the chief executive being a member of the nominations committee.

159. Over the page, at subclause (8), that provides the chief exec or the employee is to be a member in an advisory capacity and may not vote in any decisions made by the committee. That is the basic set-up. Five, one of whom is the chief exec or other employee who is advisory and does not vote and then, in Clause 15(4), this spells out who those two independent members may be or, more specifically, who they may not be, and they cannot be a current trustee, a former trustee, an individual who is going to be a trustee but has not yet taken up their office, a current employee or somebody who could vote for an elected trustee in the electoral elections and I will ask Ms Satchell to touch on that.

160. Then there is a series of provisions about how the appointment provisions work and how the membership of the committee works but, if I can pull out the final key point, if I may, that, when appointing an independent member, the trustees may take into account whether they have any connection with the Malvern Hills and the area within which it is situated and must take into account the risk of any potential conflicts that may arise in carrying out their functions on the committee.

161. THE CHAIR: I see that, in our copy of the Bill, subclause (3)—the words “independent members” was there and has been scored out. It is helpful to understand what you are talking about when you get to subclause (4).

162. MS LEAN: Indeed, my Lord, and I had done the same exercise when I was

reading it through myself. It is because “independent member” is defined in subclause (18). Over the page, on page 16, there is a definitions provision right at the end of the clause and “independent member” is defined there. My understanding is that it has been taken out of the subclause (3) because it was a duplication.

163. THE CHAIR: Is it Clause 18, did you say?

164. MS LEAN: Sorry, my Lord. It is Clause 15(18), so it is within the same clause, but it is on page 16, so a couple of pages over. It is right down at the bottom of the page.

165. THE CHAIR: Yes, I have got it.

166. LORD EVANS OF GUISBOROUGH: Why do you have two independent members and not one? If this was a Civil Service board or, indeed, a board for lots of public appointments, you would have one independent member as someone there to advise and to check that the process is gone through correctly. If you have two, you are potentially setting up a conflict between the two independent members and the two trustees and you also have the potential of a tied vote, because you have got four rather than three or five.

167. MS LEAN: I think, perhaps, this is where I pass to Ms Satchell to explain why these particular arrangements have been put forward.

168. MS SACHELL: To try to answer your question, the independent member is not supposed to be checking on the process, but is intended to be a full participant. I think we came to the conclusion of having the equal numbers on the basis that, yes, there is a possibility of a tied vote, but of encouraging the nomination committee to properly debate and consider the names that are before them and hopefully to reach a logical and sensible conclusion about which ones will best fulfil the duties or will best be able to fulfil the duties that they have.

169. The problem with having three trustees and one independent member goes really to the reason why the board wanted to set up a nomination committee in the first place. I go back to the parish council analogy. When I was a parish council clerk, particularly from one district council area, there was a lot of criticism of the parishes who can appoint somebody themselves if there is a vacancy without having to go back through

the election process—that they were basically appointing their mates, and we were trying to get away from the perception that it could be trustees appointing their mates the whole time, which is why we have effectively tried to create that tension between the trustees and the independent people, who will not necessarily be looking at, shall we say, any possible prejudices which might exist on the board at the moment and the three trustees together trying to further that particular object.

170. It was trying to find a balance where there is genuinely going to be some objectivity in the process. We did struggle long and hard as to how to try to set up the nomination committee and this was the best that we could come up with. As you have alluded, having an independent member is not unusual. I think the National Trust has got a selection panel with independent members or members, as do some of the educational establishments. I think the key thing is that the process that they apply is formal and transparent, and that the vacancies are advertised and are assessed in accordance with the criteria and, no doubt, some other policy that will be worked up in more detail in due course.

171. THE CHAIR: Could I go back to the definition of “independent member”? I understand your point, Ms Lean, that you go to the very end and you see what it means. Why do you not, in looking at subclause (3)(b), simply say “two independent members, appointed by the Trust”? That is as clear as a bell, if you put it that way round. At the moment, it is just two members and then you find mention to “independent” and you have to read all the way down to the end to find out what they are. If you just say “two independent members, appointed by the Trust”, you go straight to the point in Clause 3 itself.

172. I know you are discussing all these things, but would you like to just put a marker against that and see whether that can clarify the thing, because the layperson reading through all of this, trying to understand the composition of the board, would really like to know at a glance what they are talking about?

173. MS LEAN: Indeed, my Lord, and I know that Mr Lewis has taken a note of that to take away and look at.

174. LORD INGLEWOOD: Can I ask one quick question, arising from what you have said? This is not a specifically legal one. Has there been criticism of the conservators,

either from regulators or within Malvern, that it is a mates' club?

175. MS LEAN: I think I need to look to Ms Satchell on that.

176. MS SACHELL: My Lord, I think certainly in the past there was very much that perception and it does go a little bit to the point that Baroness Bakewell, I think, raised earlier about people not wanting to stand and I think, historically, the suggestion that people would necessarily want to go on to the conservators board—more particularly, shall we say, possibly the more diverse element who might have an interest—I think there has been the perception—I am just trying to pick my words carefully, but the words that are coming to my mind are that it is white, male, elderly people and why would they necessarily want to join that club, if I might put it that way?

177. It is difficult and I think, as I say, getting some diversity—I think it would self-generate. If we got some diversity on the board, more people who are more diverse would want to come on to it. It is also difficult with the appointments process. I will just talk a little bit about the deficiencies in the appointments process, if I may, but it is also difficult with the appointments process when you have got the possibility of a bloc of eight being put on from the district council.

178. My Lords, you will appreciate that the realities of district councils are there is a controlling group and, while sometimes I think great care is taken to ensure that there is a political mix, so to speak, going on to bodies to which outside appointments are made, there is also the practical problem—I will go on to the next slide in a minute—that, very often, people actually do not want to do it, particularly, and, therefore, we are back in the situation where you get a single volunteer and the council says, “Well, yes, you can go on”.

179. There is also a tie-up, not so much with Herefordshire, because they are quite politically distinct, but there is also quite a significant tie-up between the people who are on Malvern Hills District Council and the people who are councillors on Worcestershire County Council. There is a real group of sometimes the same people who have got the ability to appoint—whether you count if there is 10 or 13, because of the nominations from the parishes—all coming from the same background. I think that point that you raise is one that some people might perceive to be the case.

180. MS LEAN: Forgive me. Just in response to Lord Evans' question about how you deal with the potential tie situation, in Clause 15(16), on page 16, that provides that the trustees have got to set up terms of reference for the committee, which may include provision about things like quorum and decision-making. If there is decisions to be made about what happens in the event of an impasse, that seems like the sort of thing that would be likely picked up in the terms of reference or the setting up of the nominations committee.

181. LORD EVANS OF GUISBOROUGH: I presume they will elect a chair and the chair will have a casting vote.

182. MS LEAN: There is a provision for a chair to be elected or appointed. That is in subclause (11). I do not think that Clause 15 specifies that the chair is to have a casting vote. I know in some of the other provisions more generally, which I think we will come on to in the unopposed clauses in Schedule 1, there is discussions about what happens with casting votes or what may be provided for but, under the clause as drafted at the moment, any issue around who had a casting vote would be something to be determined by the trustees when they drew up the terms of reference for the committee.

183. THE CHAIR: Yes. It would be covered by (16)(a), decision-making.

184. MS LEAN: Yes, my Lord. That may bring us on to—there are obviously appointed trustees today. Why this move towards this new process of a nominations committee and these qualifications that have been specified? Perhaps if I could ask Ms Satchell just a few questions about the current set-up, which may illustrate how the appointments processes work today.

185. As Ms Satchell has mentioned, at present, there are 18 of the 29 trustees that are appointed or nominated by other bodies. There are eight from Malvern Hills District Council, which, as Ms Satchell has already said, have to be councillors of the council to be nominated and—a few questions, Ms Satchell. First, as far as you are aware, how does the nominations process work in Malvern Hills District Council today?

186. MS SACHELL: Just before I come on to answering that question, my Lord, may I point out that I think it is very telling that not a single one of the appointing bodies has petitioned against the Bill in relation to their power to make appointments. The county

council and Malvern Hills District Council have both petitioned, but they have not raised this point.

187. THE CHAIR: The people who challenge 15 are Mr Myatt and Mr Fowler and his fellow trustees.

188. MS SATCHELL: But not the appointing bodies themselves, my Lord.

189. THE CHAIR: Yes.

190. MS SATCHELL: I think the question was: how do they appoint? Malvern Hills District Council—as Ms Lean says, they have to be councillors, and my understanding is, both from appointed trustees and from the officer who liaises with us over the appointments—they say that the council reviews the vacancies, but the reality of the situation is that, if councillors wish to put themselves forward to come on to the board of the Trust, then the volunteer tends to be accepted, and if we could go on to the next—there is a series of slides again, which I would ask you to just look at, at your leisure, but if you could move on to the next slides. These are the other slides about uncontested elections.

191. I have put together, as best I can from the data that I have got available in terms of the records of who is on the board and the nominations and resignations paperwork but, if you could just move forward through the slides, the yellow column represents a vacancy in the appointing body vacancies. If you just move on again, you can see that, historically, there have been problems with Malvern Hills District Council in particular and Herefordshire Council filling those appointments, and the reality is that, particularly with regard to Malvern Hills District Council, councillors are very busy people.

192. There is a lot of work associated, both with being a councillor and with the Trust. The councillors have not got elected in order to become trustees. This is an add-on to what they are doing and there have been prolonged periods where there simply have not been any volunteers. I think, at one stage, we got down to three of eight and I think the process is, basically, if you put your hand up and there is no contest, you are appointed to the board.

193. LORD PONSONBY OF SHULBREDE: Sorry, but, if there is a contest, is it just

the ruling group that decides?

194. MS SATCHELL: There would be a vote within the district council.

195. LORD PONSONBY OF SHULBREDE: That would be the ruling group that decided.

196. MS SATCHELL: Unless they were feeling particularly benevolent, I suspect that the majority group would be inclined to put forward their own candidate, so to speak. There is also a problem, which I will just mention—I think I probably have mentioned in passing before—which is that, with having district councillors on the board, there is quite a big problem with conflicts of interest.

197. All the councillors are on a planning committee. I have already referred to the Trust's power to grant easements on the South Worcestershire Development Plan, which requires the councils of the South Worcestershire group to come up with their five-year housing supply. Malvern Hills district councillors are part of that group and have got to achieve the five-year housing supply. Otherwise, they are in real trouble in terms of sites coming forward and getting through on appeal, so councillors may find themselves in a position where they want to get a site through and they are having to vote on an easement for the Trust. There are so many Malvern Hills district councillors that, particularly if there are other people who have got a conflict, that can create a problem with quorum and we have had occasions when we have been very tight. We have managed to get a quorum, but very tight in terms of if anybody is ill or unable to attend.

198. There are quite significant problems with that bloc of district councillors being appointed and I think—I will also mention—alluding back, perhaps, to Lord Inglewood's point about whether there are issues about seeing the conservators as a clique, I do recall one occasion where my boss mentioned to me that one of the councillors had said that they felt they could achieve things through the Trust that they could not achieve through the council, which, of course, does not accord with the requirements to do things in the best interests of the Trust and in accordance with the Trust's duties.

199. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: Can I just ask: has the Trust, currently or in the past, identified areas of land within the Malvern Hills

for a development of housing?

200. MS SACHELL: No.

201. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: Never.

202. MS SACHELL: No, never—

203. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: Not even community land Trust housing.

204. MS SACHELL: The Trust has no planning remit whatsoever. The Trust cannot put land forward. The Trust is absolutely neutral in terms of easements. It is a matter for the landowner to come to the Trust and say, “I would really like to put a house or a development on this field”, and the Trust will then consider it, but it only considers it in the terms.

205. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: Why, therefore, is there a conflict of interest with the trustees that are on the district council, if the Trust does not have any development land identified?

206. MS SACHELL: It does not have development land identified, but the district council has development land identified and, very often, the Trust, because of the configuration of the wastes of the manor that it has acquired—it very often has the ransom strip, which holds the key to that site being developed or not. The council may want that site to come forward within the local plan, but they have got to get that past the Trust, so to speak, before it can actually become a developable site. They are wearing two hats in terms of easement applications.

207. THE CHAIR: I must say that the entries on these sheets record poor attendance record.

208. MS SACHELL: They do. They are not comprehensive. When I first took up my role at the Trust, in that period, there was one trustee that I never, ever saw the whole time, until the end of that particular term of office. The poor attendance record is not comprehensive, but a former employee used to keep an attendance record. There are cases here where people have had ill health or difficulty getting to the meetings, but I

think it is probably a combination with Herefordshire but, again, I think there have been occasions where people have put their names forward and then just actually found it too much to try to do the work on the board.

209. I do remember one very capable lady from Herefordshire came to her induction session and then I never saw her again and I know that sounds ridiculous, but that was what happened and Herefordshire—there was one appointment at the beginning of my employment where there was one very, very engaged person from Herefordshire but, generally speaking, they have really struggled to find people who have got the time or the inclination to go on to the board, to the point where, several years ago, I went back to the person who deals with the Herefordshire nominations and said, “Look, if you are really struggling to put somebody forward, would it be acceptable to you, if we have someone from Herefordshire who comes forward and says they want to be a trustee, if we put those names to you?” and the council considered making that particular nomination.

210. Indeed, at the—I do not think they have ever done it prior to 2023 but, certainly, 2023 and I am very pleased to say they were very diligent about it. We did have two people from Colwall who wanted to become trustees—that is obviously within Herefordshire—and Herefordshire Council asked for their CVs and the reasons why they would be suitable as trustees and scrutinised them. The Herefordshire appointments, I would say—just to probably pre-empt a question from Ms Lean—while the district council do the appointments for the district councillors on the board, Herefordshire and Worcestershire councils—it is the leaders of the political groups that make the appointments. Anyway, those names in Herefordshire were referred to that group and they were happy to appoint them.

211. MS LEAN: Just turning back to the Malvern Hills District Council for the moment, Ms Satchell, we have talked about how, broadly, the process works. Two further questions: one, does a councillor of Malvern Hills District Council have to be a levy payer or live within the electoral area in order to be appointed as a trustee?

212. MS SACHELL: No, my Lord, they do not. It just has to be a councillor. Malvern Hills District Council has got quite a wide area and I am not sure what your Worcestershire geography is like but, certainly, the north of Worcestershire goes quite a

long way up, about 20 miles from the Malvern Hills, and we have and have had trustees from Great Witley and Tenbury who really have no connection with the Malvern Hills at all and I think that is also something that does not contribute to a good attendance record, because they are not particularly linked to the Malvern Hills.

213. This, again, is the historical anomaly. The Acts refer to councillors of Malvern urban district council and Malvern rural district council but, when the Local Government Act 1972 abolished those councils and they were subsumed into the greater Malvern Hills District Council area, that changed what was a very local council appointing councillors to a much wider geographical area and, indeed, if the unitary authority comes to pass, it will be a much wider geographical area still.

214. MS LEAN: Just a final question on that: do those councillors have to have been elected by a ward that is within the electoral area?

215. MS SACHELL: No. They can be elected from any area within the district council area.

216. MS LEAN: That is Malvern Hills District Council. Herefordshire Council you have already mentioned, I think, given an oversight of how that works but, again, do the individuals put forward by Herefordshire Council have to be a levy payer or live within a particular area?

217. MS SACHELL: No, they do not. Herefordshire and Worcestershire can appoint anybody they choose. It does not have to be a councillor. It does not have to have any connection with the Malvern Hills.

218. MS LEAN: Are you aware of any criteria, for example, or policy that Herefordshire might have about particular skill sets or particular eligibility criteria for putting yourself forward as a candidate?

219. MS SACHELL: No, my Lord. My understanding is that it comes back to volunteer principle: "Is there anybody who wants to do this?" and, if they say yes, then their offer is gratefully accepted.

220. MS LEAN: I think we have to look at Worcestershire in two halves, because Worcestershire have two that they can appoint under the provisions of the Acts and then

there is three more that they can appoint under the 1968 agreement. Is that right?

221. MS SACHELL: That is right, yes.

222. MS LEAN: In terms of the two that Worcestershire County Council appoint themselves, you have told us they do not have to be councillors. I think you mentioned that they also do not have to be within a particular area. I think your answer to the last question covered Worcestershire and Herefordshire.

223. MS SACHELL: Yes.

224. MS LEAN: But, again, are you aware of any particular criteria regarding skill sets or eligibility that Worcestershire have in place for the people they may appoint?

225. MS SACHELL: I am not. I do not think there are any criteria. I did write round the officers who deal with the appointments prior to coming here and it has been historically—whether there is any change brewing at this moment but, historically, it has literally been, “Is anybody prepared to do this?”, and then the group leaders sign off the appointment.

226. MS LEAN: Then we come to the three that are appointed under the 1968 agreement. How does that work? We have seen reference to Castlemorton, Newland, Powick. Is the process any different for those three appointments?

227. MS SACHELL: Yes, my Lord, it is. I think we have said at an earlier stage that those particular appointments were quite late to the party. The Trust acquired land at Castlemorton, Newland and Old Hills, which is in Powick parish, in the 1960s and it does fit well within the Trust’s criteria of holding land that has got some very pleasant natural appearance and value, and also is good for public leisure activities.

228. Certainly the land at Powick Old Hills and Castlemorton was owned by third parties but had been managed by local councils as a public open space for some years. I am not quite sure what the history was as to why, all of a sudden, there was the decision made to shift land to the Trust. I suspect probably because the managing councils felt the Trust was probably more able to do the management than they were.

229. Slightly after the land was transferred to the Trust, there was an agreement with

Worcestershire County Council—again, it is not contained in the Act, so it is very easy for people to miss the fact that there is an agreement, but an agreement was made that Worcestershire County Council would appoint three additional trustees. I am sorry to say that I cannot remember what—there is a provision in one of the Acts to enable them to do that, but they made an agreement with the Trust to appoint three additional trustees and to make a contribution to the cost of managing those areas, which has diminished over time and is now just a little bit over 1% of the Trust’s income.

230. It was always understood that, while the agreement does not specify this, those three appointments were to be made by nomination from the parish councils of Castlemorton, Powick and Newland and, for 60 years, that has always been the case. There was no formal process within the county council. It was simply done through an officer. The county council was notified either by me or by the parish—me latterly. The officer was notified by the Trust that there was a vacancy. He would then write to the parish. The parish would go through its own process to select someone to come on to the board. They would notify Worcestershire County Council. Worcestershire County Council would make the appointment and it was just done through an officer; the officer was kind of the mechanic in the arrangement. There was no procedure for it to go through the county council itself.

231. That procedure has, I will just say in parentheses, hit the buffers in recent weeks. Castlemorton Parish Council has a vacancy. Their process is to put something in the parish newsletter, saying, “We have got a vacancy”, what they consider to be their appointment on the board. They asked people to come forward, whether they wanted to put their names forward. The parish council would look at who had come forward, make a decision as to who was the most appropriate person, and then forward that nomination to the officer at Worcestershire County Council.

232. The morning that the parish council were to have their meeting, they received a letter from the leader—I think it is the leader, rather than the chair—of the county council, saying, “No, you give us those nominations and we will make the appointment”, and that has caused a bit of upset, to say the least. It is unprecedented. I do not believe that has ever happened. The chair of Castlemorton Parish Council has gone back through all of their minutes, back to the 1960s, and they have always made the appointment, but it is not specified in the agreement that that is the case.

233. THE CHAIR: Could you say something about the church commissioners?

234. MS SATCHELL: Yes.

235. THE CHAIR: At the very far right-hand side of the chart, as we are looking at it, I see there is a vacancy there, so it looks as though there are problems with them as well. Are there?

236. MS SATCHELL: Not really a problem, my Lord. The church commissioners were consulted, as were all of the appointing bodies, when we first started to work up these proposals and I wrote to the church commissioners and said, “How would you feel about losing your power to appoint someone to the board of Malvern Hills Trust?” and, in colloquial terms, they said, “Great. We will stop appointing now”. They did not particularly wish to continue making the appointment. I think it was burdensome and not of any particular value to them.

237. They always did try to appoint somebody who had a link with the church. Certainly, the last person was associated with Worcestershire Cathedral, but they do not feel it is appropriate for them to continue to appoint. They do not see that they have a connection that makes that appropriate.

238. THE CHAIR: Well, they have not petitioned against, so that would take it that there is no problem there.

239. MS SATCHELL: They wrote to me saying they were very happy to not appoint anymore.

240. LORD INGLEWOOD: Were they landowners at the start?

241. MS SATCHELL: They were, yes. Yes, my Lord. They owned a very considerable amount of land going back to pre-1925. They owned quite a lot—I would have to look this up—quite a big chunk of the Malvern Hills.

242. LORD INGLEWOOD: Do not worry. That answers, to me, why they were there in the first place.

243. MS SATCHELL: Yes, that is exactly right.

244. LORD INGLEWOOD: Now they have got rid of it, they are not really interested anymore.

245. MS SATCHELL: Yes.

246. MS LEAN: Just for reference, the provision that Ms Satchell referred to about where it is in the Acts that Worcestershire and Herefordshire can enter into an agreement and then appoint more conservators is in the 1909 Act at Section 10. That is a view of the current appointments process, which hopefully provides a little bit of understanding of how things are or are not working today and perhaps, in response to Lords Evans, the shift away from the appointments by other bodies to the appointments by the trustees themselves, following a nominations committee, and keeping the elections as direct elections, rather than through a particular body.

247. The only point, I think, that is still outstanding on the nominations committee that I have a note of was the list of exclusions in Clause 15 for the persons who may not be independent members. I am happy to ask Ms Satchell to address that, if the committee would like. It may be evident from the face of the clause itself who the independent members cannot be.

248. My Lord, there is just one point I think it is probably worth my asking Ms Satchell to confirm in evidence, because of a concern that has been raised by some petitioners. We can see from Clause 15(4)(e) that a levy payer, a person who can vote in the elections, cannot be an independent member of the nominations committee but can a levy payer, a person who can elect trustees, themselves stand or put themselves forward as a candidate to be an appointed trustee?

249. MS SATCHELL: Yes, my Lord. Anyone can put themselves forward to be an appointed trustee but, in particular, yes, anyone who lives within the levy-paying area can do so.

250. THE CHAIR: I am looking at the qualifications in subclause (5) about independent members. It is really making sure there is, first of all, a proper connection with the hills, which is one problem you are addressing there, and also the conflict of interest point. It would not be very helpful to have someone who is on a planning committee of one of these local authorities.

251. MS SATCHELL: No, my Lord.

252. MS LEAN: My Lord, I hope that covers off the mechanics of elections and appointments and why the arrangements in the Bill are as they are.

253. THE CHAIR: Yes.

254. MS LEAN: Terms of office, Clause 9—I touched on this briefly, I think in a response to a question from Lord Ponsonby last Thursday, but just to highlight that the provisions under the Bill—you need to read Clause 9 with Clauses 16 and 19 to 20. When you put them all together, you get to a quarter of the board being refreshed every year. The initial elected candidates will be that three of them will serve two years, three of them will serve four years, so you get onto that biannual staggering for elected. Of the appointed trustees, three of them will serve one year, three of them will serve three years, so there is that continual ability for changeover or refreshing of the board every year, while maintaining some constancy and not having the entire board up at one time, as Ms Satchell has referred to.

255. The only other point, perhaps, to pick up on this is that there is a reference in Clause 9 to term limits. In Clause 9(3), page 10, a trustee who has held office for two consecutive terms may not be appointed or elected as a trustee for a further term of office until the expiry of the period of one year, beginning the day after the date on which the second of the consecutive terms expired. In broad terms, my Lords, that is providing for a maximum of two terms in one go, but just to ask Ms Satchell to confirm—it is a concern that has been raised by some petitioners—is that an absolute bar on a trustee who has served eight years ever serving as a trustee again, whether as an elected or an appointed?

256. MS SATCHELL: My Lord, they can come back once they have had that one-year break and I should perhaps just say that there are also some provisions in here to cover the very specific circumstances, for example, where somebody is appointed mid-term to fill a casual vacancy. If they are serving a short term to fill a casual vacancy, that does not count towards their two full terms and, similarly, with trustees who are appointed in the very first round of appointments, where there are, as Ms Lean has just said, for example, the first appointed trustees—three of them are only going to serve for one year. That year also does not count towards a full term. There will be exceptions where

it will be a little bit longer than the eight years but, basically, two full terms and then there has to be a break.

257. Again, that is good practice to get some refreshing. At the moment, people do not have to step down after a period of years. We have certainly got one trustee who I think has probably been there 20 years and, when I first came, there was one trustee who was actually there for 40 years before he retired. I do not think that would be considered to be good practice.

258. LORD EVANS OF GUISBOROUGH: Why is it a one-year break and not a one-term break?

259. MS SATCHELL: My Lord, that was just what we happened to pick. I am not sure that there was any particular logic. That was the suggestion that came forward from the board. I am just trying to think whether there is another example of that. I cannot, but, if I do, I will bring it up later.

260. MS LEAN: My Lord, if I can just highlight—I am sure my Lord has this point—that of course, in practice, that would likely mean, if it is an appointed trustee, a two-year gap before they could be appointed again or, if they were an elected trustee, a two-year gap before they could be elected again, because of the way the cycle works, but it would, for example, allow for the situation of an elected trustee having a break and then becoming an appointed trustee or vice versa. It may be that, in practice, you end up with a two-year break if it is somebody who wishes to continue standing or stand again in the same role as appointed or as elected.

261. LORD EVANS OF GUISBOROUGH: You could, theoretically, go from being an appointed person to an elected person. There is nothing to stop you doing that.

262. MS LEAN: Indeed.

263. LORD PONSONBY OF SHULBREDE: Is there any particular opposition to this? To me, this looks quite standard. Have we heard any opposition to this?

264. MS LEAN: Yes, my Lord. There is one petitioner who raises it, Mr Myatt.

265. THE CHAIR: Yes. Mr Smallwood, who has no standing, is the only one I noted

on 21 and 22 and, yes, Myatt and Fowler have a point on 15, but 16 not, I think. Can we just carry out an audit of where we are now, Ms Lean? We have done as much as we need to do on Clause 9. Is that right? I am taking it in order of appearance, just to be quite sure.

266. MS LEAN: Indeed, that was Clause 9. Clause 10, my understanding is, is an unopposed clause. Clause 11—from the note that came over from the committee clerk yesterday evening, we understand that is also being treated as an unopposed clause, as the petitioners who had raised it have not got standing. Clause 12—I think there was a question about whether that is an opposed or an unopposed clause. I am happy to touch on that now briefly.

267. THE CHAIR: In my chart, we have Mr Rouse's name here, but he is a commoner. It is difficult to see he has any interest as a commoner to object to that particular clause.

268. MS LEAN: Indeed, my Lord. It is not one of the paragraphs or points that was specifically identified in the ruling on his standing.

269. My Lord, what I was going to ask as well is, although we are, for the purpose of today, treating those as unopposed clauses by reference to this list and that qualification in particular, could I ask perhaps that, if it is raised by a petitioner, when they come along to present their petition, and it is linked to, perhaps, one of the points that they have made on the clauses that are specifically mentioned, we could deal with any points arising then by calling Ms Satchell to give evidence, if necessary, or on submission from me?

270. THE CHAIR: I think that is fair enough. We are concentrating at the moment on your case, rather than the opposition cases.

271. MS LEAN: Indeed, my Lord, and I am conscious that we will have to make a case to you on this even in the unopposed clauses session. I know we will have to deal with it at some point. It is just a question of when. If we could work on the basis that we will certainly address that when we deal with the unopposed clauses, unless we have to deal with it in response to a petitioner.

272. THE CHAIR: That is fine. Thank you.

273. MS LEAN: Then Clause 13, which is the disciplinary procedures, we also have down as a note that that is not an opposed clause. That is something that we will have to deal with at a later stage. Clause 14, appointed and interim appointed trustees—I think we have dealt with 14 and 15. Perhaps there is one point to flag. The heading of Clause 14 talks about interim appointed trustees as well as appointed trustees. This brings us into casual vacancies. That bit of those clauses is bound up with Clauses 21 and 22, which are not opposed clauses.

274. I was going to ask if I could perhaps pick up anything to do with interim appointed trustees when we talk about casual vacancies in the unopposed sessions but, for the purposes of the points raised, the petitions, I think we have dealt with what is in Clauses 14 and 15. 16 is appointment and terms of office for first appointed trustees and I think we have swept that up a bit with terms of office generally and, similarly, then 17 is casual vacancies and the office of appointed trustees. That is another unopposed clause, which I propose to deal with in the unopposed session.

275. 18, which is the eligibility to be elected, Ms Satchell has addressed this morning. 19, elections and terms of office—I think we have addressed to the extent it touches on opposed matters. 20, which is ordinary elections, we have covered off the cycling, as it were, which is in 20(1) and (2). Subclause (4) is a mechanics clause, if I could put it in those terms, and I do not think 20 is in and of itself an opposed clause so, again, if I could ask to park anything that remains of Clause 20 until the unopposed clauses session.

276. THE CHAIR: That is an unopposed clause.

277. MS LEAN: Sorry. Forgive me, my Lord.

278. THE CHAIR: 20 is unopposed.

279. MS LEAN: Thank you. 21 and 22, which I mentioned, are to do with casual vacancies, which we have down as unopposed, so we were going to ask to park those until the unopposed clauses section. 23, persons entitled to vote, Ms Satchell has addressed this morning. This is about the electorate staying the same, and then 24, rules about conduct of elections, is raised by Mr Myatt. We understand that he takes issue with moving to the postal and electronic. I think Ms Satchell has explained in her

evidence why the Trust is proposing to go to postal and electronic voting, away from the current one, which is run in person, and then 25, 26, 27 are mechanics provisions and they are unopposed, as far as our note goes, and 28 and 29—our note is that these were also unopposed.

280. LORD INGLEWOOD: Can I ask briefly a point about 26? 26(1) talks about elections under the provisions of the Local Government Act and then, in subclause (3), it talks about such further modifications as may be necessary. It is rather odd, the relationship between charity law and local government law, and I am not quite clear whether that is related to that or whether it is related to administrative things

281. MS LEAN: My Lord, as that is one of the ones that we had down as an unopposed clause and, I am afraid, that looks like it is quite a technical point, may I respectfully ask that we take that away and I will make sure we deal with it in the unopposed section?

282. LORD INGLEWOOD: I will certainly withdraw it, if it is appropriate to do so.

283. MS LEAN: I am grateful. Thank you. My Lords, 28 and 29 we had down as unopposed. 30, 31 are also quite technical ones, which we have down as unopposed, and 32, the giving of notices, we have down as unopposed. I think, hopefully, we have covered off the opposed clauses in that part.

284. THE CHAIR: Yes. I have a point, so let us go back to it. You touched on it very briefly. It is Clause 24, the reference to electronic means. As you mentioned, I think Mr Myatt is objecting to that. This is fairly modern practice, is it not, now, to be able to do that?

285. MS LEAN: Yes, my Lord. I believe Ms Satchell referred to the elections that are run postally often providing now for a means by which people can vote electronically as well, but I do not want to paraphrase. Ms Satchell can speak for herself.

286. MS SACHELL: No, I think that is right. Clearly, the process has to start off by offering a postal system, because there still are people who would not be comfortable with voting electronically but I suspect, as time goes by, more and more people will go through the process electronically, rather than putting their voting slip in an envelope and sending it back, but I think it is a much more modern and practical way of

conducting elections than—

287. THE CHAIR: It is subject to subclause (2). It is up to the trustees to decide what the system is to be. Is that right?

288. MS SATCHELL: That is correct, my Lord, and that is the same situation that pertains for very many organisations that conduct postal ballots. Wimbledon and Putney Commons Conservators also have their own bespoke rules and I have spoken to the agencies that carry out the elections and they are able to provide the Trust with precedents, and obviously that is a process that will be worked up and will sit under the provisions of the Bill.

289. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: If some voters are voting postal, but the majority are voting electronic, what mechanism—I am sorry; you probably do not know the answer to this, but it is something for you to consider when you come to the elections—that the candidates are able to make contact with those people who are voting by postal votes, because those voting electronically will get their manifestos or whatever it is they are sending out when they log on to vote and they will be able to read those manifestos. You will need to consider how the candidates are going to make contact with the postal voters.

290. MS SATCHELL: There will be an election pack, my Lady, which is sent out with the voting forms in the same way—I do not know whether you might be a member of the National Trust, but that is precisely what the National Trust do. They send out all the details of the electing form and all the details of all the candidates. Now, they have actually moved that. You have got to elect to have paper copies. They now hope that most people will look on the website and, no doubt, save them the printing and the postage, but the first option has got to be postal, because of the people who cannot do it electronically, but the aim would be to get a voter pack out with all the candidate details in and their statements.

291. LORD INGLEWOOD: I take it, then, you are not proposing to emulate the National Trust in saying that you can cast a vote that allows the chairman of something to cast the vote whichever way he wants.

292. MS SATCHELL: That will be a matter for the rules. I think it is fairly common

for all organisations to give people the option of electing the chair as their proxy.

293. THE CHAIR: Are we going to move to finance now?

294. MS LEAN: Yes, my Lord. I think that brings us—I was just doing a quick double check, but I think that brings us to the end of the opposed parts of Part 2, which does bring us on then to Part 3, the levy. On this, my Lord, it may be helpful just to highlight a couple of documents it may be useful to have to hand. First, you have a paper that we—it came separately to the bundle of documents from Ms Satchell last week, but it is a short paper that was prepared for, I think, the governance committee in 2017 looking at options for changing the levy area.

295. THE CHAIR: I am not sure I can put my finger on it, where it is now.

296. LORD EVANS OF GUISBOROUGH: It is the one dated 26 October 2017.

297. MS LEAN: That sounds right, my Lord, yes.

298. LORD EVANS OF GUISBOROUGH: It was not in any of the bundles. I think it was supplied separately.

299. MS LEAN: I do have a clean copy in hard copy that I can provide of that, but I am afraid I only have one that I can provide as a—

300. THE CHAIR: I am sure it is somewhere in my bundle.

301. MS LEAN: I am very happy to hand mine over, because I also have an electronic copy. If it is easier, then I am happy to.

302. THE CHAIR: Thank you very much indeed.

303. MS LEAN: I am afraid this is in the very large file that came in in week 1. I do not know if it is necessary to have it. It just may be helpful to have it to hand for reference. You have one of the maps of the Malvern Hills area, which has had the levy-paying areas overlaid on it. It might just give an illustration of some of what might be being looked at. That document is R494—page 494 in the main bundle that has got the R numbers starting on it.

304. THE CHAIR: Yes, I have found it. Give me just a moment to organise my lever

arch file, because the trouble is that it is going to be a little less easy to manoeuvre, but I have got it now.

305. MS LEAN: I just thought it might be helpful to have that to hand if it ends up being helpful to discuss which areas do or do not pay the levy, or how it correlates to land in the Bill.

306. The third document, which may or may not be of assistance, whether as a guide as we go through now or to look at in due course, is in the bundle that came with Ms Satchell's evidence, so the bundle that was handed up last week. At page 464, so very much towards the back of the bundle, you will find a document, Malvern Hills Bill financial provisions note, which addresses the levy and also the power to borrow, which is also in this part of the Bill.

307. If I could just explain what this note is, one thing you will not have seen from us yet, but we have done it, is we have provided responses to each of the petitioners about matters raised in their petitions. So even those whose standing has been challenged received a letter at the end of December where we sought to provide a response to matters that they had raised. There are a number of issues that were common to a lot of petitions, so for a couple of those issues, we prepared just a note on those points, which was sent then with the petition response document rather than cutting and pasting all of it into a very long letter. So the note that you have here on the levy and financial provisions is one that has been sent to petitioners who raised concerns about the levy.

308. THE CHAIR: So this is your note.

309. MS LEAN: This is a note for the promoter, yes.

310. THE CHAIR: Written by you, as I understand it.

311. MS LEAN: Yes, it was largely written by me, I think, my Lord, because it raised some points to do with the powers. It is not a formal legal submission, if I could put it in those terms, but it just gives an overview of where the power to levy came from, how things have changed, and what the relevant provisions are now in the regulations. Those are just three documents it might be helpful to have, or have reference to, when we are looking at the finance powers in Part 3.

312. THE CHAIR: Just to be absolutely clear, there are various notes here. It is page 464 to 465.

313. MS LEAN: 464 to 466, my Lord.

314. THE CHAIR: Right.

315. MS LEAN: My Lord, if I could take the same approach to Part 3 as we did with Part 2, which is that I may just do a quick overview or go through some of the relevant provisions and ask Ms Satchell then to explain why or how or what else was considered. My Lord, we are mindful of the instruction that was given to the committee at Second Reading about considering the levy-paying area, but the starting point for the promoter is that the Charity Commission has placed a limitation on the Section 74 consent about expending funds for the Bill that it cannot use it for, essentially, promoting a change to the levy arrangements.

316. Just for your note, we have given you copies of the correspondence from the Charity Commission in Ms Satchell's papers. You have the letters at page 454 and 457. I do not know that we need to go to it, but you will have heard from Ms Satchell, and you will hear from us again, that we cannot use funds at the moment under the Section 74 consent to promote changes to the levy-paying area. That is where you find the documents that contain that restriction. In the Bill before you, the position on the levy is no change, essentially.

317. THE CHAIR: Just to be quite clear, you are saying, because of the Charity Commission's direction, even if people said there should be a change, you are not at liberty to consider that. Is it as clear as that, and just simply it is out of bounds?

318. MS LEAN: My Lord, that is why you have the two letters from the Charity Commission.

319. THE CHAIR: Perhaps we should look at them and see what they are saying.

320. MS LEAN: Yes, my Lord. So the first one was at page 454 of the bundle that came with Ms Satchell's evidence last week.

321. THE CHAIR: Which paragraph should we be looking at in this letter of 8 August?

322. MS LEAN: My Lord, the letter of 8 August. Paragraph 1.1 has the consent. 1.2, it is subject to, among other things, a cap, and (b) the limitation set out in section 2 of this letter. The limitation is over the page on 455. And 2.1, “The sum for which Section 74 consent is provided must not be spent on incurring any costs relating to proposals to extend or materially change MHC’s power to levy. The reason for this limitation is that MHC explains in its application that, whilst MHC considers it would be fairer to extend the levy for reasons set out in its application, it is likely to prove acutely controversial. In addition, if the levy-paying area is extended, the electoral area would likewise need to be extended, raising further complexities and controversy”.

323. And 2.2, “However, the reason for excluding any proposals to extend or materially change MHC’s power to levy from the consent is not simply that any extension or material change to MHC’s power to levy is controversial. The extent of the controversy and irreconcilable views on this issue are likely to mean that, if any such proposals were included in the private Bill, it would not progress to the detriment of the other changes proposed”.

324. And then, at 2.3, “MHC has now confirmed it does not propose to make any substantive changes to the current levy arrangements. However, it is expected to seek advice on advantage and risk of repealing and placing the powers that are found in a number of different places into one provision”.

325. And then, at 2.4, they can seek advice on, essentially, consolidating levy powers. It is not that you cannot spend any money on anything to do with the levy, but the key point is what is in 2.1 and 2.2: that the Trust cannot spend monies on changes that would extend or materially change the levy-paying provisions.

326. My Lord, perhaps unsurprisingly, this raised the concern of, “Well, what happens if people come to Parliament and say the levy should be changed?” or, “If your Lordships’ committee were to ask about it, what does the Trust do then?” There was some correspondence, and then there was a further letter that you have of 16 October 2025, at page 457. You will see it is the second paragraph. “The commission, in a letter dated 22 July 2025”—we have not given you that one because this was the last one in time—“explained it was satisfied, based on the case made by the trustees, that it was expedient in the interests of the charity to amend the power to levy limitation”—so that

is the limitation in section 2 of the August letter—“to allow MHC to incur costs responding to both the instructions accepted by the House of Lords, and the petitions made against the Bill about the levy”. They suggested drafted wording “varying the power to levy the limitation”, and then there had been some discussion about the exact limitation of that.

327. You now have what is provided for in terms of the condition on the Section 74 consent at page 458. This is the section in italics. “The money, subject to the Section 74 consent, may be spent on responding to petitions against the Bill, which may include proposals to extend or materially change MHC’s power to levy, and assisting the Select Committee in the House of Lords to comply with the instructions given to it which relate to the power to levy. Subject to that, it must not be spent on incurring any other costs relating to or proposing changes to the Bill which would extend or materially change the power to levy”.

328. There is a “for the avoidance of doubt” provision. “If the Select Committee recommends that MHC’s power to levy as drafted in the Bill should be materially changed or extended, the sum for which the Section 74 consent is provided must not be spent in relation to such recommendations by the promotion of amendments to the Bill by way of additional provisions. In these circumstances, MHC will need to determine whether it is expedient in the interests of the charity to continue to promote the Bill. If MHC considers it expedient, a further application for variation of this consent should be made to the commission”.

329. My Lord, in broad terms, I am sure your Lordships’ committee will be more familiar with these provisions than I am, but, if your Lordships’ committee were to recommend a change that would necessitate an additional provision to the Bill, the Trust is not currently authorised to spend money promoting that additional provision. It is not a case like, for example, with the high-speed rail Bill, where the promoter was able to say, “We will give an assurance to bring forward that change through an additional provision” and then would bring through additional provisions to change the Bill. In the event such recommendation was made, the Trust would either have to decide whether to continue with the Bill or, if it wished to go down the route of an additional provision to change the levy provisions, it would have to go back to the Charity Commission at that point to ask for money and make its case for being able to expend money on that.

330. That is, to a degree, something that is tying the Trust's hands as we sit before you today as to what the Trust can or cannot do with regard to the levy provisions of the Bill, but it is some relief to see that the Trust is allowed to spend money on responding to petitions that deal with the point and addressing matters raised by your Lordships' committee in light of the instruction.

331. THE CHAIR: What is meant by "additional provision" in that last paragraph?

332. MS LEAN: My Lord, that is my understanding: that that would be an additional provision to amend the Bill, which is required when you are extending the scope of the Bill. Forgive me, I had it in mind on the high-speed rail Bill, where there were changes to maybe the land that needed to be brought in. There needed to be an additional provision to allow for that additional land to be brought into the Bill, but, here, because it would be extending the scope of what is currently in the Bill, it would be making a change to change the levy area as opposed to maintaining it.

333. THE CHAIR: Does that require that the Bill has to be re-advertised, as it were, to allow people to come in and object to the extension?

334. MS LEAN: Indeed. It would have to be re-advertised, and there would be a fresh petitioning period against the additional provision, which is possibly where the link comes in with the costs of pursuing the additional provision, because, given one of the concerns that the Charity Commission identified in its letter in August was the controversy and the irreconcilable views, it is not unreasonable to expect, my Lord, in my submission, that, if there was a proposal to alter the levy-paying area and bring more people within the levy, that may well generate petitions from people who do not currently pay it and whose properties would then be subject to it, if the Bill went forward in that form.

335. My Lords, the committee may also remember that, back in the first week when we were looking at right to be heard challenges and whether ratepayers could be heard against the Bill, there was a distinction drawn in the precedents between ratepayers currently affected by a rate or a levy, and ratepayers who might be brought into the area, so that is where it opens up a potential issue around petitioning, and costs of petitioning in particular.

336. THE CHAIR: What about the last sentence? I am on page 458. You are not making such an application to us, are you?

337. MS LEAN: No, my Lord. What I take that last sentence to mean is that, if your Lordships' committee were to, in effect, say, "We think the Bill should go forward, but only if you change the levy-paying area", that puts the Trust in the situation of having to say either, "Do we think it is expedient to carry on with the Bill?" or, "Do we have to, essentially, say that we cannot take it forward on the basis that is recommended?"

338. If the Trust were to say, "Yes, we think it is in the interests of the charity to take the Bill forward with the recommendation as proposed by the committee, but that will require an additional provision", then, at that point, the Trust has to go back to the Charity Commission and say, "Please will you vary the Section 74 consent? Because we are now in a situation where, essentially, the recommendation from your Lordships' House is the Bill can only go forward if the levy is changed. We think the Bill is so important for what we need to do that we are now going to have to promote additional provision, so that we can take all the other bits of the Bill forward. If the only basis on which we could take it forward is that the levy-paying area has to be changed, please will you now consent to us expending the additional monies that will be required to promote a Bill in that amended form changing the levy-paying area?"

339. My Lord, I think it is fair to say that it is not just a rubber-stamping exercise where it can be assumed that would just go through. The Charity Commission will have to make a decision on that.

340. THE CHAIR: Your position, if I can put it in simple terms, is that there is so much benefit from the Bill as it is that the last thing you want is to hold it up by having to resort to additional provisions, which could take the thing into a completely different area of time and expense, which the levy payers themselves might not welcome, because, as has been made clear to us by a number of petitioners, they are funding the whole process through the levy.

341. MS LEAN: Indeed, my Lord. Ms Satchell, I am sure, will speak to this when she discusses why the Trust, when it has looked at the levy, has decided not to make a change. You will see it reflected also in some of the papers you have in the documents of the board and minutes of the working groups. Similarly, in the provisions of the 1995

Act, a view was taken that there were things that needed to happen, and there was the risk that trying to change something like the levy-paying area, which also carries with it the connection to the electoral area, could, essentially, stymie, if I can use that word, and preclude being able to take forward the other changes that are really desperately needed.

342. That would be the Trust's position, which is that what it is seeking to do through the Bill, as it is, is so necessary and so important to putting the Trust on the right footing to be able to manage everything today and going forward, that yes, it would not want to be in a situation of that being held up or potentially completely derailed because of having to pursue changes to the levy-paying area.

343. THE CHAIR: Thank you very much.

344. LORD INGLEWOOD: Could I ask a couple of points quickly? The first thing is, in the hypothetical instance that you reduce the area of the levy paying, that would be something you could consider or change the whole basis of the financial—

345. MS LEAN: My Lord, I think that would be caught by “materially change”, so I think it is “alter, expand or materially change”, and I think a reduction or exclusion of some areas would probably fall as “materially change”.

346. LORD INGLEWOOD: The second question I had is has this slightly strong-arm tactic from the Charity Commission been imposed on you in respect of anything else in the Bill? It says “charity”. You are, basically, allowed to do anything that is charitable.

347. MS LEAN: My Lord, if I could just quickly reopen the document, I do not recall any other specific limitation on particular provisions or parts.

348. LORD INGLEWOOD: Presumably, this was drawn up in collaboration with the Charity Commission, and a lot of negotiations and discussions with them and other public bodies.

349. MS LEAN: My Lord, the Trust, as I understand it, had to put in an application to the Charity Commission for the consent, which would have outlined what it was seeking to do in the Bill, and things like cost estimates, so yes, that would have been based on what the Trust was looking at doing back in 2023. There has then been some discussion since then about, “How does that play through?”, but in response to your first point, my

understanding is that the only express limitation or the only express provision that the Charity Commission has said, “This is a condition of our consenting to you to be able to go forward” is that point on the levy. They have been consulted on and had input into some of the provisions or some of the drafting, but no, there is nothing else that I am aware of that is in quite these terms.

350. Perhaps if I can set the context, then, for the levy provisions, having said no change, if I could just start with some opening remarks generally, the words “unfair” and “illogical” have been used in respect of the levy-paying area. It is fair to say that, if you were looking at this completely afresh today, yes, it looks a bit odd that some areas or some parishes that have land in them pay the levy, and not all of them do, but, of course, it has to be understood in context that the current position is a product of what has been happening for the last 140 years, which has, amongst other things, seen more land being acquired, some land being acquired without, for example, then Herefordshire or Worcestershire imposing a levy themselves, which they had the power to do in Section 9 of the Malvern Hills Act 1909.

351. It is also part of other mechanisms that might have been available to alter the levy-paying area not having been taken up. For example, there is reference that you may see in the paper—and I think it was referred to in the 1995 Bill proceedings as well—to possibilities of an order under the Public Health Act 1875. There are powers that have been there for different bodies over the last 140 years to potentially alter the levy-paying area, and where we find ourselves today is this is just what the situation is. Things have not been done. Things have not been changed, but, from the Trust’s perspective, this is how it is working today, and it does not propose to change those arrangements going forward through this Bill, largely for the reasons we have already summarised, and Ms Satchell will, I am sure, deal with this in more detail in her evidence shortly.

352. Now, the key provision for current purposes is Clause 33 of the Bill, which is at page 28. In broad terms, this provides that the Trust continues to be a levying body within the meaning of Section 74(1) of the 1988 Act to do with levies, so the Trust can continue to issue a levy to the relevant councils, in accordance with the levy regulations, to meet the expense of the Trust and to provide an amount of contingencies of up to 10% of the estimated expenditure. Now, in very broad terms, this is a modernising and a drawing together of what is in the existing Acts, combined with the overlay of the

general legislation that came in to do with levies through the Local Government Finance Act 1988.

353. My Lord, this is addressed, briefly, in paragraph 7 through to 9 of the financial provisions note that I referred to a few minutes ago, at 464. Essentially, in headline terms, the Malvern Hills Trust is currently and will continue to be subject to the Levying Bodies (General) Regulations of 1992, which were made amongst other powers under Section 74 of the Local Government Finance Act 1988. You do have a copy of those regulations in the big reference bundle that we provided in week one. I do not propose to go to them but to say that is a framework that is there.

354. The Trust is subject to those and, among other things, those regulations provide for the calculation of the maximum levy that could be charged in any given year. My Lords may remember the slide that Ms Satchell brought up last week, where she showed the levy that had been charged by the Trust every year, and then the maximum it could have charged. That maximum is what comes out of the mechanisms and, I was going to say, the dark magic of the formulae in the Levying Bodies Regulations 1992. It is also subject to the apportionment mechanism that is identified there, and how it is done by reference to the council tax base. That remains the position under the Bill. That is broadly what is provided for in Clause 33(2), (2)(a) and (3).

355. THE CHAIR: It is in blue in my copy. Is that the subject of discussion with our counsel?

356. MS LEAN: I can very quickly check. That was as a result of discussions prior to lodging the deposited Bill.

357. THE CHAIR: It was not in the original Bill, but it is put in in the filled Bill.

358. MS LEAN: Forgive me, my Lord. I missed that.

359. THE CHAIR: It was not in the original draft, but it was put in in the filled Bill.

360. MS LEAN: Yes.

361. THE CHAIR: That is as a result of prompting from our end, as it were.

362. MS LEAN: Yes, my Lord, to a degree, I am told.

363. THE CHAIR: Yes.

364. MS LEAN: My Lord, that is one of the clauses which there are some slight amendments to, but these look like drafting amendments—a substitution of “date” for “day”. I am told, sorry, that 2(a), which my Lord asked about, was subclause (15), so it has just been moved up.

365. THE CHAIR: I see. That is very simple. Thank you. I see it. Yes, indeed. It has been scored out. We are getting on for 1.00. Is this a point at which we might adjourn until 2.00, Ms Lean?

366. MS LEAN: Yes, my Lord.

367. THE CHAIR: I think there is a certain amount of gathering of stuff together for the easier presentation.

368. MS LEAN: Indeed, my Lord.

369. THE CHAIR: Perhaps we should pause there, so we will close the session at this time and we will resume at 2.00 this afternoon.