

UNCORRECTED MINUTES OF ORAL EVIDENCE

taken before the

MALVERN HILLS BILL COMMITTEE

PETITIONS AGAINST THE BILL

Wednesday, 11 March 2026 (Morning)

In Committee Room 2

PRESENT:

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

FOR THE PROMOTER:

Jacqueline Lean, Counsel, Malvern Hills Conservators
Alastair Lewis, Roll A Parliamentary Agent

FOR THE PETITIONERS:

Anne Dicks
Isabel Holdsworth
Michael Crowe
Sandra Edwards
Cynthia Palmer
Michael Huskinson (Guarlford Parish Council)

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(At 10.30 a.m.)

1. THE CHAIR: Good morning and welcome to this, the 15th day of the sitting of the Select Committee on the Malvern Hills Bill. We have one of our members absent this morning, Lord Ponsonby, but we understand that there is no objection to us proceeding without him and we are anxious to make progress. In the interests of everybody and since you are all here, we will just proceed as we are, with four instead of five, but a careful note is being taken of what is being said and he will be able to read up what he missed by not being here himself.

2. Could I ask those who are here who have mobile phones with them to be sure that they are switched off so that they do not disturb us in the course of this session? Can I also say something about our fire precautions in this building? We do not have bells or fire alarms of that kind. We have a two-tone siren, followed by a taped message with instructions. The basic position is that, if we do have a fire alarm, which I think is very unlikely, we will have to leave this room and you should follow the instructions of the clerk as to where to go. If you happen to be outside at the time, look for a security officer and they will direct you as to what to do.

3. These proceedings are being broadcast and a full transcript will be taken of everybody's evidence and statements. Do please look at the transcript when it is available and, if you spot any mistakes, let us know and the transcript will be corrected. If we have to go into private session, which is unlikely, we will adjourn the proceedings briefly, but I think we are unlikely to need to do that today. We should have a full session until lunchtime without interruption. Ms Dicks, I think it is for you to begin and I believe you are going to make a statement and lead some evidence. Is that correct?

4. MS DICKS: Sorry, I am going to—

5. THE CHAIR: Can you hear me all right?

6. MS DICKS: Yes, I can hear you.

7. THE CHAIR: If you would like to make an opening statement, please do. If you want to lead evidence, you can do that too. We are in your hands as to how you would like to proceed.

Anne Dicks, Isabel Holdsworth and others

Evidence of Ms Dicks

8. MS DICKS: Right, yes. Thank you. To introduce ourselves, I am Ms Anne Dicks. This is Ms Isabel Holdsworth. We have some witnesses: Ms Cynthia Palmer, Ms Sandra Edwards and Mr Michael Crowe. The argument in support of our petition consists of four sections. The first part deals with sections 1(b) to 5 of our petition and it has a PowerPoint to illustrate the points made. The second part deals with section 1(a), and I am calling Cynthia and Mike as witnesses in support of it. The third part, which Isabel will lead, will go into more detail on sections 2 and 3(b) of our petition. Isabel will call Sandra as a witness and then Sandra's evidence will provide a short conclusion to our argument. I hope that that is an adequate introduction.

9. It was difficult to know how to structure this, but I realise that your Lordships will be familiar with the content of my petition, so it would be a waste of time for me to repeat particular sections of the petition. What I am wanting to do is to illustrate the proof and evidence dealing with the petition. My statement will be referring to our petition as evidence, rather than you having to leaf through all the files and folders that you have in front of you looking at the actual clauses.

10. THE CHAIR: Yes, I think that that is perfectly all right. We have the petition in front of us. The only rule is that, when you are presenting your own statement and evidence, you have to stick to what is in the petition, the same subject matter.

11. MS DICKS: Yes, that is why I am referring to particular sections of our petition each time.

12. THE CHAIR: That is very helpful. Thank you.

13. MS DICKS: Firstly, this is sections 1(b) to 5 of our petition, and our petition identifies multiple shortcomings in the organisation and drafting of this Bill. What I am intending to do today—rather than go into the confusion, I am intending to show that this confusion is intentional. Our petition, sections 1(b) and (c), points out the lack of specific detail of what this Bill is all about and what it is intending to achieve. I realise that, my Lord Evans, you have also been asking for the same thing: a simple explanation

of what the Bill is all about.

14. In this committee room, my Lords, you have been subjected to torrents of words and an avalanche of papers. We are in danger of not being able to see the wood for the trees. Underlying it all is the Bill, which, not to put too fine a point on it, is a mess. Fundamental details over such things as election of trustees and how they interact with levy payers have just not been thought through properly.

15. Sharpe Pritchard, for the promoters, sent me a letter on 19 December, at the end of last year, giving their response to the concerns in our petition. Some of their comments are not actually relevant to our petition and the only paragraphs I consider merit a reply are paragraphs 7 and 43 to 44. In paragraph 7, Sharpe Pritchard admit that we have a genuine point about the lack of organisation. They say that “The way in which the Bill is drafted is not unusual, compared with other Bills that repeal legislation and re-enact some or all of it in modern terms”. That is a quote. Perhaps a legal brain, on reading this would think, “Oh, so there is a precedent for this”. As an ex-teacher, my first response was to say that, just because other people have got away with handing in sloppy work, it does not mean you should do it as well.

16. That was my first reaction. Now I think the chaos is intentional to confuse us and take our attention away from the real intentions of the Bill, to acknowledge the problem when these petitions were submitted last February and then do nothing about it. What does that tell us?

17. It has been interesting to observe how your Lordships’ very acute questioning has cut through all this at various key points during the proceedings. Your questions and the lack of proper answers have acted as pointers to what is really going on and have helped me to structure my argument.

18. Governance change. Nobody disagrees that changes need to be made. The body is set up by Acts of Parliament. It is accountable to the taxpayers who fund it and elect members of the board. Its duties are clearly set out and its funding is assured. Charities, particularly large corporate type charities, can be ruthless money-making machines. They receive donations and they need to generate funds to further their objects. Charities like the National Trust run tea rooms, information centres and sell souvenirs and run businesses, needing to employ armies of staff. These are two very different

types of organisation.

19. Just half an hour into these proceedings, it was my Lord Inglewood who asked whether conflicts ever arose as a result of having these two different types of organisation. I was surprised to hear Ms Satchell give an absolute assurance that there had never been any conflict arising from trying to run an organisation established by statute that is now self-identifying as a charity. My Lord Hope, I do not think you were ever given a definitive answer to your probing questions on 5 February about how the supremacy of charity law over the founding parliamentary Acts came about. Ms Satchell's retort that you would be disagreeing with the Charity Commission is interesting and I do not think that evidence supports her view. The way that both your Lordships' questions were framed showed that you were assuming that the status of a body set up by Acts of Parliament would take priority over the acquisition of charitable status 100 years later. We totally agree with that.

20. The day after presenting our case for locus standi, this appeared through my letterbox. Can I have the first slide of the presentation? Thank you. A nice little leaflet from Malvern Hills Trust, winter edition: "Welcome to the newsletter for the Malvern Hills Trust"—"As a small charity that protects and manages the Malvern Hills and Commons". It is obvious that the main purpose of this Bill is to legitimise the morphing of the conservators into totally a charity.

21. THE CHAIR: It is worth noticing that it has been registered since 1984, I think, as a charity.

22. MS DICKS: Yes. I am trying to argue that the hierarchy, the importance—this Bill is trying to turn it round from what it should be.

23. THE CHAIR: I follow that, yes, but it is just simply to be absolutely clear that it is registered.

24. MS DICKS: Yes, I accept that it is. It does have charitable status. It is a charity.

25. THE CHAIR: Thank you.

26. MS DICKS: There is tiny wording at the bottom that just says that it is the working name of the Malvern Hills Conservators. Nowhere does it say anything in here

about how it is principally funded, just “as a small charity”.

27. Changing this equivalent status into mainly a charity is something that some trustees have been surreptitiously engineering since unilaterally changing the working name to Trust in 2017, with no consultation of levy payers, who had to fund the rebranding. Ms Satchell’s circular argument about why the change of name should go through, because it is actually a *fait accompli*, only in fact shows that perhaps it could stay as the working name, because it would be so expensive to turn it back, but the legal name behind the organisation needs to stay as conservators. I know they want to sound as if they are the National Trust, but what they are, and always have been, is conservators.

28. Yes, “as a small charity”. Well, we can see that. Can I have the next slide, please? This chart comes from the Trust’s own website and shows that we could describe it as a 1% charity. The tiny segment at the top of this pie chart shows that charitable income was 1% for 2023 and 2024. On this pie chart, the levy plus car parking accounts for 74% of the income, charitable donations 1%.

29. The terminology of a body established by statute does not translate seamlessly into the terminology of a modern charity. Instead of having specific responsibilities, conservators or trustees must now slavishly obey the objects of a charity, and a host of totally inappropriate commercial activities are assumed to be essential in the furtherance of these objects. Indeed, specific training for Trustees in how they must behave in regard to the objects is referred to in new guidelines on the Trust’s website.

30. Our petition throughout also identifies “ancillary” and “miscellaneous” as key words throughout this Bill. No provision or clause entitled “ancillary” can actually stand alone. It necessarily refers back to something else, and quite often this will be the objects. “In order to further the objects” is another way of saying the same thing, and quite often when this is used it is referring to some form of money-making scheme.

31. This useful phrase is what introduces the general power in Clause 83 and the miscellaneous powers of 84, which are set out in Schedule 4, hidden at the end. The inference throughout this Bill is that the conservators need to raise money in order to achieve anything, and this assumption is nowhere to be found in the original Acts. This is how the whole theme of commercialising the operations of the conservators is

shoehorned into this Bill. Clause 84 and Schedule 4 have the ridiculous heading of “Miscellaneous powers”. Here, “miscellaneous” should probably read “new”. It actually means engaging a vast number of employees and volunteers who will be needed to operate all the commercial activities needed to raise money.

32. I am indebted to your Ladyship, Baroness Bakewell, during our plea for locus standi, for alerting me to the fact that an Act of Parliament operates in conjunction with any policies that the organisation subsequently adopts. This came up because the policy behind Clause 63 of the Bill has not been written yet. This works retrospectively as well. If some key members of an organisation know what direction they want to move in, they can introduce policies with clauses that will immediately be activated when this Bill is passed.

33. THE CHAIR: Just to get our bearings, if you will forgive me for interrupting, Clause 63 is dealing with licensing of other activities. That is your point, is it? It is licensing.

34. MS DICKS: It is. The licensing is dependent on a policy. The reason that it is causing so much distress, and which Isabel is going to expand on in her section, is because the policy that informs it has not been written yet. We really do not know what they might do. This seems to be a feature of parliamentary Bills, that there is the Bill itself, the basic Bill, but there are also working policies, documents and guidelines on an organisation’s website, things they have put through. The interaction between the two is what everybody needs to be alerted to.

35. THE CHAIR: Sorry, I am just taking a lawyer’s point to be quite sure what we are dealing with. The opening words of Clause 63 are, “The Trust may if it thinks fit”. You are saying, “We do not know what they are going to say about what is fit and what is not”. Is that your point?

36. MS DICKS: Does it say specifically that—

37. THE CHAIR: Yes, it does. That is what it says.

38. MS DICKS: The point is that we do not know when a gathering of people or an activity on the hills is going to become a licensable activity, because there is no

indication of that in this actual Bill. The only time we are going to find out is when somebody has written the policy that it is referring to. All the things that they mention are only things that might happen and we do not know how many of them will and what the provisions will be, because the policy has not been written.

39. THE CHAIR: Yes. I am sorry, I interrupted you, so please carry on.

40. MS DICKS: Yes. The point I am making is that it was Baroness Bakewell who pointed that out to me, this relationship between policies and the actual Bill, but it does work retrospectively as well. If certain policies and guidelines have already been put into practice with certain wording, if a Bill is then passed it can suddenly activate all sorts of things throughout the normal day-to-day activities of the Trust. Policies with different terminology included have indeed started to appear on the conservators' website since they unilaterally changed their working name to Trust in 2017. This is not a coincidence and it shows why the official change of name should be resisted.

41. Sections 1(c), 3 and 4 of our petition identify the desire for money making through commercial activities as the reason behind the Bill and how land owned by the conservators can be seen as a means of making money, whether by altering the boundaries or the euphemistically named easements policy, anything which involves the exchange of money for the use of common land. All the land in their care should be for them to cherish and protect on behalf of the public, not to think, "Is this bit more useful than that because we can raise X amount of money and spend it somewhere else on the hills?" Constant reference to the objects of the charity and the operations that are ancillary to the objects means that, although money making is not stated as an object, it is implied throughout. On the other hand, statutory bodies are funded by taxation and they have no need to make money.

42. The transition in this case—if you look at the pie chart again—can be effected because of car parking. Car parking is not taxation and it is not charitable donations either. Since the Acts were first passed, more people have been using cars and car parking has been a really important means of making money. The catalyst of car parking charges is what I think has started this sort of change.

43. The PowerPoint slide shows the levy at 46%, car parking at 28% and charitable income at 1%. Other things, like grants, investments and rents, made up the rest. Just as

a point of interest, if we can have the next slide, car parking again, in her evidence on 10 February, Ms Satchell stated that car parking income just stopped dead during the pandemic. To put the record straight, according to these minutes on the Trust website, the income from car parking actually went up. The increase—this is not the basic amount—was £129,000 plus. That was during the pandemic, but that is probably just a mistake.

44. In 2024, going back for that, assuming this is a general pattern, one might wonder why the conservators had decided to apply for the charitable status that was granted in 1984. Nobody has been able to see the archives of what happened, because the Trust do not like anybody to have access to their archives, but the previous finance manager confirmed to one of the trustees that the reason they applied for charitable status in the first place was so that they could avoid VAT on car parking charges. They thought that that could happen if they were a charity. That is the reason this organisation became a charity.

45. The precept is £700,000, car park takings £485,000 and, up to 2024, the year ending then, they received £13,000 as charitable income. How can it possibly make sense that they now think they are predominantly a charity? More accurately, they are 1% a charity.

46. It was on 13 July 2018 when a letter was sent to some Malvern residents, alerting them to the possibility that road access on two sides of a field across common land had been applied for. If you remember our locus standi plea, I am referring to the area of common land where I enjoy playing my saxophone for community events.

47. Can I have the next slide, please? “Natural aspect” is a phrase that in the past had protected areas of land like this, but, for the first time, we saw in this letter that, under charity law, this has to be weighed against how a significant capital sum could be used to further the Trust’s objects.

48. Next slide, slide 6. That is a letter that I wrote, having seen the letter. These are minutes from a public meeting in September 2018, showing that I was not the only resident to be concerned. Another resident points out the same thing. The primary consideration, at this point in 2018, is the effect on the natural aspect of the land, but the letter goes on to say that it has to be weighed against the receipt of a capital sum, and an

answer from the board confirmed this.

49. Next slide. A board meeting on 8 November 2018 announced the revision of a policy to insert the best interests of the organisation's charitable objects. That has been inserted into the policy.

50. Next slide, slide 8: the latest guidelines, which you can see on the website. This was dated 2020. On this one, can you see that the charitable objects are now the primary consideration for all decisions made by the board? The natural aspect in these guidelines has been demoted to a subsection underneath. This has totally changed. This is why the conservators have been able to say their easement policy in this Bill has not changed and why petitioners have not been able to object to it specifically. The policy itself does not need to change, but, as Baroness Bakewell alerted me, if this Bill goes through, a whole new process will be activated. If I play my saxophone in exactly the same spot in a couple of years' time, the chances are, if this Bill goes through, I could be in trouble for obstructing a public highway. The amount of money that the conservators could make from the sale of this and similar areas of common land, under the euphemism of an easement, is phenomenal.

51. That is one interpretation of what the aims of this Bill actually are. No wonder we are still waiting for a simple list and a clear list of what will be lost from the original Acts and what new powers will be enacted if this Bill were to be passed.

52. You will be pleased to know that that was the longest section of this, so I am now moving on to the next section. In this section of the argument, I will be calling two witnesses, Mike and Cynthia. The second part of our argument is based on section 1(a) of our petition and we are challenging the validity of a Bill that has shown an insulting disregard for the need for consultation or proper deliberation. The promoters have been determined to push the Bill through, even though they knew beforehand it would need amending in Parliament.

53. The first time the public saw it was when it appeared on the Parliament website. How much more notice do you think trustees had before it appeared on the website? Forty-eight hours. That is the first time anybody saw the full Bill, other than the authors of it. Sharpe Pritchard, for the promoters, informed me in this letter they sent in December last year—in their argument against this section 1(a) of our petition, they say,

“MHT has consulted extensively on the proposals to update its governance and powers, firstly in 2019 on the earlier attempt through Part 6 of the Charities Act and then in 2024”. They state that there is no general requirement in legislation or Standing Orders to consult on the provisions of a draft Bill itself, so just bits of it.

54. The 2019 consultation has been criticised for its loaded questions and the fact that the conservators marked their own homework. The confidentiality statement prefacing this document was that of Worcestershire County Council, but it was the conservators who were actually doing it. In fact, I took paper copies of the questionnaire into the Trust’s office, expecting to find a secure ballot box that would be taken to Worcestershire County Council. I was amazed to find that I was expected to hand these completed questionnaires over to Trust staff, who would then input the data on to computer themselves to go to Worcestershire County Council. I did not hand them in to Trust staff. I took them away and, with the people who had written them, we went through it together and I managed to show them how to do it on computer.

55. Also, the analysis was done by Malvern Hills Trust themselves. That was not what I had understood, and many people, from the confidentiality statement being that of Worcestershire County Council on it. I was left feeling naive and stupid for believing in an impartial system. As it turned out, it was all a waste of time anyway, because the Charity Commission would not let the conservators make the changes they wanted through Section 73 of the Charities Act.

56. The refusal of the Charity Commission to accept the Section 73 submission is the reason that we are here today. Charity law is not what governs the Malvern Hills Conservators. If it was, the conservators would not have had to bring this private Bill to Parliament. It would have been done through the Charity Commission.

57. On to the 2024 consultation, with the same sorts of loaded questions included, it took place during the period of purdah, just before the general election. Consultees did not even know who their MP would be, let alone contact them with any concerns. It also meant that local authorities were very restricted in the time available to them to respond to the consultation. This consultation was actually carried out by an external body in Scotland.

58. My first witness is Cynthia Palmer. Cynthia, you are a visually impaired member

of the So Xsighted Morris dancers, yes?

59. MS PALMER: Yes, I am.

60. MS DICKS: And a member of the Malvern Sight Loss Club.

61. MS PALMER: I am.

62. MS DICKS: Yes. Visually impaired. You are also a local councillor.

63. MS PALMER: I am.

64. MS DICKS: You have been mayor of Malvern three times. You were chair of the conservators in 2024.

65. MS PALMER: I was.

66. MS DICKS: When did you join as a trustee?

67. MS PALMER: In 2019.

68. MS DICKS: As chair, were you in favour of submitting the Bill in November 2024?

69. MS PALMER: No, I was not. I proposed that we should let it go for a year, because we had a new CEO starting and she had no experience in the job at all. We were on our third finance and admin manager in six months, and we had a new secretary to the board, so the Trust was in a state of flux, really. I proposed that we should leave it until November 2025 before we submitted the Bill.

70. MS DICKS: What did you hope the extra time would achieve?

71. MS PALMER: I hoped it would enable us all to have a look at the Bill, to get on with the levy payers, to talk to them, to understand them, to review the levy-paying areas.

72. MS DICKS: What happened once you had raised your concerns?

73. MS PALMER: I was shouted down by senior management and the vice-chair.

74. MS DICKS: I understand that you resigned as chair of the board in July 2024.

75. MS PALMER: I did.

76. MS DICKS: I did provide a document, and I brought 10 copies of it, which I was asked to do, but I do not know if they have been given out. This is a copy of the resignation speech of Cynthia when she was chair of the Malvern Hills Trust. I do not know if you have already seen it before. Yes, it has come through electronically, has it? Yes. Okay. Thank you. Right, so this document is the text of Cynthia's resignation speech. What happened? Why did you resign? How were you feeling? How did this make you feel?

77. MS PALMER: Once I had said I wanted to delay the Bill, I was shouted down by senior management, but also I was accused of 32 breaks in code of conduct, which were absolutely ridiculous, quite honestly, but I had to go to appeal. Then we had to go to a disciplinary. By that time it made me so ill, but also, within the code of conduct, there is nothing to say you can get rid of the chair, so what they did is they had to make me feel so uncomfortable, so that I resigned, which I did in July 2024.

78. MS DICKS: I believe that in October—that was a few weeks later—you went back to a board meeting, but as a member of the public, to once again try to persuade the trustees to engage with the public and delay the Bill?

79. MS PALMER: I did, yes.

80. MS DICKS: What warnings did you give specifically?

81. MS PALMER: I said that, if the Bill goes through, the costs will spiral, which is what we are finding now really, because, as we sit round here, we are still going through it.

82. MS DICKS: Thank you, Cynthia.

83. MS PALMER: Thank you.

84. MS DICKS: There was a special board meeting on Thursday, 8 August 2024 for the board to discuss the responses to the consultation and decide whether to push ahead with submitting the Bill to meet the deadline of the following Thursday. Various

trustees expressed concerns at that meeting. I would like to call Mike as my next witness. Mike, you were at that meeting as a member of the public.

85. MR CROWE: Yes, I was.

86. MS DICKS: Have you also read the minutes of that meeting and compared them with the recording that you took at the time?

87. MR CROWE: Yes, I have the minutes and I have read the minutes. Generally speaking, they outline the process, but I suppose the devil is in the detail. Here we say that trustees would benefit from a longer period of time, and actually they say, “Would trustees benefit?”, and actually there were two trustees who said they definitely needed more time.

88. MS DICKS: Yes, so comments were made about the numbers of trustees at the meeting as well, were they not?

89. MR CROWE: Yes. There were 13 out of—

90. MS DICKS: However many, yes.

91. MR CROWE: Twenty-eight, is it? There were only 13 present.

92. THE CHAIR: Out of 19.

93. MS DICKS: Where was that? Why was that? What time of year do we think?

94. MR CROWE: Unfortunately, I think 8 August is—last week in July, first week in August, those are holiday shutdown periods. They are classic holiday fortnights, so it was assumed that most people, or a lot of people, would be away on holiday.

95. MS DICKS: What did the trustees say about the length of time they would need to read through the consultation responses properly?

96. MR CROWE: This was somewhat disappointing because, although they had only just had them, they were needing to—I think this was on a Thursday. They needed to get all their comments in by the next Thursday, so that was a very short time.

97. MS DICKS: Just one week. Did the trustee say what length of time they would

prefer to have, one trustee?

98. MR CROWE: Yes. Certainly there was a trustee named Robert who said that he really wanted to go away and study these documents and he wanted a little more education for himself over the rights of commoners and other details. He was asking really for a month. He wanted to study them for a month, but he was not alone. There was certainly a second trustee and he was saying that seven days was much, much too short and he was really asking if they could just push it for two weeks, just to give him a little more time to familiarise himself with what was in the documents.

99. MS DICKS: Were any solutions suggested to these problems by the board that wanted to push ahead with it? What solutions did they provide to these problems?

100. MR CROWE: It was suggested by Ms Satchell that she would provide a coaching session to assist them with their decisions, which, on the face of it, seems a little worrying. "You are being coached".

101. MS DICKS: Right, thank you. Were some negative comments about the consultation identified?

102. THE CHAIR: Ms Dicks, a question.

103. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: I am sorry to interrupt you. Can I possibly ask a question? What reasons were given for only allowing seven days to respond to the consultation?

104. MR CROWE: That was because they had a schedule that they had to keep and they needed to keep to that schedule.

105. MS DICKS: In order to meet the deadline of handing the Bill in when the promoters wanted it.

106. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: Oh, I see. It was to do with the deadline of handing in the Bill.

107. MS DICKS: Yes.

108. MR CROWE: Yes.

109. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: Was any reason given for not releasing the consultation information earlier?

110. MS DICKS: Not that we know.

111. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: Thank you.

112. THE CHAIR: Ms Dicks, I wonder where we are going here. We have another petition to deal with this morning. I do not want to rush you, but I am quite anxious to know what you want us to do with the Bill.

113. MS DICKS: It is about the validity of a Bill that is knowingly rushed through, and another solution, which was proposed at that meeting and it is in the minutes, is that it could still be amended when it got to Parliament.

114. THE CHAIR: My particular point is that we were concerned, particularly when you addressed us on the standing issue, about interference with the activities that you carry out on the hill, and also Ms Holdsworth's dog and that kind of thing. We were concerned that, in some way, the Bill was interfering with the way you wish to enjoy the hills. I hope that you are going to come on to that.

115. MS DICKS: Yes, I am sorry. I am trying to explain that this is why the Bill is drafted as it is, in that—why it is trying to do these things, but I am absolutely at the end of what I am saying and about to hand over to Isabel for her section on this.

116. THE CHAIR: It is very important to us, particularly with people with disabilities, that, if there is something wrong with the Bill in the way it deals with that aspect, we need to know about it.

117. MS DICKS: The final point that I was just going to make was that the conservators here are trying to make Parliament hand over their responsibility to the Charity Commission through this Bill. If your Lordships do that, charity law really will govern absolutely everything they do. This Bill is designed to obliterate all these years as a public body responsible to Parliament and taxpayers. Yes, and my next point is I am asking Isabel to take over and talk about the points you want, so I am sorry I went on at too much length over that.

118. THE CHAIR: No, not at all. We are not trying to rush you. It is just to be quite sure that we cover the ground. Yes, please, Ms Holdsworth.

Evidence of Ms Holdsworth

119. MS HOLDSWORTH: Thank you for giving me the opportunity to speak. I really appreciate your time. I am Isabel. I am a levy-paying resident of Malvern and I love being on the hills and commons. The sense of peace and freedom and autonomy I feel there is quite at odds with everyday life. I used to go up every chance I got, trying to get people to bring me up there. Last year I went up with a friend and he had a sulk and stormed off, and I thought, "Oh, what do I do now? I will just carry on following this path". It was absolutely wonderful, just to have that freedom and just to have a walk and sit down on the edge of the hill by myself. I do not know. I just felt kind of safe and free, and it was beautiful.

120. I have another blind friend and we decided to have a walk on the common last summer as well, together with my guide dog, and we got totally lost. Again, we did not encounter any roads for about two hours. We were lost, but we were safe.

121. I am a member of a sight loss club in Malvern, and also a member of Anne's Morris dancing group. A few of us in the group have guide dogs, and the hills are a great place to exercise them. As I am sure you can imagine, life is a lot more difficult when you have a disability. My guide dog, Obi, retired last October and I miss him desperately. I do not actually leave home all that much on my own, because there are so many things to deal with.

122. The pavements in my area are narrow. They are uneven and they are obstructed with overhanging bushes, sometimes with street furniture. We have had a lot of pavement works on the road I use regularly to visit my daughter, and the most difficult thing is vehicles that are parked all over the pavement, or they have their noses stuck out of driveways. About three weeks ago I had my face scratched and bruised by the wing mirror of a van and a few days ago I hurt my shoulder on the same van.

123. I am quite an intrepid person. I have been around the world. I visited Antarctica last year with another blind person. There is not much that will stop me, but I do find it very difficult walking around the streets of Malvern with a white cane, so you can

imagine how important it is to go up on the hills with friends, or even by myself, and just feel that sense of autonomy that I cannot get anywhere else.

124. Clause 49 of the Bill—I think it is subsection (1)(b)—talks about fencing of common land. I am very concerned about this because I do not know what kind of fencing they are talking about. If it is electric fencing, that is going to really put me off walking around with a white cane, because I do not know when I am going to get a jolt from it.

125. THE CHAIR: We heard about fencing yesterday and there is certainly a possibility that electric fencing would be put up on a temporary basis to control the movement of stock, to avoid them moving on to public roads and into people's gardens. It is that kind of thing and it is controlling the stock in the interests of the safety of people in general. If you are talking about fencing, I think we have to anticipate that you may find that there are electric fences to control the movement of stock.

126. MS HOLDSWORTH: With the increase in farming—the Trust is talking about developing farms up on the hills. That is going to increase fencing and I do not know where it is going to be. Also, is it going to be accessible for people who use wheelchairs? Are they going to put stiles up, kissing gates or cattle grids? If so, that is going to make it very difficult for people in wheelchairs.

127. Clause 6(1)(a) talks about protecting the landscape and subsection (1)(b) talks about protecting the people's right to enjoy the hills and commons. What happens when there is a conflict between those two subsections? Subsection (2) says that, in a conflict, subsection (1)(a) takes precedence. I am wondering, when the Trust sets up these farms, how much of the public common land they are going to take up and what happens. There is a part of Clause 6 that talks about gates. Okay, so if public land is fenced off, there has to be a gate. Does that mean there will be gates through fields, or will I be walking in among animals without realising it? I just do not know what to expect.

128. THE CHAIR: I think part of the purpose of fencing would be that you would not be confronting the animals, because they would be fenced in. I think that that is the object of the fencing, as I understand it. I think one of the problems that you drew attention to was the problem about licensing and your concern, and I think Ms Dicks's too, with the activities that you have, that you were concerned you might have to pay for

a licence and that kind of thing. Are you worried about that?

129. MS HOLDSWORTH: Yes, I am going to move on to that. I wanted to quickly talk about the power to stop and question. If I was stopped in the hills and questioned by somebody I did not know, I would not be able to see their ID. I would not know who they were. Again, this is something that would make me wary of going up in the hills by myself.

130. Licensing fees are going to affect me and other disabled people in several ways. I found it difficult to exercise my guide dog because I was not able to watch if he went out of the park, so I engaged a professional dog walker. If she has to pay a licence fee, she is going to have to pass the cost on to me. A lot of people with disabilities and older people use professional dog walkers and, traditionally, disabled people are more likely to be unemployed. In the blind and partially sighted community, for example, 75% of people of working age are unemployed, so they are less likely to have money to pay these extra fees.

131. THE CHAIR: Can you just help me a little bit on, when your professional dog walker is taking your dog out, does she or he have only your dog? She is not carrying a whole lot of other dogs as well. There are some dog walkers who are not dealing with guide dogs, but they are just simply collecting a whole bunch of five or six dogs and meeting, exercising them all together. In your case, that is not what is happening. Is that right?

132. MS HOLDSWORTH: Yes, this lady takes four dogs at a time. I wanted my dog to go on the hills because he was putting on weight and it was a great way to help him lose weight.

133. THE CHAIR: She does take several dogs at a time.

134. MS HOLDSWORTH: Yes. Because I work from home, he was not seeing many other dogs. It was exercise, it was socialisation and it was just a way for the dog to let off steam instead of working for me all of the time, so it is a really important thing to have. I am just concerned that it is going to be more difficult to exercise dogs if licensing fees prohibit it.

135. At the sight loss club I am a member of, we are currently discussing activities for the summer, and picnics on the commons is one of the things that we are discussing because a lot of our members are quite old. We used to walk in the hills and some of us still would be able to, but it is going to be a little bit more restricted, so we are thinking picnics on the common. Is this a licensable event? We really are not sure.

136. Our Morris group also dances on the hills twice a year to raise money for guide dogs. Is this something we are going to have to apply for a licence for? How much is it going to cost us? How much money is it going to take away from the principal charity that we are raising money for?

137. We had contact from a lovely organisation called Malvern Special Families. They take children who do not get to see much of the outside world and who have disabilities or extra needs up into the hills, and they take some of them in all-terrain wheelchairs. Is this an event that is going to be licensable? Also, how difficult is it going to be to move wheelchairs around on the hills with the fencing?

138. A friend of mine a couple of days ago saw some adolescents walking on the hills as part of a school trip. I think that there were about 25 of them and they were preparing to do a Duke of Edinburgh award. He asked a member of staff from the school, were they aware of this licensing issue that might come up, and they did not have a clue. I do not think that the information has been disseminated widely enough.

139. There are also people who do sponsored walks for organisations like Help for Heroes, Cancer Research and all sorts of other charities. We do not know how these are going to be affected either. As much as anything, it is going to add extra admin for the organisations and for the trust. Organisations and groups of friends are not going to have the autonomy that they have at the minute. If a group of friends gets together and wants to go up in the hills for a picnic or tai chi session, are they going to have to apply for a licence? I am not sure. As Anne mentioned, Clause 63 does not have a policy associated with it, so we do not know what we are dealing with.

140. I am quite confused about what the Trust is trying to be. Is it a charity? Is it a public authority? Is it a pseudo police force? Is it an agri-business? Who is it protecting? Is it protecting the hills or the people's right to enjoy them? I am just feeling quite confused about what the Trust is. If I could just address Sandra and ask her a few

witness questions—

141. THE CHAIR: Yes, please do.

142. MS HOLDSWORTH: Sandra, you have sat through most or all of these deliberations and you know a lot more than I do. I am just wondering: do you know if any of the consultations around this Bill involved people with disabilities or the groups that represent us?

143. MS EDWARDS: To the best of my knowledge, it has been accepted by the promoters—the information probably came from them—that there has been no consultation with disabled bodies, organisations or people called to meetings to discuss the detail of what is going to happen if this Bill becomes law, which is what is concerning you, quite clearly. I remember that, when Ms Satchell was asked that question by one of you, one of the committee, her answer was that that was a detail that would be considered in policy documents after the Bill was law. That is really much too late for you to be able to influence what that policy might be.

144. MS HOLDSWORTH: Following on from that, do you know if there is any expertise within the Trust to specifically deal with issues that will affect disabled people and remediate them?

145. MS EDWARDS: Not to the best of my knowledge, no.

146. MS HOLDSWORTH: About one in six people has a disability. This is quite a glaring hole.

147. MS EDWARDS: I would agree with you.

148. MS HOLDSWORTH: Is there no way that this Bill can be paused and go back to consultation?

149. MS EDWARDS: Well, I would like to ask the Chair that question.

150. THE CHAIR: Now that the Bill is before us, we cannot pause it for consultation, but the purpose of this hearing, and the reason why we invited you to come, is to hear exactly what you are telling us, so it is very helpful for you to go on with your evidence. You have made your point fairly well now and I am looking at the clock because we

have got other work to do. This is the consultation process, if you like. That is why you are here—

151. MS HOLDSWORTH: Yes, I meant public consultation.

152. THE CHAIR: —and why we were anxious to hear from you, for the very reasons you have been explaining.

153. MS HOLDSWORTH: The Trust website says that the proposed changes in the Bill are not going to affect people on the hills, but I do not think that that is true.

154. MS EDWARDS: It is very unlikely to be true. To the question about pausing the Bill, Chair, is it legally possible for you to take a decision to do that?

155. THE CHAIR: No, I am afraid we are in the process now of dealing with the Bill. It has gone through the House.

156. MS EDWARDS: It is too late for that.

157. THE CHAIR: It has had what is called a Second Reading. We have a task to perform, which is simply to scrutinise the Bill and report back, so we have to carry on with our process. That is the parliamentary system. That is why we asked you to come here, so we could hear what your concerns were, and we will certainly look at them very carefully.

158. MS EDWARDS: May I just say a few words as the last statement from our group now? You have it in front of you as well and also you have a list of the things that I have done during my career, which give me the experience to be able to address the two issues I am going to raise, but actually lots of others that there is no time to deal with today.

159. On the subject of consultation, you have heard a lot, which I hope gives you food for thought, about what has not happened. I would just like to tell you that the Bill obviously does have many problems, but at the core of them is the lack of effective consultation. The promoters say that they have consulted extensively, but the people of Malvern disagree. My husband and I have lived there for 20 years, more than 20 years, and we had no idea that there was a new Bill in the making until we were alerted by a

friend, well after the Bill had been sent to the House of Lords and the deadline for petitions had passed, which was about a year ago. We have never even had a leaflet through our door. By the promoter's own admission, not even the disabled have been consulted, leaving the disabled, as you have heard from Isabel, terrified that they would be excluded from their beloved hills, which is the reason why I am here, of course, at this particular minute.

160. Finally on that subject, my husband and I and three friends attended a consultation at the Malvern Theatres, where we sat at a small table with David Core, vice-chair of the Trust, who has been mentioned several times in these proceedings. I opened the discussion with my concern about consultation. This was eight or nine months ago. It was about the time that we had learned about it all. When I asked about it, Mr Core spontaneously said, "I admit we failed on consultation". There were four witnesses there with us in our group.

161. An admission of that consequence from a very senior person who is at the heart of producing this Bill—you ought to take that into account when you take your decision. The rest of the meeting was an explanation of the Bill, but no quarter was given on any of our questions as to why it had to be this way rather than that way, et cetera. There was no evidence of anything like that.

162. As a result, as Baroness Bakewell has already told the promoters, the Trust has lost the trust of the people of Malvern. The lack of effective consultation argues strongly that, at a minimum, the Bill should be paused, but, if it cannot be, there must be another alternative.

163. I would also like to take a couple more minutes to talk about governance, which has always been my major concern about the Bill. You were asked at the Second Reading to give this your attention. From all your questions, I can tell that you are taking it very seriously.

164. The proposals in the Bill to deny a majority—this is for governance—to the precept payers exposes the intention of the promoters to increase the powers of officers at the expense of the electorate, the funders, et cetera. It is one of the major ways in which they will have power. This is totally unacceptable when you consider the nature of the body that is the conservators or the Malvern Hills Trust, whichever you prefer at

the moment. If you accept the premise that the clause as written is totally unacceptable, the problem is what should replace it. I can sense from all your questions that you are thinking hard about that.

165. In case you cannot pause it, which I now know, I would like to tell you that, foremost, there should be consultation with everybody. You are getting some consultation as a result of this, but it is not enough. We would wish to have a proper consultation, which we would help you organise or do ourselves, if necessary.

166. THE CHAIR: Another solution, if I can suggest this, is that we write something into the Bill requiring consultation before some of these powers are exercised.

167. MS EDWARDS: It is not a bad idea.

168. THE CHAIR: The question is consult with whom.

169. MS EDWARDS: The people of Malvern would be a good start.

170. THE CHAIR: Yes, we can think about that.

171. MS EDWARDS: Just so you know, we really do want a majority of elected members on the conservators board. We are united in our opposition to the proposed nominating committee, which is just a way of decreasing the power of the levy payers. There is a significant consensus that elected trustees should represent the electors in their particular area, be it a ward or a parish, and be answerable with them. Representation is a very important issue.

172. THE CHAIR: You are straying a little bit beyond what is in the petition, I think. I know the point you are making.

173. MS EDWARDS: We are up to the nearly last point. Those are the basics, as far as we are concerned, but there are related problems that need to be resolved, of which you are already aware, relating to non-precept payers, new purchasers, equalising the size of electorates, et cetera. It is a big consultation that needs to be done. The Bill should have dealt with these issues. It should not have been brought here without it.

174. THE CHAIR: I think we really have to move on. I am very anxious that we should hear from counsel. We are trying to finish this session by 12.00 and there has to be a

reply. It is very important that we hear what she has to say. Ms Dicks, are we nearly at the point where we can say that your case has been presented?

175. MS DICKS: Yes. Sandra was providing the conclusion to our petition. I have nothing else to say. I will hand it over to Sandra.

176. MS EDWARDS: Anyway, what we are saying is we must have consultation. We must leave our options open. We must consult properly and solve the big picture relating to governance. If you are worried about time or money, remember that it is our money they have been spending and we do not want this Bill. It would be nice for that to come into it. Most importantly, we must remember that the Malvern Hills have survived well under the existing five Acts. If we are going to do something as major as this Bill, we need to properly address all the issues.

177. THE CHAIR: Thank you very much.

178. MS EDWARDS: Thank you for letting me speak.

179. THE CHAIR: Thank you. Ms Lean, would you like to reply, please? Keep your points fairly short and succinct, and relating to the Bill, please.

Response by Ms Lean

180. MS LEAN: Yes, my Lord, I shall. I shall focus primarily on the points of the Bill. Perhaps I can go firstly to Clause 63, the licensing provision. Ms Satchell addressed this in her evidence yesterday and we ran through it briefly in our submission. The key thrust of Clause 63 is that it gives the Trust the power to have oversight and management of activities that may be taking place on the hills, particularly if those activities are not ones that are just accessing the hills on foot or horseback for the right of open-air recreation. It brings in an oversight of organised or sponsored events, where there may be a need to manage that with other users of the hills.

181. The charging powers are there because that makes clear that, if the Trust considers it appropriate to make a charge for particular types of use or in particular circumstances, it has the statutory authority to do so. It is not a proviso that a charge will be made in every and all cases. In particular, bearing in mind concerns that were raised in the petition about what would happen if, for example, Ms Holdsworth's friend, rather than a

commercial dog walker, was to walk her guide dog for her, that is not something that would attract a charge. That is absolutely clear from Clause 63(7), which makes clear that, if you are looking at a situation that is not a commercial activity or an organised activity, the person involved cannot be charged a fee, if it involves the exercise of the public right of access on foot or on horseback for open-air recreation. The charging provisions would not capture somebody going for a dog walk with their friend or asking their friend to walk a dog for them.

182. THE CHAIR: There is no reference in subclause (3) to people with disabilities. There is no mention of disability anywhere in the Bill at all. This would be a place where one could put in a requirement for consultation with disabled groups before these powers are exercised. This is just a thought that you would like to think about when we come back to look at this later on.

183. If you are creating a policy, surely, given the evidence we have heard, you should take account of the need for people with disabilities to use the hills, given that they require mobile assistance, and also Ms Holdsworth's point about the ability to walk free without bumping into cars parked on pavements.

184. MS LEAN: Indeed, my Lord. If I may, the Bill does make provision in some instances for recognising the needs of particular users. That is picked up, for example, in Clause 49, which is the fencing clause that was of particular concern to Ms Holdsworth. There is reference that, if there is fencing and a gate or means of access is provided, in deciding what there is, you have to have regard to the needs of all users.

185. LORD EVANS OF GUISBOROUGH: Whereabouts is that?

186. MS LEAN: That is in Clause 49. The access or gates provision is in subclause (4). This is on page 43 of the filled Bill. "In any case where it exercises the power under subsection (1)"—that is the fencing power—"the Trust must provide gates or other appropriate means of access", (a) at any point where any public right of way is crossed by a fence or "(b) at any other places which the Trust considers are appropriate for ensuring public access to the Malvern Hills is maintained, taking into account the purpose of the fencing". If you then drop down to subclause (7), "When providing a gate or other appropriate means of access under subsection (4)(b), the Trust must have regard to the needs of those who would otherwise be entitled to gain access between the areas

crossed by the fence, including those on horseback and people with disabilities”. My Lord will recall that in the by-laws provisions that we were looking at yesterday, Clause 65, there are express provisions in there. If you are having by-laws to do with access, or the use of vehicles or suchlike, there is a specific provision there to deal with mobility vehicles. My Lord, that was my first point on that.

187. Secondly, coming back to the—

188. LORD EVANS OF GUISBOROUGH: Excuse me. Why does subsection (7) just refer to (4)(b)? Should it not include (4)(a) in those protections as well?

189. MS LEAN: My Lord, I think the reason why it might only refer to (4)(b) is, if it is (4)(a), there is proviso in subclause (5) that it has to be picked up in conjunction with the highway authority. I think that is where the requirements for considering what the right type of access is would come in because it brings it within the various provisions of the Highways Act 1980. We have those in the bundle, but I think probably (4)(b) is because that is a discretionary power that is only for the Trust. It is making it clear that, where the Trust essentially decides that it is going to provide a gate, although it does not have to because it is a public right of way, it must consider those matters.

190. My Lord, the second point is on Clause 63 and the policy. Ms Satchell has already made reference in her oral evidence to the expectation that the Trust would consult before it adopted any policy under Clause 63. My Lord, we are certainly very happy to take away some wording that could perhaps be given in the form of an undertaking or an assurance that makes clear that it will consult. In my respectful submission, the requirement to consult should probably be sufficient because that would necessarily carry with it an expectation that you would consult whoever may properly be affected by that.

191. If I may, there has been a reference to there being no consultation or engagement with groups that might represent the interests of persons with disabilities. I am afraid that is not correct. I have certainly been provided with a consultation response to the 2024 consultation from the Disabled Ramblers charity, which I am also told, if I can find the right note, are on the Trust’s recreation advisory panel. I am afraid the suggestion that there has not been an awareness of the need to consider these matters or an engagement with those groups is not correct.

192. Indeed, in the consultation document, which you have a copy of in bundle 1—I do not think we need to turn to it, but, if I could just flag, there was a specific question that was asked about the Equality Act. “Can you see whether there might be any issues arising under the Equality Act about what is proposed in the Bill?” This is not something that has been somehow disregarded or ignored. It has been very much at the forefront of the Trust’s mind when it has been looking at the proposals to take forward.

193. THE CHAIR: If you are offering to give an undertaking about consultation, could you draft something for us to look at so that we can see exactly what you are proposing?

194. MS LEAN: Certainly, my Lord. That was on my list to say that perhaps we could take that away and look at putting together some wording for an undertaking or an assurance that we could give to the committee to have a look at on that point.

195. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: Would you be prepared to have that on the face of the Bill?

196. MS LEAN: My Lady, my submission would be that it probably would not be necessary to have on the face of the Bill, if there is an undertaking or an assurance that says, “Yes, before adopting the policy we will consult”, but I am sure that is something that we could perhaps address.

197. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: Ms Lean, you have to accept that the relationship between the conservators/trustees and the community has completely broken down. Not having it on the face of the Bill is not necessarily going to be accepted as sufficient by the community.

198. MS LEAN: My Lady, if I may, I obviously recognise that you have heard a lot from people who feel that the relationship has broken down, but I suppose I have to mention that you are hearing from those who are objecting to the Bill and who have strong feelings about it. There are also a lot of people who are supportive and perhaps do not feel that the relationship with the Trust has broken down.

199. We can certainly take away the consideration, but, in my submission, if your committee were to report that an undertaking or a commitment had been given—

200. THE CHAIR: The undertaking is an undertaking to us, is it not?

201. MS LEAN: That would be my understanding, my Lord.

202. THE CHAIR: There is a special procedure.

203. MS LEAN: Yes, indeed.

204. THE CHAIR: It is not an undertaking just in the air. There is an enforcement procedure in the House procedure.

205. MS LEAN: Yes, that was my understanding.

206. THE CHAIR: It is quite a serious matter.

207. MS LEAN: Indeed, my Lord. It is my understanding and experience—I am sure my Lords and my Lady will be much more familiar with this than I am—that undertakings are sometimes offered and are considered acceptable instead of having to make an amendment to the Bill because they stand as a commitment and they stand as an enforceable commitment.

208. THE CHAIR: We will take the advice of our clerk about this later on, but there is a special procedure.

209. MS LEAN: Indeed, my Lord.

210. THE CHAIR: Time is moving on a bit.

211. LORD EVANS OF GUISBOROUGH: Subsection (4) of Clause 63 actually contains a list of procedures that need to be gone through before the policy is adopted. You have (a) published on the Trust website; (b) made available for inspection at all reasonable hours; (c) provided to any person on reasonable request. Would not a requirement for consultation fit very nicely into that list of other procedures that need to be followed?

212. MS LEAN: My Lord, I think Clause 4 may not be a “before it is adopted” clause. I think it might be a general proviso that, if there is a policy is adopted, it must be a published policy and must be available on request. We can certainly take away the consultation point and whether it should be a “before being adopted” point, if that makes sense.

213. THE CHAIR: I think that would be helpful to deal with that, too. In case I miss it later, in the slide that we have in front of us, there is a reference to the Trust's charitable objectives. I do not know what the drafter of that minute thought he or she was talking about, but are they the same as the objectives stated in the legislation? As far as the Bill is concerned, it does not talk about charitable objectives. There are objectives in the clause. Am I right in thinking that from now on you will be talking about the objectives of the Trust rather than so-called charitable objectives? It would be much clearer if you said "objectives of the Trust", now we know what we are talking about. It takes us right back to the clause that defines what the objectives of the Trust are. Do you see what I mean?

214. MS LEAN: Yes, my Lord. I am just pausing. Forgive me. I am afraid I have seen this slide when it came up this morning. I think this might be a reference to guidelines that the Trust has about things it would consider if it was being asked to grant an easement under the existing power in the Malvern Hills Act 1995.

215. I would have to check back about the language of "the Trust's charitable objectives". My understanding is that the Trust views its charitable objectives as being its objects under the Acts, because on the Charity Commission's website the governing document is the Acts. I believe it is in the forefront to the Trust's annual report and accounts, which you have in bundle 4 of our evidence. That outlines what the Trust's objects are considered to be, which are the ones that are drawn from the Acts. There is not, as I understand it, thought to be a difference between the charitable objects and its duties and obligations as derived from the existing Acts.

216. Certainly going forward, my Lord, in any sort of guidelines that the Trust might adopt, the Bill does make clear that the charitable objects are the objects that are specified in Clause 6 of the Bill. They are the same. The statutory objects and the charitable objects are one and the same.

217. THE CHAIR: You can understand the suspicion that is around that somehow things have been moved in favour of charity rather than the true objects in the statute. It would be better to avoid using "charitable objectives" and to use the phrase "objectives of the Trust", and then we would know what you mean because that is defined. My problem in reading that minute is knowing what the charitable objectives were thought

to be.

218. MS LEAN: Indeed, my Lord. I am conscious that this goes to Clause 55, which, strangely, given the concern there has been around easements and suchlike, is not on the list of opposed clauses and I think it is not actually a clause that is raised in this petition, so I am afraid I cannot give you today what the relevant document might be. I am sure we can certainly take that back and see whether there are any documents currently that set out guidelines that say this. My Lord has indicated that you can see why some confusion might have occurred, but clearly any guidelines that might be formulated in the future that sit behind or alongside what is currently Clause 55 of the Bill I am sure—I am going to say—will be taken on advisement by the Trust. It would make sense to refer to “the objects” or “the Trust’s objects” because it is all now neatly enshrined in one place in Section 6. If you say “the Trust’s objects”, everybody can see what that is and they are also the charity objects of the Trust because that is what the Bill says.

219. THE CHAIR: Thank you very much. I think that will reassure people that they know exactly what they are talking about. Clause 6 sets out very clearly what the objectives are.

220. MS LEAN: Indeed, My Lord.

221. LORD INGLEWOOD: If I may ask one question, the point about the Charity Commission’s involvement is not the what, but it can affect the how of this organisation delivers its objects, is it not?

222. MS LEAN: My Lord, my understanding of the Charity Commission is that, clearly, it would have oversight. If the Trust wanted to change its objects or change dramatically what it was doing or how it was doing it, that is something that would need sign-off from the Charity Commission, but here I do not think that could happen because obviously it is enshrined in an Act of Parliament. It is not just a governance document. It would need a formal scheme or a formal Act.

223. My understanding is otherwise where the Charity Commission would tend to get involved is, if something is reported to them as a particular concern, it would be necessary to have an investigation. It is not that the Charity Commission is somehow there hovering on the shoulder of the Trust about how it does things; it is there as a

safeguard or a regulator. My Lord might recall that Ms Satchell referred during her introductory evidence to an issue with St Ann's Well that had happened during the early 2000s, which had been flagged to the Charity Commission, which had ended up having an investigation about that. That is where the Charity Commission, as I understand it, might more actively get involved.

224. If somebody says, "This charity is not being run the way it should be", "It is doing things that are outside its powers" or, "It is acting contrary to the charitable objectives", that is when the Charity Commission might have a role to get involved in looking at and scrutinising whether something is going wrong there. It is not that they are somehow overseeing or dictating how the Trust ought to be doing things on a day-to-day basis.

225. LORD INGLEWOOD: I know what you are saying, but a friend of mine who has been involved at some serious charities has told me that from time to time he has felt that the Charity Commission is not disputing the Trust's objects, but it is trying to lead them in the manner in which those objects are delivered. I sense that some of the concern that has been expressed by various petitioners has not been basically what the Trust is about. It is about how the organisation has been delivering its purposes. There is a feeling that those are being delivered in not the right way. I sense from some of the evidence we have heard that some of the rationale behind the way it is being done is because of pressure from the Charity Commission. You may or may not want to comment.

226. MS LEAN: My Lord, if I may, I can certainly see the question my Lord is asking. Looking back mentally through Ms Satchell's evidence, it is less about this being done because the Charity Commission wants it and more about the Trust internally, as it were, in response to an incident or a couple of incidents that have happened historically, having to be more cognisant of the fact that there are good governance requirements.

227. The Charity Commission in particular has identified and pulled out standards and expectations of what is good governance, good decision-making and proper procedures and processes that it would expect to see of a charity being run well. That has then internally informed the Trust, but that has been with an eye to improving its procedures, having things like a formal process for this or guidelines for this, to avoid it falling into error in how it is making its decisions. It is not about the Charity Commission, for

example, putting pressure on the Trust about how it goes about deciding an application for an easement or something like that. It has been influencing in a positive way to ensure that good governance and decision-making is taken in the way it should be.

228. My Lord, it may be that we will come back to this at some other juncture and it may be that Ms Satchell is better placed to deal with this rather than me trying to recap or gist what her evidence was.

229. THE CHAIR: I think you have probably said all you need to say by way of reply. I am very anxious to get on to the next petition.

230. MS LEAN: My Lord, I am very conscious of that. I am mindful of the fact that the evidence you wish to hear and what you wish to hear is directed at the provisions of the Bill. I am very conscious, however, that some points have been made about certain internal workings of the Trust.

231. If I may make a response in 30 seconds, it would be to say, firstly, obviously it is not accepted from the Trust that there has been any attempt to hide, to act surreptitiously or to engineer things. I am afraid that is very far off the mark.

232. Secondly, with regard to things that have been raised about particular decisions or interactions between particular trustees, complaints by or about trustees are taken very seriously within the Trust and there are procedures and processes for dealing with that. You have heard one account today of matters around 2024. That is something that has been the subject of an independent investigation by the Trust, of which Ms Palmer is aware. It is not the sort of matter the Trust would comment on publicly. When it deals with things to do with complaints or disciplinary matters, they are dealt with confidentially. I am not going to go into it, my Lord. I do not think it would be appropriate to do so, but I think it is right for me to say that you have heard one account. That does not mean there is not a response that the Trust could make. That is just the reason why I am not making it.

233. THE CHAIR: We cannot conduct a public inquiry into what actually happened.

234. MS LEAN: Indeed, my Lord.

235. THE CHAIR: I am afraid that is the position.

236. MS LEAN: No, exactly.

237. THE CHAIR: Is that it, then?

238. MS LEAN: My Lord, that was it. If my Lord would like to hear more—actually, one final question. I think there was a concern that consultation might have only lasted one week or there may have only been one week for consultation responses. That is not correct. It was an eight-week consultation.

239. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: No, it is not about how long the consultation was. It is about when the consultation responses were released.

240. MS LEAN: Forgive me, my Lady. I must have misinterpreted that. There was a process. We have provided the committee with a chronology previously, which shows the stages up to Bill deposit. Yes, there was the meeting on 8 August, but after that there was a series of other meetings at which the Bill or particular parts of it were considered because there had been working groups set up to consider everything and report back to the board. In fact, it was not the case that there was a week and then all the decisions were taken. We have provided you with, as well, if you wish to see them, the minutes and working papers to show the work that happened up to November, when the resolution was taken to deposit the Bill.

241. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: That was in public.

242. MS LEAN: Yes, my Lady. The working group met and then there were papers that were prepared from the working group, which were prepared for the board at special board meetings. Those meetings were in public, yes.

243. My Lord, mindful of your indication, I finish my response there. If there is anything further, I can of course pick it up at some other juncture.

244. THE CHAIR: Well, Ms Dicks, I think we are going to have to bring this session to an end, but is there anything else you would like to say by way of reply? We have got your case very clearly set out by you and your witnesses, so I think we should just leave it there. Is that all right?

245. MS DICKS: Yes, if Sandra could just say something.

246. MS EDWARDS: Just one small thing, but it is a big thing. That is the idea of consulting that I have been hearing about. It is very important that, while all the people are consulted, including, obviously, the officers of the Trust itself, it is important that it is carried out totally independently.

247. THE CHAIR: Yes, all right. Thank you very much indeed to you, Ms Dicks, Ms Holdsworth and to the witnesses for coming to see us today. It has been a very useful session for us to hear from you all. Thank you very much indeed. We end the session at this point. We are going to move on to the next petition. I wonder whether you would take time to move yourself from your seats so that the next petitioner can take your place.

248. MS DICKS: Thank you very much indeed for listening to us.

249. MS EDWARDS: Thank you.

Guarlford Parish Council

250. THE CHAIR: Mr Huskinson, we have received a written statement from you with attachments.

251. MR HUSKINSON: You have.

252. THE CHAIR: Would you like to present your case based on what you have in writing?

Evidence of Mr Huskinson

253. MR HUSKINSON: Yes, indeed. I think, if anyone had said to me that at the tender age of 81 years I would be appearing before a Select Committee of the House of Lords, I simply would not have believed them. However, I am here present before you and thank you for allowing me to address you.

254. My Lords and Lady, I am the current chair of Guarlford Parish Council, a village having only 208 adults on the register of electors that lies some three miles to the east of Malvern. My family and I have lived in the village for some 37 years. Residents of

Guarlford are lucky enough to enjoy spectacular views of the hills and associated commons, and the approach to Malvern from the east is iconic in the extreme.

255. The hills and commons are managed by Malvern Hills Trust, formerly the conservators, and many of the commons, verges and associated areas of land are owned by MHT. I attach copies of photos taken, and these are pages 11 and 12 of the bundle. The photo on page 11 is taken from the B4211, which is the road between Guarlford and Malvern, a short distance to the west of Guarlford, looking towards the hills and showing common grassed areas on either side of the Guarlford Road that belong to MHT. The photo on page 12 of the bundle is taken the other way from the Guarlford Road looking towards Guarlford to the east and also shows the common grassed areas on either side belonging to MHT.

256. I have put the issues that need to be addressed on behalf of my parishioners that my council represents in writing, as I am not an advocate and, at the tender age of 81 with a few health problems, I need to keep my stress levels as low as possible.

257. A copy of the petition lodged on behalf of the parish council is attached for your convenience. These are pages 4 to 10 of the bundle. It was purposely detailed with a view to fully setting out the concerns the residents of Guarlford wish to have addressed. I believe it to be one of over 50 petitions against the Bill, a quite exceptional number, one of which was from the past chair of MHT, Ms Cynthia Palmer, who of course appeared before you during the last session. Ms Palmer—I do not think she will mind me saying this—had publicly accused her co-trustees on the MHT board of bullying and belittling her for telling the truth, a startling situation.

258. The exceptional number of petitions against the Bill that were lodged is, I imagine, due in part at least to active encouragement from our local MP, Dame Harriett Baldwin. Please see the January 2025 extract from our local newspaper, the *Malvern Gazette*, attached at page 13 of the bundle, and the copy article appearing in the *Gazette* on 20 December 2024, in which Dame Harriett urged people with concerns to petition against the Bill, and that is page 14 of the bundle.

259. I wish to stress to the Select Committee that, like so many people, I am sure that the work MHT does to preserve and enhance the hills is and always has been greatly valued. We always look to MHT to protect the hills. It is most unfortunate, although I

fully recognise that this Committee cannot fully address the problems that have arisen, that MHT chose a course of action that denied proper engagement and consultation, which has resulted in substantial costs that the levy payers will ultimately have to bear and that could have been completely avoided with honest dialogue.

260. The proposed Bill was openly and publicly claimed to be a consolidation Bill, but, when seen after it had been lodged with the House, transpired not to be so. It is a consolidation Bill but with substantial amendments, having been rushed through to be lodged by the November 2024 deadline, as evidenced by the substantial number of amendments the promoter has been making during the course of the Select Committee's hearings.

261. I attach, as pages 15 and 16 of the bundle, a copy of an agenda for a meeting of MHT board members to be held on 18 January 2024, which refers to the proposed passage of a resolution to proceed with the preparation of a private Bill that, if passed by Parliament, would be a consolidating Act. I spoke as a member of the public on behalf of Malvern Environment Protection Group—MEPG—at the meeting of the board on 18 January and reminded board members that the proposed Bill, if passed, would be a consolidating and amending Act. I attach a copy of my address to the board at pages 17 and 18 of the bundle. In the event, it was resolved that MHT should seek a private Bill to update its governance with a view to lodging the Bill in November 2024 and that, if passed by Parliament, it would consolidate only the existing five Malvern Hills Acts. A copy of the minutes of the board meeting on 18 January 2024 can be made available, if required.

262. I might say at this point that I agree with what previous persons have said: the consultation by MHT on the Bill was flawed in the sense that it was a consultation on what the MHT specified that the Bill would contain rather than on the Bill itself.

263. Turning to the issues as set out in the council's petition and dealing with the paragraphs set out there, I would wish to make the following additional comments.

264. Paragraph 2.1 of the petition: the issue of electing trustees was addressed on 3 March when Lord Hope, chairing this committee, came up with what we feel is a very sensible suggestion of addressing the balance of elected trustees and nominated trustees. The proposal for eight elected and six nominated would most certainly give the comfort

and reassurance that those I represent are entitled to, given the fact that they are required to pay the levy. The committee may wish to consider one further step, and that would be a proposal that, of the six nominated trustees, four should be nominated by Malvern Town Council, Malvern Hills District Council or its successor, and the two county councils, Worcestershire and Herefordshire. This would then additionally provide for accountability for the levy payers in respect of this hybrid public body.

265. Paragraph 2.2: the parish council, over an issue concerning an easement, secured an opinion from Mr Chris Buttler of Matrix Chambers over the status of MHT. I am aware that Ms Jessica Jones, of counsel, who represented MEPG on Tuesday, 3 March, endorsed Mr Buttler's opinion, having discussed matters with him. I think, if I may, I will just add the essence of what Mr Chris Buttler said. It is in the petition, but I perhaps ought to stress it.

266. He said, "For most purposes, MHT, being in receipt of substantial funds by the levying of a precept, is a public body as well as a charitable body and accordingly bound by public law obligations, designed so that confidence in public bodies is not eroded. These principles are: first of all, to act in a fully transparent way; secondly, to consult widely at a formative stage of proposals; thirdly, to take full account of all representations made as a result of consultation; fourthly, to act in a way which is consistent with previous decisions unless it can demonstrate that the facts of a current matter are substantially different from the facts which gave rise to the earlier decision; fifthly, to continue to act in the public interest, as all charities must; and, sixthly, to act in a way which is not biased or which might give the appearance of bias. Failure to observe these principles", Mr Buttler advised, "could render a board decision liable to judicial review".

267. Turning now to the issues as set out in the petition, paragraph 2.1 deals with no taxation without representation. The issue of electing trustees was addressed on Tuesday, 3 March, when Lord Hope, chairing this committee, came up with what we feel—sorry, I have actually said this before. I will just repeat it. It was a very sensible suggestion of addressing the balance of elected trustees and nominated trustees. The proposal was for eight elected and six nominated, which would most certainly give comfort and reassurance to those I represent.

268. Paragraph 2.2 deals with the public body, and I have dealt with that just now. The reason the parish council is concerned about the board's status, which is a concern shared by Lord Attlee, goes to the root of major concerns dealing with property development and the effect upon the natural aspect of the hills and common. The board has potential to grant many easements, which could cost a potential developer millions of pounds. Pursuant to public law, which we believe the board is attempting to ignore, its hands would be tied by previous decisions.

269. Its refusal on good grounds to grant an easement for vehicle access across the common on the Guarlford Road, known as the Rose Farm development, in March 2019 sets a precedent in respect of any future applications of a similar nature. I am aware that Ms Susan Satchell, an officer employed by the board, advised the Select Committee that MHT was not involved with planning matters. However, she did attend the south Worcestershire development plan inspectors' meeting in March 2025 and gave a clear indication that an easement required to build some 180 houses off the Guarlford Road at Mill Lane would not be problematic and that heads of terms were being agreed, even though this had not been placed before the board of trustees for consideration. It is this problem, from Guarlford Parish Council's perspective, that emphasises the necessity for an eight-six split on any new board and accountability provided by local council and county council nominations.

270. Paragraph 2.3: the Lord Attlee has directed this Committee to look at the levy-paying area and effectively explore whether the unfairness that currently exists between levy and non-levy-paying areas can be addressed. It can. MHT decided not to consider the levy-paying area, not the Charity Commission, as has been claimed. In that connection see page 19 of the bundle, which includes a copy of a letter from the Charity Commission in response to a freedom of information request made by an individual.

271. This could easily be addressed. Existing levy areas could be consolidated. The eight proposed elected members would be sufficient to represent all existing levy-paying areas by simply consolidating, first of all, Guarlford Parish Council and the nearby Chase Ward and, secondly, Mathon and Colwell, with one elected trustee for each of those two combined areas.

272. As for addressing the current non-levy-paying areas, if the promoters had chosen

to include Section 31 of the 1884 Act, a copy of which is attached as page 20, in the new Bill, which was never consulted upon, the question of extending the levy areas would still be open for a new board in the future to deal with and address. Therefore, the Bill should be amended to include Section 31 suitably updated, as it is fairly 19th century language.

273. Paragraph 2.4 deals with natural aspect. Guarlford Parish Council fully endorses the arguments put forward by Ms Jessica Jones, of counsel, representing MEPG on 3 March 2026. We consider the views from the hill to be just as important as the views to the hills.

274. Paragraph 2.5 deals with the general power. Again, Guarlford Parish Council fully endorses the representations made by Ms Jessica Jones, of counsel, on behalf of MEPG on 3 March, with additional grave concerns as to how any general power could be misused at any time a future board was in a position to sell easements to developers and receive what could be millions of pounds, in the process undermining 140 years of protection of the hills, which are a national asset.

275. Finally—this is my final point—I would like to add that, jointly with representatives from MEPG, I met with the chair of MHT, Mr John Michael, in October 2024 in an endeavour to see whether the concerns of the parish council and MEPG could be meaningfully addressed, but we were unfortunately met with total intransigence. That concludes my address, my Lord.

276. THE CHAIR: Thank you very much indeed. That is very clearly set out for us. Ms Lean, do you wish to reply?

Response by Ms Lean

277. MS LEAN: My Lord, I am grateful, if I could just run through a few points in turn. First, on the status of the Bill as a consolidation Bill, I believe I outlined in opening that this in part consolidates but does provide additional powers, and indeed that was even clear in the consultation document in 2024, which you have in bundle 1, which sets out where the Trust was seeking new or additional powers and that it was not simply seeking to consolidate the existing Acts.

278. Secondly, with regards to the constitution of the board, numbers and proportions, I am conscious I have traversed this in some detail already so I am in my Lordships' hands as to how much you would like me to address it today. I suppose it is worth reiterating that this is not moving away from a position where there is a majority of directly elected levy payers today. As set up in 1924, it was 10 elected, 15 appointed. Today it is 11 elected, 18 appointed. Far from going from a majority of elected, the Bill almost levels the playing field slightly, in that it brings the number of directly elected trustees up to 50% of the board, which is not a position it has been in since at least 1924.

279. LORD EVANS OF GUISBOROUGH: Chair, might I just interrupt? This is, I think, the third time that you have made this argument to us and it rather hinges on how we view the people who are co-opted by the councils. If we view them as indirectly elected, the proportion of elected people is actually being reduced because the change you are making is at the expense of the people appointed by the local authorities. It depends on how we view those people as to how we interpret the statistics that you are giving us here.

280. MS LEAN: Indeed, my Lord. It is just that, as there are references to reducing the number of directly elected, I always feel it is probably worth my just reiterating those numbers.

281. LORD EVANS OF GUISBOROUGH: The numbers are open to different interpretations, though.

282. MS LEAN: My Lord, I completely take the point. I suppose it comes back to the point about what the Trust is there to do. Because the focus has been on giving comfort to the levy payers or how the interests of the levy payers are taken forward, it is tied up with this argument about, "What is the board established to do. What are its objects?" The objects of the trust are to conserve, hold and manage the land for the benefit of the public. It is not part of the objects to be representative of or act in the interests of the levy payers.

283. My Lord, that is why I do keep coming back to "directly elected" because "directly elected" seems to be focused on by petitioners as a means by which they can hold the Trust specifically to account. I think there was a question from my Lord, Lord Inglewood: "If the levy payers didn't like some of what the Trust was doing, how could

they hold them accountable at the ballot box?” That is why I have come back to this distinction between appointed and directly elected. It seems it is the directly elected ones who have been focused on as the specific means by which the levy payers can be represented or change the direction of the Trust.

284. I suppose what I should flag as well is, of course, in my submission, looking at the ones that are appointed by bodies today, they are slightly arm’s length. Obviously, a lot has been said about these being people who are appointed by people who are themselves democratically elected. The question, I suppose, that might realistically be asked is, “Is it really at the forefront of the minds of the majority of the voters who go to vote for councillors for Worcestershire County Council or Herefordshire Council that a key concern is how they might go about exercising their appointment powers for the Malvern Hills Trust?” Now, I may be wrong—it may be a particular concern—but it is that degree of arm’s-length removal.

285. There is not that same direct connection between the levy payers and the Trustees—that has been such a theme of a lot of the petitions you have heard—as there is for those who are directly elected. Essentially, in my submission, what you are moving to is a situation where you have these arm’s-length bodies, albeit ones that are connected with the area, who are not appointed because they are voted in on some sort of mandate, but in theory because these are seen to be the right people to go on to the board of the Trust. You are replacing that with a system where it is the Trust itself that will appoint the appointed trustees.

286. I am aware this sounds circular, but of course the board, which decides who the appointed trustees should be, itself has that degree of democratic representation, if you want to use that term, because six of the people who are making the decision about who should fill these two vacancies or who should be the next two appointed trustees are themselves directly elected. There is sort of that parallel.

287. LORD EVANS OF GUISBOROUGH: Sort of.

288. MS LEAN: Indeed, my Lord, sort of. It does come back to the point that, in my submission, there is an important distinction about appointments that are made by a body that is itself an elected body. I think reference was made yesterday to the Wimbledon and Putney Conservators having appointments made by the Home Secretary

and the Secretary of State for Defence. Now, again, the point was made that they are themselves democratically elected, but it seems difficult there to say, “Well, can you really say that somehow the reason for having those people is because it would represent the will of the people around Wimbledon and Putney as to the direction that that trust ought to go in by having people who are appointed by those named Secretaries of State?”

289. LORD EVANS OF GUISBOROUGH: Secretaries of State are rather more removed from the local population than their own town councils and district councils.

290. MS LEAN: Indeed, my Lord. Again, coming back to it, looking back at the 1884 Act, it was parish vestries and landowners. There has never been the situation that it was a wholly levy payer-elected or wholly levy payer-appointed board. There has always been that balance.

291. In my submission—this is why I say it is a distinction—what you see, I think, with the current model is, yes, you have people who are directly elected by the levy payers, but you also have people who are appointed by somebody else who is one step removed. There is not that same connection. That perhaps is what provides the balance, reflecting the fact there are a number of different interests that have to be managed in the interest of the hills. This is not a representative body of the levy payers in the same way that Malvern Town Council or Malvern Hills District Council would be for their rate payers. That is not what the body was set up for. That is not what its objects and purposes are. It is there to manage the hills. It is not there to represent the interests of the levy payers.

292. My Lord, I am sorry. I think I have probably gone in a bit of a circle on a few points there, but I do completely take on board my Lordship’s point that it depends on how you look at the numbers and whether you treat the ones appointed by councils as somehow being sort of accountable or elected. In my submission, there is a distinction there, and it does reflect what the body is set up to do and the nature of the body, which is not dependent on its being a charity but is perhaps brought into sharper focus as a result of it being a charity. Of course, as a charitable body, it has to act in the interests of all of its beneficiaries, not expressing any partiality towards any one group. Regardless of how you may be appointed to be the trustee of the charity or who may appoint you, you do not hold a brief for or you are not there to act then in the interests of the people

who appointed you. Your sole obligation is to act exclusively in the interest of the body and not the people who may have been able to vote you in or suchlike.

293. My Lord, sorry, I took a little bit longer on that than I meant to, but it does come back to the point that, again, the Trust's view is that six-six is the right balance between making sure that all the interests that have to be balanced can be taken forward in that way and that it has the necessary expertise and experience on the board that it needs. There are, of course, potential implications that may flow from building in a majority for a particular group or subset of trustees.

294. THE CHAIR: Do you have anything to say about the point made on the second page of Mr Huskinson's statement under paragraph 2.1? This is the further step that he suggests should be considered; that is, that the six appointed trustees should be nominated by the local authorities.

295. MS LEAN: My Lord, this comes back to the issues that Ms Satchell raised with the current process of appointments, the difficulties sometimes that the bodies have in finding people and the fact that although the Trust can say, "We have a skill deficit here" or, "Ideally, we would like this", the Trust has no control over that.

296. Going to that sort of model where it is eight elected and six appointed, but four of those appointments are by bodies in the area, does not address one of the key concerns that has led to the governance changes today, the Trust being able to make sure that it has the skills and experience that it needs on its board, as Ms Satchell talked about.

297. THE CHAIR: I am looking at Clause 14. We see that 14(6) sets out the matters to which regard must be had to see whether these people are suitable for appointment: charity governance, management of land, protection and conservation of the environment and so on. These people could be living miles and miles away from the Malvern Hills because there is nothing to suggest they need to be aware of local circumstances. Is there any way in which that could be made a little more specific, not requiring a residence requirement but awareness of the nature of the environment of the Malvern Hills themselves? It just talks generally about the conservation of the environment but not necessarily the environment of the Malvern Hills.

298. MS LEAN: My Lord, the first point for me to highlight is that subclause (6) of

clause 14 needs to be read with subclause (5). The person “must be a person who appears to the trustees to have special knowledge, experience or ability”. Special knowledge comes in, which “(a) is in one or more of the matters mentioned in subsection (6), or (b) is otherwise appropriate to the efficient, effective and economic discharge by the trustees of their functions”. It is not just that you have to have a particular skill set. The overarching point is that there is special knowledge, experience or ability that will enable the Trust to fulfil its functions.

299. I have in mind that there is something in one of the clauses that says—yes, I am grateful. It is in clause 15(5). The nomination committee, in appointing—that is an independent member, sorry. That is not what I was looking for.

300. THE CHAIR: It is independent members of the nomination committee. One could say, in some way, in subclause (5) of 14 “discharge by the trustees of their functions, having particular regard to the objects of the Trust”.

301. MS LEAN: That would be one option, my Lord. We can certainly take that away and look at that. Of course, what there does have to be for the nomination of appointed trustees is there has to be a published recruitment policy. This may be the one I was thinking of. Clause 14(2), “Appointments to which this section applies are to be made (a) on merit, and (b) in accordance with a published recruitment policy”. Of course, there would not be anything to stop the Trust including in its published recruitment policy, as well as the skill sets, that one of the things it would look for was whether there was any particular knowledge or experience or skills that were particularly suited to the Malvern Hills itself, as opposed to, say, charity governance more generally.

302. THE CHAIR: I am sure you are right about that, but it is a question of writing something into the Bill to anchor it down more firmly. Anyway, we can think about this.

303. MS LEAN: Indeed, my Lord. If I can take that away to check how something like that might be able to be factored in.

304. My Lord, that was on the proposed governance arrangements. The next point I had to pick up on was easements, which is particularly raised at paragraph 2.2 on page 2 of the speaking note. I think, in terms of easements, key points to flag would be that the Trust cannot tie its hands, full stop, in considering any application for an easement today

or in the future. It will have to consider the particular application that is in front of it and the guidance or the guidelines. Sorry, that was the wrong phrase. The criteria that have to be looked at are the ones that are set down in statute in particular.

305. At the moment, that is the proviso in Section 8 of the 1995 Act, which inserts the new 7(a) into the 1930 Act that, “In granting authorisation” for an easement, if they decide to do so—there is no requirement to do so—they shall “have regard to the effect of the works being so authorised on the natural aspect of the Malvern Hills and shall impose such terms and conditions as are necessary to ensure that any adverse effect is minimised”. You see that language, but with the updated reference to the objects, carried through into Clause 55, so on any application for an easement, the Trust is going to have to look at what is in front of it and what the impact or implications are of that. It cannot just say, “Well, we have previously refused six easements at some point in the past in this area, so we are going to refuse it tomorrow”.

306. My Lord, there is also the concern raised there that the board has the potential to grant many easements, which could cost a developer millions of pounds. Clearly, they can only consider an easement if somebody comes forward, and then they have to exercise the power or consider it in accordance with the Act itself, and so that needs to be read in that context.

307. The second point I had to pick up under paragraph 2.2 is that there is reference to a development that was being considered under the south Worcestershire development plan. I think that would have been some sort of allocation or some looking at an examination to a local plan. I am instructed that what is said there is not an accurate representation of the Trust’s position in terms of the south Worcestershire development plan, and that, in fact, the Trust has made clear as part of that process that, where developments would require easements, there could be no guarantee that those easements would be forthcoming, because they would have to be considered in the usual way.

308. LORD INGLEWOOD: Could I ask a quick point on that? Is there an obligation on the Trust, if it grants an easement, to get full price?

309. MS LEAN: I am hearing “yes” from behind me, my Lord, I think under general principles as opposed to anything in the Act.

310. LORD INGLEWOOD: I was expecting you to say yes.

311. MS LEAN: Yes, my Lord. I think that is probably the point I had to raise there, which was also to highlight as well that the flip side, of course, of the easement power is that the Trust has to consider it, and consider it properly. If it does not do it because it were to adopt some particular approach of, “We will never, ever grant consent for an easement because we don’t think there should be any more development in this particular parish, full stop”, the Trust is liable to put itself at some risk of action from the other side, one might have thought.

312. Of course, there is a question there, and I raise this because there is very much a theme, I think, that emerges from parts of this petition and perhaps other petitioners that the Trust is there to stand as a bulwark to stop development on land adjoining land in its jurisdiction. I think there is reference to land adjacent to that within the national landscape. That is not in the objects of the Trust. The Trust is there to manage and conserve the land that is in its jurisdiction. It is not given a statutory obligation or, indeed, powers to somehow control development in the wider area more generally.

313. There is not, for example, a compulsory purchase power given to the Trust to buy up land that it thinks could otherwise be developed. It can buy land but only by agreement and, in my submission, that is important in terms of understanding the role of the Trust in terms of some of these points being raised, because it does come back to Parliament having entrusted, to identified, democratically elected bodies, the local planning authorities. It has given to those bodies the responsibility for planning management in their areas, and it is not part of the Trust’s objects or its role to stand in the way or stop development if those bodies have decided they are acceptable, save in the very limited circumstances where it has the power to grant an easement.

314. What it has to consider under statute is whether or not granting that easement is compatible with preserving the natural appearance or aspect of the Trust, and whether the harm can be minimised. I do highlight that because one of the reasons that, I think, is quite closely connected with the point about representation and suchlike in some of the petitions that emerge is that it is a way of being able to ensure the Trust does not let these sorts of developments go ahead, but I hope that provides some context.

315. THE CHAIR: I think we heard, in relation to some of the petitions in relation to

standing, the relationship between their situation and the development plan. For example, there was something in the development plan indicating that land was earmarked for future development, and there is a question of whether there would be some kind of easement situation in that situation, but they have to work within the usual rules for planning and, no doubt, would be consulted if necessary and have, of course, a right to present applications and object to them, and so on and so forth.

316. MS LEAN: Indeed, my Lord. The only way the Trust might come into that in terms of its powers, if I could put it in those terms, is that it has the ability to go along and make representations against planning applications that it considers are harmful. I believe Ms Satchell referred to perhaps occasions where they have done that, that they said, "There is a development nearby which we think would be harmful to the hills", but all they are is, essentially, a landowner and they have no special status of being able to kibosh or veto that development.

317. Where the Trust might come into play, then, is if there is an easement that is required to unlock that development, but, in deciding whether or not to grant the easement, the Trust has to look to the specific criteria and conditions that are set down in the Bill or in the existing Acts. It is not there to take on a wider development control function as to, "Does it think it is a generally a good idea to let this development go ahead in this particular location?"

318. LORD INGLEWOOD: Can I just check with you, then? If a proposed development on adjoining land would, in some way, interfere with the use and quiet enjoyment of the Trust's land, would that affect the Trust's decision about whether or not to grant an easement? You can envisage circumstances. If you had a scrapyard, for example, right next to the Trust's land, would that be a justification for denying an easement if that was what was needed?

319. MS LEAN: My Lord, what I have in mind is what is currently in the 1995 Act, which is that, "The conservators shall have regard to the effect of the works being so authorised on the natural aspect of the Malvern Hills".

320. LORD INGLEWOOD: That is the natural appearance of the land itself, which is your responsibility.

321. MS LEAN: Indeed, my Lord. Under the Bill, it would be on the matters mentioned in Section 6(1)(a), so that would bring in things like landscape and natural appearance. I think that would bring in considerations. If, for example, introducing a new use of a particular, say, industrial type was going to alter the character of the landscape in which that land was situated, I think that would be something that the Trust could bring to bear in deciding whether or not to grant the easement. I know the question was about use and enjoyment.

322. LORD INGLEWOOD: It is. What we are talking about is the character of the Trust's land, as opposed to, as we have discussed earlier, the aspect of the Trust's land.

323. MS LEAN: Indeed, my Lord. It is not so much about the views, but it would perhaps be about, if the landscape or the character of this particular part of the Malvern Hills and Commons is wide-open spaces or wide-open verges with lots of trees and very tranquil, and you were going to suddenly bring in a very industrial use right next door to it that needed an easement, in my submission, that is something that would probably fall among the matters the Trust could consider in terms of going, "We think there is a harm here. We don't think that this would sit alongside preserving and maintaining the appearance or the landscape and suchlike of the Trust's land".

324. My Lord, that was what I wanted to say on easements. Then there was a point about the levy-paying area. My Lord, I am conscious we have covered the levy in some detail, unless there was something you particularly wanted me to address on levy, save to highlight, of course, there is a concern that Section 31 of the 1884 Act has not been carried forward. It has. It is now in Clause 71 of the Bill. That is the ability, if new land is bought, for the Secretary of State to agree that the levy-paying area should be extended to include that parish. Sorry, I am paraphrasing horribly, but it is that power, my Lord, that we have been to previously.

325. THE CHAIR: It is really reproducing, is it, the original clause?

326. MS LEAN: It is carrying forward the same provision that you found in the 1884 Act, although it is the Secretary of State by order as opposed to the land commissioners, I think it was, back in the day.

327. My Lord, then, I think, just finally about the general power being misused if the

board was in a position to sell easements, just to clarify—and forgive me. I know I am going back over territory we have covered under Clause 83, but, of course, under Clause 83, you cannot use the general power if you have an express power. Because the Trust has an express power to grant easements, it could not rely on the general power to do it. Also, you cannot rely on the general power to acquire or dispose of any land or grant any interest in land, so you are doubly scuppered, if I could put it in those terms, and forgive the colloquialism, if you want to try to look to the general power to grant easements for development.

328. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: Could I just ask a quick question of Ms Lean? Just to go back to the levy, the letter from the Charity Commission on 21 March last year in response to an FOI says that the commission confirms that the Malvern Hills Conservators have not requested the commission's permission to extend the levy-paying areas. Was the edict from the Charity Commission that the levy-paying areas should not be extended something that the Charity Commission automatically sent to the Malvern Hills trustees, or is it inaccurate that they have said that the levy-paying area should not be extended? They responded very accurately to the question that was asked of them, but that does not mean that it gives the whole picture.

329. MS LEAN: Indeed, my Lady, and I think that is where I have a difficulty, as I am not sure I can put myself in the mind of the writer from the Charity Commission. There would have been an application to the Charity Commission for Section 74 consent, which led to the letter. I am happy to go back and look at the text of that. I have looked at it before. I just have not got it at the top of my mind. I think it is not quite clear to me when I read that letter whether what they were saying is, "Well, after we have given the Section 74 consent, we have not been asked for it" or, "We have, at no point, at any juncture, ever had the possibility raised with us of changing the levy-paying area".

330. THE CHAIR: My recollection is that the Trust initially asked whether they could present a Bill that would deal with the levy-paying area, and that led to the reply from the Charity Commission, which was to the effect that they were not prepared to do that. Then they pointed out the problem of the additional provision, and so on and so forth. I think, in an earlier session, it was clear that the Trust wanted to take the initiative initially, and the Charity Commission responded to that request in the way that the

written answer seems to suggest.

331. MS LEAN: My Lord, I am certainly conscious that there was a bit of a history on this because the levy was being looked at possibly in the context of the Section 73 scheme, and then there seemed to be a pretty clear steer that the Section 73 scheme would not be the way to take it forward with the levy. I think you would be right to say I would have to go back and quadruple-check exactly what was said.

332. THE CHAIR: I cannot put my finger on it, but there are several letters in the file through which you can trace the history of what happened.

333. MS LEAN: Indeed, my Lord.

334. LORD EVANS OF GUISBOROUGH: My recollection is similar to yours.

335. LORD INGLEWOOD: My recollection is that what they wanted was consent to spend the money, and that was denied them. Therefore, they could not do it.

336. THE CHAIR: Yes, that is what happened, I am afraid.

337. MS LEAN: My Lord, my understanding is that the letter that was written by the Charity Commission about the Section 74 consent said, “You have identified some problems with trying to do it in your letter. As well as that, we think these are problems as well”. If you wanted to, I would have to go back and check exactly what was said in the Section 74 application to see if it was a, “We would like to do this, please. Can we?” or if it was a, “We do not think it is probably a very good idea, but we are raising the possibility”, if you would like me to do that.

338. THE CHAIR: All I am saying is that I think that, in the bundle, there is the relevant correspondence, which we can look back over to just trace the history. I am not sure whether Baroness Bakewell’s question is fully answered by that.

339. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: I think that we have seen it somewhere in the bundles. We have such a lot of information here. I am just trying to get my head round whether the Charity Commission, when they could see that the Bill was coming forward, said, “Well, we don’t want the levy paying extended”, or whether there was some discussion, but not an application to extend the levy-paying

area. If you have an FOI and you respond, it has to be the truth, but it does not have to be the whole picture.

340. LORD INGLEWOOD: Chair, the question that was put by the parish council was correctly answered, but the problem behind it lies in the fact that they asked slightly the wrong question.

341. MS LEAN: It is not quite clear whether the answer was to the question that the people putting it thought they were asking, as opposed to how it was phrased. My Lord, my understanding is that the Trust has said, “We think trying to do anything with the levy would be controversial”, and the Charity Commission said, “You cannot spend any money to do with changing the levy”. That is my recollection, which I think accords with my Lord, Lord Hope’s.

342. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: Does the Charity Commission say, “You may not increase the levy area to spend on the process” or, “You cannot extend the levy-paying area to run the Malvern Hills, full stop”?

343. MS LEAN: My Lady, I think it was that, ‘We will give you authority to incur up to X thousand pounds, but you may not spend any of that money pursuing proposals that would change the levy-paying area’.

344. THE CHAIR: That is my recollection of what the letter was all about. Are we in a position to hear from Mr Huskinson?

345. MS LEAN: Indeed, my Lord.

346. THE CHAIR: I am sorry I interrupted you earlier. It is better to take speeches one by one without, as it were, discussion, so it is up to you.

347. MR HUSKINSON: Do not worry. I will only mention one or two things, and then I will let you get lunch. In terms of paragraph 2.1 and your suggestion that eight elected and six nominated would be sensible, I think you need to know that the eight elected would be one from Guarlford and the chase, which is nearby, one would be from Colwall and Mathon, and six would be from the wards of Malvern District Council.

348. THE CHAIR: I think the way the Bill is phrased is that the electorate covers the

entire area. It is a single electorate. It is not divided up, so the trustees would just be a number of people put on the ballot, as it were, for the entire area. We are not dividing it up into different parishes and wards anymore.

349. MR HUSKINSON: In terms of the other six, I just wanted to clarify that, basically, in terms of what was said about skills and so on, and somebody with appropriate skills on the board, Malvern Town Council would have one nomination. The district council would have one. Worcestershire County Council would have one, and Herefordshire County Council would have one. That is four. There would be two available to produce the necessary skills, which have been talked about. I just wanted to clarify that.

350. Secondly, I just wanted to say that one of the great concerns of the parish council is that MHT is obliged, according to Chris Buttler's opinion, to act in a way that is consistent with previous decisions, unless it can demonstrate that the facts of a current matter are substantially different from the facts that gave rise to the earlier decision. One of our concerns is that, if the objects are changed, then previous decisions will be forgotten, because it is a different Act with different objects.

351. Therefore, we are very concerned that the Malvern Hills Trust could grant easements that would absolutely ruin and increase urbanisation of the Guarlford Road. There are already 6,000 cars per day that use the Guarlford Road, both ways, so 6,000 roughly. Guarlford is a small village. It is on a double bend, and we have an awful lot of traffic, as I said, coming through every day. Any substantial development of land adjoining the Guarlford Road, given that most households are going to have two cars, is going to produce a huge increase in traffic, which we cannot really cope with, frankly.

352. I do think that our main reason for me speaking like this is that the MHT must act consistently with previous decisions. There have been a number of previous decisions made, notably in Chance Lane, which is just down the Guarlford straight. There is one up and coming at Mill Lane. This is very important as far as the council is concerned. I think that is all I really wanted to say. Thank you.

353. THE CHAIR: Thank you very much indeed for coming to see us. We will finish the session at this point, and we will meet again at 2 pm.