

UNCORRECTED MINUTES OF ORAL EVIDENCE

taken before the

MALVERN HILLS BILL COMMITTEE

PETITIONS AGAINST THE BILL

Tuesday, 24 March 2026 (Afternoon)

In Committee Room 2

PRESENT:

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

FOR THE PROMOTER:

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

(At 2.01 p.m.)

1. THE CHAIR: Good afternoon. I think we are in the middle of the item in relation to licensing and Clause 63? Are you able to take us any further, Ms Lean?
2. MS LEAN: Yes, my Lord. We are grateful for the time. We were having a discussion over the adjournment about this clause. Clearly, just going back to what this clause does and its purposes, primarily it enables or gives the Trust an ability to manage and potentially deal with what may be conflicting interests or uses on a particular occasion. I think Ms Satchell may have given the example of one activity that somebody wanted to do for an event and somebody else wanted to do something else on the same day, and it did not really work doing the two together.
3. That is the context in which, if it provides some comfort, it may look a little bit broad in 63(3), but that is because it is not so much about the Trust being able to say, “No, you can’t do these things”, or “If you want to do it, you have to pay for it”; it is about having that provision so that it can keep that oversight and that management to make sure that things can go forward, and balance where there may be competing interests.
4. That said, in terms of the concern about the policy not being more prescriptive or having requirements, I hope that gives a little bit of a sense of why the Trust has not gone down the route of trying to prescribe or specifically define what things may mean, because it may be that you need to have more things brought in. It does not mean you are going to stop them or charge them, but you may need to capture this broader range of activities. You cannot necessarily know today what that might be 20 or 40 years down the line.
5. We wondered if a way of potentially addressing the committee’s concern and putting a little bit more substance on Clause 63 would be to include something along the lines of, “In identifying any uses to be included in a policy under Clause 63(3), the Trust must have regard to the objects and to the health and safety of persons using or visiting the hills”—so trying to capture that idea that, in specifying what the uses are in a policy, that really has to be done with an eye to the objects of the Trust.
6. It may be that you identify a particular use because there is a concern it could cause damage to the SSSI or because it could potentially damage archaeology. “Any organised activity” might capture that or some other use might capture that. Something that might

not fit obviously in either commercial activity or organised activity might be, say, if somebody wanted to put a skip on part of the common land in connection with some works, for example. I think Ms Satchell may have referred to that. In terms of deciding, “Should putting skips on the common next to people’s houses be something that should come under this policy?”, you would have to look at it and say, “Do we think something like that is sensible?” Actually, yes, that is a good idea because putting a skip down somewhere on common land could interfere with the exercise of rights of common or with the public’s right and enjoyment, so that would be a sensible thing to include in the policy because of that.

7. Hopefully, that gives a bit of a steer that, when you are looking at what ought to be, you should be anchoring that on, “How does bringing that use into the policy tie up with making sure that we are meeting the objects?”, but hopefully it also works the other way, in that we sense that a concern from the committee is that this policy might end up being unduly expansive and bringing in more things than should be in there. Hopefully there would be a bit of comfort provided with that of the Trust having to think very carefully about those sorts of uses because of the object in 6(1)(b), which is obviously the object in terms of keeping the Malvern Hills “unbuilt on as open space for recreation and enjoyment of the public”.

8. The objects work in both ways, on the one hand making sure you are capturing things, uses and activities that could possibly run up against or need to be looked at, at least, because they might interfere with open recreation by the public or they might potentially cause damage to the hills, but also you cannot go too far on any of these things because you always have to bear in mind that, when you are dealing with uses other than commercial or business uses, there is that thing underlying the Bill and the whole of the hills that it has to kept open, and there is that right of the public for open air enjoyment.

9. THE CHAIR: What about the blind person’s dogwalker? She was concerned that she might have to pay a licence for her dogwalker. The image I was given was that sometimes these dogwalkers have several dogs with them on several lines and so on, so it is a kind of organised activity. Is that really the kind of thing that should be subject to licence and insurance and all that kind of thing?

10. MS LEAN: My Lord, that would fall more naturally under the commercial use as a

business, because the person in that scenario who is running a business as a dogwalker, and is being paid by, no doubt, a range of people, is somebody who would be carrying out a business. Again, the power in Clause 63 to levy a charge does not mean a charge will be levied in every case. No doubt, when the Trust is thinking about different types of businesses or activities—which ones may attract and which ones might not—they will have to think very carefully about that.

11. My Lord, if it is more the situation of somebody as a favour for a friend exercising that dog, that would not seem to fall under either organised activity or commercial business. It is perhaps the perils, my Lord, of being too prescriptive at this stage by reference to particular examples that have been raised, because it does run the risk of starting to write into primary legislation exactly what can or what cannot ever be the subject of a licence under this, which could go on 20, 40 or 60 years into the future.

12. THE CHAIR: I follow what you are saying, but I wonder whether, if you are looking at the words “organised activity”, you are really thinking of commercial activities.

13. MS LEAN: No, my Lord, because that is the other provision. The commercial activities is 63(3)(a); organised activities is 63(3)(b). The organised activities—clearer examples of that would be the sponsored run or the sponsored walk event or things like that. I think you have in the bundle seven examples of where licences have been granted for events. A cross-country sports run, I think, was one of them.

14. BARONESS BAKEWELL OF HARDINGTON MANDEVILLE: If you are thinking of things in terms of health and safety, would that possibly discriminate against a group of physically disabled people having some activity or, for instance, horse riding for children with special needs, which is extremely beneficial to them and is definitely not a business?

15. MS LEAN: No, my Lady, in my submission, because again, all the policy would do would be to bring in certain types of activities or uses where the Trust said, “If you want to do this, please tell us about it because we need to have a look at it”.

16. The reference to health and safety was really trying to capture a point that Ms Satchell made, which is that sometimes this is about managing events because of thinking about what the impact might be on the hills. If there is a run happening but it has been

very wet, there could be damage caused to archaeology or an SSSI. Other examples she gave of where you might have to manage two competing activities—so it might not be a good idea to have a sponsored horse riding event that was going to have 100 people if it was going through the middle of a May Day bank holiday weekend in the most popular area, because there you would have to manage the potential health and safety issues that could arise of one group of users coming into conflict with another.

17. That was more the suggestion of health and safety—that it captures this idea that the Trust may need to know, not because the use is problematic, but it needs to make sure that there are proper provisions in place to ensure the event could go forward safely. The run might be an example of that because, obviously, it being a natural environment, there are things that can cause problems.

18. That is the point about how there may be some uses you want to bring in because they are fine in and of themselves, but the reason why the Trust wants to have oversight of them is to make sure that, if it happens, it happens safely because there are particular issues it could give rise to, or the insurance proviso, because that is obviously one of the matters that is referred to in Clause 63(2), which is about the terms and conditions. It might be the requirement to have insurance so that the Trust can make sure that, if somebody is running these events, the person running the event or the activity has the insurance policy in place that, if something did happen to one of the participants, it is covered through that insurance policy and it is not then something you are looking to the Trust to say, “This happened on your land”.

19. THE CHAIR: It is interesting that, if you look at subclause (3), originally before the Bill was filled up a bit, the specified purposes were only (a) and (b). Am I right?

20. MS LEAN: I think “includes” was there, my Lord. I think it was in subsection (1), “it includes”. The “and” and the “s” has come in.

21. THE CHAIR: Sorry, “includes” was always there. Yes, I see. Thank you. I think we probably have to make our own decision on that in the light of what you say.

22. MS LEAN: I am grateful, my Lord.

23. THE CHAIR: It does not look as though this is one that we can really discuss

between counsel and yourselves.

24. MS LEAN: No, my Lord. If I may, we are obviously happy to put forward that form of wording if that is thought to be helpful and if it would be helpful for that to be discussed between Mr Lewis and your counsel, but again, we do just come to back to the point from Ms Satchell's evidence as well that this is not something that the Trust is looking to do off its own bat and in isolation; it is reflecting a practice across a whole host of other bodies.

25. This is really about ensuring that there is the vires, in particular, for, if a charge is appropriate, the Trust to be able to take that charge and take the costs associated with a particular activity or event or licensing it from, perhaps, the commercial operator or whoever is running the event rather than any additional costs to the Trust being met through the levy payer. It is not about the Trust being able to draw up some overly prescriptive list of things that people can and cannot do on the hills. It is about being able to make sure that they have the powers to manage things properly.

Private discussion.

26. THE CHAIR: I think that is through all of our list of amendments. Thank you very much indeed. We have a formal decision to take for reasons you will understand, so if you would be kind to leave us in a private session, we will ask you back in a short time.

Sitting suspended.

On resuming—

27. THE CHAIR: The final stage is that we have to decide whether this Bill should be allowed to proceed. We could take a decision to report to the House that it should not proceed, but that does not seem to be justified in view of all the work that has been done, what we have heard and the extent to which we can deal with the few points that trouble us by way of amendment. We have decided that we will recommend to the House that it should proceed, subject to certain amendments which we will be proposing.

28. MS LEAN: I am grateful, my Lord.

29. THE CHAIR: I think it is over to you to prove the preamble.

30. MS LEAN: Indeed. I think then it is for me to ask the following questions of Ms Satchell. Is your name Susan Satchell?

31. MS SACHELL: Yes, it is.

32. MS LEAN: Are you the governance change officer for the Malvern Hills Conservators, the promoters of the Bill?

33. MS SACHELL: I am.

34. MS LEAN: Have you read the preamble of the Bill as proposed to be amended?

35. MS SACHELL: I have.

36. MS LEAN: Is it true?

37. MS SACHELL: It is.

38. THE CHAIR: Thank you very much. That being so, we now adjourn and indeed conclude the public sessions for this Bill. There is, of course, quite a lot more work to be done. We will have private sessions, but you will not be involved. In due course, the Bill will be reported to the House with amendments, many of which have already been agreed with counsel, and others of which we will be proposing ourselves.

39. On behalf of everyone in this committee, I want to thank you all for the effort you have put into this, the way you have presented the papers for us, and the helpful notes, Ms Lean, that you have provided from time on time on points of difficulty. We appreciate all of that very much. We thank you very much and wish you a good afternoon.

40. MS LEAN: Thank you, my Lord.