

# Wimbledon and Putney Commons Conservators – July 2020

## Minutes of the Conservators' ANNUAL OPEN MEETING held via electronic means and at the Information Centre, Manor Cottage SW19 5NR on Wednesday 29 July 2020

|               |                                                                                                                                                                                                                                                      |
|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Conservators: | Diane Neil Mills, Elected (Chairman)<br>Shirley Gillbe, Elected<br>David Hince, Elected<br>Peter Hirsch, Elected<br>Sarah-Jane Holden, Elected<br>Mike Rappolt, Appointed MoD<br>Dr Ros Taylor, Appointed DEFRA<br>Nigel Ware, Appointed Home Office |
| Officers:     | Stephen Bound, Chief Operations Manager                                                                                                                                                                                                              |
| Auditor:      | Simon Webber, Kreston Reeves LLP                                                                                                                                                                                                                     |
|               | 68 Levy-payers and other members of the general public viewed the meeting.                                                                                                                                                                           |

### 1. Welcome

Chairman

The Chairman welcomed everyone to the meeting and thanked everyone for their understanding and support in participating in the meeting by electronic communications, which was necessary given the continuing health risks presented by the pandemic and associated restrictions that remained in place.

In light of the rather unusual format therefore, there were a few procedural matters that needed to be addressed.

First of all, the Chairman brought to everyone's attention that at the Conservators' Board Meeting held on 8 June 2020, the Conservators resolved to hold the Annual Open Meeting on 29 July 2020 by electronic communications, which represented a departure from the normal practice of holding a physical meeting during the month of June in accordance with WPCC's constitutional framework. The resolution was published following that meeting but in the interests of good governance, the Chairman read it out:

"That the Board RESOLVED to approve that for the purposes of demonstrating good governance while at the same time abiding by current Coronavirus pandemic health regulations, to hold the WPCC Annual Open Meeting on 29 July 2020:

- a. using digital technology, in accordance with the Charity Commission's published guidance of 20 March 2020 (updated 7 April 2020) to help the running of charities during COVID-19, as confirmed by the Parliamentary Under Secretary of State in the Department for Business, Energy and Industrial Strategy in his statement to the House of Commons on 3 June 2020; and
- b. putting in place arrangements that reflect the advice of the Department for Business Energy and Industrial Strategy to foster participation and engagement as best possible, given the restrictions arising from COVID-19.

It was stated that in accordance with that resolution, the meeting had been convened.

The Chairman stated that she was painfully aware of the limitations of holding this evening's meeting electronically and again reiterated the Conservators' appreciation for the effort that

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everyone had made in joining the meeting. She also said that we were all very much looking forward to the day on which we would once again be able to physically reunite and share our passion for the Commons.

The Chairman recognised past Conservators and thanked them for the contribution they had made over the years and also the Auditor, Mr Simon Webber, of Kreston Reeves. The Chairman then introduced the Conservators and the Chief Operations Manager.

Finally, the Chairman explained that all questions would be taken at the end of the meeting.

### **2. Apologies** **Chairman**

The Chairman made apologies for Simon Lee (Chief Executive), who was on sick leave.

### **3. Minutes of the Previous Meeting on 26 June 2019** **Chairman**

The Minutes of the meeting had been approved by the Board of Conservators and had been available on the Wimbledon and Putney Commons website. The Chairman asked for any comments on the minutes to be raised in the Q&A section at the end of the meeting and these would be recorded in the minutes of this meeting.

### **4. Chairman's Report** **Chairman**

Ladies and Gentlemen,

When we look back at this confused and troubling period of history, one of the most clear and enduring images from this corner of the world will be that of Wimbledon and Putney Commons and the critical role they played throughout the event that will almost certainly come to define an era.

Although the Commons have long been recognised for their role in the pursuit of outdoor exercise, an activity deemed essential even during the most restrictive period of lockdown, the past few months have also emphasised the importance of this unique resource in meeting the mental and social needs of the entire community.

The images of families walking and cycling together in those early and uncertain days of lockdown, for some possibly their first ever outing to the Commons, remain curiously memorable, representing a familiar dimension of an otherwise alien landscape. As restrictions eased, group sizes and compositions evolved, yet the fundamental purposes served by the Commons remained the same. And throughout the entire period was the overwhelming sense of gratitude felt by everyone and reinforced with every visit as though it were the first, to those who provided the vision and leadership to establish this treasured open space in 1871.

There is no question that the COVID crisis has tested the strength and resilience of this unique organisation. The immediate impact of the virus was largely operational in managing the inherent health risks and the vast increase in visitor numbers. Some of the measures that were implemented to limit transmission of the virus would have been unimaginable under normal circumstances and we are grateful to everyone for their understanding and compliance.

The independence afforded to us by our founding legislation ensured that even during the most serious times of crisis, we were able to deploy resources and establish operating practices to suit our particular circumstances. And I am very proud to say that the staff have demonstrated exceptional commitment, competence and selflessness throughout, despite the

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enormous pressure that has been upon them. Given the fact that they almost all live on site, the delineation between their work and home lives, which under normal circumstances is blurred, has become totally invisible. The 1871 Act remains fundamental not only to our operating practices but to our character, culture and ethos and the staff are a clear reflection of the values that we represent.

Longer term, the damage that the virus has inflicted across the globe is so pervasive that it is difficult to think of any organisation that has not been impacted and WPCC is no exception. In financial terms, whilst we are fortunate in that almost 70 percent of our funding is provided by the levy, the additional income from events has suffered and is expected to remain depressed due to ongoing health concerns, continuing government restrictions and economic contraction.

The contributions made both in-kind and through donations and long-term contracts are therefore critically important and I would like to thank all of our partners for their co-operation in working with us to find mutually supportive solutions.

In terms of longer-term strategic initiatives, although most activity has been suspended due to the pandemic, significant progress has been made over the year in a number of areas, three of which I would like to highlight due to their contribution to the longer-term resilience of the organisation: governance; the masterplan; and community engagement.

### 1. Governance

Bringing the Charity Commission's Statutory Inquiry, opened on 18 August 2016, to a close has been our highest priority and to that end the Conservators have worked with the Commission to support the inquiry throughout. We therefore welcomed the recent publication of the final report on 2 July.

As many of you are aware, the inquiry was established to investigate the charity's governance arrangements with particular focus on the Putney Lower Common Easement. It represents a challenging period in the charity's long and distinguished history and publication of the report closes an important chapter in these events. With its closure, our intention is to move on and focus on the delivery of our charitable objectives.

The complexity of the matter under investigation is reflected in both the protracted timescales to complete the inquiry and the Commission's conclusions. And although I do not believe it is in anyone's interest to continue the debate, I do think it is worth summarising the key findings, which as much as possible, adopt the wording of the Commission.

- (i) The Commission did not make any findings about the decision to grant the easement or the terms of that grant.
- (ii) The inquiry found that the decision of trustees in February 2017 not to recover any funds which may have been lost was reasonable and properly taken.
- (iii) The inquiry did not find any one individual responsible for any incorrect decision, act or omission.
- (iv) The inquiry found that the inability of the trustees in post between 2015 and 2018 to manage the dispute resulting from the granting of the easement was costly to the charity and evidence of mismanagement.
- (v) The Commission found that the administration, management and governance of the charity has now significantly improved, in particular since the elections of 2018,

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and the current trustees have demonstrated their ability to act collectively in the best interests of the charity.

I would also like to make one final comment, which is to recognise and thank our chief executive, Simon Lee, for the important role he played in supporting the Conservators throughout this difficult and protracted process. Simon provided a critical bridge between the various cohorts of Conservators that served over the years and deserves enormous credit for his role in bringing the matter to a close whilst allowing the organisation to continue to move forward throughout the process. We are greatly indebted to him.

In support of the inquiry's underlying objectives, the Conservators openly recognised the opportunity to provide further resilience in governance related processes and over the course of the past two years have put in place measures to deliver additional clarity, structure and rigour in a number of areas including the Access Framework, the Code of Conduct and the Enquiries and Complaints Procedure.

In addition, we recognised the value in clarifying certain election procedures, a matter addressed by the Commission as part of the inquiry. As a result, we are in the process of finalising new Election Guidelines, which will be published and put in place in advance of the 2021 triennial elections.

Finally, the inquiry report also identified the scope to further clarify certain provisions of the 1871 Act. We initiated a review of the constitution in 2018 to identify potential changes to the constitution to enable the charity to better achieve its charitable objectives. Last December we announced that we would begin a phased consultation process this year, which unfortunately has been suspended due to the pandemic. Significant progress has however been made to identify the key provisions requiring amendment and the procedure through which any changes could be effected. Through meaningful consultation, the level of public support for such change will be tested.

Given my earlier comments about our constitution serving us well through the pandemic, I would like to reassure everyone that constitutional reform is not about introducing a more permissive regime or diluting the fundamental purposes of the charity, but it is about enhancing the organisation to achieve its fundamental purpose of preserving, protecting and enhancing the Commons for the purposes of exercise and recreation as so clearly articulated in the founding legislation.

### 2. Masterplan

The Masterplan for the Commons will provide a long-term vision for both the natural and built landscapes as well as the way in which this open space functions to better meet the wide-ranging purposes that it serves.

The project, funded by the National Lottery Heritage Fund, and capably led by the chief executive, has already established a foundation upon which further research will be progressed. The work carried out to date has demonstrated the strength of the bond between the community and the Commons, reinforcing the value of public consultation and engagement in developing the vision.

### 3. Community Engagement

Strong community support for the Commons has always been a defining characteristic of this unique open space and the launch of the Friends of Wimbledon and Putney Commons in September 2019 formally brought together all those who share a passion for the Commons. The Friends provide a structure for fundraising and collective celebration, including that of the

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150th anniversary of the date on which the 1871 Act received Royal Assent, 16 August 2021. My fellow Conservator, Sarah Jane Holden, will be speaking later this evening on this matter.

The year ahead also marks the triennial elections and I would like to encourage all of you to engage in the election process, which remains at the very heart of our constitution, in whatever way you find most appropriate.

In closing, I would like to thank my fellow Conservators for their support and commitment to enable the achievements of the past year to be delivered. The individual perspectives and diverse range of skills, interests and experience that they bring to the board allow for thorough and considered deliberation and effective decision-making and I am grateful for their dedication to the role.

Some of you will have noticed in the annual report that both Dr Ros Taylor, DEFRA appointed Conservator, and Mike Rappolt, MOD appointed Conservator, will be retiring from the board. I am told that our convention is to delay the valedictory speeches until after the event, perhaps because we have managed on occasion to persuade Conservators to extend their service just a bit longer.

In respect of this tradition, I will save the full tributes for a later date but I wanted to thank both Ros and Mike for their outstanding service. The Whitehall appointments bring great distinction and confer a sense of authority upon WPC and there is no doubt that both Ros and Mike through their service have done exactly that.

On behalf of the Conservators, I would also like to thank the external members of our committees: Francesca Quint and George Laurence QC who serve on the Constitution Working Group and Sarah Wilton who serves on the Audit and Risk Committee. All have provided invaluable guidance and insights and we are grateful for their commitment.

I would also like to pay special tribute to our regiment of volunteers, who through their quiet, and in many cases anonymous, contribution, be it picking litter, bashing scrub or recording wildlife, support the organisation. They are motivated by nothing more than a love of nature and a sense of community. Their collective contribution is periodically measured in terms of numbers of hours but the value they bring to the organisation is absolutely impossible to quantify and we are sincerely grateful for their enormous effort, particularly throughout the crisis.

We are also enormously grateful to those who have supported us financially, either in aid of a specific project or more generally, including membership of the Friends. The generosity of all our donors is genuinely humbling and we value each and every contribution.

Finally, we thank the chief executive and every single staff member for their passion, commitment, dedication and expertise. The trophy cabinet is at capacity and yet there is absolutely no sense whatsoever that their contribution is driven by a desire to accumulate accolades but simply by a sense of duty and humble pride in providing a public service that is treasured by so many, and we are sincerely grateful to them for all that they do.

Thank you.

### **5. Presentation on the Financial Statements**

**Nigel Ware**

Good evening. I am now going to give a presentation on the annual financial statements. The Chairman has explained that we will deal with questions in the Q&A section later in the agenda.

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If there is not time to answer your particular question, a response will be posted on the Annual Open Meeting page of the website in the next couple of weeks.

I hope that some of you will have downloaded copies of the 2020 annual report from the website. The financial statements themselves will be found starting on page 32 of the annual report.

Firstly, I would like to deal with the Statement of Financial Activities which is in essence the profit and loss account of the charity. The important thing to remember about charity accounts is that there are two types of funds – unrestricted funds and restricted funds.

Restricted funds are those funds that have been given to the charity for a specific purpose and may only be used for that purpose. In our case the main restricted funds during the year were The Windmill Restoration Fund, the Horseride Appeal, the Wildlife Garden Appeal and the National Lottery Heritage Fund project which Diane has already described.

All other funds received are unrestricted funds and can be used generally for the purposes of the charity. Within unrestricted funds it is possible for the Board at its discretion to designate funds for a particular purpose and the WPCC does this for Election Expenses. The Election is being held in the first quarter of 2021 so these funds will be expended in the current financial year.

One of the issues that had a major impact on the financial statements in 2019-20 was the prior year adjustment which is explained in the report and accounts. As part of the work on the proposed constitutional changes I carried out a review of the financial statements going back to 1990, and during that review it became apparent that a considerable amount of expenditure on the construction of buildings had been written off as an expense rather than capitalised as fixed assets. I should explain that it has for many decades been standard accounting practice to capitalise as fixed assets any expenditure on an asset that is going to be of enduring benefit over a number of accounting periods – that expenditure is then depreciated over the life of the asset - which means writing off an equal amount each year to the income and expenditure account.

The overall impact of the prior year adjustment has been to increase net assets at 1 April 2018 by £1.2m and to increase unrestricted funds by a corresponding amount. Full details of the changes made to the accounts will be found in note 19.

I will now deal with the Statement of Financial Activities on page 32 of the annual report. The results are broken down into the two types of funds. If we look first at the restricted funds you will see that we started off the year with a balance of £39k, we received £100k of income in the year and spent £76k leaving a balance of £63k to be carried forward. The largest items of restricted income and expenditure related to the National Lottery Heritage Fund Project.

Moving on to the unrestricted funds. Our income this year was £1,774k which was 3.3% higher than last year. The main component of this increase was an increase of £39k in the levy income. Regrettably, the start of the lockdown in March had quite a negative impact on our sports related income in the last quarter of the financial year.

As I have explained in previous years, a consideration of our expenditure is complicated by the inclusion of a number of non-cash figures relating to the Local Government Pension Scheme, which I shall refer to as the LGPS. By non-cash I mean that these are items which under the relevant accounting standard are required to be charged to the Statement of Financial Activities but do not result in us having to make a physical payment to the pension scheme in respect of them. These additional non-cash costs amounted to £348k in the year ended 31 March 2020. If you turn to page 17 of the annual report, you will see that we have

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summarised the statement of financial activities in order to distinguish these non-cash LGPS costs. Ignoring these additional costs our expenditure on unrestricted funds was £1,738k which was an increase of 4.2% in comparison with the previous year.

The main increases in expenditure were:

- \* £20k of repair and improvement works at the Richardson Evans Memorial Playing Fields buildings;
- \* Professional fees of £27k relating to a project to consider the possibilities for re-developing the pavilion at the playing fields, and
- \* An increase in depreciation charges of £23k

The overall result for the year was an operating profit of £36k before the non-cash items relating to the LGPS.

Taking the non-cash items into account we ended up with net expenditure of £312k for the year to which we add a loss on our investment portfolio of £89k and then deduct an actuarial gain on the LGPS of £528k which leaves us with a net increase in unrestricted funds of £127k for the year. The loss on the investment portfolio has been recouped after the year end as a result of the rise in the financial markets.

Turning now to the balance sheet which you will find on page 33. The charity's net assets before the LGPS liability were £3.1m at the year-end which has increased substantially from the previously reported figures as a result of the prior year adjustment that I described earlier. We then have the pension scheme liability of £2.5m which reduces the net assets to £546k. The pension liability has gone down this year by £180k as a result of the large actuarial gain that arose during the year.

The cash flow statement on page 34 shows that our cash balances increased by £39k during the year which left us with bank balances at the year-end of £332k. I have explained in the trustees' report that we realised £100k from our investment portfolio in February 2020, fortunately shortly before the markets crashed, to provide funds for the anticipated expenditure on constitutional reform. In the event, the constitutional reform has been put on hold as a result of Covid-19 so the funds raised are being used to support our cash flow during the period of reduced income arising as a result of the lockdown.

Those of you who have been regular attenders at these open meetings since I became a conservator will remember that a major feature of the questions asked by the audience has been in relation to the local government pension scheme. During the year we have discussed with the Merton Pension Fund the possibility of closing the scheme to new entrants. I must emphasise that such a change would not impact on current employees who would remain in the LGPS in accordance with their contracts of employment.

The actuaries to the scheme have indicated that if we were to do what we wanted, we would suffer a 10% increase in our employer contributions and more seriously would have to provide security to the pension scheme. In normal circumstances this would involve a charge over the assets of the organisation but, of course, in our case we are precluded by our governing legislation from alienating our assets so a charge is not possible. The alternative is to provide a bond to the pension scheme, but, having investigated this, it would not be affordable for us. Thus, for the moment we are at something of an impasse, but we continue to explore other possibilities. In this context, it is worth pointing out that in 2019 the Government opened a consultation about the future of the LGPS and one of the areas consulted on was whether a more lenient approach could be taken to employers wanting to leave the scheme – the government has not yet responded to the consultation on this matter.

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The good news about the pension scheme in the last year is that the results of the triennial actuarial valuation have been published and they show that our section of the scheme had a surplus at the valuation date with its assets being sufficient to cover 104% of its accrued liabilities.

Looking ahead to the current financial year, it is too early in the year to work out with any certainty what impact Covid will have on us. The gradual easing of lockdown will obviously help matters, particularly if this enables our sports activities to re-start in the autumn. However, a spike in Covid cases over the winter could bring a reintroduction of restrictions. In the first quarter of the current financial year we have suffered a loss of income as a result of Covid of about £20,000 and extra expenditure of about £7,500. Therefore, all I can say is that the future is very uncertain for us with the result that we hope for the best but plan for the worst.

That concludes my presentation on the financial statements.

### 6. Chief Operations Manager's Presentation

**Stephen Bound**

For obvious reasons, when reflecting on the past year, our thoughts are dominated by the events of the last few months. Responding to the impact that the coronavirus pandemic has had on the Commons has been the focus of management activity since the country went into lockdown in late March. Information and advice on how public open spaces should implement the new coronavirus regulations and guidance was limited. Therefore, we were making decisions on an almost daily basis on how we could best adjust our operations to minimise risks. The actions that we took included:

- Closing the public car parks to help ensure social distancing and reduce travel to the Commons
- Closing the public toilets
- Asking that all dogs were kept on leads and;
- Taping off benches to discourage visitors from spending long periods on the Commons.

Inevitably, when you introduce restrictions, some people are going to be upset. Some will feel the restrictions go too far, others that they don't go far enough. However, I think we struck a sensible balance between, on the one hand, keeping the Commons open and available for people to enjoy, and on the other, ensuring that visitors, and equally importantly, our staff team, remained as safe as possible.

Visitor numbers on the Commons over the past few months have been the highest that anyone can remember. Data from Google suggests that we have been averaging between 2 and 5 times more visitors than usual - with people who were furloughed, families with children off school and home workers all coming to the Commons to get some much-needed respite from lockdown. Over the last few months, it has been fantastic to see the huge social value that the Commons have to the local community as a place for exercise, recreation and relaxation.

Of course, these additional visitors do not come without their problems. Perhaps the most significant issue has been the increase in the amount of rubbish being brought onto the Commons. We have had to bring in additional litter bins, dog waste bins and skips to cope with the extra waste being generated. Instead of our usual routine of emptying bins twice per week, our staff have had, during busy spells, to empty the bins twice per day. Our current waste disposal costs are at approximately three and a half times their normal level. What's more, whilst our costs in some areas have risen dramatically, income has fallen – as all fee-paying events and activities on the Commons over the past few months have been cancelled. In response, all staff have been asked to keep spending to the absolute essentials required



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for day to day operation. Certain works, such as improvements to operational buildings and staff properties have been put on hold until we have a clearer picture of our budgets for the year. We are looking now at how we can phase the return of events, in line with government regulations and guidance, over the next few months. This will start with a much reduced, Wimbledon Bookfest to be held outdoors over one weekend in mid-September. Due to uncertainty over coronavirus we reluctantly took the decision to cancel our annual Commons Open Day for 2020. However, with 2021 being the 150<sup>th</sup> anniversary of the introduction of the Wimbledon and Putney Commons Act, I'm sure that next year's Commons Open Day will be a very special one.

If Coronavirus wasn't enough for one year, we experienced an extremely wet winter, culminating in the wettest February on record. This brought with it another set of challenges. Prolonged spells of heavy rainfall, and the associated run off, caused extensive damage to paths. The maintenance team spent several weeks undertaking path repairs – particularly on the routes sloping down from the golf course to the Playing Fields. A significant path restoration project was also undertaken on Putney Heath. Drainage and resurfacing work were carried out on the section of Ladies Mile between Inner Park Ride and Tibbet's Corner, where flooding had made the paths almost impassable. If climate change predictions are correct, these more extreme weather conditions, and the impact that they have on the Commons, could be a more regular occurrence in future years.

Another casualty of the wet weather was the Rosslyn Park Schools Rugby Sevens Tournament. For those of you not familiar with the event, it is the largest schools' rugby tournament in the world and is held annually at the Richardson Evans Memorial Playing Fields. In early March, just a couple of weeks before the tournament was due to begin, most of the pitches were underwater. As a result, we had to take the difficult decision to tell the organisers that the vast majority of the pitches at REMPF would not be available, which, in effect meant the cancellation of the tournament. On a positive note, we are currently in negotiation with Rosslyn Park to hold the event on the Commons for the next 5 years – giving them a secure venue and WPCC a secure income for the future.

Despite the challenges over the last 12 months, the vital task of conserving the important habitats on the Commons has continued. Over winter, the Maintenance Team cleared trees from a large area of heathland on Putney Heath, just north of Jubilee Path. Our regular group of volunteers, the Scrub Bashers, led by Peter Haldane - our Conservation Officer - continued the never-ending task of clearing birch saplings and gorse from areas of heathland and acid grassland. Meadow management and restoration work was undertaken across Wimbledon Common, Putney Heath and Putney Lower Common. At Scio Pond, trees and scrub were cleared from the banks to improve the habitat for fish, invertebrates and aquatic vegetation. At Farm Bog, one of London's few remaining examples of a raised mire, our Maintenance team installed dams in order to help maintain the high water levels vital for the preservation of the peat soils. The hard work that has gone into the management of the Commons clearly shows. Both Wimbledon Common and Putney Lower Common were awarded London in Bloom gold awards in September 2019 – and for the second year running, Wimbledon Common was awarded Common of the Year.

Finally, I'd just like to say a few words about our staff. Day to day management of open spaces is not a job that can be carried out from home – and our staff have been out on the Commons, day in day out, throughout the lockdown period, working to ensure that the Commons remain a pleasant, accessible and safe environment for everyone. On busy days, our Keepers were speaking to literally hundreds of people with regard to breaches of byelaws or social distancing. As I mentioned earlier, our Maintenance Teams have been working seven days a week to ensure that bins are emptied and litter is cleared. The staff have dealt with every new challenge with commitment and enthusiasm. So, I'd like to finish by thanking them and wishing them, and all of you, a much less challenging year to come.

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### 7. Friends Group

Sarah-Jane Holden

The Friends of Wimbledon and Putney Commons Conservators was launched last September.

Two months before the end of our first year we have:

Benefactor x 45

Household x 207

Individual x 137

Making a total of 389. Of which 245 are Founder Friends. At least 600 are now part of The Friends of Wimbledon and Putney Commons.

To meet several requests the Board has approved two additional categories of membership:

- Patron for a contribution of £1,000
- Corporate for a contribution of £5,000

The Common's Levy ranges from £17 - £60 per household and so pitching the Individual & Family categories at the rate of £30/£40 enables those who do not live within the Levy paying area the opportunity to make an equivalent contribution.

Of the £23,000 raised to date we have been able to contribute £20,000 towards the upgrade of the cycle/pedestrian path along Beverley Brook. Works should have already commenced if not for Covid-19.

The Friends do hold events. However, the Friends is not event driven. There is just one big event the Friends' promote and this is the wild, open, free and safe environment that gives delight and pleasure with each visit.

Saying that, 2021 is the sesquicentenary anniversary year and several events have already been agreed. The All England Club has generously offered us their centre court debenture lounge on Saturday 27 March, Stephen Hammond, MP for Wimbledon, is sponsoring an evening reception and tour on the Terrace at Westminster, the MP for Wandsworth is supporting a cycle ride and on Sunday August 15<sup>th</sup>, the day before the Act was signed 150 years ago, a sports day will be held celebrating games that have been played on the Commons over those last 150 years.

For all these events Friends will be offered a window to book before tickets are offered to the wider public.

Please contact me through the Rangers Office if you would like to be involved in helping and being part of what will be a fun year.

In closing I would like to thank all those who volunteered to man the FOWPC gazebos over the last 3 weekends. The response was hugely positive.

### 8. Commons' Wildlife Watch Recording Scheme

Dr Ros Taylor

Good Evening.

The Commons Wildlife Watch is a new citizen science initiative that has been developed by WPCC's Wildlife & Conservation Forum over the last year.

Those of you who attended the Winter Talk earlier this year given by Peter Almond from the British Trust for Ornithology will have been introduced to their citizen science scheme but

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many of you will probably more familiar with the RSPB's Garden Bird Watch scheme which takes place at the end of January each year. Running for some 40 years, it now has some 9 million participants so we are hopeful that many of you will come along and join our citizen science initiative here on the Commons.

Another citizen science scheme, The Big Butterfly Count, is currently underway so you could join in with that by visiting Butterfly Conservation's website and downloading their butterfly guide to get some practice!

The essence of citizen science is capitalising on the potentially valuable information that any member of the public visiting the Commons could give us. While we have a team of volunteers who carry out regular recording and who perhaps in your minds might be more expert people, understanding wildlife and engaging with wildlife and knowing what is there is really a role for everybody and since so many of you are visiting the Commons and enjoying the habitats and the plants and animals, we would ask you to contribute by sending us a record of your observations.

And in particular, since many of you will visit areas that we don't regularly record, maybe we could get extra information on, for example, the impact of opening up the Beverley Brook corridor, or more information on Putney Lower Common. The latter, in particular, is an area which is under-recorded. Although we are now getting news about hedgehogs and our Conservation Officer visits Putney Lower Common monthly to make other snapshot records, it's not quite the same as hearing from people, day to day, telling us what they see when they are out taking a walk in the area.

How to join in. Take a look at the WPCC website, there is a link right there on the homepage and you can download a prompt sheet. This will encourage you to look at the most likely birds that you might find, or the most typical butterflies or dragonflies and so forth. It will give you the hint of what you might hope to see. These lists are based on what we have been recording over the last six years, and which you can read about in more detail in the annual Monitoring Reports which are also available on the website in the nature area.

The important thing to do is prepare before you go out download your form and take a pencil as this works much better in the rain. With the form comes a gridded map which will help you to identify and tell us exactly where you are. Perhaps also think about taking a pair of binoculars or some ID aids, whatever works for you. We have included some recommendations for books and apps on the Wildlife Watch page.

We had hoped to launch the scheme with a fanfare earlier in the year but then lockdown intervened and at the moment we can't provide the backup we had hoped to offer by being available in the Information Centre and sharing ID guides or peering together over a specimen to try to agree what it is, but you can find help through the books and weblinks we have provided. I would stress that you don't need to be an expert to join in you just need to be willing and observant.

When you have completed your sheet, please scan or upload it and send it to [wildlife@wpcc.org.uk](mailto:wildlife@wpcc.org.uk). Again, this information is on the web page.

Don't worry if you can't easily identify something you have seen. You can also take a photo and perhaps visit WPCC's Facebook Nature Notes group where there are several experts and enthusiastic beginners who can help you.

The other great way to practise is in your own back garden. Always remember the back gardens of Wimbledon, Putney, Kingston Vale are part of the hinterland of the Commons and

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what you see there is going to give you a hint as to what you might find when you are out and about exploring on the Commons.

You will be doing us a huge favour. Because this has been an unusual year, there are going to be gaps in our records quite simply because some of our regular volunteers are elderly; some have been shielding; some, like myself, have to travel a long distance which has not been allowed. I would suggest to you that this would be a wonderful way to respond to an unusual year and, at the same time, enhance the records for Wimbledon and Putney Commons and extend our baseline knowledge. If this were to run for 40 years like the RSPB scheme, we would know so much more about how things have changed on the Commons and whether things that here now are still present or whether new things have turned up. We live in a very variable times as has already been mentioned with potential variations in weather linked with changing climate. If this goes on we cannot be sure what will be the impact and this is why it's important to start by knowing what's here now.

Thank you very much for your time - I hope you can help us recording to the Commons.

### 9. General Discussion and Questions

Conservator, David Hince, moderated the Q&A session.

Firstly, thank you for your questions. We will be answering approximately 10 questions and where possible I have tried to combine some questions together where they touch on the same topics.

**Q1.** The first question from Joanne Glynn was regarding the management of the meadows on Putney Heath. She would like to see more areas left for wildlife especially insects, small mammals and birds. Would a system of rotation of tidying 50% and leaving 50% untouched work and secondly, given the success of Putney Lower Common in London in Bloom, would the Conservators consider planting more flower meadows.

**A1** Dr Ros Taylor commented that WPCC would be in favor of improving the grassy areas or meadow areas in Putney Heath. Whether 50/50 rotations were the right way forward she was less sure and suggested leaving 5 or 10% of the area uncut and then having variable mowing regimes over different parts of the area. That way the range of different habitats would be maximised and would thereby help to promote diversity, or at least ensure lots of opportunities for different forms of wildlife. At Putney Lower Common, such areas could be encouraged by taking mowings and seeds from the area around the Oasis Academy to scatter and help promote growth in a sympathetic way rather than digging up an area and sowing new seed. A meadow should be based on native species as far as sensibly possible with the introduction of complementary species, such as Yellow Rattle which helps control some grasses and thereby opens up the opportunity for other floral species to flourish and gain a wider diversity of insects and other organisms. She would be in favour of trying new schemes as part of the meadow management in the Putney area.

**Q2.** The second question came from Ann Halpern who wanted to know if the Board would consider making it compulsory for runners and cyclists to wear masks

**A2.** The Chairman, Diane Neil Mills, responded that in the early days of lockdown, WPCC recognized the fears and concerns of other visitors about potential health risks of cyclists in particular given the number of cyclists had increased massively. In response therefore, WPCC had reinforced the safe-distancing message on social media, their website and on signage across the Commons, asking cyclists and runners to be more aware of other visitors.

It was now increasingly believed that the outdoor environment presented a much lower health risk than indoor environments but cyclists and runners are still asked to respect the fears and concerns of others, some of whom are fragile and susceptible, and to use common sense.

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However, the Board did not have the power to make it compulsory for users to wear face masks.

**Q3.** Tony Michael asked what were the tree planting plans for the Commons for the next 30 years.

**A3.** Stephen Bound, Chief Operations Manager, responded that tree planting was being encouraged globally as a means of combating climate change. However, the majority of the Commons were both a Site of Special Scientific Interest and a Special Area of Conservation and one of the main reasons for these designations was the heathland habitat and therefore, for much of the Commons, tree planting would not be appropriate as it would destroy these valuable habitats. Where tree planting was being considered was in areas of existing woodland where there was either a poor mix of species or the diversity of ages of the trees was poor and, in those areas, planting would be undertaken to resolve those issues.

**Q4.** James Bellringer wholeheartedly approved that children enjoy and use the Commons but he noted that the number of companies that are providing outdoor learning on the Commons seems to have increased recently. What steps are being taken to ensure that there are adequate levels of supervision for these groups and to stop them from closing off areas of the Commons or otherwise damaging them.

**A4.** Stephen Bound, Chief Operations Manager, responded that the number of outdoor learning groups had risen over the last few years and the point had now been reached where no further new groups were being permitted to use the site as there was a general feeling that this activity was at capacity. Some of the groups were now licensed and those licenses specified very clearly what the groups could or couldn't do while on the Commons and these licenses were being rolled out to all such groups using the Commons.

**Q5.** Theresa Mary Morton noted that since March the number of cyclists on the Common had increased dramatically. Very few paid heed to the regulations on cycling on the designated tracks and could be found in wooded areas and on non-cycling paths continuously. Signage was far from clear and there was far too little of it. Could we please see more signs and could we also see more of Rangers throughout the day enforcing the Byelaws?

**A5.** Stephen Bound, Chief Operations Manager, responded that signage was a tricky issue on the Commons. Most would agree that one of the great joys of the Common is that it is wild, a piece of countryside in London, and WPCC therefore tried to keep clutter, particularly from signage, to a minimum. That said, many cycling signs had been replaced over the last year and as cycling had increased since lockdown started, a number of additional temporary non-cycling signs had been installed. The Keepers had run a campaign, stationing themselves on the non-cycling routes and would talk to cyclists, explaining where they could and couldn't cycle. It was an issue staff had been working hard on but it was accepted it was not fully resolved.

In terms of the visibility of the Keepers, at the start of lockdown the horses on which they normally patrol the Commons had been put out to grass and patrols had been either on foot or in the buggies. Although this reduced their visibility they had been out there and doing their job. Two horses had now returned and were gradually being reintroduced to their work routine and the other two horses would hopefully be back in the next few weeks.

**Q6.** Cathy Williams, Carol Andrews and Neville Shepherd asked a series of related questions, mainly regarding Rushmere, particularly the partying, events and the rubbish around there. Firstly, Cathy Williams observed that the drunken partying behavior was essentially breaking a wide range of WPCC bylaws and she believed that WPCC had the powers under the Wimbledon and Putney Commons Act to deal with the matter and did not think that this was something that should be delegated to the police. Secondly, she asked if there is any consideration being given to introducing new bylaws to ban alcohol consumption on the Commons.

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**A6.** The Chairman, Diane Neil Mills, responded that she certainly understood the context for the question and would pass the Byelaw enforcement matter to the Chief Operations Manager. However, following the events on Rushmere on one particular evening in June, a meeting had been convened with Chief Inspector Bob Whitehead and Stephen Hammond MP to discuss how the police and Conservators could work together over these issues as there was a shared responsibility. That particular evening the police were already on site, having notified the staff earlier in the day that they would be carrying out patrols. When possible, the police have supported staff and additionally, in June 2013, Merton Council introduced a Controlled Drinking Zone across the entire borough, which provided the police with the power to confiscate alcohol from people who were acting in a disorderly manner.

Stephen Bound, Chief Operations Manager, commented that in terms of enforcement, Rushmere was an area that Keepers focused on as it had always been a busy area on summer evenings. This year it had been increasingly busy and Keepers had been on site monitoring for problems and speaking to people as and when necessary. Part of the issue was that many of the disturbances take place late at night, around midnight/1pm after Keepers have signed off. After the incident on 26 June, it became apparent that groups of teenagers were gathering in other areas deeper into the Common so as to be out of sight. This resulted in a greater incidence of fires and rubbish in areas not normally used.

The police were willing to help where they could but acknowledge very openly that their resources were incredibly limited. It's an issue that is not yet resolved but work is ongoing.

**Q7.** Could notices be placed at the entrances of Rushmere summarizing the main byelaws and making clear the penalties for non-compliance

**A7.** Stephen Bound responded that there were noticeboards at Rushmere and these were currently used to highlight particular byelaw issues such as BBQs or fires and this could certainly be expanded to cover the other main byelaws as well.

**Q8.** What arrangements are being made for a more extensive Keeper presence on the ground, especially in the evenings as Rushmere is turning into "party central".

**A8.** Stephen Bound responded by stating that Rushmere was a key area for the Keepers to patrol and they are out until dusk. They do talk to any groups they see breaching the byelaws but the Keepers do not have any greater powers than any other member of the public and, ultimately, if those people refused to cooperate there was not a huge amount that they could do other than liaising with the police where the behaviour was illegal. As mentioned previously, a lot of the problems happen later at night when the Late Keeper has finished but Duty Officers are contactable 24 hours a day, so if people are aware of a particular serious issue happening late at night they just need to contact us to call the police on their behalf.

**Q9.** What action is planned for improved oversight of event management so that we're not left with very ugly footprints after something like the Bookfest

**A9.** It was unfortunate that after several years of operating very successfully and without any problems on the Common, there were issues after last year's Bookfest event. There was an incredibly wet period just before the event and when the site setup started the ground was heavily waterlogged and vehicle movements did cause some damage. Having learnt from that, we are now looking very seriously at this as part of event planning process. Earlier in the year, the Rugby 7s for example had been cancelled, partially due the pitches being waterlogged but also because of the damage that the event setup would cause. There is a much smaller Bookfest event being held this year and WPCC are already talking to the organisers and their marquee suppliers about how they can bring most of their equipment on site by either carrying or trolleying it in from the roads to minimise vehicle movements on the Common itself. Where vehicle movements are essential then vehicles will need to have appropriate tires and/or protective matting laid before the vehicles come onsite.

**Q10.** A question from David Hogan on whether car parking charges in the Windmill car park would become compulsory and permanent to produce more income.

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**A10.** Mr Hince, Conservator, responded that in short, no. The Wimbledon and Putney Commons Act 1871 was unsurprisingly silent on car parking and so it was questionable whether WPCC had the powers to make a mandatory charge for car parking. The voluntary car parking donation scheme, which had so far raised just over £7,000, would continue and he thanked everyone who had donated so far.

**Q11.** A question from Fleur Anderson MP for Putney. Ms Anderson noted from previous years' accounts that £734,000 had been paid in legal and professional fees between 2012 and 2019, mainly for fighting questions by local residents over alleged mismanagement of property deals. Would there be any further action taken on this issue and do the Conservators anticipate that there will be further legal costs to be paid by the charity.

**A11.** Diane Neil Mills, Chairman, responded that in regard to the question about the legal fees dating between the period 2012 to 2019 she would need to investigate those and would be very happy to send a written response on the details of those fees. With regard to the anticipation of future costs, the Chairman reiterated the remarks made in her statement that with the closure and publication of the Statutory Inquiry, the Conservators did not anticipate there to be further activity in this area.

[Questions answered following the meeting do not form part of the minutes of the meeting but can be found below]

### Signing of the Accounts

There being no questions on the Accounts, all Conservators acknowledged their approval of the accounts and, as required under Section 91 of the Commissioner's Clauses Act 1847, the Chairman and the Auditor signed the accounts for 2019/2020. The Chairman also signed the Letter of Representation.

The Chairman closed the meeting at 9.10pm

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### QUESTIONS ANSWERED AFTER THE MEETING

#### Question from Mr David Devons

Q. May I suggest that all signs on the Commons, whatever their size, carry “WPCC” and the 020 Ranger’s Office telephone number, and the wording “Registered Charity No, etc”? This would increase security and help prevent some members of the public thinking the Commons belong to “The Council”.

A. The Chairman responded.

I thank Mr Devons for his question. As an adjunct to the work carried out as part of the National Lottery Heritage Fund, we have over the past year carried out an assessment of WPCC's use of the crest as well as other symbols and words used in our communications, not only in signage but in electronic communications. The result of that initiative has been to agree the symbols and words associated with WPCC (ie, colour, form, font) to ensure consistency. As signage is renewed, replacement signage will reflect the agreed format including colours and language. Your suggestion is therefore quite timely as one of the objectives is to ensure that the crest and identity of WPCC are more widely promoted and better understood.

There is unfortunately a misunderstanding within the community as to the ownership of Wimbledon and Putney Commons, which is not surprising as most commons within London are under the ownership of local authorities. I have in fact recently written to the Cabinet Member at Merton Council on this specific matter, with a request to wherever possible, support our effort to broaden an understanding of WPCC. Our recent fundraising initiative highlighted the fact that WPCC is an independent charity and we need to take advantage of every opportunity to reinforce this message. Hopefully, further promotion of the crest and identity will help reinforce this message.

#### Question from Fleur Anderson, MP for Putney

Q. I have noted that there will be limited time for questions, so I am happy just to ask the second, but I would welcome a written answer to both of these that arise from receipt of the Charity Commissioners report on July 2<sup>nd</sup>. If these are already being asked by residents I am happy to leave it with them as well.

The Charity Commissioner’s reported on July 2<sup>nd</sup> on the Putney Hospital land deal of 2014 when it was sold for a considerably lower amount than market rate - paying only £350,000 instead of a minimum of £1,187,500. Who was to blame for this, can any of this be recouped and can you assure levy payers that this will not happen again?

As another issue raised in the Charity Commissioners report I note from previous accounts that £734,310 has been paid in legal and professional fees between 2012 and 2019 which were mainly to fight questions by local residents over alleged mismanaged property deals. If further action is taken on this issue, do you anticipate that there will be further legal costs to be paid by the Charity?

Yours sincerely

Fleur Anderson  
Member of Parliament for Putney”

A. Text of the written response from the Chairman, Diane Neil Mills, to Fleur Anderson MP

Given the time constraints, I addressed only your second question at the AOM, as recorded in the notes of our meeting, which will be posted on the website alongside answers to



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questions not answered at the meeting and all of the reports delivered at the meeting. (The full minutes of the meeting will also be posted on the website once approved by the Conservators.)

“Q11. A question from Fleur Anderson MP for Putney. Ms Anderson noted from previous years’ accounts that £734,000 had been paid in legal and professional fees between 2012 and 2019, mainly for fighting questions by local residents over alleged mismanagement of property deals. Would there be any further action taken on this issue and do the Conservators anticipate that there will be further legal costs to be paid by the charity.

A11. Diane Neil Mills, Chairman, responded that in regard to the question about the legal fees dating between the period 2012 to 2019 she would need to investigate those and would be very happy to send a written response on the details of those fees. With regard to the anticipation of future costs, the Chairman reiterated the remarks made in her statement that with the closure and publication of the Statutory Inquiry, the Conservators did not anticipate there to be further activity in this area.”

Since receiving your question, I have investigated the details of the legal and professional fees for the period 2012 to 2019 on the basis of the information published in WPCC’s annual accounts and am able to confirm the following:

- The figure of £734,310 does not precisely accord with the actual figures disclosed in the audited accounts. The legal fees for the accounting years 2012 to 2019 inclusive were £585,007 and the professional fees were £114,186, giving a total of £699,193.
- Of the £585,007 in legal fees, over half were related to the Charity Commission’s action plan, statutory inquiry and appointment of the interim manager, all in relation to the easement at Putney Lower Common.
- Another 15 percent of the £585,007 in legal fees was in relation to the claim by a levy-payer for judicial review in 2013 (found in favour of the Conservators) and an appeal in 2014 (dismissed) in relation to the easement at Putney Lower Common.
- On this basis, over 70 percent of the legal fees incurred by WPCC between the period 2012 to 2019 were directly related to the easement at Putney Lower Common. In addition, certain elements of the remaining 30 percent of legal expenses were indirectly attributable to the easement.

On this basis, I do not believe it is a fair description of the fees to state that they were incurred as a result of fighting questions by local residents. The fees were unfortunately incurred out of necessity in response to an unsuccessful legal action taken by a local resident against WPCC, followed by referral to the Charity Commission, which after four years of investigation resulted in no finding regarding the terms of the easement.

As I said to you during the meeting, we sincerely hope that the publication of the inquiry report will draw a line under the Putney Lower Common easement matter. However, if there is any further legal action against WPCC in respect of this matter, it will be necessary for the charity to defend itself and take whatever legal action is regarded as appropriate to protect the charity.

With regards to your first question relating to the terms of the easement, the Charity Commission’s report of 2 July 2020 (‘the Inquiry Report’) addresses the points that you have raised, as set out below.

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## 1. Valuation of Easement

The Charity Commission's press release of 2 July 2020 stated, "The Commission did not make any findings about the decision to grant the easement or the terms of that grant."

I appreciate that given the statements in the Inquiry Report regarding various valuations, it may appear difficult to reconcile the conclusion of the Charity Commission regarding "no finding" with the valuations. Whilst there is no doubt that the Charity Commission did conclude that whilst there were (in its view) valid valuations for the easement of between £675,000 and £830,000 - £950,000, the Charity Commission also concluded that WPCC was also legally entitled to consider the overall impact of the proposal, as set out below.

"47. Given the concerns expressed by some subsequent trustees, the Interim Manager also asked the surveyor who had produced the 2015 report to revisit his previous valuation principally in light of information relating to the 2010 transfer which was not supplied with their original instructions.

That surveyor concluded in a further report ('the 2018 report') that the value of the easement was £830,000-£950,000. The range of valuations provided shows the difficulty in calculating the extent, if any, of the loss to the charity. The Commission accepts that valuation is not a precise science and it is possible for two professional valuers acting properly and in good faith to arrive at different valuations. Whilst the easement was granted for £350,000, the range of valuations now obtained indicated a value of between £675,000 and £830,000 - £950,000.

That said, the Commission also noted the determination of the Court of Appeal, dated 9 July 2014, that found the Conservators were entitled to take into account the overall impact of the proposal including the net effect on the Commons of the scheme as a whole.<sup>1</sup>"

Importantly, the 2015 valuation that formed the basis of the levy-payer's notification to the Charity Commission of £1.9 million was deemed to be invalid as it was based on incomplete information. Similarly, the figure of £1,187,500 million, to which you refer, was part of this same report and not accepted by the Charity Commission in its view of relevant valuations.

The other elements of the proposal that constitute terms of the transaction were considered by the Conservators at the very outset of the process, commencing in 2002, when discussions regarding the redevelopment of the site first began. WPCC's principal concern throughout was in upholding its duty to protect Putney Lower Common and as such put in place various measures to achieve that objective. Whilst some of these elements were specifically valued, others were not though it was accepted that they made a positive contribution to the

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<sup>1</sup> Refer to [2014] EWCA Civ 940: *Evans v Wimbledon and Putney Conservators* [2014] EWCA Civ 940. "Guy Fetherstonhaugh QC instructed by Gregsons solicitors appeared for the respondent in the Court of Appeal. The case involved a challenge by judicial review ([2013] EWHC 3411 Civ) by the Appellant to the Conservators' exercise of their power under the Wimbledon and Putney Commons Act 1871 to grant easements. The Appellant alleged that such grant was inconsistent with other obligations under the 1871 Act. The Court of Appeal rejected that argument and upheld the Conservators' decision to grant the easements, thereby unlocking a valuable development site. **The decision also gave detailed consideration to the question of what ancillary works were permissible to give effect to such a grant.**" [Source: <https://www.falcon-chambers.com/news/evans-v-wimbledon-putney-conservators-2014-ewca-civ-940>]

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development and formed part of the consideration of the transaction as set out in the deed. These measures included:

- restrictive covenant regarding the massing of the development;
- restrictive covenant regarding commercial limitations on use of the site;
- registration to WPCC of tarmacked roads and other historic accesses and areas surrounding the site and return to natural open space of all such land;
- award of land at Stag Lane;
- restoration of WPCC lands surrounding the site (“the Section 106 works”), valued at £300,000.

Although some of these elements were legally transacted in advance of the granting of the 2014 easement, the 2014 judgment recognised the value of these elements, concluding that the transaction had been carried out in two parts.<sup>2</sup>

Given these facts, the Charity Commission did not conclude that the easement had been “sold for a considerably lower amount than market rate”. Whilst the Inquiry Report does state that “retrospective valuations have indicated that the easement may have been transferred at an undervalue” the Charity Commission “did not make any findings about the decision to grant the easement or the terms of the grant”.<sup>3</sup>

In considering the overall impact of the transaction, the Conservators upheld their constitutional duty to protect Putney Lower Common, particularly during a time at which pressure from developers to increase massing and density in developments was intense. It is my personal view that one of the most valuable elements of the transaction achieved by the Conservators was the restrictive covenant on the massing of the development. There is no question that if the Conservators had accepted a larger development, the increased profitability of the development would have accrued to the Conservators through the terms of the easement, as the valuation methodology clearly demonstrates. In addition, there is no question that the £300,000 in improvements to Putney Lower Common, carried out by the developer, provided value to the Conservators.

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<sup>2</sup> Refer to [2014] EWCA Civ 940: *Evans v Wimbledon and Putney Conservators* [2014] EWCA Civ 940:

Section 2 states, “As part of the consideration for the grant of these new rights of way, the Council has agreed (as part of the Agreed Works as defined in the Schedule to the deed) to remove areas of hardstanding around the perimeter of the Site so as to create new grassed areas in keeping with the Common and to transfer to the Conservators such of these areas as remain in its ownership. As I shall explain in a little more detail later in this judgment, some of the areas of hardstanding lay within the land owned by the PCT and were transferred to the Conservators prior to the sale of the Site to the Council.” Section 28 states, “It seems to me that in making a judgment as to what is proper, the Conservators are entitled to take into account (as they have done in this case) the overall impact of the proposal including the net effect on the Common of the scheme as a whole. “Section 29 states, “The ultimate effect of the current proposals will be to restore as open grassland significant areas such as the car park and the western access road. The fact that this has been a two-stage process involving transfers first by the PCT and now by the Council does not in my view prevent the Conservators from looking at the overall result which will be achieved. This represents a net gain in terms of the area of the Common which will be returned to grass and will preclude any reliance by the owners of the Site on the rights of way which the land enjoyed as of 1871.”

<sup>3</sup> Refer to paragraph 56 of the Inquiry Report and to the Charity Commission’s Press Release, both of 2 July 2020.

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### 2. Repeat Experience

There is no question that the entire matter of the easement has consumed enormous resources and marks a low point in WPCC's history. The Charity Commission's finding regarding the dispute is therefore important.

The basis of the dispute relates to WPCC's constitution and its interaction with the Charities Act 2011. The matter is complex and the understanding of both WPCC's constitution and its interaction with charity legislation continues to evolve over time through legal opinions and court judgments. Importantly, the Inquiry Report does not state that WPCC was required to obtain a formal surveyor's report though it does state that obtaining such a report does represent "best practice". It also states that had WPCC obtained a formal report (or agreed that it did not need to do so in advance with all Conservators), the dispute may have been avoided.<sup>4</sup>

As noted in both WPCC's press release relating to the Inquiry Report and WPCC's Annual Report (as presented at the AOM), Conservators recognise the need for clarity in this area and as such have published the Access Framework. As the Access Framework sets out, WPCC's duty is to "comply by analogy" with sections 117 to 120 of the Charities Act 2011 and as such, the Access Framework stipulates that 'best practice' is to obtain a qualified surveyor's report when entering into a lease, easement or wayleave agreement. In approving the Access Framework, Conservators have put in place a mechanism for minimising the risk of a re-occurrence of a dispute over the regulatory compliance requirements of such agreements. Through constitutional reform, Conservators also recognise the opportunity to further clarify the constitutional basis for such agreements.

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<sup>4</sup> Refer to paragraph 31 of the Inquiry Report of 2 July 2020, "The inquiry considers that the original trustees should have obtained a formal surveyor's report prior to facilitating the granting of the easement. The subsequent trustees did obtain retrospective legal advice that there was no need to comply with the provisions of the Charities Act 2011 relating to the disposal of land. However, this was not established at the time of the transaction and in the Commission's view, **it would have been best practice to have obtained a formal surveyor's report. Whilst the inquiry cannot conclude the failure to obtain a formal surveyor's report has resulted in financial loss to the charity it would, at the least, have reduced the scope for disagreement amongst the trustees.**"