



WIMBLEDON AND PUTNEY COMMONS CONSERVATORS

Chairman's Annual Report 2017

Firstly, many thanks to you all for attending our Annual Open Meeting. From the numbers present it shows the great interest there is locally in our Commons. As I report on both the successes and the challenges that have faced the Charity over the past year, I hope that we can have a productive discussion here this evening. My report is rather longer than last year, reflecting a busy year for the Charity.

I would like to start with some thanks.

Firstly, to Sir Ian Andrews for his time on the Board as Ministry of Defence Appointed Conservator. Sir Ian served two terms of three years and a final term, with the consent of the Secretary of State for Defence, of two years, a time-frame that suited us because it meant that the periods of office of appointed Conservators would be staggered. Sir Ian, who unfortunately cannot be with us this evening, gave very freely of his time supporting both the Board and the executive. I will miss his calm and clear thinking approach.

We welcome Mike Rappolt who was confirmed in his position as Appointed Conservator by the Secretary of State for Defence, the Right Honourable Sir Michael Fallon MP on the 2nd May 2017. Mike has considerable experience in the charity and public service sectors particularly in the areas of audit, risk and corporate governance. We are delighted to have him on board.

I thank the Board for the confidence they have placed in me in renewing my appointment as Chairman of the Conservators for a further twelve-month period. It is a privilege to hold this position. I thank my fellow Conservators for their involvement, support and, indeed, challenge.

As Levy-payers you have a right to know about the complex and challenging matters affecting the operation of the Board over the past year. Legal constraints have prevented us being as open as we would have wished but as always we intend to be as open as possible tonight.

There is much to celebrate in this Charity in terms of the work being undertaken across many fronts to enhance the Commons. However you will be aware that not everything has been plain sailing. A considerable amount of the Board's time, and the Charity's resources has been expended on two particular issues: progression of the Formal Action Plan and the separate but nonetheless challenging issue regarding the conduct of an elected Conservator. I will take these in turn.....

...firstly, in relation to the potential financial loss to the Charity due to the granting of an easement in August 2014 to the London Borough of Wandsworth for access rights over Putney Lower Common. On 15th September 2016, the Charity Commission advised the Conservators that it had opened a Statutory Inquiry on 18th

August 2016 regarding progress with implementation of the Plan and other matters concerning management of the charity and risks it may be exposed to.

As many of you will know this has been a long running issue. The Conservators have been following a Formal Action Plan set by the Charity Commission, in effect our regulator. As part of this, in April 2016 the Charity received an Opinion of two leading counsel that it did not have to comply with sections 117-121 of the Charities Act 2011 requiring a Qualified Surveyors Report. However, the clear advice of our lawyers was that there was still a fiduciary duty to ensure that the terms on which the easement was granted were the best that could reasonably have been obtained for the Charity, having regard to the circumstances. An additional effect of this Counsel's Opinion was also to fix the relevant date for the valuation at 14th February 2012.

The Board agreed that its retained lawyers Charles Russell Speechlys (CRS) be instructed to undertake a tendering process to select an appropriate RICS surveyor to be instructed by them to prepare an independent retrospective valuation (RVR) as at this date: 14th February 2012.

The procurement process was led by CRS and, at its meeting on the 10th October 2016, the Board agreed to accept the recommendation of our lawyers that Daniel Watney be appointed to undertake the RVR.

The Daniel Watney RVR concluded that there had been a loss to the Charity of around £325,000.

Having formally received the RVR, two Conservators who were in office when the Charity agreed to enter into an easement with Wandsworth Borough Council in February 2012 recused themselves on the advice of CRS from any further involvement in the consideration of the loss and the feasibility of recovery of charitable funds. They did not take part in any further meetings addressing this matter. The Commission was also advised, on the advice of CRS, that a third Conservator who had been appointed on 25th April 2013 and the Charity's CEO who had been appointed on the 1st March 2014 were not conflicted, as both had been appointed after the 'relevant date' of 14th February 2012.

As required by the Commission's Formal Action Plan, the non-conflicted Conservators sought and fully considered legal advice of its retained lawyers, including Opinions from two QCs on implications arising from the retrospective valuation.

In early February 2017 the non-conflicted Board members met to consider the two Opinions and the advice of CRS, who were also present at the meeting. The clear advice was that the possibility of success in claims against any Conservators or former Conservators or Gregsons was low and as Drivers Jonas no longer existed this left Deloitte (who had acquired Drivers Jonas). Without further considerable research and expenditure, the Charity's advisors were unable to say there was any potential to make a successful claim against Deloitte. There was a strong possibility that the expenditure involved in building the case for a claim, and pursuing a claim,

would exceed any sum that could be recovered. These points were examined at length.

The non-conflicted Board resolved that, in view of the clear advice received it would not be in the best interests of the Charity to incur any further costs pursuing these matters, and that therefore in its view, the Charity Commission's Formal Action Plan of the 22nd October 2015 had now been completed.

On the advice of its lawyers the Charity wrote to the Commission to advise that in its view it had completed the Formal Action Plan. The Commission responded advising that the Statutory Inquiry was on-going.

On the 31st May 2017 the Charity Commission advised the Conservators that it had appointed an Interim Manager. The reasons for this were that, in the view of the Commission:

- the trustees had made very slow progress in completing the Action Plan
- while noting that the trustees have made further progress in completing the Action Plan, the Commission was concerned that the recent trustee decision was not based on comprehensive information and advice
- there is a dispute amongst the trustees which has led to one trustee being excluded from the decision making and the Commission considers the ongoing dispute is hampering the proper and effective management of the Charity.

All of these were deemed to be misconduct and/or mismanagement in the administration of the Charity.

The Commission noted (and I quote): *'The Commission considers that the trustees have demonstrated their ability and willingness to operate the charity and has decided that they should continue to do so. The Commission's only current concern is in relation to the disposal of the 2014 easement and the dispute this has led to within the trustee body. Accordingly the interim manager will only be appointed in a limited role with the Charity's trustees continuing to fulfil the other functions of the charity'*

The terms of reference of the Interim Manager are specific: *'To consider the Charity's trustees' decision of the 8th February 2017 not to take legal action to recover the loss suffered by the charity following the granting of an easement to the London Borough of Wandsworth in August 2014 for access rights over Putney Lower Common for £350,000 which was a significant undervalue ("the decision"), and whether further action needs to be taken.'*

We welcome the appointment of the Interim Manager and look forward to final resolution of this long running issue.

I said earlier that we wished to be as open as possible tonight and had hoped to be in a position to release further documentation this evening.

However the Interim Manager spoke with our lawyers CRS yesterday and said that *'it would not be appropriate at this stage for matters which form the subject of his appointment to find their way into the public domain.'*

CRS further comment: *'The Commission is a public authority and conducting an inquiry, and it is possible that the disclosure of the requested information will hamper their interim manager's work and therefore have an adverse effect on the result.'*

I appreciate that this will feel disappointing to some but we cannot do anything that will prejudice the work of the Interim Manager at this time. Once again, despite our best intentions, our desire to be more open has been frustrated.

As the Board has sought to progress the Formal Action Plan and then the requirements under the Statutory Inquiry, matters to which the whole Board, all Conservators, have been committed, regrettably we have had to deal with an additional and separate difficulty - the conduct of an elected Conservator. I am not sure it is necessary, or appropriate, to go into the full detail of this. However, earlier I referred to the three points about misconduct and mismanagement highlighted by the Commission as reasons for appointing an Interim Manager.

The third of these refers to a dispute on the Board which (and I quote) *'in the Commission's view, are centred round the granting of the 2014 easement'*

Yes, there have been differing viewpoints expressed, not uncommon on a Board. However, there is an additional dispute which relates to what is acceptable behaviour by a trustee – any trustee - of a charity.

John Cameron brings things of value to the Board, as do all members of the Board. However, the way in which John has conducted himself in bringing and pursuing these issues has caused significant disruption within the Board, to the executive, and to the Charity generally. This has not helped the situation, particularly regarding the Putney Hospital easement issue. Nor, I believe, has it helped John to fulfil his duties as a trustee of a charity, with its collective responsibilities.

In August 2016, the Board sought legal advice on how to deal appropriately with the actions of John Cameron. The advice noted that the Charity had no specific constitutional powers regarding conduct of a trustee, however, the lawyers considered that the level of transgressions had been breached to such an extent, that an internal disciplinary procedure be conducted in accordance with the Charity's agreed Disciplinary Procedures.

The Board commenced an internal investigation and, in order to protect the Charity, put Interim Measures in place against John. These included preventing him from having further input to the implementation of the Formal Action Plan.

The investigation concluded that John Cameron had breached the WPCC Principles and Standards, Terms of Reference and Code of Conduct that he had signed as part of the pre-election process in 2014. The investigation concluded that it would be in the best interests of the Charity if he resigned.

With regret, the Board approved this position at its December 2016 meeting. John was advised of the decision of the Board and the right of appeal. He did not appeal the decision of the Board nor did he resign.

On the 30th January 2017, on the advice of its lawyers, and having exhausted the options available to it under its governing constitution, (Wimbledon and Putney Commons Act 1871 and Commissioners Clauses 1847), in terms of dealing with an individual in such circumstances, the Board wrote to the Charity Commission as the Regulator requesting that it exercise its regulatory powers.

In a letter of the 10th February 2017 the Commission advised that ‘...[it] *is not prepared to take any action at the present time.*’ However, the Commission subsequently wrote on 31st March that it “...*has recently written to Mr Cameron in respect of releasing genuinely confidential information which has been obtained in his capacity as a trustee of the Charity.*”

As I conclude this part of my Report, I wish to stress that the Board continues to provide its full co-operation to the Statutory Inquiry and to the Interim Manager.

I'd like to turn now to consider some of the hugely successful work that the Charity has achieved over the past year, areas where really constructive energy has been expended.

When pursuing your activities on the Common how many times have you been asked the way to the Windmill – the iconic Grade II listed structure on Wimbledon Common? Well it is now fully restored.

Its restoration was a particular highlight, and we are grateful to the Windmill Trustees for their assistance. Water penetration over recent years had resulted in degradation of the building's structure and this was found to have also contributed to the dramatic collapse of one of the sails in August 2015. Restoration works were undertaken by specialist millwrights Owlsworth IJP, overseen by local conservation architects Marcus Beale Associates.

With the sails restored, the cap is once again rotating in the wind, all made possible by the grant from the Heritage Lottery Fund of £100,000 and generous donations from several local residents and funding from the Wimbledon Foundation (the charity arm of the AELTC) for which we are most grateful. Thank you.

Throughout the year a great deal of work has been undertaken in progressing the implementation of the landscape restoration works associated with the New Development at Putney Lower Common. All these works were funded by Wandsworth Borough Council as part of the overall development costs. I am delighted that Mark Loxton, Landscape Architect with Adam Loxton Partnership is with us this evening to provide a presentation on the restoration works. For those who haven't been on site recently I really would encourage you to go and see the new landscaping and wildflower meadows, they look spectacular.

As stewards of these magnificent open spaces much of our work is rightly focused around the conservation, enhancement and protection of the Commons natural

aspect. It is for that reason that I am particularly pleased that our first ever 'Commons-wide' vegetation survey, following national methodology, has been completed, providing a base-line against which to monitor our progress and from which a land management plan will be developed.

Our Wildlife and Conservation Forum, ably led by Dr Ros Taylor the DEFRA Appointed Conservator, continues to give great support to the Commons. The monitoring activities of the Forum, particularly on The Plain have helped Conservators and staff gain a much greater understanding of the impact of management activities.

2016 was also the final year of the Commons' funding under Natural England's Higher Level Stewardship Scheme. The funding provided through this initiative has enabled continued restoration of our heathlands and acid grassland communities. A bid to the government's replacement, Countryside Stewardship scheme has been submitted and officers are liaising with Natural England's Case Officer. This is also the last year of the English Woodland Grant Scheme and officers are also liaising with the Forestry Commission on a new application.

The work of our volunteers, continues to expand. From the monitoring work as stated above, to the Saturday morning "scrub bashers", some 3,440 volunteering hours were provided last year.

The work of the Saturday morning volunteers has been integral to supplementing the activities of our small maintenance team and, together, they have removed significant areas of invasive scrub and trees. This is particularly important in retaining the sites special SSSI and SAC designations.

Many other groups were involved with conservation activities on the Commons including groups from a local Muslim Youth Association, the Girl Guides, volunteers from the National Citizenship Service and a number of local schools.

As a matter of interest to us all here this evening – who has been involved in volunteering – be it scrub bashing, litter picking, monitoring or other volunteering work on the Commons?

The passion of the community in caring for and being involved in the Commons is apparent and really, really appreciated. Thank you all.

A range of popular externally-led walks and talks on the Commons took place during 2016. These are raising awareness of our Charity and the work it does.

I will list four:

1. Bat, bird and fungi walks attracting in excess of 150 people.
2. In response to a number of sightings of hedgehogs on Putney Lower Common, the Wildlife and Conservation Forum organised an evening talk in February 2017 by hedgehog expert Dr Nigel Reeve that attracted over 80 guests.

3. The annual BioBlitz, our weekend of nature in June, once again proved successful with all the nature walks over-subscribed. Many of those attending were children and their obvious enthusiasm for learning about our wildlife is encouraging for the future.
4. The Annual Commons Open Day continues to go from strength to strength and in 2016 there were over 60 stalls and entertainers for the attending public. It is difficult to estimate numbers, but our assessment was that at least 4-5,000 people visited the event throughout the day.

As reported in the recent edition of Commons News, we have launched a fund-raising appeal dedicated towards improving access within the Commons, starting with Inner Windmill Road, one of the main arterial access routes across the Common. We are most grateful for the response we have had since the launch of this appeal and I am delighted to report that the total received to date is £17,174 (before the addition of Gift Aid). Thank you to all who have so generously donated. This will help with improvement of access for all – able-bodied and those less able-bodied.

A consultation is currently underway regarding a proposal to introduce voluntary contributions at the Windmill car park. Such schemes operate at National Trust and other public open space car parks and would provide another valuable way to raise much needed funds for the protection and preservation of the Commons. Please do log onto our website.

I am particularly pleased as I near the end of my report to announce the launch of the Commons first ever strategy

Our Governance Review undertaken in 2014 placed considerable emphasis on the need to develop a Commons Strategy. There are many reasons for having a strategy for a site as complex and special as the Commons, not least providing a framework for consistent, long-term management based on an agreed set of policy priorities.

To develop this longer term strategic plan the Board enlisted the support of the Stakeholder Group. A dedicated team of representative users and interest groups worked over the past fifteen months with the Senior Leadership Team to develop a draft strategy that was presented to the Board in a workshop in March 2017 and subsequently approved by the Board at its April 2017. The Charity owes Clive Hilton, Judith Chegwiddden and Claire Seignior our grateful thanks for the time and effort they have put into progressing this document.

Five strategic areas of key responsibilities were identified, each with its own overriding objective. These ranged from Natural & Cultural Heritage to Access & Recreation; Community; Communication & Promotion and Governing Wimbledon and Putney Commons.

The development of the strategy, which will be published on our website, will enable the Board to look at ways of managing financial and natural resources more efficiently, particularly given the competing demands on the Charity's limited finances.

Financial resources are a major concern for the Board, and the Chief Executive will shortly provide a presentation. The Board recognise the need to bring the budgets back into balance and are meeting shortly to consider this important matter. The past two years have necessitated use of some of our cash reserves. It has been an unprecedented period but we have also invested heavily in the Commons asset, and the Chief Executive will expand on this.

And finally, I can't end my report for the year without thanking our wonderful staff for their amazing commitment to the Commons. The issues we have been grappling with on the Board are bound to be unsettling to those working for the Charity. Despite this they have delivered the real achievements to make the Commons the wonderful place we enjoy today. And there are only 21 in total, including Mounted Keepers, Playing Field staff, the Maintenance Team, Putney Lower Common Head Ranger, Property Officer, management and office staff.

From the Chief Executive to our latest recruit James Pauffley their dedication to the Commons and passion for the work they do is evident. And as someone whose home overlooks Putney Lower Common, I regularly receive appreciative comments about the positive and reassuring engagement by our staff who work there.

Last weekend you will have seen staff looking after our stand at the Wimbledon Fayre, or running events for our Bioblitz, and many of them are here again helping out this evening. So, on behalf of the Board, and I trust on behalf of all those using the Commons, I thank them for their hard work.