

Wimbledon and Putney Commons Conservators – June 2013

Minutes of the Conservators' ANNUAL OPEN MEETING held at Christ Church Hall, 2 Cottenham Park Road, West Wimbledon SW20 0NB on Wednesday 19 June 2013

Present: Mr David Devons (Chairman)
Mrs Jenny Evanson
Mr Derek Frampton
Mr John Horrocks
Mr Andrew Simon (Vice-Chairman)
Dr Ros Taylor
Professor Robin Touquet
Mr Gordon Vincent (Clerk & Ranger, Chief Executive)
Mr Walter Benzie (Auditor)

48 Levy-payers and other members of the general public

The Chairman began by welcoming everyone to the meeting and thanked them for attending. He explained that the meeting would be recorded to aid the preparation of the minutes of the meeting.

The Chairman introduced the Conservators and their advisors with a particular welcome to Dr Ros Taylor, a new Conservator recently appointed by the Secretary of State for Environment, Food and Rural Affairs.

1. APOLOGIES FOR ABSENCE

Sir Ian Andrews

2. MINUTES OF THE LAST MEETING

The Minutes of the previous Annual Open Meeting held at St Paul's Community Centre, Inner Park Road, London SW19 6ED on 13 June 2012 were approved by the Board and signed by the Chairman.

3. FINANCIAL STATEMENTS

The Clerk & Ranger, Chief Executive, Mr Gordon Vincent, reported on the financial statements for the year 2011/12. The main points of the report were as follows:

- He was pleased to report that for the second year running, the Conservators had not increased the Levy;
- The Conservators had set aside £13,000 for the Election fund. This was done each year to pay for the cost of the Election Reform Services to run the triennial election which amounted to some £30,000;
- The performance of the investment portfolio, the funds from the enforced sale of Mill House, had improved and performed well against market benchmarks;
- Under Voluntary Income, donations had dropped by some £6,000. The Conservators had been fortunate to have a local benefactor making a fixed donation, paid over three years, which had now ceased;

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- Under Activities for Generating Funds, Property Rents and Wayleaves had dropped from £95,279 to £87,908. The previous year had seen an income from allowing portacabins to be temporarily sited on part of Wimbledon Common whilst a property on Westside was being built;
- Governance costs: There had been a large increase in legal fees from £9,125 in 2011/12 to £31,936 in 2012/13. This was, in the main, due to the costs incurred defending the action taken against the Conservators by the “Friends of Putney Common” (Mr Nicholas Evans) over the proposed development of the Putney Hospital site by Wandsworth Borough Council;
- Staff numbers had increased by one; this was not a full-time member of staff but an apprentice taken on under the Government’s Apprentice Scheme;
- Activities for Generating Funds on the Common: Sales of logs and timber had increased from £40,000 to £46,000. This was a remarkable increase and the Clerk & Ranger thought it was mainly due to the long extended winter.
- Resources from charitable activities: Grants received from Defra were up from £61,158 to £79,231 from Stewardship, Woodland and Higher Level Stewardship schemes;
- Charitable activities expenditure: Horse and stable upkeep had increased by some £5,000. This was mainly due to the increase in the price of horse feed, which had risen dramatically in the last 12 months;
- Fuel costs had increased by approximately £3,000. A lot more grass-cutting had been required due to the rapid growth of grass during the year.
- Property maintenance and renovation costs had increased from £70,299 to £93,688. Following the sad death of Mr Roly Brien, who would have been known to many people on the Commons, the property in which he had lived, Gravel Pit Cottage, had been fully renovated;
- Machinery repairs: Costs had decreased by some £8,000. All the equipment on the Commons was now kept up to date and in good repair. All machinery was paid for and not purchased on credit.
- Finally, the balance of accounts was up to £2,605,326 from £2,456,279 on 2011/12, an increase of some £150,000.

Questions on the Financial Statements

Putney Resident (name missed)

- Q.** A Putney resident asked what the £5,000 for advertising costs was for.
- A.** The Clerk & Ranger responded that he was due to retire the following year and this was part of the costs incurred by the recruitment company appointed to find his replacement. This particular cost was for the advertisement in the Times.

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John Cameron, Putney Lower Common

- Q.** Mr Cameron queried the expenditure of some £8,000 on entertainment which had not previously appeared in the accounts.
- A.** The Clerk & Ranger reported that this was expenditure on a Christmas party for staff, the Clerk & Ranger's Party in December for friends of the Common and also a contribution towards the funeral of a member of staff.

Archie Galloway, Bowling Green Close

- Q.** Mr Galloway asked why casual labour costs had increased from £10,000 to £22,000.
- A.** The Clerk & Ranger responded that this was to employ casual labour to make up the staff shortfall during Mr Brien's illness. He had been unable to work for some 9 months before he died.

David Jenkins, North View

- Q.** Special Projects Reserve fund had increased by £100,000 this year. Why was that?
- A.** The Chairman responded that the Conservators had been advised some years ago that as a registered charity, they should, out of prudence, have one year's turnover in reserve, in case of emergencies. When requested to give an example he suggested that it was possible that the Levy could be withdrawn by Parliament or perhaps a major insurance claim would not be covered.

Mr Simon commented that there should be a reserve of some kind and this was the advice previously received. This was an area that the Conservators could give more consideration to, quantifying some of the possible risks and the costs involved.

Andrew Bignall, Vale Crescent

- Q.** He noted that a marketing company had been engaged at a cost of £4,160. Was this for the Communications review and, if so, how was the company chosen?
- A.** Mrs Evanson responded that this was indeed what the expenditure was for. Suitable companies in the field had been canvassed and invited to put forward a proposal for a review. From those responses, a short-list had been compiled and four companies interviewed. The final choice was made following those interviews.

Mr John Cameron, Putney Lower Common

- Q.** Mr Cameron commented that there were very few companies whose income could be guaranteed by an Act of Parliament as the Conservators' was. He asked where the advice for the Conservators to have a year's income in reserve had come from.

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- A. The Chairman responded that the Charity Commission had previously advised this although he understood that their advice had changed and it was up to each individual charity to decide. However, the Conservators felt this was a prudent policy. Mr Simon commented that the Conservators were a statutory body long before they were a charity and the power to raise a levy arose by statute. In comparison with other public bodies running open spaces, the Conservators costs per acre were very much lower.

Giles (Surname not heard)

- Q. Costs of clearing litter had gone up by 7% on previous year. Why was this?
- A. The Clerk & Ranger reported that a lot more dog waste and litter bins had been installed during the year.

Tim Isaacs, Telegraph Road

- Q. There was an army of volunteers who collected litter and he asked if it would be possible to install litter bins next to the dog bins as it was often difficult to find somewhere to leave the litter.
- A. Mr Frampton responded that litter on the Commons was a serious matter and staff spent two full days a week on litter clearance. Several groups of volunteers also collected a lot of litter which was very much appreciated. The Conservators tried to put litter bins in strategic places, i.e. where people were likely to drop litter rather than where dogs might be walked. The Conservators were also reluctant to place too many bins on the Commons as this would be unsightly. They did try to strike a balance. It would be a good idea to encourage dog-walkers also to collect litter on their walks and perhaps the Conservators could consider how this could be done. The Chairman thought the proposal should be considered by the Board. He also commented that it would help if some dog-walkers did not hang dog-waste bags on the trees.

4. ANNUAL REPORT

The Chairman began by asking the audience if they remembered what the weather had been like at this time last year. There had been a long drought, an extremely hot March followed by a hosepipe ban, which had been a cue for one year's rain resulting in the wettest year since records began. As many would have seen, paths had been completely flooded and impassable without wellies. It reminded him that in 1864 Earl Spencer wanted to enclose the land because "the land was boggy and noxious mists arose from it"; there was nothing new about the Commons being flooded. However, nature had an amazing ability to recover and paths had now virtually dried out, despite the late spring.

There had been a lot of activity clearing holly. It thrived on the Commons and formed dense areas, cutting out the light. There had been considerable holly removal, particularly around Queensmere and other areas of woodland. This allowed sunlight to penetrate so as to form woodland glades to the benefit of flora and fauna.

There had been a considerable removal of scrub on Putney Heath to protect the heather and other flora. It was a constant battle to keep the scrub down. A hundred years ago

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this would have been done by sheep. However, even then there were problems with dogs that chased and killed sheep. The Chairman read out from a notice published in 1874 advising Commons users that dogs worrying sheep would be shot. Dogs on the Commons were, it seemed a long-standing issue and as always, a balance had to be struck.

Following on from the successful nesting of Skylarks in Richmond Park, considerable work had been done on the Plain (on the south side of Windmill Road) to encourage Skylarks back again. A pair of Skylarks was thought to be nesting on the Plain early last year but they were seen being chased by an off-lead dog, despite it being a “no dogs” zone at the time. They were prevented by the dog from returning to the nest, which they eventually abandoned. This year the area had been made a “dogs-on-lead” zone and paths had been mown through the area to encourage walkers away from the critical nesting area and to use the area responsibly. However, there was no evidence that Skylarks had started nesting this year, possibly because of the late spring and cold weather; the Conservators were determined to continue with this programme for at least a few more years in the hope that the Skylarks would return. However, there had been some bird successes such as the cygnets on Queensmere this year, along with baby Coots, Moorhens and Canada Geese goslings on many of the ponds.

The Oak Processionary Moth (OPM) was a growing concern. The caterpillars could cause severe defoliation of the trees but did not normally kill them. The main problem was their effect on people and animals: the caterpillars have tiny toxic hairs that can cause irritation and allergic reactions. Over the last two years our maintenance team had successfully removed their nests. However, this year the problem had increased and the Forestry Commission had sprayed an area up to 50 meters around known sites of OPM, mainly on Putney Heath and on Wimbledon Common near Richmond Park. It remained to be seen how successful that had been.

The Chairman updated the meeting on the Putney Hospital situation. Wandsworth Council had bought the hospital site from the Wandsworth Primary Care Trust, which had obtained planning permission in 2010 for a Primary Care Centre on most of the site, plus a block of 24 private flats at the rear to finance the project. The project was eventually turned down by NHS London, after 10 years of negotiation with the Conservators, and the site became surplus to requirements. There had been a move to have the area redeveloped as a short-term respite or care home but despite a local petition, no one had taken up the proposal. The Conservators then entered into negotiations with the Council, prior to their buying the site for a two-form entry primary school with a very similar block of private flats to finance it.

There was considerable local opposition to the plans, mainly because of over-development of the site, i.e. shoehorning in of a two-form entry school with a sports area on the roof. Despite the Conservators’ suggesting quite strongly that this was too large a development, the Council disagreed and an access agreement was concluded between the Council and the Conservators. A local Putney Lower Common resident had applied to the High Court for Judicial Review on the grounds that the Conservators’ action was illegal. The Conservators believed their action was legal.

The essential points of the matter were:

- a) The site belonged to Wandsworth Borough Council, not the Wimbledon and Putney Commons Conservators.

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- b) Nearly all Commons land currently under concrete would be returned to Commons and grassed over (the road along the western side of the Putney Hospital site, the access road from Comondale and the large car park at the front). The exception was an access road on the eastern side and the turning circle at the northern end of the access road. Areas of land forming part of the Common previously forming access ways to the site had been transferred to the Conservators and registered with the Land Registry.
- c) Most of the planned access road had been in place for about a century. It would still belong to the Conservators, not the Council. A right of way over the access road and turning circle would be granted when planning permission for the development was granted. Section 39 of 1871 Wimbledon and Putney Commons Act allowed the Conservators to make roads as "in their judgment necessary or proper".
- d) Despite allegations to the contrary on at least one website, no land had been sold. The road and turning circle would still belong to WPCC. As compensation for allowing the access road to remain, an equivalent amount of land had been given to the Conservators from the northern end of the site (and registered to them). When the development was completed, this land would be grassed over. There was currently a narrow passageway connecting the Comondale part to the main part of the Common and this would be widened considerably, opening up the connection between the two parts.
- e) Similarly, land had been transferred by the Council to the Conservators at Stag Lane adjacent to REMPF to compensate for the loss of green land for the turning circle. The Conservators had, in fact, gained land.
- f) The Conservators had been open about all these developments and details and updates had appeared in the Annual Newsletters and the Annual Report and Accounts since 2006.
- g) The only payment from the Council to the Wimbledon and Putney Commons Conservators would be for the grant of rights of way over the access when planning permission was granted. The sum payable had been negotiated by professional advisors and conformed with the provisions of the Charities Act 2011. The sum to be paid was currently subject to commercial confidentiality.

Also on Putney Lower Common, the Conservators reached a new agreement with The Spencer. They are now only permitted to have 22 picnic tables/benches on the Common adjacent to the bus stand at Putney Common/Lower Richmond Road. The tables were for the use of anyone, not just customers of The Spencer. Wandsworth Council had granted a five-year planning permission for the tables and benches. The agreement had strict terms; the tables had to be removed between 31 October and 1 April, the staff must litter-pick the area each day and orders must not be taken at, or delivered to, the tables.

A new Communications Sub-Committee had been set up with Mrs Evanson as the Chair. A local firm from Wimbledon, Haygarths, had been commissioned to review the way Conservators communicated with Levy payers and other stakeholders. The Conservators were urged to have a more welcoming and open approach and hopefully this was reflected in the look of the new Newsletter. The Chairman asked the audience to inform a member of staff if they had not received a copy of the Newsletter. The

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Conservators were considering moving to delivering the Newsletter electronically only and making it available on the website in future years. Hard copies would still be available for anyone who requested them.

A new map of the Commons had been printed. It was based on an earlier 1979 map and had been updated by Norman Plastow MBE, Curator of the Windmill Museum and a former Conservator for many years. The map was available in three sizes and had very useful notes and information on the back. It was available from the Ranger's Office and the Windmill Museum.

The Conservators continued to employ an archivist to put the historical records in order. Previous city solicitors acting for the Conservators had kept important documents in the Silver Vaults in Chancery Lane. Most of these documents were lost in a bombing raid during the War. If no document could be found, it was assumed that it had been lost in the bombing raid. Quite unexpectedly, in December last year an historical file relating to Putney Hospital had been found, complete with original coloured maps of the original plans for the access road.

The minutes of the Conservators' meetings were hand-written until the 1950s. An attempt to transcribe them was started some years ago but difficulties in reading the copperplate script meant that it took one year just to transcribe three years of minutes. Volunteers to help transcribe the minutes would be very welcome.

The annual Stables Open Day would take place on 15 September this year. It was always a successful event and the staff worked hard to put on demonstrations of their work and activities on the Commons. It was a good opportunity for everyone to meet the horses, staff and Conservators informally.

The current Clerk & Ranger was now in his final year and would be retiring in March 2014. In just under 10 years he had turned round the Commons finances from almost in the red to having healthy reserves. On behalf of the Conservators, the Chairman thanked him and all the staff for all their good work and support throughout the year. For most of them it was not just a job, but dedication and devotion to the Commons – more a way of life. A replacement Clerk & Ranger was being sought.

Finally, if anyone had any concerns, they should contact the Ranger's Office or come along to the Board meetings which were held on the second Monday of the month at the Information Centre and the public were welcome to observe. The Chairman was normally there for half an hour beforehand to talk to any member of the public.

5. GENERAL DISCUSSION AND QUESTIONS

The main questions were as follows:

Pauline Brueseke, Southfields

- Q.** Mrs Brueseke was concerned to learn that a decision had been taken to send out the Newsletter only electronically. When was this decision taken and was it a unanimous decision?
- A.** Mrs Evanson responded that the decision had only been made recently. The cost of distribution was some £6,000 and it was difficult to say how many copies were

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actually reaching Levypayers. Newsletters would still be available in hard copy and the Ranger's Office would still be happy to send out a copy by post to anyone who wanted one. The Newsletter would be available on the website, electronically by e-mail and hard copies would also be available at the Ranger's Office and possibly other sites around the area. In response to Mrs Brueseke's comment that, as a charity, the Conservators should provide a service to their Levy-payers, Mrs Evanson said that it was also the duty of the Conservators to ensure the Levy was spent as efficiently as possible. The current distribution method was not as efficient as it might have been.

[Post-meeting note – Although moving to electronic circulation of the Newsletter had been approved by the Communications Sub-Committee, and recommended to the Board, it had not yet been agreed by the full Board]

Tony Holroyd, Hood Road SW20

Q. Mr Holroyd asked for the Conservators' reaction to the dog-licensing that had been introduced by the Royal Parks and also how the Conservators could control cyclists cycling off the permitted paths.

A. Mr Frampton commented that the Conservators were monitoring closely the Royal Parks' decision to introduce charges for commercial dog-walkers to see if there was any collateral fall-out on the Commons. It was too early to tell, although at present there was no evidence that the number of dog-walkers had increased significantly, but it was early days. If there was a marked increase then the Conservators would need to consider how to respond.

The Conservators were currently looking at the disposition of cycle paths on the Commons. Mountain biking presented a different problem because of the possible detrimental effect on the environment. The Chairman commented that this was a thorny issue, although the Keepers have the power of arrest they have no power to detain. Their power was no more than a citizen's arrest and was therefore ineffectual. The Conservators had been legally advised that unless someone was injured, the Courts would not take the matter of cycling off cycle routes seriously. In all his time as a Conservator, there had never been a report of an injury to anyone on the Commons caused by a cyclist. However, should an injury caused by an off-route cyclist occur, the Conservators would consider taking legal action.

Nick Hughes, Copse Hill

Q. Mr Hughes commented that he understood the balance that was required. However, there was no cycling access to the Common from the West Wimbledon area, particularly from the Barham Road area. The obvious answer was to extend the cycle path along Beverley Brook and up past Warren Farm. Although the path was wet in winter, in summer when most families wished to use it, it was dry. 45% of the population now cycled and although he understood that some cyclists caused problems the majority did not.

A. The Chairman commented that the Conservators had considered whether Stag Ride could become a cycle path, to complete the circle. However, having walked the route, the Conservators had reached the conclusion that the path was unsuitable because it was a hilly route, with sharp turns; and it was also used by horses; and by children from Hall School.

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From the audience, Mr Norman Plastow MBE (past-Conservator) commented that when cycle paths were introduced on the Commons it was decided that there should not be through-routes i.e. from A to B, as the paths would be used as commuter routes, which was not their purpose.

Mrs Elizabeth Simon, Victoria Drive

- Q.** Mrs Simon asked about the wildlife at Queensmere. She was aware that the swans had five cygnets but had been startled to see a very large Pike in the water. Were the Conservators aware of this?
- A.** Mr Horrocks responded that periodically the pond was electro-fished to remove the large Pike. Perhaps it was time for this to be done again. There had been seven cygnets but one had been lost and another had been injured and taken away to Swan Rescue.

Archie Galloway, Bowling Green Close

- Q.** Mr Galloway commented that the footpath on the western side of Scio pond over the last two winters had become waterlogged and impassable without wellies. Was there anything the Conservators could do about this?
- A.** The Chairman commented that the Conservators had a programme of footpath repair. However, the water table was so high at present and there was not a lot that the Conservators could do about that but they would look at the path.

Mr John Cameron

Mr Cameron commented that he had a list of questions that he wished to ask on Putney Hospital. However, after a short discussion with the Chairman just before the meeting, it had been agreed that rather than ask them all at the meeting, the list of questions could be added to the minutes. However, he would like to ask a few questions.

1. The proposed polyclinic scheme was cancelled by Wandsworth Primary Care Trust (WPCT) in September 2009. Why did the Conservators enter into an easement agreement in July 2010 relating to roads and footpaths on Putney Common with the WPCT and Wandsworth Borough Council (WBC) knowing that the scheme was not proceeding?

Mr Devons commented that the Conservators did not know that the WPCT scheme was definitely not going ahead.

2. The payment to the Conservators by the Council was known to be £350,000 (In response to a question from the Chairman, Mr Cameron refused to say from where he had received that information), split as £349,999 for the residential block and £1 for the school. The fiduciary duties as trustees of a charity were to maximise income so why were the Conservators only charging £1 for the school. In addition, as a "ransom strip", the access should have been worth at least 50% of the value of the site.

The Chairman responded that the overall sum for the whole site had been negotiated by professional advisors and the Conservators had decided to charge only £1 for the easement for the school because the school was a public service. Furthermore, the

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easement for the school was restricted to use as a primary school that was free at the point of delivery so that, for example, it could not be converted into a private school. With regard to “ransom strips”, the Chairman commented he could not answer that question. The Conservators were given professional advice and, for the time-being, the information was confidential at the request of Wandsworth Council. As soon as any money was received from Wandsworth Council, it would be made public.

3. The Conservators have repeatedly defended their position that their actions were legal despite the FoPC giving “chapter and verse” that it was not. In addition, the Conservators had stated that if they had not reached an agreement with the Council, the Council had threatened them with Compulsory Purchase. This had repeatedly been denied by Wandsworth Council. Who was lying?

The threats of compulsory purchase came during negotiations with the WPCT. Mr Simon confirmed that the Conservators had been threatened with compulsory purchase by Wandsworth Council, and quite recently. He could not explain why Wandsworth Council would deny it. If the agreement with Wandsworth Council was quashed by a Court, the Council would proceed by way of compulsory purchase.

Mr Tony Holroyd, Hood Road

Mr Holroyd commented that it was a privilege to live near the Common. He liked the staff and the horses were magnificent; he wished to express his appreciation of all that the Conservators did.

The Chairman then thanked the members of the public for attending and invited them to stay behind to have refreshments and ask further questions if they wished. He closed the meeting at 9.15 pm.



Will the Conservators please respond this evening to the following questions?

1. The proposed polyclinic scheme was cancelled by Wandsworth Primary Care Trust (WPCT) in September 2009. Why did the Conservators enter into an easement agreement in July 2010 related to roads and footpaths on Putney Common with the WPCT and Wandsworth Borough Council (WBC) knowing that the scheme was not proceeding?
2. When the WPCT scheme was found to be unsustainable, why did the Conservators not immediately reclaim the temporary roads and encroachments onto the Common made by the hospital over decades?
3. In February 2012 the Conservators secretly entered into a second easement agreement with Wandsworth Borough Council, the new owners of the site, without consulting Levy Payers or local residents. The agreement was then buried for months. Why?
4. We now know that the proposed payment for the sale of the access rights is a total of £350,000. Is it correct that £349,999 is the payment for the access for the flats, and £1 is the payment for the access for the proposed school? As Trustees of a Charity, the Conservators have a fiduciary duty, to the Charity, which appears to have been ignored by accepting a token payment in respect of the school, but not the flats. Why would this not be a flagrant breach of the Conservators' responsibilities under the Charities Act? Why do they continue to refuse to disclose the professional advice received in respect of the valuation?
5. The Conservators have said repeatedly that they were coerced by Wandsworth and the WPCT into the sale of the land, under threats of a Compulsory Purchase Order, or a complete takeover of Wimbledon and Putney Common, by the Council. The Council denies this. Who is telling the truth? In any event a CPO in this situation which relates to a Common that is protected by Act of Parliament would be unlikely.
6. The Conservators role, defined by the 1871 Act, is to protect Wimbledon and Putney Common, not to grant / sell access to enable development, particularly development that is over intensive and inappropriate. Given their absolute failure, why do the Conservators consider they should continue in their roles, and not resign immediately?
7. The Conservators know that the new access road is not "necessary" in the sense of the word in Section 39 of the 1871 Act because the building of a road to provide access for a development has nothing to do with the functions and duties of the Conservators. If they have legal opinion to the contrary, why do they not make it available?
8. The Conservators invite the public to their monthly meeting, but the public cannot contribute. Once the official business is conducted blandly, the public are then excluded and the Conservators remain and discuss the real issues they are facing. Where are these discussions minuted, or published? Why are subcommittee minutes not available? This style sums up the Conservators lack of transparency.
9. Putney Hospital is currently surrounded by a security hoarding, which encloses substantial parts of Putney Common, land that is owned by the Conservators. The planning permission for the proposed school and luxury flats was quashed by the High Court in March 2013, as it was unlawful.

The site has no valid planning permission, there is no planning application pending. Will the Conservators please explain why they don't immediately remove the hoarding and reclaim the common land that the Council has unlawfully enclosed?