

Wimbledon and Putney Commons Conservators (WPCC)

Chronology on Mill House

Prepared by the Board of Conservators

September 2018

Background

On the 3rd September 2018 the Chairman of the Board of Conservators received a request from a levy-payer under the Freedom of Information Act and the Environmental Information Regulations requesting information on the enfranchisement of Mill House including:

1. *Copies of all “Qualified Surveyors Reports” and / or “valuations” and / or “ valuation advice” (whether in formal reports or otherwise) procured by the WPCC at the time of the sale*
2. *Copies of all other professional advice received at the time of the sale, (ie from Counsel or solicitors etc acting for the WPCC)*
3. *Copies of all other information which is held in respect of the sale (ie correspondence between management / trustees / advisers / insurers and so on)*

WPCC is not a public authority for the purposes of the Freedom of Information Act 2000. It is however considered a public authority within the definition provided by Regulation 2(2) of the Environmental Information Regulations 2004 and therefore is subject to the Environmental Information Regulations 2004.

At its meeting on the 18th September 2018, the Board thoroughly considered the above request for information and the Conservators’ view was that the information requested did not fall within the definition of “environmental information” as defined under Regulation 2(1) of the Environmental Information Regulations 2004 as set out below.

“environmental information” has the same meaning as in Article 2(1) of the Directive, namely any information in written, visual, aural, electronic or any other material form on -

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;*
- (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);*
- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;*
- (d) reports on the implementation of environmental legislation;*
- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and*

(f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c).ⁱ

In the spirit of openness and transparency that the Conservators embrace, WPCC has prepared a detailed chronology, which is set out below, relating to the enfranchisement of Mill House beginning in 1934 when the lease of the property was originally extended by the Board of Conservators. Detailed documentation supporting each event of this chronology has been compiled and it is intended to make this documentation available once it has been properly redacted to protect legal professional privilege and ensure that it meets the requirements in relation to the protection of personal data.

Following further consideration by the Board in February 2019 it was agreed not to incur further costs to enable publication of the further information at that time.

Summary

The enfranchisement of Mill House was a complex matter which began in 1934 and was finally determined 12 years ago by the then Board of Conservators in August 2006.

As the chronology clearly demonstrates, Conservators diligently upheld their duties in respect of Mill House as manifested through both the rigorous approach adopted with each rent review, including when necessary independent dispute resolution, and the vigour deployed to protect the freehold interest of this property.

The evidence shows that throughout history, the presiding Board was guided by professional advisors including specialist counsel, solicitors and chartered surveyors in leasehold enfranchisement. The matter was the subject of independent public scrutiny by a Leasehold Valuation Tribunal in 1997, a County Court judgment by Her Honour Judge Williams in November 2004 and a further Leasehold Valuation Tribunal in December 2005.

WPCC's situation of having a tenant on a long term lease subject to a special Act of Parliament (i.e., Wimbledon and Putney Commons Act 1871) was unique and when the Government introduced a provision that could potentially enable enfranchisement in these unique circumstances through the Draft Commonhold and Enfranchisement Reform Bill in 2000 (which ultimately became the 2002 Act), the Conservators went to great lengths to resist the forced sale of this property.

The Conservators wrote to numerous bodies and organisations including local authorities across England to ascertain if any other body had a similar position to Mill House, in order to support a general amendment to the Bill that would exempt Mill House and others. This approach was supported by the Government Department sponsoring the Bill. Despite this effort, no other public authority came forward in response to this appeal.

The Conservators involved local MPs, senior ministers and peers. As the Bill passed through the House of Commons, the Member of Parliament for Wimbledon sought to introduce an amendment and received ministerial assurance that the position of Mill House would be unchanged. The Bill came into force as the Commonhold and Leasehold Reform Act 2002 on the 1st May 2002. Unfortunately, the House of Lords judgment in *ex parte O'Byrne* on the 14th November 2002 resulted in a decision giving the tenant of Mill House the right to achieve the enfranchisement of Mill House.

Ultimately, the founding legislation of the Wimbledon and Putney Commons Act 1871 was overruled by the Commonhold and Leasehold Reform Act 2002 and the House of Lords Judgment of *ex parte O'Byrne*.

On 14th December 2003, the tenant of Mill House gave Notice of the Tenant's Claim to Acquire the Freehold of Mill House through his solicitors. This became the valuation date for the enfranchisement of Mill House that eventually took place on the 1st August 2006.

The freehold value of Mill House was agreed after protracted negotiation and in the judgment at the Leasehold Valuation Tribunal in November 2005, it was agreed that the Conservators must sell the property at a value of £2,750,000. Although WPCC was successful in defending a technical position on this valuation, the tenant of Mill House immediately sought to appeal that decision.

Counsel's view was that WPCC would fail at appeal because the case was flawed as a matter of statutory interpretation. On that basis, the risks to the charity (as set out in the chronology) were financially too great and, on advice of Counsel, the Conservators committed to negotiate a final value with the tenant of Mill House. At a Special Meeting of the Conservators in April 2006, the Board agreed to sell Mill House on the 1st August 2006 at a value of £2,500,000 (as of 14th December 2003).

The tenant of Mill House, having secured the enfranchisement of the property, immediately put it up for sale on the open market. It is understood that it was sold for substantially more than the asking price.

Chronology

Item	Description	Date(s)
1.	<p>Wimbledon and Putney Commons Act (the '1871 Act') confirming powers and limits of those powers relating to leases.</p> <p>Section 35:</p> <p><i>"It shall not be lawful for Conservators, except as in this Act expressed, to sell, lease, grant, or in any manner dispose of any part of the commons."</i></p> <p>This provides a prohibition of alienation of Common land.</p> <p>Section 38:</p> <p><i>"The Conservators may maintain and keep in good order, and from time to time let at a yearly, or other rent, or otherwise use, the buildings on Wimbledon Common transferred to them by this Act, with the inclosures adjoining thereto or any part thereof, and any rents and money received in respect thereof shall be carried to and form part of the Conservancy Fund under this Act."</i></p> <p>This provides a power to enter into leases for properties on the Commons.</p> <p>Mill House formed part of the Common as set out in the designated map of 1871.</p>	16 th August 1871
2.	<p>WPCC Board Minute from February 1934 extending the lease on Mill House till 1960.</p>	5 th February 1934
3.	<p>WPCC Board Minute May 1936 setting out a request from the tenant to extend the lease by a further 21 years since he was about to spend a substantial sum on redeveloping the property. The Board agreed to extend the lease for Mill House for a further eleven years until the 25th March 1971.</p>	6 th May 1936
4.	<p>Lease between WPCC and tenant of Mill House signed on the 25th March 1937 and terminating on the 25th March 1971.</p>	1 st March 1937
5.	<p>Leasehold Reform Act 1967 (LRA 1967).</p> <p>http://www.legislation.gov.uk/ukpga/1967/88/contents</p>	1967
6.	<p>WPCC Board Minute December 1971 confirming that the tenant of Mill House had sought a 50 year lease under the LRA 1967.</p>	13 th December 1971

7.	WPCC Board Minute December 1973 confirming that a fifty year lease of Mill House was granted by WPCC. A copy of the lease in accordance with the LRA 1967 from 25 th March 1971 was granted in December 1973 at £900 per annum for the first 25 years, subject to a rent review on 25 th March 1996 for the following 25 years.	20 th December 1973
8.	WPCC having granted an extension to the lease under LRA 1967 under section 16(1) the tenant no longer had a right to acquire the freehold.	s. 16(1) LRA 1967
9.	WPCC Minute Conservators' Special Meeting September 1995 – The tenant had rejected a proposed rental of £55,000 per annum for the second twenty five years. The Board refused to grant the lessee a further extension of the lease beyond 2021.	18 th September 1995
10.	Legal advice from WPCC's solicitors on certain aspects of the Mill House lease and LRA 1967 (subject to Legal Professional Privilege (LPP)).	11 th December 1995
11.	WPCC Confidential Board Minute October 1996 - reference to valuations on the rent for Mill House. The Board had recommended £55,000 but this was rejected by the tenant. Agents were asked to negotiate between £49,000 and £47,500. Reference made to the London Rent Assessment Panel of the Leasehold Valuation Tribunal and recognition by the Board that if the assessment by the independent panel came back less than the Conservators were asking, it would show that they had acted responsibly.	14 th October 1996
12.	WPCC Confidential Special Board Minute November 1996 Rent Review of Mill House. The purpose was to set out the reasoning behind the rent demand of £55,000, determine who would appear on behalf of WPCC at the London Rent Assessment Panel and to outline the options and range of valuations that WPCC should pursue of between £55,000 (allowing for a minor extension) and £85,000 (if the site were developed in accordance with plans submitted by the tenant).	7 th November 1996
13.	WPCC Confidential Board Minute January 1997 – includes reference to the London Rent Assessment Panel of the Leasehold Valuation Tribunal. There is also appended a letter from the tenant of Mill House setting out the basis on which it was believed the rent should be assessed. There is also an Opinion (subject to LPP) from a barrister of Lincoln's Inn providing wording in response to the tenant's letter. The barrister's advice is that WPCC should not enter into a further long-term lease with the tenant.	13 th January 1997

14.	<p>Leasehold Valuation Tribunal April 1997</p> <p>https://decisions.lease-advice.org/app/uploads/decisions/act67/1-1000/11.pdf</p> <p><i>Our valuation is accordingly as follows:</i></p> <p><i>Entirety value £1,200,000</i></p> <p><i>Site value at 50 per cent £600,000</i></p> <p><i>Section 15 rent at 6 per cent £36,000 per annum</i></p> <p><i>Accordingly, we conclude that the rent to be paid by the tenant of The Mill House for the remainder of the extended lease, with effect from 25 March 1996, should be £36,000 (thirty six thousand pounds) per annum.</i></p>	8 th April 1997
15.	<p>WPCC Confidential Board Minute April 1997 decision by the Board to accept the London Rent Assessment Panel's decision as the risk if the Conservators lost an appeal could exceed £60,000.</p>	14 th April 1997
16.	<p>All Party Parliamentary Group on leasehold reform introduced in 1998 giving leaseholders who had extended their leases under LRA 1967 the right to enfranchisement.</p> <p>https://api.parliament.uk/historic-hansard/commons/1998/jun/10/leasehold-reform</p>	December 1998
17.	<p>An Opinion (subject to LPP) obtained from a barrister in Falcon Chambers in the matter of Mill House setting out the prospects of WPCC forfeiting the lease.</p>	10 th February 2000
18.	<p>Representation from Member of Parliament for Putney MP about the situation of Mill House made to Secretary of State (Department for Environment, Transport and the Regions) who responded in a letter about the Governments proposals and concern about why the leaseholder of a house on Common land who has had their lease extended should be treated any differently to a leaseholder on other common land.</p>	17 th February 2000
19.	<p>WPCC Confidential Board Minute April 2000 setting out how on advice of the Member of Parliament for Putney three Conservators held a meeting on the 23rd March 2000 with the Policy Advisor of the Housing Private Rented Sector DETR. A note of that meeting was produced that set out the context and concerns of WPCC and the risk of enfranchisement of Mill House.</p>	10 th April 2000

20.	<p>In August 2000 the draft bill Commonhold and Leasehold Reform Bill was published.</p> <p>http://webarchive.nationalarchives.gov.uk/20120920035450/http://www.communities.gov.uk/documents/housing/pdf/138226.pdf</p>	August 2000
21.	<p>Letter to Chairman of the Board from the Policy Advisor Housing Private Rented Sector DETR about the public consultation on the draft Bill. In respect of enfranchisement of Properties on Inalienable land the Conservators were required to answer three questions:</p> <p><i>QENF23: Do you agree that the Government should exempt all properties held and protected under Act of Parliament from enfranchisement provisions and from the provisions for lease renewals for flats?</i></p> <p><i>QENF24: Are you aware of any properties which would be affected by such an exemption? If so, which properties? Who is the freeholder? What Act is the property held and protected under?</i></p> <p><i>QENF25: Are you able to identify any particular problems which would be caused by such an exemption? If so, what?</i></p>	23 rd August 2000
22.	<p>WPCC Confidential Minute September 2000 the Board agreed a response to the Policy Advisor of the Housing Private Rented Sector DETR in respect of the public consultation on the draft Bill.</p> <p>Responding “Yes” to the first two questions the Conservators in response to QENF25 drew particular attention to Mill House and requested that the specific Acts of Parliament (where known) be listed under the new Act as exemptions.</p>	11 th September 2000
23.	<p>On the 20th December 2000 the Head of Division of the Housing Private Rented Sector DETR wrote to WPCC and advised that the Government had introduced a Commonhold and Leasehold Reform Bill into Parliament. The Divisional Manager advised that WPCC were the only organisation to have responded to that part of the consultation. A general exemption could therefore not be applied. Ministers were also concerned that in making a specific exemption for WPCC it would turn the Bill into a Hybrid Bill that are “<i>subject to hideously complicated special procedures, and are not to be undertaken lightly</i>”.</p>	20 th December 2000
24.	<p>Independent advice of specialist Solicitors and Parliamentary Agents (subject to LPP) was sought on the Hybrid Bills and a suggested way forward was proposed to exempt specific properties held by public bodies subject to Acts of Parliament.</p>	23 rd January 2001
25.	<p>The Chairman of the Board wrote to the Divisional Manager Housing Private Rented Sector DETR in a letter dated 13th February 2001 setting out the proposal.</p>	13 th February 2001

26.	A response Divisional Manager Housing Private Rented Sector DETR was received on the 28 th February 2001 from the Divisional Manager of the Housing Private Rented Sector advising that the approach was unacceptable and would still risk the Bill being considered a hybrid.	28 th February 2001
27.	<p>The Chairman of the Board of Conservators wrote to a number of organisations, such as English Heritage, Charity Commission, The Church Commissioners, the Corporation of London, the Crown Estate, the National Trust and the NFU explaining the problem and asking whether they “were aware of any bodies that operate under a specific private Act of Parliament preventing enfranchisement of property, which could nevertheless be enfranchised under the proposed leasehold legislation because it is let under a lease extended under the Leasehold Reform Act 1967”. All the responses received were negative.</p> <p>The Chairman also wrote to two peers living in the Wimbledon levying area to seek their support to get the Committee of the House of Lords to accept the proposed amendments as the Bill progressed forward.</p>	<p>March – June 2001</p> <p>26th February 2001</p>
28.	WPCC Confidential Board Minute 10 th September 2001 - confirms that a Conservator had written 100 letters to Borough Councils and County Councils in attempt to find someone in a similar situation to WPCC. The prospects did not however look promising.	10 th September 2001
29.	<p>Hansard Debate in the House of Commons 13th March 2002 – the Member of Parliament for Wimbledon agreed to argue the Conservators’ case as the Bill proceeded through Parliament.</p> <p>https://publications.parliament.uk/pa/cm200102/cmhansrd/vo020313/debtex/20313-19.htm</p> <p>The Ministers response to the proposed amendment was:</p> <p><i>“As I said, it affects the position of leaseholders who have already taken advantage of the provisions of the 1967 Act to extend their leases. They will now be able to use the provisions of that Act to acquire the freehold, but clause 142 does not confer any additional rights on such leaseholders; if they were previously unable to acquire the freehold because the landlord was unable to dispose of it, the situation remains unchanged. We do not consider it appropriate to do anything that could take away any rights that tenants currently enjoy under the 1967 Act”</i></p> <p>WPCC Confidential Minute April 2002 with an extract of the statement made by the Minister in Hansard that would be sufficient to protect the Conservators’ ownership of the freehold of Mill House.</p>	<p>13th March 2002</p> <p>8th April 2002</p>

30.	<p>The Commonhold and Leasehold Reform Act 2002 was passed 1st May 2002: https://www.legislation.gov.uk/ukpga/2002/15/contents</p> <p>Section 143 of which repealed section 16 of the 1967 Act states:</p> <p>143 Abolition of limits on rights after lease extension</p> <p>(1) In section 16 of the 1967 Act (limits on rights after extension of lease), omit—</p> <p>(a) subsection (1)(a) (no right for tenant under extended tenancy to acquire freehold after end of original lease), and</p> <p>(b) in subsection (4) (no right to freehold or extended lease in case of tenancy created by sub-demise under extended tenancy), the words “the freehold or”.</p> <p>The Conservators were advised by Counsel (subject to LPP) that they had a good case to refuse enfranchisement of Mill House based on Section 35 of the 1871 Act and the Minister’s statement in Hansard.</p>	1 st May 2002
31.	<p>Judgment - Regina v Secretary of State for the Environment, Transport and the Regions (Appellant) and others Ex Parte O'Byrne (Respondent)</p> <p>https://publications.parliament.uk/pa/ld200203/ldjudgmt/jd021114/byrne-1.htm</p> <p><i>26. The 1985 Act right to buy procedures, like the enfranchisement procedures under the Leasehold Enfranchisement Act 1967 [my emphasis] and under chapter 1 of the Leasehold Reform, Housing and Urban Development Act 1993 and like the right of tenants under chapter 2 of the 1993 Act to a new lease at a discounted premium, are compulsory expropriation procedures;</i></p> <p><i>50. Sections 125 to 131 deal with the price to be paid by the tenant for the freehold or, as the case may be, the long lease. Put very shortly and broadly, the price is the market value less discounts [my emphasis] depending on the length of time the tenant has held his tenancy and occupied the premises as his home.</i></p>	14 th November 2002
32.	<p>On 14th December 2003, tenant of Mill House gave Notice of the Tenant’s Claim to Acquire the Freehold of Mill House through his solicitors. This became the valuation date for the enfranchisement of Mill House that eventually took place.</p>	14 th December 2003
33.	<p>WPCC Confidential Board Minute January 2004 – receipt of the formal Notice from tenant’s solicitors. The Board agreed to send a letter to advising that section 35 of the 1871 Act made Mill House inalienable and also reference was made to the Minister’s statement in Hansard that the proposed legislation would not allow Mill House to be enfranchised.</p>	12 th January 2004

34.	Letter from the Chairman of WPCC to the Wimbledon MP and Remembrancer of the City of London Corporation advising them of the position regarding the Notice served by the tenant of Mill House. It was hoped that the tenant would withdraw the Notice.	13 th January 2004
35.	WPCC Confidential Minute February 2004 – confirmation that a letter had been sent to the tenant’s solicitors refusing to assign the freehold of Mill House.	9 th February 2004
36.	WPCC Confidential Board Minute March 2004 – The tenant’s solicitors had responded and were of the view that their client was entitled to pursue a claim. They cited the judgment in <i>ex Parte O’Byrne</i> . The tenant had also served a planning application on the London Borough of Merton to extend the property.	8 th March 2004
37.	WPCC Confidential Board Minute April 2004 – Nothing heard, but Conservators would commence proceedings to clarify the position.	5 th April 2004
38.	WPCC Confidential Board Minute May 2004 – The tenant’s solicitors advised WPCC solicitors that they were applying to the court for a transfer of the freehold of Mill House. The Board agreed to seek an Opinion from counsel at Falcon Chambers.	10 th May 2004
39.	An application for a court hearing was faxed on the 13 th May 2004 from the tenant’s solicitors to WPCC’s solicitors.	13 th May 2004
40.	An Opinion of the 27 th May 2004 was received from counsel at Falcon Chambers (subject to LPP).	27 th May 2004
41.	<p>WPCC Confidential Minute June 2004 (subject to LPP) – The Board considered the legal Opinion and acknowledged that the situation in the House of Lords judgment had completely reversed matters. Although as reported in Hansard the Minister was quite correct in stating that the situation was unchanged, i.e. the tenant could not acquire the freehold because of section 35 of the 1871 Act, the Minister had not said that Mill House would be exempted from compulsory expropriation provisions of the Commonhold and Leasehold Reform Act 2002.</p> <p>The Conservators took the view that they must fight the case in the County Court, partly for the sake of levy payers and also to prevent loss of credibility with the Member of Parliament for Wimbledon.</p>	14 th June 2004

42.	<p>Kingston upon Thames County Court judgment by Her Honour Judge Williams 4th November 2004. The judge recognised that because of the 1871 Act WPCC were prevented from disposing of any part of land which forms the Commons. On page 10 of the judgment Her Honour states:</p> <p><i>“From the long title of the 1967 Act it is clear that Parliament intended to pass an expropriary statute which necessarily must interfere with the rights of land owners. This was in order to give people in the position of the claimant the right to acquire the freehold in certain circumstances. This was not anticipated in 1871. The necessary conditions are met by the claimant...I do not believe that the users of the Common will be affected because any transfer to the claimant will contain the necessary restrictive covenants and of course the appropriate price will be paid, to be determined, and the conservators will benefit financially.”</i></p>	4 th November 2004
43.	<p>WPCC Confidential Board Minute November 2004 – receive the judgment from the County Court. Leave to appeal to the Court of Appeal had been refused, because there was no reasonable chance of success. The Conservators agreed that no appeal should be filed.</p>	8 th November 2004
44.	<p>Specialist chartered surveyors in leasehold enfranchisement were approached in January 2005 to provide a valuation. Their professional advice was to initially obtain an open market valuation and if that were accepted it would be the end of the matter. If not as specialist leasehold enfranchisement surveyors they would handle the negotiation and, if necessary any proof of evidence to a tribunal.</p>	19 th January 2005
45.	<p>WPCC’s solicitors confirmed to the specialist leasehold enfranchisement surveyor that another chartered surveyor and estate agent with local knowledge of property valuations in Wimbledon had been appointed to prepare a valuation of the freehold of Mill House.</p>	27 th January 2005
46.	<p>A formal valuation was provided by the firm of chartered surveyors and estate agents. The value of the freehold interest as of 14th December 2003, the date that the tenant had served formal notice to acquire the freehold of Mill House, was given as £3,800,000. This included £1,000,000 of improvements that were to be disregarded leaving a value of £2,800,000.</p> <p>As this was a valuation under Section 9.1 (c) of the Leasehold Reform Act 1967 and as a result of a decision in the Court of Appeal Fattal v Keepers and Governors of the Free Grammar School of John Lyon (2004), 25% of the value of improvements could be added to the capital value of the property before the improvements were carried out. This brought the valuation to £3,050,000.</p>	10 th March 2005
47.	<p>WPCC Confidential Board Minute March 2005 – The Board received the valuation carried out by chartered surveyors and estate agents. The current figure of just over £3,000,000 did not include any value for the proposed building works.</p>	14 th March 2005

48.	The chartered surveyor and estate agent undertook to view the property and on the 10 th June 2005 and advised that the value of the freehold interest in Mill House with all the improvements and extensions having been carried out was £4,200,000. The freehold value with no improvements was £2,800,000, the increased value being £1,400,000. The cost of improvements to be deducted in accordance with decision in the Court of Appeal Fattal case was £520,500. The residual value was calculated at £730,000. Therefore the value as at 14 th December 2003 was £3,530,000 (£2,800,000 plus £730,000)	10 th June 2005
49.	There was considerable disagreement between both sides on the open-market valuation, which improvements and potential improvements were relevant and whether the valuation was affected by the tenant's right to remain in possession under Part 1 of the Landlord and Tenant Act 1954. On the 13 th June 2005 the tenant made an application to the Leasehold Valuation Tribunal for determination of the price payable under section 9 of the Leasehold reform Act 1967 for Mill House and determination of the provisions to be contained in the conveyance.	13 th June 2005
50.	Minutes of a meeting held between WPCC's specialist leasehold enfranchisement surveyor and the tenant's surveyor setting out the valuation issues. WPCC chartered surveyors had put forward an enfranchisement figure of £4,375,000 for the freehold of Mill House. The tenant's chartered surveyors confirmed that they were going to obtain a legal Opinion from a barrister in Falcon Chambers who was considered the leading counsel in the subject of leasehold enfranchisement and joint editor of "Hague on Leasehold Enfranchisement".	22 nd June 2005
51.	Memo to WPCC from specialist leasehold enfranchisement surveyor updating on progress. The barrister acting for the tenant's surveyor at Falcon Chambers had advised that as far as they were aware this was the first case where a tenant had taken advantage of section 147 of the Commonhold and Leasehold Reform Act 2002, allowing enfranchisement of a statutory fifty year extension. The issue of holding over presented ambiguity as to whether the value be determined under the provisions of the Rent Act 1977 or an Assured Period Tenancy. Legal advice was required to assist in determining the valuation.	24 th July 2005
52.	WPCC receive an Opinion from counsel at Falcon Chambers dealing with the holding over issue and how to deal with the various improvements and the decision in Fattal v John Lyons. (subject to LPP).	October 2005

53.	Confidential Report of Conservators October 2005 attended by WPCC's solicitors and chartered surveyor and estate agents. Discussions with the tenant's chartered surveyors were considered and the tenant's surveyor had indicated that a figure of £3,750,000 might be acceptable and that such an offer should be given very serious consideration. This was particularly in light of the disappointingly low rent that had been set at the Leasehold Valuation Tribunal decision of the 18 th April 1997 where far fewer advantages of the location of Mill House had been listed than disadvantages.	21 st October 2005
54.	Confidential e-mail from the specialist leasehold enfranchisement surveyor to WPCC stating that the tenant's surveyors had offered to take instructions on a £2,750,000 settlement.	17 th November 2005
55.	Further confidential e-mail from the specialist leasehold enfranchisement surveyor to tenant's surveyors regarding an important issue associated with the improvements undertaken at Mill House in 1936 that would affect the valuation.	21 st November 2005
56.	Memorandum from WPCC's specialist leasehold enfranchisement surveyor 28 th November 2005 the basis of the tenant's surveyor's proposal to the tribunal set out at £2,450,000 and an offer of a settlement at £2,750,000 based on reduction of the improvements from £1,400,000 to £1,000,000 which was by WPCC's specialist surveyor to be considered a good settlement.	28 th November 2005
57.	<p>WPCC Confidential Minute of Special Meeting December 2005 on the Mill House valuation to consider the offer by the tenant's surveyors of £2,750,000. There was a risk that the Land Valuation Tribunal would reach a lower figure and if it went to the Tribunal they could award costs which were estimated at £25,000.</p> <p>The Board agreed to accept the offer of £2,750,000. It was noted that the issue of hold over and whether the Rent Act applied was still subject to the decision of the Leasehold Valuation Tribunal.</p>	1 st December 2005
58.	WPCC Confidential Minute December Board Meeting. The Minutes of the Special Meeting held on the 1 st December 2005 were approved.	12 th December 2005
59.	<p>Decision of the Leasehold Valuation Tribunal on application of section 9 of the Leasehold Reform Act 1967:</p> <p>http://www.residential-property.judiciary.gov.uk/Files/2006/January/11000JH3.htm</p> <p>The Conservators position with regards interpretation contended by WPCC was upheld and the Leasehold Valuation Tribunal agreed the amount payable to WPCC was £2,750,000.</p>	14 th December 2005

60.	Letter from the tenant of Mill House 9 th January 2006 – setting out what they anticipated WPCC would potentially lose if they lost an appeal. They offered the organisation a reduction of £566,000 of the Leasehold Valuation Tribunal agreed figure (instead of £687,500), giving an enfranchisement value of £2,184,000.	9 th January 2006
61.	WPCC Confidential Board Minute January 2006 – The decision of the Leasehold Valuation Tribunal was received. The tenant applied to appeal the decision at the Lands Tribunal and this had been granted. The Board agreed to seek advice of the barrister who had won the tribunal on the merits of proceeding with the appeal.	9 th January 2006
62.	<p>Advice on Merits of Appeal January 2006 from counsel at Falcon Chambers (subject to LPP) – the barrister did not consider that an appeal would succeed as it was flawed on a matter of statutory interpretation. In addition the barrister took account of the following matters:</p> <ul style="list-style-type: none"> • the tenant was benefiting to the tune of £200 per day by deferring payment of the purchase price; • the charity would not obtain interest on purchase monies pending an appeal; • the Lands Tribunal hearing would not be held for between nine months and one year, if an appeal was to go on to the Court of Appeal that could be a further nine months to one year; • that WPCC is a charitable body. <p>In view of the potential financial implications above the barrister considered that WPCC should negotiate and seek a 50:50 resolution of the £687,500 that was the difference between the parties.</p>	25 th January 2006
63.	WPCC Confidential Board Minute February 2006 – The letter from the tenant of the 9 th January 2006 was considered and the Board were advised that it had been rejected. Given the advice of the barrister the Board agreed that any offer above £2,500,000 should be accepted. The Clerk and Ranger subsequently held several informal meetings with the tenant.	13 th February 2006
64.	WPCC Confidential Board Minute March 2006 – it was reported that the tenant's Statement of Case for appeal had been received and was being considered by WPCC's barrister.	13 th March 2006

65.	<p>WPCC Confidential Minute Special Board Meeting April 2006 – the Board considered an offer by the tenant of £2,500,000. WPCC’s solicitors were in attendance and gave the background to the issue:</p> <ul style="list-style-type: none"> • 14th December 2003 – freehold value was £3,500,000 • The tenant was permitted to reduce this by £750,000 to take account of improvements • The tenant wished to reduce the £2,750,000 figure by a further 25% or £687,500 because he believed that the 1954 rent Act allowed for such a reduction as they were sitting tenants. • WPCC’s barrister had advised he considered the tenant’s prospect of success at succeeding on appeal to the lands Tribunal to be good. • If WPCC chose to pursue the Lands Tribunal they could lose the £437,500 now offered and be liable for costs of £100,000. <p>WPCC’s solicitors had discussed the latest offer with the barrister from Falcon Chambers who thought it a surprisingly generous offer (well over half the difference between the upper and lower figures).</p> <p>WPCC’s solicitor advised that it could take between nine and twelve months to come before the Lands Tribunal and a further nine to twelve months to come before the Court of Appeal.</p> <p>After consideration the Board agreed to accept the offer of £2,500,000 with a completion date of the 1st August 2006.</p>	10 th April 2006
66.	WPCC Minutes of the Annual Open Meetings 2005, 2006, 2007 reference is made to the enfranchisement of Mill House.	June 2005, 2006 and 2007

ⁱ Statutory Instruments 2004 No. 3391: Freedom of Information Environmental Protection, The Environmental Information Regulations 2004, Regulation 2(1)