



MEDIA RELEASE

Wimbledon and Putney Commons Conservators

June 2017 Update

In advance of the Wimbledon and Putney Commons Conservators (WPCC) Annual Open Meeting to be held on 21st June 2017 and publication of the Charity's draft 2016/17 audited accounts, the Board now wishes to provide more information to levy-payers and the public relating to:

- the implementation of the Charity Commission's Formal Action Plan concerning a potential financial loss to the Charity as a consequence of granting an easement in August 2014 to the London Borough of Wandsworth for access rights over Putney Lower Common;
- the separate issue of the conduct of an elected Conservator.

Both matters have taken up a considerable amount of the Board's time and the Charity's resources during the past year and have contributed to the deficit in the 2016/17 accounts.

In addition there are updates on:

- the audited accounts
- governance matters

The Charity is running an underlying operating deficit. This is of considerable concern to the Board and Executive and urgent steps are being taken to bring expenditure and income into balance.

Putney Lower Common Easement

In February 2017 WPCC issued a Media Statement to advise that in its view it had completed the Formal Action Plan set by the Charity Commission in its letter to Trustees of the 22nd October 2015. The Board obtained a retrospective valuation report on the 11th November 2016 prepared by Daniel Watney LLP based on instructions provided by charity lawyers Charles Russell Speechlys LLP (CRS). These instructions confirmed that, following advice from Counsel, the date of the retrospective valuation be set at 14th February 2012. This was when WPCC agreed to enter into the Easement (rights of access over land) with Wandsworth Borough Council, including payment to WPCC of £350,000. The Easement was not however completed until August 2014 because of legal action taken against WPCC by a local Putney resident, including a Judicial Review and High Court Hearing.

That retrospective valuation prepared by Daniel Watney LLP identified a loss to the Charity of around £325,000. Having received the retrospective valuation, two trustees in post in February 2012 recused themselves from any further involvement in consideration of how WPCC should proceed. In December 2016 CRS advised the non-conflicted Board to obtain two separate legal Opinions from Counsel. One concerned specific advice on the application of section 60 of the Charity Commissioners' Clauses Act 1847 (concerning liability of Conservators and former Conservators

generally) the other on whether it was appropriate and feasible to recover the identified loss and if so from whom.

In early February 2017 the non-conflicted Board members met to consider the two Opinions and the advice of CRS, who were present at the meeting. The clear advice was that the possibility of success in claims against any Conservators and 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, WPCC'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, against Deloitte 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.

However, on 31st May 2017, the Charity Commission advised Conservators as Trustees that they had decided to exercise their power to appoint an Interim Manager to help manage the affairs of the Charity *'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 Charity looks forward with confidence to final resolution of this matter with a minimum of further delay and expense.

Conduct of an Elected Conservator

Prior to standing for election all candidates sign documents, based on best practice, regarding their duties and conduct as Conservators and charity trustees of WPCC.

In the summer of 2015 concerns were raised about an elected Conservator. The concerns related only to the behaviour of the Conservator and not to the Conservator having raised issues with the Board and the Charity Commission. At its meeting in November 2015 the Board agreed a number of Resolutions aimed at ensuring appropriate boundaries in respect of governance of the Charity.

In August 2016 the Board obtained the advice of lawyers Russell-Cooke LLP on this matter. In the light of that advice, the Board agreed that an internal disciplinary process should be followed in accordance with the WPCC Disciplinary Procedures that apply to Conservators.

The Board established a working party to undertake an internal investigation. In the meantime, to protect the Charity, the Board put in place some interim measures in relation to the Conservator concerned. These included preventing the Conservator from having further involvement in the implementation of the Formal Action Plan and access to privileged legal advice.

The Conservator denied any wrongdoing. The investigation concluded that the individual had breached the WPCC Principles and Standards, Terms of Reference and Code of Conduct. It concluded that it would be in the best interests of the Charity if that Conservator resigned. The Conservator was given the right of appeal but did not take advantage of it; nor did they resign.

As the Acts of Parliament governing WPCC are silent on how to deal with such a situation, WPCC wrote to the Charity Commission asking it to exercise its regulatory powers. The Commission advised that it was not prepared to take any action at that time, but confirmed it had written to the

Conservator in respect of releasing confidential information which had been obtained by the Conservator in their capacity as a charity trustee.

WPCC Audited Accounts for 2016/17

Together the above two substantive matters have contributed significantly to the Charity's £254,078 deficit for 2016/17. Legal and professional costs for these two issues culminated in expenditure of just over £220,000. A further £32,000 in legal fees has been spent due to an on-going threat of litigation by a former employee regarding an element of pensionable pay.

£104,539 has also been spent on the restoration of Wimbledon Common's iconic Grade II* Listed Windmill.

The charity has a General Fund of £524,880, Designated Funds of £1,245,196 and a Restricted Fund of £25,236 (Total Funds = £1,795,312) either in cash or realisable investments. The auditors are satisfied that the Charity continues to be a going concern. As with most charities, cash management remains a priority.

2016/17 has been an unprecedented year with the Charity Commission opening a Statutory Inquiry and issues regarding the conduct of a Conservator.

Other Governance Issues

At a Board meeting on the 10th April 2017 the current Chairman, Ms Prue Whyte was re-elected unopposed as Chairman for the ensuing year. The Vice-Chairman's position is vacant.

On the 1st May 2017, after a period of eight years as a Conservator, Sir Ian Andrews' term of office as the Ministry of Defence's Appointed Conservator came to its end.

A new appointment has been made by the Secretary of State for Defence but the announcement is embargoed until after the General Election on the 8th June 2017.

Annual Open Meeting

The Annual Open Meeting will be at St. Paul's Community Centre, Augustus Road, SW19 6EW on 21st June 2017 at 8.00pm.

ENDS

NOTES for Editors - Wimbledon and Putney Commons is a charity managed by the Wimbledon and Putney Commons Conservators. It was established under the Wimbledon and Putney Commons Act of 1871. The Commons comprise some 1,140 acres across Wimbledon Common, Putney Heath and Putney Lower Common.

The Conservators (Trustees) were formally notified by the Charity Commission on the 15th September 2016 that it had opened a Statutory Inquiry. See <https://www.gov.uk/government/news/new-charity-investigation-wimbledon-and-putney-commons-conservators> for further details.

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