

## Malvern Hills District Council

### Personal Details:

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### Comment text:

Please find attached a letter of comment submitted on behalf of the Malvern Hills Trust (working name of the Malvern Hills Conservators)

### Uploaded Documents:

**Download ([https://consultation.lgbce.org.uk/download\\_document?file=draft%2F1647865123\\_Boundary+Commission+letter+MHT+210322.pdf](https://consultation.lgbce.org.uk/download_document?file=draft%2F1647865123_Boundary+Commission+letter+MHT+210322.pdf))**



# Malvern Hills Trust

The Review Officer (Malvern Hills)  
Local Government Boundary Commission for England  
PO Box 133  
Blyth  
NE24 9FE

21st March 2022

Dear Sir / Madam,

I write to you on behalf of the Malvern Hills Trust, in response to the public consultation currently being undertaken by the Local Government Boundary Commission ("the Commission") into proposed changes to the ward boundaries for the District of Malvern, Worcestershire.

We are familiar with your role as defined by the Local Democracy, Economic Development and Construction Act 2009 ("the 2009 Act") as well as the guidance on your website about electoral reviews and the review process in general.

We are also aware that the review of Malvern Hills District Council, which is an electoral review, aims to recommend ward boundaries that mean each councillor represents approximately the same number of voters and also that the ward boundaries reflect the interests and identities of local communities, as well as promoting effective local government.

However there are matters that (depending upon the outcome of your review and the final decision) that we wish to make representations on and draw to your attention.

## **Background.**

The Malvern Hills Trust (working name of the Malvern Hills Conservators) was established under statute by the Malvern Hills Act of Parliament, 1884. Its powers, responsibilities and governance is set out in that and the subsequent four Malvern Hills Acts of 1909, 1924, 1930 and 1995.

Under those Acts, the Trust has a levy raising power, with the levying arrangements set out in s33 of the MHA 1924 by way of a precept collected by the billing authority and defined by reference to parishes. Those parish boundaries are not affected by the Commission's current proposals.

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However, the electoral arrangements for those levy payers (to vote for one or more of 11 seats on the Trust's Board) are defined in part by reference to the then Malvern Urban/Upton on Severn Rural District Council wards (s7 MHA 1924). These Urban/Rural District wards became part of Malvern Hills District Council in the local government changes introduced by the Local Government Act 1972. The relevant current District Wards are: West Malvern, Dyson Perrins, Pickersleigh, Priory, Chase, Link and Malvern Wells.

The consequence of this is that any alteration to the boundaries of those wards may affect the franchise for elections from those wards to the Trust's Board.

There is a clear link between the right to be elected to the trust (candidates must live in or work in one of the wards or parishes that pay the Trust's levy ) and the collection of the levy by way of a precept collected by the billing authority.

Put simply, those paying the levy have a right to vote for a trustee on the Trust Board, those who do not pay the levy do not have such a right.

## **Effects of the proposed Ward changes.**

The changes as currently proposed by the Commission would affect a number of District wards whose residents pay a levy to the Trust and have a consequential entitlement to vote. Those changes and their impacts are summarised as follows:

### **1 Change of name of current District wards:**

- *Dyson Perrins ward to Upper Howsell,*
- *Chase to Barnards Green.*

It is our understanding that this would not have any significance to the Trust or its levy payers as the Acts stipulates the number of wards that can elect a trustee, but does not name them.

### **2 Changes in alignment of ward boundaries within the area entitled to vote for candidates to the Board of the Trust:**

- *Expansion of West into the current Dyson Perrins ward area.*
- *Expansion of Link into the current Pickersleigh ward area.*
- *Expansion of Link into the current Priory ward area.*
- *Expansion of Link into the current West ward area.*
- *Expansion of Chase into the current Pickersleigh ward area.*
- *Reduction in areas of Pickersleigh*

These proposed changes to ward boundaries **within and between** wards in the existing Malvern Hills Trust electoral area would have no material impacts for the Trust nor the



residents who pay the levy and their electoral entitlement. Were those changes as proposed to be adopted it will result in some voters switching from one entitled ward to another.

### **3 Expansion of Link Ward to include all the area of Newland Parish.**

This would be a significant and material change as it would bring all those residences within Newland Parish (currently Powick ward) within the expanded Link Ward boundary, and in doing so entitle them to vote in Trust elections, even though they are not paying the levy (as this is determined by which parish the residents live in). This would sever the link between the precepted area and the vote and entitle non-levy payers to vote.

### **4 Reduction in size of Wells Ward**

The change as proposed would move the southernmost part of Wells Ward and Upper Welland from Wells Ward into the Welland Ward. This would result in residents of those properties affected no longer being able to vote in Trust elections. However those living in Malvern Wells parish area (i.e. Upper Welland) would still be liable to pay the levy. Consequently this would result in their disenfranchisement, being neither able to vote nor stand in our future elections, but still being liable to pay the levy.

### **Summary of impacts of the proposed Ward Changes.**

It may be that the Commission was unaware of the impact on the Trust and local residents in terms of the consequences of changing the ward boundaries and the way the Trust has been established by Parliament, specifically how the right to vote / the obligation to pay the levy by way of a precept is by law settled.

The proposals fail to take into consideration the effects that the proposed changes to District ward boundaries will have on the rights and responsibilities of residents under the Malvern Hills Acts.

If the changes were to go ahead as currently drafted by the Commission, they would result in significant impacts for local residents in two areas (as ringed on Diagram A below). Some levy payers would be disenfranchised whilst simultaneously other non-levy payers would be granted voting entitlements which it may be argued they should not have as non-levy payers.

This would be a significant departure from the principles given effect to by the Malvern Hills Acts under which the Trust operates, namely a link between payment of the levy and the electoral arrangements. As well as being a concern to us, we imagine that residents will also object to such a change once they are aware that some may still have to pay the levy by way of precept but without having their electoral rights, while others who do not pay the levy now gain voting rights.



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Although the Commission state in their Draft Recommendations (January 2022) that "*The [Commission's] recommendations will not have an effect on local taxes*", as can be seen this will not be the case.

## **Our counter recommendations.**

The Trust has no comment with regards the Commissions proposed changes as detailed in 1 and 2 above.

In relation to our specific concerns, as detailed in 3 and 4 above, there is more than one way to address those.

**Firstly**, we would urge the Commission in the strongest possible terms to amend its proposed boundary alignments as detailed under 3 and 4 above as follows:

- Not to make any change to the collective outer boundary of the seven District wards (West Malvern, Dysson Perrins, Pickersleigh, Priory, Chase, Link and Malvern Wells) beyond their current line.
- In particular the boundary of Link ward not to be expanded to take in any part of Newland parish.

With one exception – that the boundary of the proposed Welland Ward could be realigned so as to include the area of Little Malvern Parish, but not to take in any part of the Wells Parish area. ( See Diagram B below)

**Alternately**, if the Commission were minded to still proceed with recommending the changes as shown in their current proposals, or any other amendment which resulted in the link between the levy paying area and voting entitlement being severed, we consider that the implementation of such recommendations would result in an amendment being required to the Malvern Hills Acts 1924 ("the 1924 Act") if the consequences set out in this letter are to be avoided .

We understand that secondary legislation can be used to amend, update or enforce existing primary legislation.

We would also note that Section 59(4) of the 2009 Act states:

- (4) *An order under this section may—*
- (a) *contain incidental, consequential, supplementary or transitional provision, or savings;*
  - (b) *make different provision for different cases, including different provision for different areas or councils.*

The Commission could therefore include within its final recommendations and the draft Electoral Changes Order to be placed before Parliament amending provisions addressing the consequences of the issues we have identified by amending the 1924 Act.

If the Commission were minded to proceed with recommending the changes as shown in their current proposals, or any other amendment which resulted in the link between the





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levy paying area and voting entitlement being severed, the Trust would want the Commission to include within the draft Electoral Changes Order such amendments as are necessary to the 1924 Act to address the issues raised above, namely that some residents would still have to pay the levy by way of precept but no longer with a right to vote, while others who did not pay the levy would gain voting rights. We would be prepared to work with the Commission and /or others on the details of such amendments.

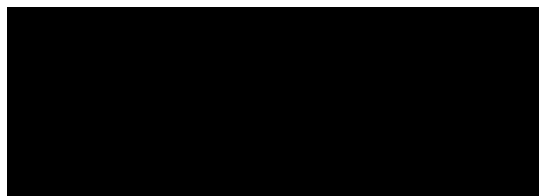
## In conclusion

Our objective in putting forward our counter recommendations is to maintain the fundamental link between the levy and the electoral rights set out in the Acts of Parliament relating to the Trust and to address the unintended but significant consequences of the Commission's current proposals.

We do not believe that it is acceptable to either leave the effected residents with the consequences set out in this letter or for the Trust to foot the bill to seek legislative change when the Electoral Changes Order can deal with the matter.

Given the consequences of these proposed changes and the possible impact that they may have upon the residents in the areas affected, and as the role of the Commission is ultimately to make recommendations which are then put before Parliament in the form of a draft order, we have sent a copy of this letter to the Secretary of State for Levelling Up, Housing & Communities to make him aware of the matter, our concerns and our proposals.

Yours on behalf of the Malvern Hills Trust



Duncan Bridges  
CEO

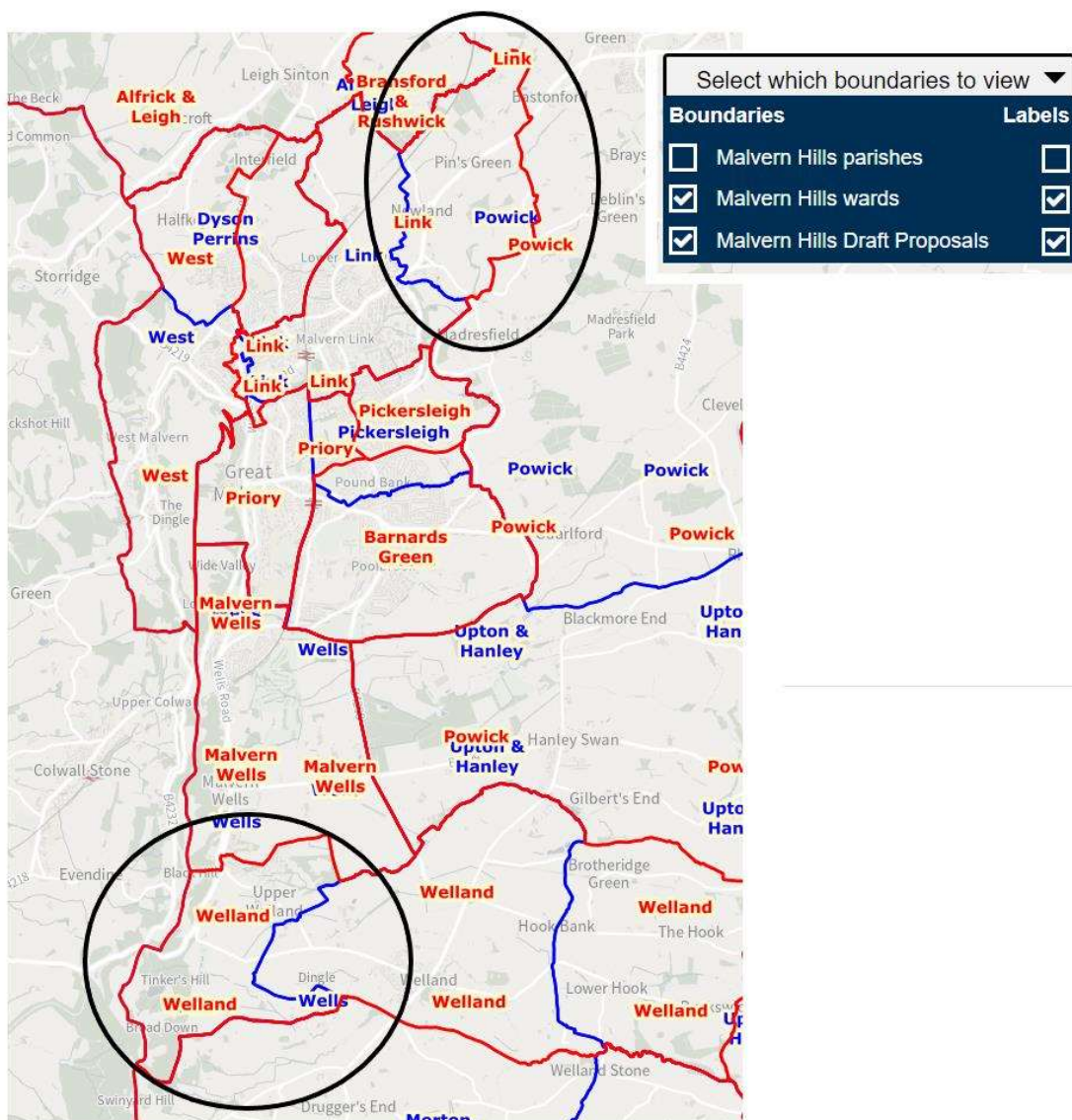
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Diagram A: Areas of proposed change to outer boundary of the seven collective wards with Malvern Hills Trust voting entitlement



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Diagram B: Counter proposal for boundary of the Welland ward to coincide with Parish Boundary, as shown in green.

