



# NOCTON PARK MANAGEMENT LTD

*Helping to make Nocton Park a better community!*

## NOCTON PARK MANAGEMENT LIMITED

Company Number: 02335481

## ANNUAL GENERAL MEETING

TUESDAY 17 SEPTEMBER 2023 7pm

Meeting held at the NOCTON VILLAGE HUB, Nocton

# MINUTES



Nocton Park Management Ltd. 61 Bridge Street, Kington. HR5 3DJ

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Company Number: 02335481

## A) PRESENT

### ➤ Directors

- Miss Victoria Hewson
- Mr Kenny Mabbott

### ➤ Shareholders & Proxies

- 15 shareholders
- Three voting proxies had been sent to the Company prior to the meeting

### ➤ Non-voting attendees

- There was an undetermined number of attendees from Peter Sowerby properties who were permitted to speak or ask a question at the discretion of the Chair, but not vote as they were not shareholders of NPML.

The Managing Agent was not present due to the perceived threats and abuse received from a small minority of the community. But they did provide the necessary guidance to the Board for the details of the financial and management operations of NPML.

The Directors ensured that they were fully briefed from the Managing Agent and ensured the Managing Agent would follow up any questions that arose from the AGM.

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## 1. POINTS OF DISCUSSION - UPDATES FROM THE BOARD

### i) LEASE BETWEEN NPML AND NOCTON PARK ALLOTMENT ASSOCIATION FOR THE ALLOTMENTS

*Update on the lease position following the agreement of the shareholders at the EGM on the 28 September 2021 to permit the Board to enter into a lease with the NPAA.*

- The allotments were established in 2009. A member of the community who is not a shareholder claimed this was a lie.
- In 2021, shareholders at AGM voted to agree to a lease between NPML and NPAA, this was put into effect mid 2023, in order to allow proper management of the area and maintenance fees to be collected from NPAA.
- A court case has been recently submitted, requesting that the court orders NPML to cancel the lease with NPAA due to the allotments restricting certain areas of the amenity land, the allotments be abolished and the land returned to grassland. The hearing will be held in late January 2025.
- The allotment plots can be applied for by anyone living in the local area, and we believe they are an important part of the community, they provide a source of socialisation for the plot holders, help to improve wellbeing, and provide to the local area through donating excess produce



- If the court rules against NPML, the allotments may be returned to their former state and all allotments removed. The Board wishes to reassure the community that it will do its utmost to protect the allotments for the community.
- There is a resolution later on in the agenda where shareholders can vote on this item
- Mr Steve Coles-Reid, Chair of the NPAA gave a history of allotments and a statement in support of the continued lease between NPAA and NPML.

## ii) CONTRACTORS AND PROJECTS

*Update on the current contractors that the NPML use and how these are managed.*

- There was extensive work completed on the shrubbery next to the dyke and the forestry area which will allow local planation and trees to grow, as well as helping local wildlife
- The pot holes on the un-adopted NPML roads were repaired
- There was a major piece of work weeding in the roadways and pathways
- A full survey was undertaken on both sets of Flats which has allowed both the Board and the Flats Lease Owners to be made fully aware of the state of the buildings and the works needed
- Tendered and appointed a new arboricultural contractor for the tree work and grass cutting.
- Reappointed all contractors
- Various works on the flats including two major leaks from old water pipes

## iii) WORK NEEDED ON THE BLOCK OF FLATS

*Update on the current considerations on the options to meet the Flats building issues as described in the letter to the shareholders dated the 14 June 2023. This update is then to be discussed and voted by the shareholders in 'Resolution C'.*

To update you on an important matter regarding the works needed on the flats. The Board has engaged with the Flats Lease Owners (FLO) to address these issues. A comprehensive building survey revealed that both flats require significant work, estimated between £45,000 and £50,000. This includes urgent repairs to the guttering and soffits, remedial work on the balconies, and general decorative work, both inside and out.

In our meetings with the flat lease owners, we discussed the survey's findings in detail. It was clear that these issues need to be addressed promptly and cannot be postponed. The primary focus of our discussions was how to fund these necessary repairs, as the financial responsibility lies with the lease owners. After communicating with all lease owners regarding their ability to cover their share, which amounts to approximately £4,000 to £5,000 each, the responses were as follows:

- Five stated they could pay their share upfront
- Six said they could pay but would require a payment plan ranging from six months to two years
- One indicated that they would not be able to pay their share, even with an extended payment plan

It's important for shareholders to understand that NPML does not have the financial resources to cover these repair costs upfront. To move forward, we would need to secure an additional stream of funds. During our discussions with the Flat lease owners, we considered various options, including selling the leasehold or even the freehold of the building.

However, the most promising option appears to be investigating external debenture options. This would involve securing a commercial mortgage on the buildings, which would be repaid through an increase in service charges for the flat lease owners.



There is a resolution on today's agenda which seeks your permission for the Board to explore formal commercial debenture options to fund the necessary works. If approved, we would instruct the Managing Agent to investigate what financial opportunities are available, these options would then be presented to the Board for careful consideration.

It's important to note that this resolution (if passed) does not commit us to any financial agreement at this stage, it just allows us to explore the options available. If the Board believes a debenture is suitable and offers good value for NPML, we would then call an Extraordinary General Meeting (EGM) for shareholders to review and vote on the proposal.

The Board wants to ensure that shareholders are aware of our legal and contractual obligations under the leases with the flat lease owners to carry out proper maintenance. A firm decision needs to be made so we can proceed with these essential works.

Discussion over flat works needed, residents noted this has been an issue for a long time and service charges have not been high enough to cover the cost of the works, which is why we are in the situation now.

#### **iv) DEBT MANAGEMENT POSITION**

*Update on the current position of the overall debt position faced by NPML and the current status of the property owners meeting the obligations as per the covenant on the property.*

The Board is pleased to report that the debt level has remained consistent across our financing, with roughly the same amount owed to NPML through service charges. As of December 31, 2023, the amount owed to NPML was £5,561, out of an anticipated service income of £47,704—equating to 11.66%. To provide some context, on December 31, 2022, the debt was £5,546 out of an anticipated service charge of £41,869, or 13.25%. While the actual debt amount has remained nearly the same, it's important to note that the percentage of non-payers has decreased.

As you'll see in the accounts, there's an additional charge on a community member's property for £2,439 due to consistent non-payment of the service charge. This charge essentially becomes an asset that will be realised when the property is sold or if the mortgagee forecloses.

The Board will continue to closely monitor the debt situation across all properties in the community, ensuring that all property owners fulfil their contractual obligations as per the covenants on their properties. However, it's important to note that the outstanding debt could otherwise be used to benefit the community and maintain the amenity land. Our Debt Management Policy guides all decisions related to ensuring that funds due are paid by the property owners

The Board has had to spend over £500 in attempts to collect the funds owed to NPML, and this figure does not include the costs associated with court hearings.

#### **v) UPDATE OF PETER SOWERBY DEVELOPMENTS PLANNING APPLICATION ON PLOT 72**

*Update on the situation following the discussion at the previous AGM and the current application submitted by the developer.*

As many may know, PS submitted a new application for plot 72a steamer point road in March, currently there is no update to this application, however any developments will be communicated once a decision has been made by the district council.



## 2. RESOLUTIONS AGENDA ITEMS FOR VOTE

Shareholders voted on each resolution - a simple majority would be needed to pass the resolution.

### a) MINUTES OF THE 2023 ANNUAL GENERAL MEETING (AGM)

To receive and agree the minutes of the Company's previous AGM on the 10 August 2023.

The minutes were made available to the shareholders through being published on the website of NPML.

Vote (including proxies)	
For	17
Against	0
Abstain	0

Thus the Minutes for the 2023 AGM for NPML were therefore unanimously approved by the shareholders.

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### b) ACCOUNTS AND THE DIRECTOR'S REPORT OF NPML FOR 2023

To receive and consider the Statement of Accounts and the Balance Sheets of the Company for the year ended 31 December 2023 with the Accountant's Report. This includes a written brief from the Managing Agent which was read out by the Board of NPML.

The accounts were made available to the shareholders by way of them being emailed to all shareholders to whom email addresses had been provided and they were also published on the website of NPML.

Vote (including proxies)	
For	17
Against	0
Abstain	0

Therefore the 2023 Directors report, Financial Statements and Accounts were unanimously approved.

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### c) FINANCING OF INTERNAL AND EXTERNAL WORK REQUIRED ON BOTH BLOCK OF FLATS AND CONSIDERING OPTIONS AND RISK TO NPML AND EFFECT ON FLATS LEASE OWNERS

To approve the Board to fully investigate the best option to meet the financial, management and contractual issues on the flats buildings to include possible external financing, increased service charge (specifically for the flat lease owners) or ascertaining options of selling the freehold to the lease owners.

The Board provided full details of the current position of the need for the work required on the block of flats - this was detailed in the UPDATES section of these minutes. It was made clear that if the resolution was passed it would not give permission to enter into any finance agreement, it was purely to give permission for the Board and the Managing Agent to investigate the opportunities available and then present the options to the shareholders via an EGM to consider what finance options are best for NPML and the blocks of flats.

Vote (including proxies)	
For	17
Against	0
Abstain	0



Thus the shareholders of NPML have given permission for the Board to undertake necessary investigations into finance options to provide the funds for the works on the flats - and then present these options to the shareholders via an EGM.

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**d) RATIFICATION OF THE COOPTED DIRECTORS OF THE BOARD OF NPML**

*The current Board of Mr Kenny Mabbott and Miss Victoria Hewson were coopted onto the Board at Board meetings on the 26 June 2024 and 02 July 2024 respectively. It is required that at the next available full company meeting the coopted Board members receive shareholders support through a formal vote.*

It was confirmed that the previous Directors has resigned on the 31 July 2024.

Vote (including proxies)	
For	17
Against	0
Abstain	0

**Thus the shareholders have formally approved the appointment of MISS VICTORIA HEWSON and MR KENNY MABBOTT to the Board of Directors of NPML and they will serve a period of three years unless they resign.**

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**e) LEASE OF PART OF THE AMENITY FIELD TO PROVIDE FOR ALLOTMENTS IN CONJUNCTION WITH THE NOCTON PARK ALLOTMENT ASSOCIATION AND THE CURRENT COURT CASE**

*As shareholders know, a member of the community is proceeding with a court case against NPML in hopes of the lease with NPAA (which was agreed at the AGM on 28th September 2021) being cancelled, the allotments removed and the land returned to grassland. Ultimately, the court will decide the outcome of the case, however the board wish to ask residents their opinion on whether they would like to see the allotments remain, or the land returned to its original state, this will help advise the board what is best for the community.*

*The Board wish to ask the Shareholders to show support for the continued leasing of the part of the amenity land to the NPAA for the provision of the allotments of whom anyone within a five mile radius including the former Peter Sowerby homes can apply for one.*

The Board provided a full debrief of the situation in regard to the allotments. There was also a very detailed update and statement from the Chair of the Nocton Park Allotment Association.

Vote (including proxies)	
For	17
Against	0
Abstain	0

**Thus the shareholders have formally given their support and approval to the continued lease between NPML and NPAA and the allotments as is currently present.**

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### 3. QUESTIONS

***i) Can the Board consider a timeline of three months for debenture investigation?***

The Board stated that they would discuss the issue raised with the Managing Agent and would provide an update to the community in due course.

***ii) Court costs for last year due to invoices not being done/worded correctly?***

The Board stated that they would discuss the issue raised with the Managing Agent and would provide an update to the community in due course.

***iii) Cost of selling a house (deed covenant) – does this go to NPML or to SB? Why not NPML?***

The Board stated that they would discuss the issue raised with the Managing Agent and would provide an update to the community in due course.

***iv) Residents raised concerns with the Managing Agent and his record with the parish council. They queried whether an audit could be done on the accounts?***

The Board stated that they would discuss the issue raised with the Managing Agent and would provide an update to the community in due course.

***v) Residents queried why would someone want the allotments to be returned to grassland, as the area was in a poor state before the allotments with long grass and brambles, board stated the claimant/defendant wanted this to provide access to all of the amenity land, including areas where the plots are.***

The Board stated that they would provide an update and answer in due course once they have considered the question and reviewed the particular information.

***vi) House sales have fallen through due to waiting for documents?***

The Board stated that they would discuss the issue raised with the Managing Agent and would provide an update to the community.

***vii) Parking area on steamer point road + weeding – was sprayed but weeds still remain, parking area in poor condition.***

The Board stated they would want to review the issue raised and then consider the most appropriate way forward for the particular issue.

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**The Board of Directors thanked the shareholders and guests for attending.**

**Meeting was closed at 8.30pm.**

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## POST MEETING NOTES - Updates and answers to the questions raised.

The Board of Directors can confirm that following the AGM, they have had an opportunity to discuss the questions and details with the Managing Agent and thus wish to provide to the community the responses as was promised to the community.

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### *i) Can the Board consider a timeline of three months for debenture investigation?*

The Board confirms that the Managing Agent has commenced an investigation into financial products that may be suitable for NPML on the open market. The options identified will undergo further detailed review, and the Managing Agent shall provide a report to the Board within the forthcoming months, subject to availability.

Subsequently, the Leaseholders of the Flats will be offered the opportunity to attend a meeting with both the Managing Agent and the Board to review any relevant information or proposals that may be identified.

The Board further confirms that no offers, guarantees, or agreements will be entered into with any financial provider until an Extraordinary General Meeting (EGM) has been convened, allowing the shareholders of NPML the opportunity to vote on any recommended options.

While the Board will make all reasonable efforts to ensure that the process proceeds at an appropriate pace, it cannot guarantee a definitive timeline due to the possibility of delays beyond the Board's control.

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### *ii) Court costs for last year due to invoices not being done/worded correctly?*

The Board confirms that a portion of the legal costs reflected in NPML's accounts pertains to legal advice obtained from NPML's solicitors concerning specific matters related to property sales in Nocton Park. This advice was aimed at safeguarding NPML's legal and financial interests, as well as addressing issues related to the leases between NPML and the Flats Leaseholders.

Regarding specific court-related costs, the Board has conferred with the Managing Agent and the previous Board prior to the AGM to clarify the matters in question. The Managing Agent confirmed that a directive was issued by the Court concerning the appropriate wording for Notices of Service Charges, arising from a prior court claim. This court proceeding followed NPML's claim for unpaid service charges from a community member. The Court recommended adjustments to the wording to better align with the conditions and clauses in the 2005 Agreement between Peter Sowerby Developments and NPML.

The Managing Agent also confirms that the legal costs in question pertain to NPML's claim against a community member for failure to pay service charges, which they were contractually obligated to pay under the covenant. This action was taken in accordance with NPML's Debt Management Policy, approved by the shareholders in 2022.

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**iii) Cost of selling a house (deed covenant) – does this go to NPML or to SB? Why not NPML?**

The Board has requested clarification from the Managing Agent regarding the process to ensure that all matters were handled professionally and appropriately from the perspectives of both NPML and the member of the community.

The Managing Agent explained that, when a member of the community seeks to sell their property, and due to the existence of a covenant on the property (which, if unresolved, could impede the sale), the solicitor or conveyancer representing the seller typically requests specific details and information concerning NPML. This includes draft documents required by both parties involved in the property transaction. The solicitor or conveyancer also seeks explanations and clarifications regarding legal matters related to the covenant, as well as the issuance of new share certificates for NPML shareholders. These professional services in the provision of document creation and information fall outside the scope of the Managing Agent's contract with NPML, and therefore, the associated costs are borne by the seller and, subsequently, the buyer.

The Managing Agent's fees cover the necessary work to ensure that NPML's interests are adequately protected, and that the seller's solicitor receives all relevant documents and information. The Managing Agent makes these fees clear to the seller's solicitors, and the process is conducted professionally, with all required documents and records properly managed.

The Board further notes that if such services were included within the Managing Agent's contract with NPML, the overall contract cost to NPML, and therefore its shareholders, would increase significantly. This would result in the shareholders of NPML effectively subsidising the costs associated with property sales through increased service charges, which the Board considers inappropriate. The Board believes that shareholders should not bear these costs.

The Board is fully satisfied that the fees charged by the Managing Agent for services rendered in connection with property sales are entirely appropriate. Just as solicitors charge fees for their services in property transactions, the Managing Agent is entitled to charge for the work he undertakes. The Board expresses its appreciation to the Managing Agent for ensuring that NPML's legal and financial interests are safeguarded at no cost to NPML.

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**iv) Residents raised concerns with Mr Baxter and his record with the parish council. They queried whether an audit could be done on the accounts?**

The Board wishes to clarify that, in accordance with the audit provisions of the Companies Act 2006 (Sections 475-477), small companies are entitled to an audit exemption if they meet two or more of the following criteria:

- Turnover: Not more than £10.2 million
- Balance Sheet Total: Not more than £5.1 million
- Number of Employees: Not more than 50



The Board informs the shareholders that NPML meets all three of these criteria and is therefore legally exempt from the formal auditing of its accounts. There is no legal or moral obligation to audit the accounts, nor is there any indication that an audit is necessary. Furthermore, conducting an audit would incur significant costs, which would ultimately be borne by the shareholders. The Board wish to state that no shareholder has raised any objection and any audit would need a formal decision at an EGM or AGM.

For transparency, the Board highlights that monthly financial reports and accounts are submitted by the Managing Agent to the Board. These reports are verified against the bank statements to ensure all funds are properly accounted for. The Directors review these documents to ensure that all financial matters are managed appropriately. Additionally, all expenditures are approved by the Board prior to payment.

The Board also notes that the suggestion of an audit was raised by a member of the community who is not a shareholder and, as such, would not be responsible for any associated audit costs.

The Board may consider the possibility of an audit by an independent auditor and may seek the shareholders' input on this matter at the next Annual General Meeting (AGM) if deemed necessary. In the meantime, the Board will continue to operate in its current manner, as it has done for many years, with the assistance of an external accountant who manages the year-end accounts and ensures their submission to both the shareholders and Companies House.

The Board also wishes to inform the shareholders that it will not comment on any rumours or unfounded local gossip regarding the Managing Agent. The Board expresses its full confidence in the Managing Agent, who, as a qualified accountant, is well-suited to handle the day-to-day financial affairs of NPML under the Board's oversight.

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***v) Residents queried why would someone want the allotments to be returned to grassland, as the area was in a poor state before the allotments with long grass and brambles, board stated the claimant/defendant wanted this to provide access to all of the amenity land, including areas where the plots are.***

The Board wishes to address the counterclaim raised by a member of the community, who contends that the establishment of the allotments in 2009 was in violation of the Deeds of the land and allegedly infringes upon their contractual right of access to all areas of the amenity land. Furthermore, the member claims that the lease approved by NPML shareholders between the Nocton Park Allotment Association (NPAA) and NPML is invalid, asserting that NPML lacked the authority to lease the land as it purportedly infringed upon the property rights of Peter Sowerby Developments.

The counterclaimant further alleges that, prior to the establishment of the allotments, the area was well-maintained and served as a play area for their children, and that the creation of the allotments impeded this use. However, the Board notes that this position is inconsistent with the member's prior acceptance of an allotment plot if they believed the land was better suited for recreational use. Moreover, NPML has received contrasting statements from several members of the local community, who report that the area, prior to the allotments, was unkempt, wild, and inadequately maintained, making it unsuitable for children's play. The



allotments, by contrast, have contributed to the area's maintenance, promoted local flora and fauna, and supported wildlife.

The Board is uncertain as to the reasons motivating this person's prolonged opposition to NPML, which has resulted in the expenditure of considerable resources and Board time, both of which could have been directed toward the benefit of Nocton Park. Additionally, NPML has been informed that NPAA has, on several occasions, contacted the police regarding the presence of this community member in the allotment area during instances of damage and verbal abuse, though NPML makes no direct accusation against the member in this regard.

The Board draws attention to Section 20.7 of the formal land agreement between Peter Sowerby Developments and NPML, dated May 2005, which states:

***Section 20.7: "Not to use the amenity land other than for recreational purposes and in full compliance with and observation of the rules and regulations in respect of the amenity land from time to time published by NPML."***

Under this section, NPML holds the authority to manage the amenity land as it deems appropriate and in the best interests of NPML and the community. The agreement further obligates all property owners subject to its terms (including all properties originally developed by Peter Sowerby) to observe the rules and regulations as published by NPML. NPML has consistently communicated its position to the community, from the initial consultations regarding the allotments in 2009 to the ongoing usage up to 2021 and the shareholders' approval of the lease agreement with NPAA. These communications have been made available on NPML's website.

Additionally, NPML has published a regulation on its website stating that only individuals with the permission of NPML or NPAA may access the amenity land, effectively restricting access to the allotment area to authorised allotment holders.

The Board also wishes to clarify that there is no public right of way through the allotments. Non-allotment holders have been permitted to walk along the designated pathways at the discretion of NPAA as a gesture of goodwill to the community.

In conclusion, the Board is confident in its legal standing regarding both the establishment of the allotments in 2009 and the lease agreement with NPAA in 2022. The Board believes that the Court, upon proper presentation of the relevant facts, will find these actions to be valid and legal. However, the ultimate determination of the validity of the arguments presented by both NPML and the member of the community rests with the Court.

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***vi) House sales have fallen through due to waiting for documents?***

The Board has consulted with the Managing Agent to identify any relevant factors that may assist with property sales. The Managing Agent has confirmed that requests for documents or information related to the



sale and purchase of properties are typically addressed within three to five working days. However, occasional delays may arise when information is required from the Land Registry. The Managing Agent consistently advises solicitors and conveyancers representing both sellers and buyers to contact him promptly upon the agreement of a sale to facilitate the timely preparation and completion of the management packs.

The Managing Agent also noted that, in many cases, the property owner initiates contact directly to expedite the process. Once the necessary fees have been paid, the management packs are prepared without delay.

Neither the Board nor the Managing Agent is aware of any instances in which property sales within Nocton Park have failed due to delays in the provision of information by NPML or the Managing Agent. Any sales that have not proceeded have likely been due to solicitors or conveyancers failing to provide the information requested by the Managing Agent, the failure to pay the required fees, or the decision of one or both parties to withdraw from the transaction.

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***vii) Parking area on steamer point road + weeding – was sprayed but weeds still remain, parking area in poor condition.***

The Board has consulted with the Managing Agent to determine the most appropriate course of action to address the issue regarding the parking area near Steamer Point Road. The Managing Agent has confirmed that he has contacted the primary arboricultural contractor to obtain a quotation for weed spraying across the entire parking area. This work will be scheduled in due course, but the spraying will be delayed until the weed growth has concluded to ensure maximum effectiveness of the treatment.

Regarding comprehensive maintenance or potential renovation of the parking area, the Board acknowledges the issue and the inconvenience it may cause to the limited number of users. However, NPML must exercise prudence in allocating its limited resources and, as such, the Board must consider whether the expenditure on this area—benefiting only a few properties—can be justified.

Following the AGM, the Directors met with certain Steamer Point Road property owners to discuss the matter. The Board has committed to keeping the issue under review and may reconsider the renovation of the parking area when resources permit.

