

# Reasons for Exchange and Deregistration

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## 1. Introduction

It is accepted that this is a complex exchange application that involves four small and one larger parcel of release land in exchange for a single field which is slightly larger (8,050 m<sup>2</sup>) than the sum of the release lands. These parcels are all isolated as a result of successive compulsory purchases and are blighted and difficult to maintain as a result. As a charity, the Box Moor Trust wishes to address three different concerns at one time in exchange for one large field rather than making three different applications which would be cost prohibitive for the charity. The initial consultation (February to March 2019), which was carried out extensively, has seen an 86% approval rate on all release parcels and a range of 7% to 11% disagree. Full details, including an informative pack of questions and answers, are supplied in **Appendix 9**.

The parcel of overriding importance is 6,100 m<sup>2</sup> known as Two Waters East (TWE). This is the only element of the application that would be withdrawn from public use but the land would be retained by the Box Moor Trust and investment income would be used for the community as a whole. In terms of common land there will actually be an increase overall. As part of this application we will explain why the release of TWE from common land status is essential to the sustainability of the income that is needed for the continuation of all the Trust's work for the community.

- Taking into account the interests of those having rights in relation to the release land or exercising rights of common over it.
- Taking into account the interests of the neighbourhood.
- Benefitting the public interest in nature conservation, rights of way and wellbeing generally for our 100,000 beneficiaries in Hemel Hempstead and Bovingdon.
- Helping to lead to an eventual green corridor through Apsley and Two Waters that is seen as an important element of the local environment gain for the growing population in the recently approved Two Waters Masterplan Guidance.
- Assisting the Box Moor Trust in its aims for conservation and biodiversity in line with Section 40(1) of the Natural Environment and Rural Communities Act 2006

## **2. Brief Information about the Charity**

The Trust originated in 1594 to protect an area of water meadows in Boxmoor for the benefit of local people, please see our information leaflet **Appendix 8**.



***Environmental Education, Forest School***

The area of land protected gradually increased to around 240 acres by the time an Act of Parliament was passed in 1809. This Act gave lasting protection to the land and rights to the people of Hemel Hempstead and Bovingdon known as Beneficiaries. The Act also stated that, apart from protecting and maintaining the land, the Trust should distribute surpluses for various local causes. At that time there were only 4,000 beneficiaries. There are now over 100,000 and that is projected to grow to circa 120,000 in the next 20 years.



***Music for Memory Events***

The 1809 Act was superseded by the 2000 Charity Commission Scheme. After its prime responsibility of protecting and maintaining the land and administering the Charity, the Scheme clarifies that the Trust is able to spend surplus income on Environmental Education, Sport and Recreation and Welfare of the Sick the Poor and the Elderly. It is the sustainability of income to carry out all these activities that underpins the current application. All Trust income is ploughed back into the community once adequate reserves are set aside.



*Rugby and Cricket clubs on Box Moor Trust land*



*The Box Moor Trust Annual Autumn Festival*

### **3. Total Land Ownership**

Various incursions into the Trust land notably for the canal, the railway and many roads reduced the area of Trust land available to the public to 219 acres by the time the 2000 Scheme was drawn up. Since then, however, the determination of Trustees to acquire and protect more of the fast disappearing local greenspace for the benefit of the growing population has seen the ownership more than double to 493 acres. It is against this background that the case for Dellfield as replacement land is made. The Trust does not take land away but adds new land whenever it is available.

#### **4. The case for the Release Land**

##### ***a) The interests of those persons having rights in relation to, or occupying the land***

Box Hill has no tenants and has never been grazed by the Trust's beneficiaries. Two Waters East has not been grazed by graziers since it was cut off by the A414 around 1990. The site is too small and too difficult to get to for graziers. The graziers utilise grazing tickets purchased from properties still holding grazing plaques from the nineteenth century. There are only two 'commoners' remaining. These have not exercised rights for many years. The remaining small parcels of land are not fenced and have not been grazed since they were cut off by highways work in the early 20<sup>th</sup> Century. The Trust would be able to enhance these areas for recreation and relaxation for the public if the application was successful.

There are Charges registered in the Land Registry Title Deed for Two Waters East relating to gas services and drainage but these would not be affected if the application was successful.



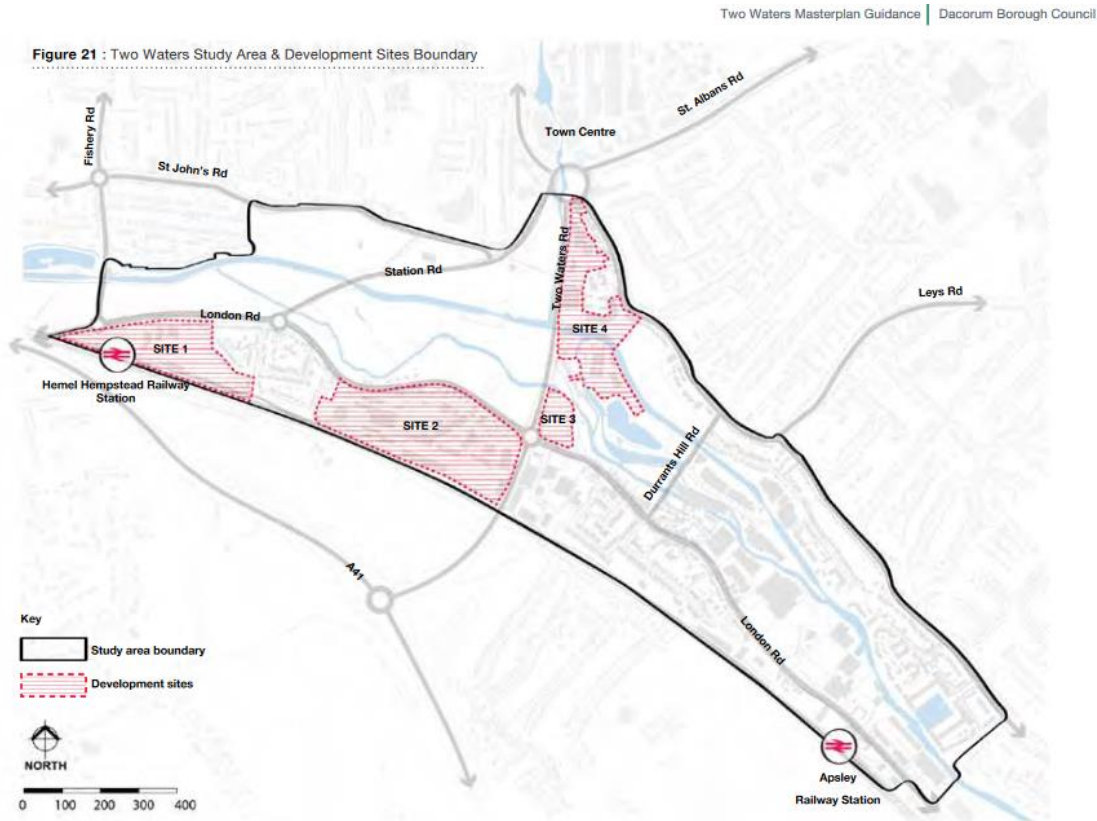
***Two Waters East***

At a meeting of the council on Wednesday 18<sup>th</sup> April 2018, Dacorum Borough Council adopted the Two Waters Masterplan Guidance as a Planning Statement. In the Two Waters Masterplan, Two Waters East is identified as potential development land. The following two pages are taken from the Councils Two Waters Masterplan, Two Waters East is identified as Development Site 3.



Extract from Dacorum Borough Councils Two Waters Masterplan :

(Two Waters East is Site 3)



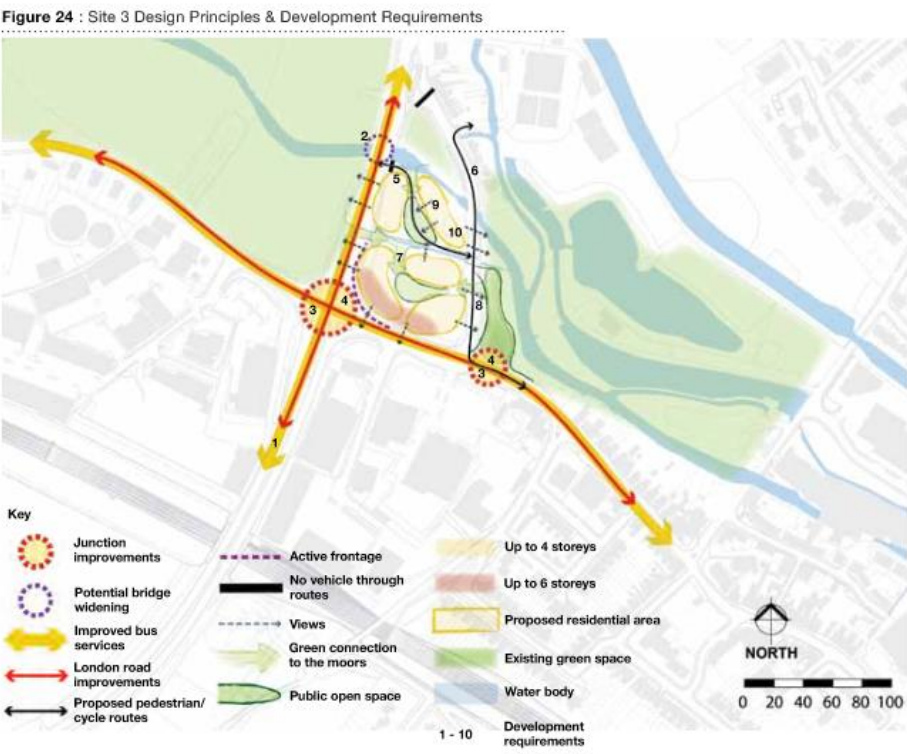
6.3 Site 3

A new waterside residential neighbourhood

Development of Site 3 will be expected to consider and take account of the following guidance:

6.3.1 Key Proposals

- 6.3.1. High quality residential-led mixed use development with strong active frontages facing Two Waters/London Road junction and along waterside locations.
- 6.3.2. Improved pedestrian, cycle and public transport access to the town centre, train stations and Apsley local centre.
- 6.3.3. Pedestrian bridges connecting Two Waters Road through to Durrants Hill.
- 6.3.4. Open space created as part of the development to retain strong connectivity with the moors.
- 6.3.5. Potential drop-off zone for school (see Site 4 Guidance for more information).



This opportunity, identified by the Council, would provide a sustainable income and secure the future of the Box Moor Trust. This is the only part of our Moor or green space that can be developed in the foreseeable future.

***b) The interests of the neighbourhood***

A consultation exercise has been carried out and the results are reported separately in **Appendix 9**.

- (i) **Box Hill** is difficult to access and has approximately one visitor a week except when the Trust has a lambing weekend when around 1500 attend. Release of common land status at Box Hill will considerably improve the interests for the neighbourhood because the flexibility of land use and ability to fence and increase animal housing will allow the area to transition to an educational area for agriculture. The local area is becoming increasingly urban and the opportunity to engage with agriculture is considered beneficial for wellbeing. The Estate Manager's home and existing sheep and cattle barns are here. This is the only local facility for such education.



***Lambing event at Box Hill***

The Trust would like to deregister Box Hill to use it mainly for educational activities, including our ever popular lambing event which is free to attend. Please see newspaper article in **Appendix 14**. Outside of lambing season, Box Hill would be used for enhancing farming educational purposes and serve as a secure area for storing agricultural equipment. The land will remain accessible to the public but some areas will be fenced off as stock pens.





*Lambing Event at Box Hill*

There is growing enthusiasm in the UK to bring families closer to farming and raising awareness on farming itself. The Trust has run very successful lambing events in the past and would like to build on these. Having Box Hill deregistered will allow the Trust to run more educational events and activities at a very high standard. In addition, the Trust is keen to centralise its agricultural activity at Box Hill to minimise fuel usage and increase security. Adaptations would be constantly difficult as common land.

- (ii) **Two Waters East** is not used by many people and any concern about **loss of convenience** has largely been compensated for by the Trust's recent provision of a new access to the open Moors under the A414. Recent data from our A&P Chambers Electronic Radio Beam single sided outdoor people counter placed at the gate into Two Waters East shows that less than 20 people use the field per day (See **Appendix 10** for data).

If development eventually takes place at Two Waters East (TWE) the **health and comfort** of local residents would be paramount. There are 16 houses close by in Two Waters Road and their interests would be considered because the whole ambience of the immediate area and its connection with the Durrants Hill wildlife area is important.

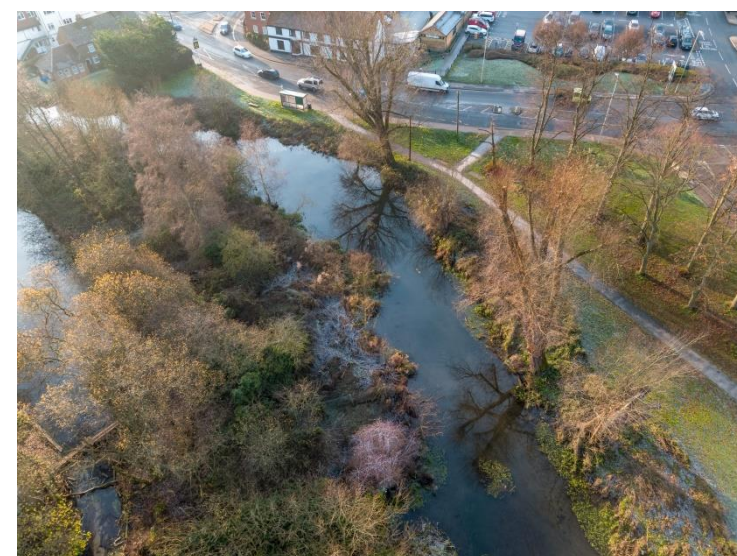
The Trust would retain ownership of Two Waters East and any development would be carefully planned to blend with the surrounding area. The land is not used by families and children because there is a playground close by and because the main Moors on the other side of the A414 are more attractive.

- (iii) **Apsley Triangle and Two Waters Halt** comprising three small parcels of land have been isolated by successive compulsory purchases for highways over a century or more. The last Deregistration was for a bus stop and waiting area and isolated a plot less than 200 square metres to the east of the site.



***Two Waters Halt***

Their very isolation and size are not commensurate with what would be normally be recognised as a common and, over time, they have become neglected for a number of reasons. The roadway nearby regularly floods, the ambience of the area is not improved by caravanette and van parking and it is a litter haven. The Trust's intention is to make these parcels more accessible to the public and to transform this area into a special place for the growing community.



***Apsley Triangle***



These parcels of land are on the other side of the river to a special wildlife area that is currently inaccessible to the public. This special wildlife area is owned by Dacorum Borough Council and discussions have taken place over the years with the Box Moor Trust and the Borough Council to connect this special wildlife area to the Trust's side of the river by footbridge. This would also aid removal of litter on the far bank which blows over the river creating an eyesore. Until now the costs of such work have been prohibitive.

Should the application be successful, the Trust has committed to providing part of any new income from the Two Waters East site to this bridge and footpath work. The initial consultation, carried out by the Box Moor Trust, highlighted the importance of this work as part of an overall plan to improve the area. **Please see proposed map on the next page that shows the new proposed footpath, bridges and bird hide.**



*Aerial photo showing the Scout hut, carpark, playground and fishing lakes.  
The Box Moor Trust would improve this area if the application was successful.  
The aim would be to provide Apsley with a new community space.*

The land WILL continue to be of public benefit and the Trust commits to that but common land restrictions would continually hamper the changes needed. The idea is for it to be a safe community green area for families with appropriate seating infrastructure and fencing to isolate small children from the two busy roads.

The riverside location will be cleaned up and we hope to involve the Environment Agency in improvements that will bring life back into the Bulbourne here just as we have upstream with our award winning partnership which include the following awards:

- Environment Commendation for “Bringing back the Bulbourne”  
CPRE Hertfordshire Rural Living Awards 2017
- Best Practice Award – Small Scale Practical Nature Conservation for “Bringing back the Bulbourne”  
CIEEM Award 2018
- Conservation Award for “Bringing back the Bulbourne”  
The Wild Trout Trust 2017

In short, the improvement of this area is inextricably linked to the needs of the community resulting from development already approved nearby and to the sensitive development that the Trust envisages for our Two Waters East Site.



*Award winning project – ‘Bringing back the Bulbourne’*



There are understandable concerns about possible increased air pollution as a result of extra cars. All residents here are Trust beneficiaries and every effort will be made to work with developers to ensure that vehicle recharging facilities are available for low emission vehicles.

The loss of 1.5 acres of grassland cannot be denied but the area would be carefully landscaped by the eventual developer. The Trust will also endeavour to work with the Highways Authority to see visual improvements and new tree planting (ideally pollution absorbing trees such as London Plane) alongside the A414 nearby where drainage ditches and unsightly metal posts do little for the image of this important gateway to the town.

**c) The public Interest**

- (i) In relation to the release land there is no threat to archaeological remains.
- (ii) In terms of nature conservation, a survey has been carried out by the local consultants RSK which confirms that Two Waters East does not contain any BAP or other important species. There is important land nearby at the river and the Durrants Hill Lake site but the Trust is committed to work with Dacorum Borough Council to protect and improve that habitat if sustainable income can be achieved. Box Hill changes will actually help to enhance nature conservation because proposed new agricultural infrastructure will incorporate nesting sites for owls and passerines.
- (iii) Conservation of the landscape is a prime concern of the Trust and always will be. The consultation demonstrated that the objectors saw the release of Two Waters East as a ‘thin end of the wedge’ which would set a precedent for future losses of common land along the Moors. The only reason that this area is highlighted for development in the Two Waters Masterplan is that it has been cut off by the A414 and to provide an appropriate corridor of development along the east side of the road. At all times during the Two Waters Masterplan process, the importance of the remaining Moors to the growing local population was emphasised and the Box Moor Trust itself is committed to retaining these Moors as a unique rural landscape.
- (iv) The issue of **Rights of Way** has been discussed at length with the County Council. There are currently two rights of way across Two Waters East. They are rarely used now because of the traffic on the A414 and the A4251. A new permissive right of way is now available under the A414 and negotiations are taking place to provide a footpath through the Durrants Hill Lake Area. Please see Section 6 of this Appendix for the case for community benefit.
- (v) The consultation gave opportunity for comment and everyone was given a substantial list of questions and answers. These included the scenario for alternatives. Clearly, for some exchange applications there may be alternatives but it was carefully explained that the key release application, Two Waters East, is the only piece of land that can be developed to provide the extent of ongoing annual income that is required. This was confirmed in 2018 by the Two Waters Masterplan Guidance.
- (vi) The sale of Trust assets will not provide a sustainable income for the future of the Trust. Many of the Trust’s assets generate income, for example its properties. The site leased by B & Q would require up to 3 years without rent if they vacate and the early investigations into the value of that site thereafter suggest a significant reduction in annual income. Clearly, reductions in spending would help fill an income gap but these would adversely affect the services that serve the community. This is more fully explained in the section on Community Benefit below. As for Box Hill, the site is one of two that could be used for Agricultural education and farm headquarters. The other site, Howe’s Retreat is situated off Felden Lane, it’s separated from the Trust grazing land and remote from the Trust headquarters and requires constant unnecessary travel back and forth. Having all staff and equipment in one discreet area next to the large Westbrook Hay site is considered more efficient, provides more opportunities for interaction with the public and will also reduce fuel usage.

**d) Other Matters**

If sustainable income is received from the Two Waters East site and approval is granted for the whole exchange, the Box Moor Trust will commit to working towards a continual footpath access from Durrants Hill Road to Dellfield using a new right of way and through Dellfield to the Westbrook Hay Estate by providing another right of way.



## 5. The case for Dellfield as the exchange land



*Dellfield*

As exchange land, the Trust is not sure if Dellfield precisely fits the requirements of the Commons Act 2006 because it's already owned by the Trust and there has been a permissive right of way for 25 years. Although the Act doesn't specify, we understand that, at 1.5 miles from the furthest piece of exchange land in the application, the distance is more than is normally allowed. If there had been planning guidance for Two Waters East in 1994 then this would have been the ideal exchange. The Trust intends to continue to acquire land so the community will not be deprived of quality accessible greenspace. The case for its acceptance is as follows:-

- a) Hemel Hempstead is a highly built up area. It is virtually impossible to identify appropriate and easily accessible land which does not already have public access. All alternatives have been discussed at length. Land nearby and within the Trust's 'Area of Benefit' that does not have current access is in extremely short supply and would be unaffordable.
- b) The exchange will take away five disparate areas of common land that really do not resemble what common land is meant to be and provide a large field that is far more appropriate. Exchange will amalgamate five disparate areas of registered Common Land into one large area that will provide public, community and conservation benefits. Deregulation will enable improvement of the riverside areas at Two Waters for the benefit of the public.
- c) The large proportion of the application, Box Hill, was originally given as exchange for the loss of common land for the A41 Bypass. The position of this behind houses with limited access was never ideal for regular access and there is no parking nearby during the week. Whilst events held at Box Hill attract large attendances, these are held at weekends and parking is at the Trust Centre nearby but this car park is too heavily used on weekdays by hirers of the Trust Centre.

- d) The four small parcels of land in Apsley have, themselves, have been cut off by successive forced exchanges in connection with road building and bus improvements at various times. They are isolated from the main area of common and grazing is inappropriate. Dellfield offers one large and special site with far better views from a landscape perspective.
- e) Only Two Waters East (TWE) which is 6,100 m<sup>2</sup>, less than 11% of the release land, is actually coming out of public access but it will remain in Trust ownership and will provide essential income to be used to sustain our work. On the other hand the exchange land offered will increase Common Land overall by 8,050 m<sup>2</sup>.
- f) TWE is next to two busy roads and is not popular with residents. Dellfield can be reached by foot along the Rights of Way across the moors. If successful with our application, the Trust will improve access to walkers.
- g) There is no loss of car parking or other facilities arising from the exchange proposal. The land offered in exchange has two car parks nearby.
- h) A mission of the Trust is to continually acquire fast disappearing green space not take it away. This is evidenced by the addition of 274 acres (plus 125%) in the last 19 years. Without income from the 6,100 m<sup>2</sup> at Two Waters it will not be possible to add further to our landholding.
- i) Dellfield is only currently used by a small amount of walkers, an average of less than 1 person per day passed the A&P Chambers Electronic Radio Beam Counter which was positioned on the main access gate over a 34 week period, electronic counter information is supplied in **Appendix 11** to evidence this. The permissive access only became available when the Trust took occupation. Whilst that permissive access has been available since 1995, the path is regularly closed to protect sheep and lambs. Common Land Status will ensure regular public access. Adding this to the Rights of Way map will increase usage and link walkers to the Westbrook Hay Estate and beyond.
- j) Dellfield is just opposite the Trust's long established common land and gives access to the whole of the Trust's Westbrook Hay Estate. The Trust commits to providing a new public Right of Way to the South and the North to connect the Moors to the whole Westbrook Hay Estate.
- k) Dellfield is only a few hundred metres from Box Hill so there is little change in distance as far as the majority of the proposals are concerned. It is accepted that Dellfield is 1.5 miles from the 4 small packages at Two Waters but the new access under the A414, referred to in (5) above, provides better access on foot from Apsley to continuous common land all the way to Dellfield. Dellfield can also be accessed by car, cycle or bus.
- l) Dellfield is a very special wildlife site (please see management plan in **Appendix 6** and images in **Appendix 5**) and provides a vastly improved landscape and experience for local people to enjoy. It is also much better grazing land than the release sites.
- m) Dellfield has a car park at the northerly edge and there is a larger car park at the top of the hill. It is seen as a key outreach area for the Community Garden that is planned at the Trust's Centre which is just a few metres away.
- n) The Trust wishes to ensure that there is Common Land protection for a slightly increased area of the land within their ownership, albeit in one single parcel rather than 4/5 disparate areas. All the areas to be released, except for the 6,100 m<sup>2</sup> of Two Waters East would retain access to the public under the Trust Scheme.

## **6. The case for Community Benefit**

It is recognised that the provisions of the Charities Act 2006 focus on the effects on the release land itself in terms of the neighbourhood and public interest. Nevertheless, in the case of this application it is crucial to focus on the potential loss to the Community without the exchange both in terms of existing services but also the potential extra benefit that income from a development on Two Waters East will bring. Above all, it will substantially help the Trust Board to plan and run services because it will spread the income base immediately and, possibly facilitate further forms of income so that there will no longer be reliance on one now regularly renewable lease to provide around 65% of services.

The risk of loss of income from our prime Commercial site is considered high and the potential effect to Trust activity is critical within 3 years.

### **a) Existing services severely threatened**

- (i) Grants to a number of charities, sports clubs, churches and even individuals in Hemel Hempstead and Bovingdon would be significantly reduced or stopped. These have grown over a period of time to an average of £30,000 a year and include annual support to a community transport scheme for elderly and disabled. With continuing severe restrictions on Local Authority Funding, our grants have become increasingly important.



*Elaine Rushton and Peter Phillips presenting a Box Moor Trust Grant to The Waterways Experience Charity*



- (ii) Our Education and Community Team provides outdoor environmental education and experience for schools, uniform groups, community groups, families and adults.

This includes provision of curricular activity for over 1900 school children from 73 different schools annually, Forest Schools for reception classes, weekend wildlife groups, mother and toddler groups and a host of holiday family activities and guided walks and talks.

There are 37 infant and junior schools in our area of benefit. 35 of whom have visited our education team. There are around 4300 visits per annum from local children. This is the only outdoor education facility available in the Trust's area of benefit.

We welcomed over 50 children from local Emotional and Behavioural Difficulty Schools in 2017-18.

In the same year, over 2000 community group members benefited from environmental education at the Box Moor Trust and over 300 adults attended talks and guided walks.



*Bird watching and pond dipping at Gadespring*

- (iii) For 30 years the Trust has set aside reserves to enable purchase of precious wildlife sites if they become available. This has helped protect wildlife and provide quality greenspace for an ever growing population. Our lands are hugely appreciated by local people and there are other special sites that may yet become available but without sustainable income further purchase will not be possible.



*Young Rangers Group*

- (iv) The Trust's Charity Scheme ensures that managing and protecting the land and administering the Charity is carried out as the first priority. As a result, the reducing income that is likely will not affect this key work at its basic level. There are risks ahead, though, such as Ash Dieback and Horse Chestnut deterioration and the safety aspects that evolve from these that could materially affect the essential work of the Trust without sufficient income.



*Horse Chestnut*

**b) Future hopes that will not be achieved**

- (i) The consultation demonstrated a commitment to provide funding towards bridges in the Durrants Lake area in order to achieve a long awaited footpath and environmental improvements. This was highlighted as a key element of the Two Waters Masterplan Guidance to increase the amount of quality greenspace for the growing population. With the proven expertise of the Trust, developer contributions and partnership with the Environment Agency, the Durrants Lake area could be transformed from its current overgrown and silted condition to a prime wildlife site. The Trust needs regular new income from the Two Waters East site to even contemplate helping with this initiative.
- (ii) Camelot Rugby Club whose pitches occupy Trust and Dacorum Borough Council Land are in the process of agreeing a 75 year lease that will allow them to plan objectively for pitch improvements, additional sports facilities for all ages and a new fit for purpose clubhouse. Whilst the Trust will not be able to fund capital work there will be potential spend on fees and landscaping work to help this project succeed.
- (iii) Grants to the community have had to be limited to £30,000 a year and may have to be reduced because of uncertainty of future income streams and the need to set aside a large reserve. Stability and sustainable income will give potential for more help to the community.
- (iv) The Trust has been providing a small amount of funding for Arts and for Entertainment for residents in care. With an aging population and reduced public funding for Arts, again, sustainable income would allow more assistance to be given.

Discussions on potential income are confidential but figures can be produced to demonstrate that development of this endowment land would provide long term security that will assist with all of the above.

**7. Summary**

The Trust is unusual in that it protects land and represents the interests of a large community. The community has been asked their opinion and it is largely in favour. The Trust has survived over 4 centuries by making the right decisions for the community. This application, if approved, will ensure that our 100,000 residents will enjoy the facilities and services the Trust provides for centuries to come.