

WESTCOTT VILLAGE ASSOCIATION

CONSTITUTION

2019

3.10.19 TEW

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**CONSTITUTION
OF
WESTCOTT VILLAGE ASSOCIATION**

being a Charitable Incorporated Organisation with Voting Members,
other than its Charity Trustees

Date When Constitution Agreed

3rd October 2019

1 Name

The name of the Charitable Incorporated Organisation is

WESTCOTT VILLAGE ASSOCIATION ("the WVA").

2 National Location of Principal Office and Area of Operations

2.1 The WVA must have a principal office in England or Wales. The principal office of the WVA is in England.

2.2 The WVA's area of operations are:

- (a) the village of Westcott, Surrey;
- (b) the local government electoral ward of Westcott;
- (c) the adjoining and neighbouring local government electoral wards;
- (d) such other areas in Surrey as the charity trustees may decide;

all of which are referred to as the "Area" in this document.

3 Objectives

3.1 The objects of the WVA are for the public benefit to further such purposes as are exclusively charitable according to the laws of England and Wales in the village of Westcott and the surrounding area.

3.2 In furtherance of such charitable purposes, and no further, the Trustees shall have these powers additional to those elsewhere stated in this document, which must also be exercised exclusively for the public benefit:

- (a) to preserve, protect and/or improve:
 - (i) the charm and rural character of the surrounding area;

- (ii) the existing character of the village of Westcott;
- (iii) roads, public rights of way, open spaces, trees, woodlands, rivers, ponds and lakes, and other similar features;
- (iv) features of public amenity (including the Village Green of Westcott) or those of historic interest;
- (b) to encourage and facilitate best practice with regards to road safety and highways management, particularly for the reduction of speeding, noise and illegal parking;
- (c) to encourage high standards in and/or the improvement of:
 - (i) conservation, planning and development;
 - (ii) community services including policing, health, education, youth work sports facilities and public transport;
- (d) to encourage the collection and care for items and records of local historical or archaeological interest;
- (e) to advance education;
- (f) to provide facilities in the interests of social welfare for recreation and leisure time occupation with the objective of improving the conditions of life for the residents of the Area;
- (g) to establish or secure the establishment or continuation of a community centre or village hall and to maintain or manage or co-operate with any statutory authority in the maintenance and management of such a centre for exclusively charitable activities;
- (h) to enhance the quality of life for residents in the Area, particularly through cultural and community activities;
- (i) to encourage and support local organizations working for the general good of the residents of the Area;
- (j) to undertake such other things as are exclusively and legally charitable and which the Trustees consider will benefit the residents of the Area;

3.3 The WVA may do all such lawful acts or things as are necessary or desirable to the attainment of the objectives set out in clause 3.1 above and without distinction of sex, sexual orientation, race or of political, religious or other opinions.

3.4 The WVA may not have any affiliation with any political party but in the furtherance of these objects the WVA may invite elected councillors for the Area as ex officio observers in accordance with this Constitution to attend meetings to discuss matters relating to these objects.

3.5 The property of the WVA may only be used for charitable purposes.

4 Powers

The WVA has power to do anything which is calculated to further its objects or is conducive or incidental to doing so. In particular, the WVA's powers include power to:

- 4.1 borrow money and to charge the whole or any part of its property as security for the repayment of the money borrowed. The WVA must comply as appropriate with sections 124 and 125 of the Charities Act 2011 if it wishes to mortgage land;
- 4.2 buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;
- 4.3 sell, lease or otherwise dispose of all or any part of the property of the WVA;
- 4.4 the WVA may employ and remunerate such staff as are necessary for carrying out the work of the WVA. The WVA may employ or remunerate a charity trustee only to the extent that it is permitted to do so by clause 6 (*Benefits and payments to charity trustees and connected persons*) and provided it complies with the conditions of those clauses;
- 4.5 deposit or invest funds, employ a professional fund-manager, and arrange for the investments or other property of the WVA to be held in the name of a nominee, in the same manner and subject to the same conditions as the trustees of a trust are permitted to do by the Trustee Act 2000;

5 Application of Income and Property

- 5.1 The income and property of the WVA must be applied solely towards the promotion of the objects
 - (a) A charity trustee is entitled to be reimbursed from the property of the WVA or may pay out of such property reasonable expenses properly incurred and evidence by him or her when acting on behalf of the WVA.
 - (b) A charity trustee may benefit from trustee indemnity insurance cover purchased at the WVA's expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.
- 5.2 None of the income or property of the WVA may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any member of the WVA. This does not prevent a member who is not also a charity trustee receiving:
 - (a) a benefit from the WVA as a beneficiary of the WVA;
 - (b) reasonable and proper remuneration for any goods or services supplied to the WVA and approved of by the charity trustees.
- 5.3 Nothing in this clause shall prevent a charity trustee or connected person receiving any benefit or payment which is authorised by clause 6. (*Benefits and Payments*)

6 Benefits and Payments to Charity Trustees and Connected Persons

6.1 General Provisions

No charity trustee or connected person may:

- (a) buy or receive any goods or services from the WVA on terms preferential to those applicable to members of the public;
- (b) sell goods, services, or any interest in land to the WVA;
- (c) receive any other financial benefit from the WVA;

unless the payment or benefit is permitted by sub-clause 6.2, or authorised by the Court or the prior written consent of the Charity Commission ("the Commission") has been obtained. In this clause, a "financial benefit" means a benefit, direct or indirect, which is either money or has a monetary value.

6.2 Scope and Powers Permitting Trustees' or Connected Persons' Benefits

- (a) A charity trustee or connected person may receive a benefit from the WVA as a beneficiary of the WVA provided that a majority of the trustees do not benefit in this way.
- (b) A charity trustee or connected person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to the WVA where that is permitted in accordance with, and subject to the conditions in, section 185 to 188 of the Charities Act 2011.
- (c) Subject to sub-clause 6.3 a charity trustee or connected person may provide the WVA with goods that are not supplied in connection with services provided to the WVA by the charity trustee or connected person.
- (d) A charity trustee or connected person may receive interest on money lent to the WVA at a reasonable and proper rate, which must be not more than the Bank of England bank rate (also known as the base rate).
- (e) A charity trustee or connected person may receive rent for premises let by the trustee or connected person to the WVA. The amount of the rent and the other terms of the lease must be reasonable and proper. The charity trustee concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.
- (f) A charity trustee or connected person may take part in the normal trading and fundraising activities of the WVA on the same terms as members of the public.

6.3 Payment for Supply of Goods Only – Controls

The WVA and its charity trustees may only rely upon the authority provided by sub-clause 6.2(c) if each of the following conditions is satisfied:

- (a) The amount or maximum amount of the payment for the goods is set out in a written agreement between the WVA and the charity trustee or connected person supplying the goods ("the supplier").

- (b) The amount or maximum amount of the payment for the goods does not exceed what is reasonable in the circumstances for the supply of the goods in question.
- (c) The other charity trustees are satisfied that it is in the best interests of the WVA to contract with the supplier rather than with someone who is not a charity trustee or connected person. In reaching that decision, the charity trustees must balance the advantage of contracting with a charity trustee or connected person against the disadvantages of doing so.
- (d) The supplier is absent from the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her or it with regard to the supply of goods to the WVA.
- (e) The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of charity trustees is present at the meeting.
- (f) The reason for their decision is recorded by the charity trustees in the minute book.
- (g) A majority of the charity trustees then in office are not in receipt of remuneration or payments authorised by clause 6.

6.4 **In sub-clauses 6.2 and 6.3:**

- (a) "the WVA" includes any company in which the WVA:
 - (i) holds more than 50% of the shares; or
 - (ii) controls more than 50% of the voting rights attached to the shares; or
 - (iii) has the right to appoint one or more directors to the board of the company;
- (b) "connected person" includes any person within the definition set out in clause 30 (*Interpretation*);

7 **Conflicts of Interest and Conflicts of Loyalty**

A charity trustee must:

- (a) declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the WVA or in any transaction or arrangement entered into by the WVA which has not previously been declared; and
- (b) absent himself or herself from any discussions of the charity trustees in which it is possible that a conflict of interest will arise between his or her duty to act solely in the interests of the WVA and any personal interest (including but not limited to any financial interest).

Any charity trustee absenting himself or herself from any discussions in accordance with this clause must not vote or be counted as part of the quorum in any decision of the charity trustees on the matter.

8 Liability of Members to Contribute to the Assets of the WVA if it is Wound Up

If the WVA is wound up, the members of the WVA have no liability to contribute to its assets and no personal responsibility for settling its debts and liabilities.

9 Membership of the WVA

9.1 Admission of New Members

(a) Eligibility

Membership of the WVA is open to anyone who is interested in furthering its objectives, and who, by applying for membership, has indicated his, her or its agreement to become a member and acceptance of the duty of members set out in sub-clause 9.3.

Where an applicant has other individuals over the age of 18 living in the same household he or she may also apply on behalf of such individuals and accept the duty of members set out in sub-clause 9.3

A member may be an individual, a corporate body, or an individual or corporate body representing an organisation, which is not incorporated.

(b) Admission procedure

The charity trustees:

- (i) may require applications for membership to be made in any reasonable way that they decide;
- (ii) may refuse an application for membership if they believe that it is in the best interests of the WVA for them to do so;
- (iii) shall, if they decide to refuse an application for membership, give the applicant their reasons for doing so, within 30 days of the decision being taken, and give the applicant the opportunity to appeal against the refusal; and
- (iv) shall give fair consideration to any such appeal, and shall inform the applicant of their decision, but any decision to confirm refusal of the application for membership shall be final.

9.2 Transfer of Membership

Membership of the WVA cannot be transferred to anyone else except in the case of an individual or corporate body representing an organisation which is not incorporated, whose membership may be transferred by the unincorporated organisation to a new representative. Such transfer of membership does not take effect until the WVA has received written notification of the transfer.

9.3 Duty of Members

It is the duty of each member of the WVA to exercise his or her powers, as a member of the WVA in the way he or she decides in good faith would be most likely to further the objectives of the WVA.

9.4 Termination of Membership

- (a) Membership of the WVA comes to an end if:
- (i) the member dies, or, in the case of an organisation (or the representative of an organisation) that organisation ceases to exist; or
 - (ii) the member sends a notice of resignation to the charity trustees; or
 - (iii) any sum of money owed by the member to the WVA is not paid in full within three months of its falling due; or
 - (iv) the charity trustees decide that it is in the best interests of the WVA that the member in question should be removed from membership, and pass a resolution to that effect.
- (b) Before the charity trustees take any decision to remove someone from membership of the WVA they must:
- (i) inform the member of the reasons why it is proposed to remove him, her or it from membership;
 - (ii) give the member at least 21 clear days' notice in which to make representations to the charity trustees as to why he, she or it should not be removed from membership;
 - (iii) at a duly constituted meeting of the charity trustees, consider whether or not the member should be removed from membership;
 - (iv) consider at that meeting any representations which the member makes as to why the member should not be removed; and
 - (v) allow the member, or the member's representative, to make those representations in person at that meeting, if the member so chooses.

9.5 Membership Fees

The WVA may require members to pay reasonable membership fees to the WVA as from time to time determined by the charity trustees. The charity trustees may establish categories of membership, each with their own fee structure.

10 Members' Decisions

10.1 General Provisions

Except for those decisions that must be taken in a particular way as indicated in sub-clause 10.3 decisions of the members of the WVA may be taken by vote at a general meeting as provided in sub-clause 10.2.

10.2 Taking Ordinary Decisions by Vote

Subject to sub-clause 10.3, any decision of the members of the WVA may be taken by means of a resolution at a general meeting. Such a resolution may be passed by a simple majority of votes cast at the meeting (including votes cast by postal or email ballot, and proxy votes).

10.3 Decisions that Must be Taken in a Particular Way

- (a) Any decision to remove a trustee must be taken in accordance with clause 15.2 (*retirement and Removal*)
- (b) Any decision to amend this constitution must be taken in accordance with clause 28 (*Amendment of Constitution*).
- (c) Any decision to wind up or dissolve the WVA must be taken in accordance with clause 29 (*Voluntary Winding up or Dissolution*). Any decision to amalgamate or transfer the undertaking of the WVA to one or more other Charities must be taken in accordance with the provisions of the Charities Act 2011.

11 General Meetings of Members

11.1 Types of General Meeting

- (a) There must be an annual general meeting (AGM) of the members of the WVA. The first AGM must be held within 18 months of the registration of the WVA, and subsequent AGMs must be held at intervals of not more than 15 months. The AGM must receive the annual statement of accounts (duly audited or examined where applicable) and the trustees' annual report, and must elect trustees as required under clause 13. (*Appointment of Charity Trustees*)
- (b) Other general meetings of the members of the WVA may be held at any time.
- (c) All general meetings must be held in accordance with the following provisions.

11.2 Calling General Meetings

- (a) The charity trustees:
 - (i) must call the annual general meeting of the members of the WVA in accordance with sub-clause 11.1, and identify it as such in the notice of the meeting; and
 - (ii) may call any other general meeting of the members at any time.
- (b) The charity trustees must, within 21 days, call a general meeting of the members of the WVA if:

- (i) they receive a request to do so from at least 10% of the members of the WVA; and
 - (ii) the request states the general nature of the business to be dealt with at the meeting, and is authenticated by the member(s) making the request.
- (c) If, at the time of any such request, there has not been any general meeting of the members of the WVA for more than 12 months, then sub-clause 11.2(b)(i) shall have effect as if 5% were substituted for 10%.
 - (d) Any such request may include particulars of a resolution that may properly be proposed, and is intended to be proposed, at the meeting.
 - (e) A resolution may only properly be proposed if it is lawful, and is not defamatory, frivolous or vexatious.
 - (f) Any general meeting called by the charity trustees at the request of the members of the WVA must be held within 28 days from the date on which it is called.
 - (g) If the charity trustees fail to comply with this obligation to call a general meeting at the request of its members, then the members who requested the meeting may themselves call a general meeting.
 - (h) A general meeting called in this way must be held not more than 3 months after the date when the members first requested the meeting.
 - (i) The WVA must reimburse any reasonable expenses incurred by the members calling a general meeting by reason of the failure of the charity trustees to duly call the meeting, but the WVA shall be entitled to be indemnified by the charity trustees who were responsible for such failure.

11.3 Notice of General Meetings

- (a) The charity trustees, or, as the case may be, the relevant members of the WVA, must give at least 14 clear days' notice of any general meeting to all of the members, and to any charity trustee of the WVA who is not a member.
- (b) If it is agreed by not less than 90% of all members of the WVA, any resolution may be proposed and passed at the meeting even though the requirements of sub-clause 11.3(a) have not been met. This sub-clause does not apply where a specified period of notice is strictly required by another clause in this constitution, by the Charities Act 2011 or by the General Regulations.
- (c) The notice of any general meeting must:
 - (i) state the time and date of the meeting:
 - (ii) give the address at which the meeting is to take place

- (iii) give particulars of any resolution which is to be moved at the meeting, and of the general nature of any other business to be dealt with at the meeting; and
 - (iv) if a proposal to alter the constitution of the WVA is to be considered at the meeting, include the text of the proposed alteration;
 - (v) include, with the notice for the AGM, the annual statement of accounts and trustees' annual report, details of persons standing for election or re-election as trustee, or where allowed under clause 22 (*Use of electronic communication*), details of where the information may be found on the WVA's website.
- (d) Proof that an envelope containing a notice was properly addressed, prepaid and posted; or that an electronic form of notice was properly addressed and sent, shall be conclusive evidence that the notice was given. Notice shall be deemed to be given 48 hours after it was posted or sent.
 - (e) The proceedings of a meeting shall not be invalidated because a member who was entitled to receive notice of the meeting did not receive it because of accidental omission by the WVA.

11.4 Chairing of General Meetings

The person holding the office of chair either as a first trustee listed in appendix 2 or pursuant to clause 13 (*Election of Trustees*), shall, if present at the general meeting and willing to act, preside as chair of the meeting. If he is absent then the person holding the office of vice-chair pursuant to clause 13 (*Election of Trustees*), shall, if present at the general meeting and willing to act, preside as chair of the meeting. Failing this then the members of the WVA who are present at a general meeting shall elect a chair to preside at the meeting.

11.5 Quorum at General Meetings

- (a) No business may be transacted at any general meeting of the members of the WVA unless a quorum is present when the meeting starts.
- (b) Subject to the following provisions, the quorum for general meetings shall be the greater of 10% or ten members. An organisation represented by a person present at the meeting in accordance with sub-clause 11.7, is counted as being present in person.
- (c) If the meeting has been called by or at the request of the members and a quorum is not present within 15 minutes of the starting time specified in the notice of the meeting, the meeting is closed.
- (d) If the meeting has been called in any other way and a quorum is not present within 15 minutes of the starting time specified in the notice of the meeting, the chair must adjourn the meeting. The date, time and place at which the meeting will resume must either be announced by the chair or be notified to the WVA's members at least seven clear days before the date on which it will resume.

- (e) If a quorum is not present within 15 minutes of the start time of the adjourned meeting, the member or members present at the meeting constitute a quorum.
- (f) If at any time during the meeting a quorum ceases to be present, the meeting may discuss issues and make recommendations to the trustees but may not make any decisions. If decisions are required which must be made by a meeting of the members, the meeting must be adjourned.

11.6 Voting at General Meetings

- (a) Any decision other than one falling within clause 10.3 (*Decisions that Must be Taken in a Particular Way*) shall be taken by a simple majority of votes cast at the meeting (including proxy and postal votes). Every member has one vote.
- (b) A resolution put to the vote of a meeting shall be decided on a show of hands, unless (before or on the declaration of the result of the show of hands) a poll is duly demanded. A poll may be demanded by the chair or by at least 10% of the members present in person or by proxy at the meeting.
- (c) A poll demanded on the election of a person to chair the meeting or on a question of adjournment must be taken immediately. A poll on any other matter shall be taken, and the result of the poll shall be announced, in such manner as the chair of the meeting shall decide, provided that the poll must be taken, and the result of the poll announced, within 30 days of the demand for the poll.
- (d) A poll may be taken:
 - (i) at the meeting at which it was demanded; or
 - (ii) at some other time and place specified by the chair; or
 - (iii) through the use of postal or electronic communications.
- (e) In the event of an equality of votes, whether on a show of hands or on a poll, the chair of the meeting shall have a second, or casting vote.
- (f) Any objection to the qualification of any voter must be raised at the meeting at which the vote is cast and the decision of the chair of the meeting shall be final.

11.7 Proxy voting

- (a) The charity trustees can by resolution agree that proxy voting may be allowed for a specific meeting of members or at all meetings of members thereafter until revoked by another resolution. The terms for proxy voting in sub-clauses (b) to (j) immediately below shall then apply.
- (b) Any member of the WVA may appoint another person as a proxy to exercise all or any of that member's rights to attend, speak and vote at a general meeting of the WVA.

- (c) Proxies must be appointed by a notice to WVA in writing (a "proxy notice") which must:
 - (i) state the name and address of the member appointing the proxy;
 - (ii) identify the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;
 - (iii) is signed by or on behalf of the member appointing the proxy, or is authenticated in such manner as the WVA may determine; and
 - (iv) is delivered to the WVA in accordance with the constitution and any instructions contained in the notice of the general meeting to which they relate and at least 72 hours before such meeting.
- (d) The WVA may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- (e) Proxy notices may (but do not have to) specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- (f) Unless a proxy notice indicates otherwise, it must be treated as:
 - (i) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
 - (ii) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.
- (g) A member who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the WVA by or on behalf of that member.
- (h) An appointment under a proxy notice may be revoked by delivering to the WVA a notice in writing given by or on behalf of the member by whom or on whose behalf the proxy notice was given.
- (i) A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- (j) If a proxy notice is not signed or authenticated by the member appointing the proxy, it must be accompanied by written evidence that the person who signed or authenticated it on that member's behalf had authority to do so.

11.8 Postal Voting

- (a) The WVA may, if the charity trustees so decide, allow the members to vote by post or electronic mail ("email") to elect charity trustees or to make a decision on any matter that is being decided at a general meeting of the members.

- (b) The charity trustees must appoint at least two persons independent of the WVA to serve as scrutineers to supervise the conduct of the postal/email ballot and the counting of votes.
- (c) If postal and/or email voting is to be allowed on a matter, the WVA must send to members of the WVA not less than 21 days before the deadline for receipt of votes cast in this way:
 - (i) a notice by email, if the member has agreed to receive notices in this way under clause 22 (*Use of electronic communications*), including an explanation of the purpose of the vote and the voting procedure to WVA, containing details of the resolution being put to a vote, or of the candidates for election, as applicable;
 - (ii) a notice by post to all other members, including a written explanation of the purpose of the postal vote and the voting procedure to be followed by the member; and a postal voting form containing details of the resolution being put to a vote, or of the candidates for election, as applicable.
- (d) The voting procedure must require all forms returned by post to be in an envelope with the member's name and signature, and nothing else, on the outside, inside another envelope addressed to 'The Scrutineers Westcott Village Association]', at the WVA's principal office or such other postal address as is specified in the voting procedure.
- (e) The voting procedure for votes cast by email must require the member's name to be at the top of the email, and the email must be authenticated in the manner specified in the voting procedure.
- (f) Email votes must be returned to an email address used only for this purpose and must be accessed only by a scrutineer.
- (g) The voting procedure must specify the closing date and time for receipt of votes, and must state that any votes received after the closing date or not complying with the voting procedure will be invalid and not be counted.
- (h) The scrutineers must make a list of names of members casting valid votes, and a separate list of members casting votes which were invalid. These lists must be provided to a charity trustee or other person overseeing admission to, and voting at, the general meeting. A member who has cast a valid postal or email vote must not vote at the meeting, and must not be counted in the quorum for any part of the meeting on which he, she or it has already cast a valid vote. A member who has cast an invalid vote by post or email is allowed to vote at the meeting and counts towards the quorum.
- (i) For postal votes, the scrutineers must retain the internal envelopes (with the member's name and signature). For email votes, the scrutineers must cut off and retain any part of the email that includes the member's name. In each case, a scrutineer must record on this evidence of the member's name that the vote has been counted, or if the vote has been declared invalid, the reason for such declaration.

- (j) Votes cast by post or email must be counted by all the scrutineers before the meeting at which the vote is to be taken. The scrutineers must provide to the person chairing the meeting written confirmation of the number of valid votes received by post and email and the number of votes received which were invalid.
- (k) The scrutineers must not disclose the result of the postal/email ballot until after votes taken by hand or by poll at the meeting, or by poll after the meeting, have been counted. Only at this point shall the scrutineers declare the result of the valid votes received, and these votes shall be included in the declaration of the result of the vote.
- (l) Following the final declaration of the result of the vote, the scrutineers must provide to a charity trustee or other authorised person bundles containing the evidence of members submitting valid postal votes; evidence of members submitting valid email votes; evidence of invalid votes; the valid votes; and the invalid votes.
- (m) Any dispute about the conduct of a postal or email ballot must be referred initially to a panel set up by the charity trustees, to consist of two trustees and two persons independent of the WVA. If the dispute cannot be satisfactorily resolved by the panel, it must be referred to the Electoral Reform Services.

11.9 Representation of Organisations and Corporate Members

- (a) An organisation or a corporate body that is a member of the WVA may, in accordance with its usual decision-making process, authorise a person to act as its representative at any general meeting of the WVA.
- (b) The representative is entitled to exercise the same powers on behalf of the organisation or corporate body as the organisation or corporate body could exercise as an individual member of the WVA.

11.10 Adjournment of Meetings

The chair may with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting to another time and/or place. No business may be transacted at an adjourned meeting except business which could properly have been transacted at the original meeting.

12 Charity Trustees

12.1 Functions and Duties of Charity Trustees

The charity trustees shall manage the affairs of the WVA and may for that purpose exercise all the powers of the WVA. It is the duty of each charity trustee:

- (a) to exercise his or her powers and to perform his or her functions as a trustee of the WVA in the way he or she decides in good faith would be most likely to further the objectives of the WVA; and
- (b) to exercise, in the performance of those functions, such care and skill as is reasonable in the circumstances having regard in particular to:
 - (i) any special knowledge or experience that he or she has or holds himself or herself out as having; and
 - (ii) if he or she acts as a charity trustee of the WVA in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession.

12.2 Eligibility for Trusteeship

- (a) Every charity trustee must be a human being.
- (b) No one may be appointed as a charity trustee:
 - (i) if he or she is under the age of 18 years; or
 - (ii) if he or she would automatically cease to hold office under the provisions of clause 15.1(f). (*Retirement and Removal*)
- (c) No one is entitled to act as a charity trustee whether on appointment or on any re-appointment until he or she has expressly acknowledged, in whatever way the charity trustees decide, his or her acceptance of the office of charity trustee.

12.3 Number of Charity Trustees

There must be at least five charity trustees. If the number falls below this minimum, the remaining trustee or trustees may act only to call a meeting of the charity trustees, or appoint a new charity trustee. The maximum number of charity trustees is 10. The charity trustees may not appoint any charity trustee if as a result the number of charity trustees would exceed the maximum.

12.4 First Charity Trustees

The first charity trustees under this constitution and their offices (if applicable) of the WVA are listed in Appendix 2 to this Constitution.

13 Appointment of Charity Trustees and Observers

13.1 Elected Charity Trustees

- (a) At the first annual general meeting under this constitution and at each subsequent annual general meeting of the members of the WVA all the charity trustees shall retire from office. The vacancies so arising may be filled by the decision of the members at the annual general meeting; any vacancies not filled at the annual general meeting may be filled as provided in sub-clause 13.1(c).
- (b) In addition to seeking election as a charity trustee a person may seek election as an office holder to any of the offices of Chair, Vice-chair, Treasurer, Secretary or such other offices as the charity trustees may create. All office holders must also be charity trustees.
- (c) The members of the WVA or the charity trustees may at any time decide to appoint a new office holder, whether in place of a charity trustee who has retired or been removed as a charity trustee or who wishes to retire as an office holder whilst still remaining as a charity trustee.
- (d) The members of the WVA or the charity trustees may at any time decide to appoint a new trustee provided that the maximum number of trustees is not exceeded.
- (e) A person so appointed as a charity trustee or office holder shall retire at the conclusion of the next annual general meeting after the date of his or her appointment.

13.2 Nominated Observers

- (a) The organisations referred to in Appendix 1 to this Constitution and such other bodies as the members of WVA in general meeting may decide or such body as in future may take over the assets and responsibilities of any such organisation ("the appointing body") may each appoint one observer.
- (b) Any appointment must be made at a meeting held according to the ordinary practice of the appointing body.
- (c) Each appointment shall be effective until revoked by notice given to the WVA or by notice given by the WVA to the appointing body. Following revocation, the appointing body may appoint another observer.
- (d) The appointment will be effective from the later of:
 - (i) the date of the vacancy; or
 - (ii) the date on which the WVA is informed of the appointment.

- (e) The person appointed should be a trustee, director or person of similar standing of the appointing body.

13.3 Ex Officio Observers

The elected councillors referred to in Appendix 3 shall ex-officio be appointed as observers during the period that they hold such elected office unless terminated earlier by a resolution of the charity trustees. Following such termination or their departure from such elected office they shall cease to hold the position of observer. However, they may seek election as a charity trustee at any subsequent general meeting of WVA members at which retiring trustees seek re-election or new trustees seek election.

13.4 Rights of Observers

A nominated or ex-officio observer is entitled to:

- (i) receive notice of,
- (ii) attend at
- (iii) speak to and
- (iv) receive all papers relating to

any meeting of the charity trustees. However, they are not to be treated as charity trustees. Accordingly, they:

- (i) may not vote at any meeting of the charity trustees;
- (ii) shall not be counted towards any quorum required for a meeting of charity trustees; and
- (iii) may not describe themselves as charity trustees.

14 Information for New Charity Trustees and Observers

The charity trustees will make available to each new charity trustee and each new observer, on or before his or her first appointment:

- (a) a copy of this constitution and any amendments made to it and then in effect; and
- (b) a copy of the WVA's latest trustees' annual report and statement of accounts.

15 Retirement and Removal of Charity Trustees

15.1 A charity trustee ceases to hold office if he or she:

- (a) retires by notifying the WVA in writing (but only if enough charity trustees will remain in office when the notice of resignation takes effect to form a quorum for meetings);

- (b) is absent without the permission of the charity trustees from all their meetings held within a period of six months and the trustees resolve that his or her office be vacated;
 - (c) dies;
 - (d) in the written opinion, given to the WVA, of a registered medical practitioner treating that person, has become physically or mentally incapable of acting as a trustee and may remain so for more than three months;
 - (e) is removed by the members of the WVA in accordance with sub-clause 15.2; or
 - (f) is disqualified from acting as a charity trustee by virtue of section 178-180 of the Charities Act 2011 (or any statutory re-enactment or modification of that provision).
- 15.2 A charity trustee shall be removed from office if a resolution to remove that trustee is proposed at a general meeting of the members called for that purpose and properly convened in accordance with clause 11 (*General Meetings*), and the resolution is passed by a majority of votes cast at the meeting.
- 15.3 A resolution to remove a charity trustee in accordance with this clause shall not take effect unless the individual concerned has been given at least 14 clear days' notice in writing that the resolution is to be proposed, specifying the circumstances alleged to justify removal from office, and has been given a reasonable opportunity of making oral and/or written representations to the members of the WVA.

16 Reappointment of Charity Trustee

Any person who retires as a charity trustee or by giving notice to the WVA is eligible for reappointment

17 Taking of Decisions by Charity Trustees

Any decision may be taken either:

- (a) at a meeting of the charity trustees; or
- (b) by resolution in writing or electronic form agreed by a majority of all of the charity trustees, which may comprise either a single document or several documents containing the text of the resolution in like form to which the majority of all of the charity trustees has signified their agreement. Such a resolution shall be effective provided that
 - (i) a copy of the proposed resolution has been sent, at or as near as reasonably practicable to the same time, to all of the charity trustees; and
 - (ii) the majority of all of the charity trustees has signified agreement to the resolution in a document or documents which has or have been authenticated by their signature, by a statement of their identity accompanying the document or documents, or in such other manner

as the charity trustees have previously resolved, and delivered to the WVA at its correspondence office notified to the Commission or such other place as the trustees may resolve within 21 days of the circulation date.

18 Delegation by Charity Trustees

- 18.1 The charity trustees may delegate any of their powers or functions to a committee or committees, and, if they do, they must determine the terms and conditions on which the delegation is made. The charity trustees may at any time alter those terms and conditions, or revoke the delegation.
- 18.2 This power is in addition to the power of delegation in the General Regulations and any other power of delegation available to the charity trustees, but is subject to the following requirements
- (a) a committee may consist of two or more persons, but at least one member of each committee must be a charity trustee;
 - (b) the acts and proceedings of any committee must be brought to the attention of the charity trustees as a whole as soon as is reasonably practicable; and
 - (c) the charity trustees shall from time to time review the arrangements which they have made for the delegation of their powers.

19 Meetings and Proceedings of Charity Trustees

19.1 Calling Meetings

- (a) Any charity trustee may call a meeting of the charity trustees.
- (b) Subject to that, the charity trustees shall decide how their meetings are to be called, and what notice is required.

19.2 Chairing of Meetings

The person appointed as Chair of the WVA by the members shall chair meetings of the charity trustees. If no-one has been so appointed, or if the person appointed is unwilling to preside or is not present within 10 minutes after the time of the meeting, the charity trustees present may appoint one of their number to chair that meeting.

19.3 Procedure at Meetings

- (a) No decision shall be taken at a meeting unless a quorum is present at the time when the decision is taken. The quorum is five charity trustees, or the number nearest to one third of the total number of charity trustees, whichever is greater, or such larger number as the charity trustees may decide from time to time. A charity trustee shall not be counted in the quorum present when any decision is made about a matter upon which he or she is not entitled to vote.
- (b) Questions arising at a meeting shall be decided by a majority of those eligible to vote.

- (c) In the case of an equality of votes, the chair shall have a second or casting vote.

19.4 Participation in meetings by electronic means

- (a) A meeting may be held by suitable electronic means agreed by the charity trustees in which each participant may communicate with all the other participants.
- (b) Any charity trustee participating at a meeting by suitable electronic means agreed by the charity trustees in which a participant or participants may communicate with all the other participants shall qualify as being present at the meeting.
- (c) Meetings held by electronic means must comply with rules for meetings, including chairing and the taking of minutes.

20 Saving Provisions

20.1 Subject to sub-clause 20.2, all decisions of the charity trustees, or of a committee of charity trustees, shall be valid notwithstanding the participation in any vote of a charity trustee:

- (a) who was disqualified from holding office;
- (b) who had previously retired or who had been obliged by the constitution to vacate office;
- (c) who was not entitled to vote on the matter, whether by reason of a conflict of interest or otherwise;

if, without the vote of that charity trustee and that charity trustee being counted in the quorum, the decision has been made by a majority of the charity trustees at a quorate meeting.

20.2 Sub-clause 20.1 does not permit a charity trustee to keep any benefit that may be conferred upon him or her by a resolution of the charity trustees or of a committee of charity trustees if, but for clause 20.1, the resolution would have been void, or if the charity trustee has not complied with clause 7 (*Conflicts of Interest*).

21 Execution of Documents

21.1 The WVA shall execute documents by signature.

21.2 A document is validly executed by signature if it is signed by at least two of the charity trustees.

22 Use of Electronic Communications

22.1 General

The WVA will comply with the requirements of the Communications Provisions in the General Regulations and in particular:

- (a) the requirement to provide within 21 days to any member on request a hard copy of any document or information sent to the member otherwise than in hard copy form;
- (b) any requirements to provide information to the Commission in a particular form or manner.

22.2 Electronic Communications to the WVA

Any member or charity trustee of the WVA or observer may communicate electronically with the WVA to an address specified by the WVA for the purpose, so long as the communication is authenticated in a manner which is satisfactory to the WVA.

22.3 Electronic Communications by the WVA

Any member or charity trustee of the WVA or observer, by providing the WVA with his or her email address or similar, is taken to have agreed to receive communications from the WVA in electronic form at that address, unless the member has indicated to the WVA his or her unwillingness to receive such communications in that form.

22.4 Website

The charity trustees may, subject to compliance with any legal requirements, by means of publication on its website –

- (a) provide the members with the notice referred to in clause 11.3 (*Notice of General Meetings*);
- (b) give charity trustees or observers notice of their meetings in accordance with clause 19.1 (*Calling Meetings*);

22.5 Notifying Publications

The charity trustees must:

- (a) take reasonable steps to ensure that members, charity trustees and observers are promptly notified of the publication of any such notice or proposal;
- (b) send any such notice or proposal in hard copy form to any member, observer or charity trustee who has not consented to receive communications in electronic form.

23 Keeping of Registers

The WVA must comply with its obligations under the General Regulations in relation to the keeping of, and provision of access to, registers of its members, observers and charity trustees.

24 Minutes

The charity trustees must keep minutes of all:

- (a) appointments of officers made by the charity trustees;

- (b) proceedings at general meetings of the WVA;
- (c) appointments of observers made by appointing bodies;
- (d) meetings of the charity trustees and committees of charity trustees including:
 - (i) the names of the trustees present at the meeting;
 - (ii) the decisions made at the meetings; and
 - (iii) where appropriate the reasons for the decisions;
- (e) decisions made by the charity trustees otherwise than in meetings.

25 Accounting Records, Accounts, Annual Reports and Returns, Register Maintenance

- (a) The charity trustees must comply with the requirements of the Charities Act 2011 with regard to the keeping of accounting records, to the preparation and scrutiny of statements of accounts, and to the preparation of annual reports and returns. The statements of accounts, reports and returns must be sent to the Charity Commission, regardless of the income of the WVA, within 10 months of the financial year end.
- (b) The charity trustees must comply with their obligation to inform the Commission within 28 days of any change in the particulars of the WVA entered on the Central Register of Charities.

26 Rules

- (a) The charity trustees may from time to time make such reasonable and proper rules or bye laws as they may deem necessary or expedient for the proper conduct and management of the WVA, but such rules or bye laws must not be inconsistent with any provision of this constitution.
- (b) Copies of any such rules or bye laws currently in force must be made available to any member of the WVA on request.

27 Disputes

If a dispute arises between members of the WVA about the validity or propriety of anything done by the members under this constitution, and the dispute cannot be resolved by agreement, the parties to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.

28 Amendment of Constitution

As provided by clauses 224-227 of the Charities Act 2011:

28.1 This constitution can only be amended:

- (a) by resolution agreed in writing by all members of the WVA; or

- (b) by a resolution passed by a 75% majority of votes cast at a general meeting of the members of the WVA.
- 28.2 Any alteration of clause 3 (*Objectives*), clause 29 (*Voluntary Winding up or Dissolution*), this clause, or of any provision where the alteration would provide authorisation for any benefit to be obtained by charity trustees or members of the WVA or persons connected with them, requires the prior written consent of the Charity Commission.
- 28.3 No amendment that is inconsistent with the provisions of the Charities Act 2011 or the General Regulations shall be valid.
- 28.4 A copy of any resolution altering the constitution, together with a copy of the WVA's constitution as amended, must be sent to the Commission within 15 days from the date on which the resolution is passed. The amendment does not take effect until it has been recorded in the Register of Charities.
- 29 Voluntary Winding up or Dissolution**
- 29.1 As provided by the Dissolution Regulations, the WVA may be dissolved by resolution of its members. Any decision by the members to wind up or dissolve the WVA can only be made:
- (a) at a general meeting of the members of the WVA called in accordance with clause 11 (*General Meetings of Members*), of which not less than 14 days' notice has been given to those eligible to attend and vote:
 - (i) by a resolution passed by a 75% majority of those voting, or
 - (ii) by a resolution passed by decision taken without a vote and without any expression of dissent in response to the question put to the general meeting; or
 - (b) by a resolution agreed in writing by all members of the WVA.
- 29.2 Subject to the payment of all the WVA's debts:
- (a) Any resolution for the winding up of the WVA, or for the dissolution of the WVA without winding up, may contain a provision directing how any remaining assets of the WVA shall be applied.
 - (b) If the resolution does not contain such a provision, the charity trustees must decide how any remaining assets of the WVA shall be applied.
 - (c) In either case the remaining assets must be applied for charitable purposes the same as or similar to those of the WVA.
- 29.3 The WVA must observe the requirements of the Dissolution Regulations in applying to the Commission for the WVA to be removed from the Register of Charities, and in particular:
- (a) the charity trustees must send with their application to the Commission:

- (i) a copy of the resolution passed by the members of the WVA;
 - (ii) a declaration by the charity trustees that any debts and other liabilities of the WVA have been settled or otherwise provided for in full; and
 - (iii) a statement by the charity trustees setting out the way in which any property of the WVA has been or is to be applied prior to its dissolution in accordance with this constitution;
- (b) the charity trustees must ensure that a copy of the application is sent within seven days to every member and employee of the WVA, and to any charity trustee of the WVA who was not privy to the application.

29.4 If the WVA is to be wound up or dissolved in any other circumstances, the provisions of the Dissolution Regulations must be followed.

30 Interpretation

In this constitution:

"Connected Person" means:

- (a) a child, parent, grandchild, grandparent, brother or sister of the charity trustee;
- (b) the spouse or civil partner of the charity trustee or of any person falling within sub-clause (a) above;
- (c) a person carrying on business in partnership with the charity trustee or with any person falling within sub-clause (a) or (b) above;
- (d) an institution which is controlled –
 - (i) by the charity trustee or any connected person falling within sub-clause (a), (b), or (c) above; or
 - (ii) by two or more persons falling within sub-clause (d)(i), when taken together
- (e) a body corporate in which –
 - (i) the charity trustee or any connected person falling within sub-clauses (a) to (c) has a substantial interest; or
 - (ii) two or more persons falling within sub-clause (e)(i) who, when taken together, have a substantial interest.

Section 118 of the Charities Act 2011 apply for the purposes of interpreting the terms used in this constitution.

"General Regulations" means the Charitable Incorporated Organisations (General) Regulations 2012.

"Dissolution Regulations" means the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012.

The **"Communications Provisions"** means the Communications Provisions in Part 9, Chapter 4 of the General Regulations.

"Charity Trustee" means a charity trustee of the WVA.

"Observer" means a person appointed by a designated body listed in Appendix 1 to attend meetings of the charity trustees.

A **"Poll"** means a counted vote or ballot, usually (but not necessarily) in writing.

Appendix 1

List of Organisations that may Appoint Designated Representatives as Observers

- 1 Holy Trinity Church Westcott - The Vicarage, Guildford Road, Westcott, Dorking, RH4 3QB.
Charity registration number: 1132869
- 2 The Hut, Westcott - Furlong Road, Westcott
Charity registration number: 305136
- 3 Westcott Reading Room – Institute Road, Westcott
Charity registration number 1172629
- 4 Westcott Sports Club - Milton Street, Westcott Surrey RH4 3PX
Charity registration number: 1170705
- 5 Surrey Hills All Saints Primary School – School Lane, Westcott RH4 3QF

Appendix 2

First Trustees of Westcott Village Association

Signed by:

Timothy Way

Trustee


TIMOTHY EDWARD WAY

Date

3/10/19.

Hugh Broom

Trustee


HUGH JOHN VINCENT BROOM.

3/10/19.

Edwin Harland

Trustee


EDWIN GEORGE HARLAND

3/10/19.


Andrew Copeland

Trustee


Andrew David Copeland 3/10/19

Sandra Ede

Trustee


SANDRA M EDE

3/10/19.

Edwina Gordon

Trustee


EDWINA PAMELA GORDON

3/10/19

James Leaver


Trustee


JAMES ANTHONY LEAVER

3/10/19

Nicholas Lund

Trustee


NICHOLAS JAMES LUND

3/10/19

In the presence of:

Witness Name

EDWARD WILDE

Date

3rd OCT
2019

Witness Signature



Witness Occupation

SOLICITOR

Witness Address

TOWER 42
BROAD STREET
LONDON E.C.2²⁸
CROWELL + MORING.

Appendix 3

Ex Officio Observers

- 1 The elected Mole Valley District councilor for the Ward of Westcott
- 2 The elected Surrey County councilor for the Dorking Hills Division