

A trust deed for

The Blaxhall Commons and Open Spaces Charitable Trust

10th November 2015

THIS DECLARATION OF TRUST IS MADE the 10th day of November 2015 by:

Eve Rossor, Vine Cottage, Ship Corner, Blaxhall, Woodbridge IP12 2DY;

Stephen Michael Smedley, Mill Walk House, School Hill, Blaxhall, Woodbridge IP12 2HN;

Nigel John Suckling, Vine Cottage, Church Road, Blaxhall, Woodbridge IP12 2DH;

(‘the first trustees’).

The first trustees hold the sum of £ 1500 on the trusts declared in this deed and they expect that more money or assets will be acquired by them on the same trusts.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. Administration

The charitable trust created by this deed (‘the charity’) shall be administered by the trustees. (In this deed, the expression ‘the trustees’ refers to the individuals who are the trustees of the charity at any given time. It includes the first trustees and their successors. The word ‘trustee’ is used to refer to any one of the trustees.)

2. Name

The charity shall be called The Blaxhall Commons and Open Spaces Charitable Trust.

3. Objects

The objects of the charity (‘the objects’) are:

- (a) to improve the conditions of life and social welfare in the village of Blaxhall;
- (b) to advance the conservation protection and improvement of the physical and natural environment in Blaxhall;
- (c) to preserve and protect the rights of access and use to the Blaxhall Commons and Open Spaces for all residents and visitors

by acquiring, owning, providing, improving, and maintaining land in Blaxhall, in particular any land currently registered as common land, land used as allotments, or land over which local residents or the public in general have traditionally enjoyed access, by providing such land to be used as an area of recreation or other leisure pursuits, and by promoting the biodiversity of such land for the benefit of the residents of Blaxhall and the public at large.

4. Application of income and capital

The trustees must apply the income and, at their discretion all or part of the capital, of the charity in furthering the objects.

5. Powers

In addition to any other powers they have, the trustees may exercise any of the following powers in order to further the objects (but not for any other purpose):

- (1) to raise funds. In exercising this power, the trustees must not undertake any taxable permanent trading activity and must comply with any statutory regulations;
- (2) to buy, take on lease or in exchange, hire or otherwise acquire property and to maintain and equip it for use;
- (3) to sell, lease or otherwise dispose of all or any part of the property belonging to the charity. In exercising this power, the trustees must comply as appropriate with section 117 – 122 of the Charities Act 2011;
- (4) to borrow money and to charge the whole or any part of the property belonging to the charity as security for repayment of the money borrowed. The trustees must comply as appropriate with sections 124 – 126 of the Charities Act 2011 if they wish to mortgage land owned by the charity;
- (5) to co-operate with other charities, voluntary bodies and statutory authorities and to exchange information and advice with them;
- (6) to establish or support any charitable trusts, associations or institutions formed for any of the charitable purposes included in the objects;
- (7) to acquire, merge with or enter into any partnership or joint venture arrangement with any other charity formed for any of the objects;
- (8) to create such advisory bodies as the trustees think fit;
- (9) to employ and remunerate such staff as are necessary for carrying out the work of the charity;
- (10) to do any other lawful thing that is necessary or desirable for the achievement of the objects.

6. Statutory powers

Nothing in this trust deed restricts or excludes the exercise by the trustees of the powers given by the Trustee Act 2000 as regards investment, the acquisition or disposal of land and the employment of agents, nominees and custodians.

7. Delegation by charity trustees

- (1) In addition to their statutory powers, the trustees may delegate any of their powers or functions to a committee or committees, and, if they do, they shall 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.
- (2) This power 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;
 - (c) A committee must not incur expenditure on behalf of the charity except in accordance with a budget previously agreed by the trustees; and
 - (d) The trustees shall from time to time review the arrangements which they have made for the delegation of their powers.
- (3) The trustees must exercise powers jointly at properly convened meetings except where they have:
 - (a) delegated the exercise of the powers (either under this provision or under any statutory provision), or
 - (b) made some other arrangements, by regulations under clause 22.

8. Charity trustees

(1) Duty of care

When exercising any power (whether given to them by this deed, or by statute, or by any rule of law) in administering or managing the charity it is the duty of each trustee:

- (a) to exercise his or her powers and to perform his or her functions in his or her capacity as a trustee of the charity in the way he or she decides in good faith would be most likely to further the purposes of the charity; 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 any special knowledge or experience that he or she has or holds himself or herself out as having ('the duty of care').

(2) Extent of liability

No trustee, and no one exercising powers or responsibilities that have been delegated by the trustees, shall be liable for any act or failure to act unless, in acting or in failing to act, he or she has failed to discharge the duty of care.

(3) Eligibility for trusteeship

- (a) Every charity trustee must be a natural person.
- (b) No individual may be appointed as a trustee of the charity:
 - (i) if he or she is under the age of 16 years, or
 - (ii) if he or she would automatically cease to hold office under the provisions of clause 12(1)(e).
- (c) No one is entitled to act as a trustee whether on appointment or on any re-appointment until he or she has expressly acknowledged, in whatever way the trustees decide, his or her acceptance of the office of trustee.
- (d) At least one of the charity trustees must be 18 years of age or over. If there is no trustee aged at least 18 years, the remaining trustees may only act to call a meeting of the charity trustees, or appoint a new charity trustee.

(4) Number of trustees

- (a) There should be not less than three appointed 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.
- (b) The maximum number of appointed trustees is 5. The charity trustees may not appoint any charity trustee if as a result the number of appointed charity trustees would exceed the maximum.
- (c) There must be no more than two nominated trustees, under the provisions of clause 9(2).

(5) First charity trustees

The first charity trustees are appointed for the following terms:

Stephen Michael Smedley	for 4 years;
Eve Beatrix Rossor	for 3 years;
Nigel John Suckling	for 2 years.

9. Appointment of trustees

(1) Appointed trustees

- (a) Apart from the first trustees, every appointed trustee must be appointed for a term of three years by a resolution of the trustees passed at a special meeting called under clause 15 (Special meetings).
- (b) Positions for appointed trustees will be advertised at least 3 months in advance on the Blaxhall Parish notice boards and in suitable local newsletters;
- (c) In selecting individuals for appointment as appointed trustees, the trustees must have regard to the skills, knowledge and experience needed for the effective administration of the charity, and credibility with Blaxhall residents.
- (d) The trustees must keep a record of the name and address and the dates of appointment, re-appointment and retirement of each trustee.

(2) Nominated trustees

- (a) Blaxhall Parish Council (“the appointing body”) may appoint up to two charity trustees.
- (b) Any appointment must be made at a meeting held according to the ordinary practice of the appointing body.
- (c) The appointment must be for a term which does not extend beyond the date when the next election of the appointing body take place.
- (d) The appointment will be effective from the later of:
 - (i) the date of the vacancy; and
 - (ii) the date on which the charity trustees of their secretary or clerk are informed of the appointment.
- (e) The appointment will cease the day prior to the day when the next elections of the appointing body take place.
- (f) If the nominated charity trustee ceases to hold office under the provisions of clause 11 (Termination of trusteeship) the appointing body may appoint a replacement charity trustee.
- (g) The person appointed need not be a member of the appointing body.
- (h) A trustee appointed by the appointing body has the same duty of care under clause 8 (Duty of care and extent of liability) as the other charity trustees to act in the way he or she decides in good faith would be most likely to further the purposes of the charity.

10. Information for new charity trustees

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

- (a) a copy of this deed and any amendments made to it; and
- (b) a copy of the charity's latest report and statement of accounts.

11. Termination of trusteeship

- (1) A trustee shall cease to hold office if he or she:
 - (a) is disqualified from acting as a charity trustee by virtue of sections 178 and 179 of the Charities Act 2011 or any statutory re-enactment or modification of that provision;
 - (b) in the written opinion, given to the company, of a registered medical practitioner treating that person, has become physically or mentally incapable of acting as a charity trustee and may remain so for more than three months;
 - (c) is absent without the permission of the trustees from all their meetings held within a period of six months and the trustees resolve that his or her office be vacated;
 - (d) notifies to the trustees a wish to resign (but only if enough trustees will remain in office when the notice of resignation takes effect to form a quorum for meetings);
 - (e) dies;
- (2) Any person retiring as a trustee is eligible for reappointment unless the provisions of clause 11(3) apply to the retiring trustee.
- (3) A trustee who has served three consecutive terms may not be reappointed for a fourth consecutive term but may be reappointed after an interval of at least one year.

12. Vacancies

If a vacancy occurs the trustees must note the fact in the minutes of their next meeting. Any eligible trustee may be re-appointed. If the number of trustees falls below the quorum in Clause 17(1), none of the powers or discretions conferred by this deed or by law on the trustees shall be exercisable by the remaining trustees except the power to appoint new trustees.

13. Ordinary meetings

The trustees must hold at least two ordinary meetings each year which must involve the physical presence of those trustees who attend the meeting.

Trustees must make every effort to ensure that as many meetings as possible are open to the public, in which case meetings must be advertised at least four weeks in advance on the Blaxhall Parish notice boards and in suitable local newsletters.

14. Calling meetings

The trustees must arrange at each of their meetings the date, time and place of their next meeting, unless such arrangements have already been made. Ordinary meetings may also be called at any time by the person elected to chair meetings of the trustees or by any two trustees.

The first meeting of the trustees must be called by Stephen Michael Smedley or, if no meeting has been called within three months after the date of this deed, by any two of the trustees.

15. Special meetings

A special meeting may be called at any time by the person elected to chair meetings of the trustees or by any two trustees. A special meeting may be called to take place immediately after or before an ordinary meeting. The trustees, at their discretion, may invite members of the public to be present at a Special Meeting. Such a meeting to which the public are invited to attend must be advertised at least four weeks in advance on the Blaxhall Parish notice boards and in suitable local newsletters.

16. Annual General Meetings

One meeting a year will be designated the Annual General Meeting (AGM) of the charity at which the trustees will present an annual review of the charity's activities and annual accounts. The AGM will be open to the public and must be advertised at least four weeks in advance on the Blaxhall Parish notice boards and in suitable local newsletters.

17. Chairing of meetings

The trustees at their first ordinary meeting in each year must elect one of their number to chair their meetings and may at any time revoke such appointment. The person elected shall always be eligible for re-election. If no-one has been so appointed, or if the person appointed is unwilling to preside or is not present within ten minutes after the time appointed for holding a meeting, or if the person elected ceased to be a trustee, the trustees present must choose one of their number to chair the meeting.

The person elected to chair meetings of the trustees shall have no other additional functions or powers except those conferred by this deed or delegated to him or her by the trustees.

18. Quorum

- (1) Subject to the provision of sub-clause (2) of this clause, no business shall be conducted at a meeting of the trustees unless a quorum is present throughout the meeting. The quorum is three charity trustees, or the number nearest to one third of the total number of charity trustees, whichever is greater.
- (2) The trustees may make regulations specifying different quorums for meetings dealing with different types of business providing that such quorums are at least as large as the number given by the application of sub-clause (1) of this clause.

19. Voting

- (1) At meetings, decisions must be made by a majority of the trustees present and eligible to vote on the question.
- (2) The person chairing the meeting shall have a casting vote whether or not he or she has voted previously on the same question but no trustee in other circumstances shall have more than one vote.

20. Conflicts of interest sand conflicts of loyalties

A charity trustee must:

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

21. Saving provisions

- (1) Subject to sub-clause (2) of this clause, all decisions of the charity trustees, or of a committee of the charity trustees, shall be valid notwithstanding the participation in any vote of a charity trustee:
 - (a) who is disqualified from holding office;
 - (b) who had previously retired or who had been obliged by this deed to vacate office;
 - (c) who was not entitled to vote on the matter, whether by reason of a conflict of interests 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 of a quorate meeting.

- (2) Sub-clause (1) of this clause 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 sub-clause (1), the resolution would have been void, or if the charity trustee has not complied with clause 19 (Conflicts of interests and conflicts of loyalties).

22. Minutes

The charity trustees must keep minutes, in books kept for the purpose or by such other means as the trustees decide, of the proceedings at their meetings. In the minutes the trustees must record

- (a) the names of trustees present at the meetings;
- (b) the decisions made at the meetings; and
- (c) where appropriate the reasons for the decisions.

The charity trustees must approve the minutes in accordance with the procedures, laid down in regulations made under clause 22 (General power to make regulations) of this deed. All minutes must be available to the public, with copies placed on the Blaxhall Parish notice boards and a copy provided to the Blaxhall Parish Clerk.

Any decisions made by the charity trustees to

- (a) purchase or in any other way acquire land assets;
- (b) receive donations of money in excess of £5000; and
- (c) sell assets of the charitable trust

must be reported at a Special Meeting of the trustees, to which the public are invited to attend, where justifications for those decisions will be presented whilst having regard for the confidentiality and commercial sensitivities of those involved.

23. General power to make regulations

- (1) The trustees may from time to time make regulations for the management of the charity and for the conduct of their business, including
 - (a) the calling of meetings;

- (b) methods of making decisions in order to deal with cases or urgency when a meeting is impractical;
 - (c) the deposit of money at a bank;
 - (d) the custody of documents; and
 - (e) the keeping and authenticating of records. (if regulations made under this clause permit records of the charity to be kept in electronic form and requires a trustee to sign the record, the regulations must specify a method recording the signature that enables it to be properly authenticated.)
- (2) The trustees must not make regulations which are inconsistent with anything in this deed.

24. Disputes

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

25. Accounts, Annual Reports and Annual Return

The trustees must comply with their obligations under the Charities Act 2011 with regard to:

- (1) The keeping of accounting records for the charity;
- (2) the preparation of annual statements of account for the charity;
- (3) the auditing or independent examination of the statements of account of the charity;
- (4) the transmission of the statements of account of the charity to the Charity Commission ('the Commission');
- (5) the preparation of an Annual Report and its transmission to the Commission;
- (6) the preparation of an Annual Return and its transmission to the Commission.

26. Registered particulars

The trustees must notify the Commission promptly of any changes to the charity's entry on the Central Register of Charities.

27. Bank account

Any bank or building society account in which any of the funds of the charity are deposited must be operated by the trustees and held in the name of the charity. Unless the regulations of the trustees make other provision, all cheques and orders for payment of money from such an account shall be signed by at least two trustees.

28. Application of income and property

- (1) The income and property of the charity must be applied solely towards the promotion of the objects.
 - (a) A charity trustee is entitled to be reimbursed out of the property of the charity or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the charity.
 - (b) A charity trustee may benefit from trustee indemnity insurance cover purchased at the charity's expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.
- (2) Subject to clause 28 (Benefits and payments to charity trustees and connected persons), none of the income or property of the charity may be paid or transferred directly or indirectly by way of dividend, bonus, or otherwise by way of profit to any charity trustee.

29. Benefits and payments to charity trustees and connected persons

(1) General provisions

No charity trustee or connected person may:

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

unless the payment or benefit is permitted by sub-clause (2) of this clause or authorised by the court or the Commission. In this clause a 'financial benefit' means a benefit, direct or indirect, which is either money or has a monetary value.

(2) Scope and powers permitting trustees' or connected persons' benefits

- (a) A charity trustee or connected person may receive a benefit from the charity in the capacity of a beneficiary of the charity 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 charity where that is permitted in accordance with, and subject to, the conditions in, section 185 of the Charities Act 2011.
- (c) Subject to sub-clause (3) of this clause a charity trustee or connected person may provide the charity with goods that are not supplied in connection with services provided to the charity by the charity trustee or connected person.
- (d) A charity trustee or connected person may receive interest on money lent to the charity at a reasonable and proper rate which must not be 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 charity. 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 charity on the same terms as members of the public.

(3) Payment for the supply of goods only - controls

The charity and its charity trustees may only rely upon the authority provided by sub-clause (2)(c) of this clause if each of the following conditions is satisfied:

- (a) The amount or maximum amount of the payment for the goods is set out in an agreement in writing between the charity and the charity trustee or connected person supplying the goods ('the supplier') under which the supplier is to supply the goods in question to or on behalf of the charity.
- (b) The amount or maximum amount of the payment for the goods in question 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 charity to contract with the supplier rather than 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 the meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her with regard to the supply of goods to the charity.
 - (e) The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of 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 this clause.
- (4) In sub-clauses (2) and (3) of this clause:
- (a) 'charity' shall include any company in which the charity:
 - (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 trustees to the board of the company.
 - (b) In sub-clauses (2) and (3) of this clause 'connected person' includes any person within the definition set out in clause 33 (Interpretation).

30. Repair and insurance

The trustees must keep in repair and insure to their full value against fire and other usual risks all the buildings of the charity (except those buildings that are required to be kept in repair and insured by a tenant). They must also insure suitably in respect of public liability and employer's liability.

31. Expenses

The trustees may also use the charity's funds to meet any necessary and reasonable expenses which they incur in the course of carrying out their responsibilities as trustees of the charity.

32. Amendment of trust deed

- (1) The trustees may amend the provisions of this deed, provided that:

- (a) no amendment may be made to clause 3 (Objects), clause 8 (Duty of care and extent of liability), clause 27 (Application of income and property), clause 28 (Benefits and payments to charity trustees and connected persons), clause 32 (Dissolution) or this clause without the prior consent in writing of the Commission;
 - (b) no amendment may be made that would have the effect of making the charity cease to be a charity at law; and
 - (c) no amendment may be made to alter the objects if the change would undermine or work against the previous objects of the charity.
- (2) Any amendment of this deed must be made by deed following a decision of the trustees made at a special meeting.
 - (3) The trustees must send to the Commission a copy of the deed effecting any amendment made under this clause within three months of it being made.

33. Dissolution

- (1) The trustees may dissolve the charity if they decide that it is necessary or desirable to do so. To be effective, a proposal to dissolve the charity must be passed at a special meeting by a two-thirds' majority of the trustees. Any assets of the charity that are left after the charity's debts have been paid ('the net assets') must be given:
 - (a) to another charity (or other charities) with objects that are the same or similar to the charity's own, for the general purposes of the recipient charity (or charities); or
 - (b) to any charity for use for particular purposes which fall within the charity's objects.
- (2) The Commission must be notified promptly that the charity has been dissolved and, if the trustees were obliged to send the charity's accounts to the Commission for the accounting period which ended before its dissolution, they must send the Commission the charity's final accounts.

34. Interpretation

- (1) In this deed:

all references to particular legislation are to be understood as references to legislation in force at the date of this deed and also to any subsequent legislation that adds to, modifies or replaces that legislation.

- (2) '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.
- (3) Sections 350-352 of the Charities Act 2011 apply for the purposes of interpreting the terms used in sub-clause (2) above.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. Signed as a deed by:

1(a)

on this.....(day) of.....(month).....(year)

in the presence of:

1(b)

Witness's name:

.....

Witness's address:

.....

.....

.....

2. Signed as a deed by:

2(a)

on this.....(day) of.....(month).....(year)

in the presence of:

2(b)

Witness's name:

.....

Witness's address:

.....

.....

.....

3. Signed as a deed by:

3(a)

on this.....(day) of.....(month).....(year)

in the presence of:

3(b)

Witness's name:

.....

Witness's address:

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