

Declaration of Trust
for
SILVERDALE CHILDREN'S
PLAYGROUND
Registered Charity 521323

Executed at an Ordinary Meeting
of
Silverdale Parish Council
on
Monday 2nd February 2004

THIS DECLARATION OF TRUST IS MADE the SECOND day of FEBRUARY 2004 by Peter Gordon Challenor, Cyril John Eden, Peter Roberts, John Adrian Burrow, Thomas Bernard Fryer, Arthur William Graves, June Greenwell, Ralph Murray Henderson and Antony John Houghton, hereafter known as "the first trustees, who shall not hold any moneys on the trusts declared in this deed, except as may be allocated, from time to time, by the Council of the civil Parish of Silverdale, in the County of Lancashire ("the Council"). All references to the Council shall include, in substitution, any body established by statute to replace the Council, and shall also include, in substitution, the continuing Council where identification is changed in title only.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. Administration.

The charitable trust created by this deed ("the charity") is established pursuant to the Conveyance of 19th October 1962, between the District Bank Limited, of the one part, and the Parish Council of the Parish of Silverdale of the other part, and has been held, since that date, by the said Council, upon trust, and administered as a Playing Field and Recreation Ground for the benefit of the children of Silverdale and the surrounding district.

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.

The trustees shall, at all times, be the elected and co-opted Members of the Council, and the Clerk to the Council. Any trustee shall cease to be a trustee immediately upon ceasing to be a Member of the Council, or ceasing to hold the appointment of Clerk to the Council.

2. Name.

The charity shall be called the "SILVERDALE CHILDREN'S PLAYGROUND", being the currently registered charity number 521323, but the trustees may, by resolution, change the charity's name from time to time. Before doing so they must obtain the written approval of the Charity Commissioners for England and Wales ("the Commission") for the new name.

3. Application of Income.

The trust must apply the income of the charity in furthering the following objects ("the objects"). In furtherance of the provision and maintenance of a Playing Field and Recreation Ground for the children of Silverdale, and the surrounding district, on that plot of land measuring 1.01 acres, or thereabouts, abutting the north side of Cove Road, Silverdale, and more particularly delineated in the conveyance dated 19th October 1962, between the District Bank Ltd, of the one part, and the Council, of the other part.

The aforementioned ground, and any facilities, or equipment thereon, shall be provided and maintained for the principal benefit of children having an age not exceeding fourteen years, except that the trustees, by resolution, may permit persons of older ages to use some, or all, of the facilities, or equipment, providing always that children of the age of fourteen years and younger shall not be denied the use of any such facilities, or equipment, for a period exceeding eight hours at any one occasion, or one hundred and twelve hours during any calendar year, except as a consequence of mechanical failure, maintenance work, or such safety precautions as may be determined by the trustees.

4. 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 substantial permanent trading activity, and must comply with any relevant statutory regulations;

- (2) to buy, take on lease or in exchange, hire, or otherwise acquire property (other than additional land) and to maintain it for use;
- (3) to co-operate with other charities, voluntary bodies and statutory authorities, and to exchange information and advice with them;
- (4) to establish or support any charitable trusts, associations, or institutions formed for any of the charitable purposes included in the objects;
- (5) to acquire, merge with or enter into any partnership, or joint venture, arrangement with any other charity formed for any of the objects;
- (6) to create such advisory committees as the trustees think fit;
- (7) to employ and remunerate such staff as are necessary for carrying out the work of the charity;
- (8) to do any other lawful thing that is necessary, or desirable, for the achievement of the objects.

6. Statutory powers.

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

7. Delegation

- (1) In addition to their statutory powers, the trustees may delegate any of their powers or functions to a committee of three or more trustees. A committee must act in accordance with any directions given by the trustees. It must report its decisions and activities fully and promptly to the trustees. It must not incur expenditure on behalf of the charity except in accordance with a budget previously agreed by the trustees.
- (2) The trustees must exercise their 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 21,
- (3) the trustees must consider from time to time whether the powers or functions, which they have delegated, should continue to be delegated.

8. Duty of care and extent of liability.

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, each of the trustees must use the level of care and skill that is reasonable in the circumstances, taking into account any special knowledge or experience that he or she has or claims to have ("the duty of care").

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.

9. Appointment of trustees.

Trustees are appointed automatically, upon signing a statutory Declaration of Acceptance of Office, as a Member of the Council. All Trustees, other than the retiring Chairman of the Council, shall retire at the commencement of the statutory Annual Parish Council Meeting which is held on the fourth day following an election, or within fourteen days thereafter. The retiring Chairman of the Council shall retire from being a trustee immediately upon a new Chairman of the Council being elected. Trustees who retire in the foregoing manner will become new trustees, if and as soon as they may be elected, or co-opted to the Council and have signed a statutory Declaration of Acceptance of Office, as a Member of the Council.

The record of the names, addresses and dates of appointment of trustees shall by way of the statutory notice of the district council (declaring the results of an election), or by way of inclusion within the Minutes of the Council.

10. Eligibility for trusteeship.

Eligibility for trusteeship is restricted to those persons who are also eligible to hold office as parish councillors, according to the statute law prevailing at the time of consideration.

11. Termination of trusteeship.

A trustee shall cease to hold office immediately upon ceasing to be a Member of the Council.

12. Vacancies

If a vacancy occurs, the trustees must note the fact in the Minutes of the Council, at their next meeting. Any eligible trustee may be re-appointed. So long as there are fewer than three trustees, 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. This requirement is satisfied by the inclusion of items referring to the conduct, over-view, and maintenance of Playground matters, within the agenda for no less than two meetings of the Council, held in accordance with the prevailing statutory requirements and open to attendance by members of the public and press.

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 Clerk to the Council, or by written demand of any two trustees. Not less than three clear working days notice shall be given to all trustees, but this requirement will be met by the formal summons of the Clerk to attend a meeting of the Council. The first meeting of the trustees shall be the meeting of the Council held after the date of this deed.

15. Special meetings.

A special meeting may be called at any time by the Clerk to the Council, or by written demand of any two trustees. Not less than three clear working days notice shall be given to the other trustees. A special meeting may be called to take place immediately before or after an ordinary meeting.

16. Chairing of meetings.

All meetings of the trustees shall be chaired by the Chairman of the Council, or a trustee nominated to chair a meeting, in accordance with the Standing Orders of the Council.

17. Quorum.

No business shall be conducted at a meeting of the trustees unless there are at least three trustees present, or a quorum of the Council, whichever is the greater of the two.

18. Voting.

At meetings, decisions must be made by a majority of the trustees present and voting on the question. 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 any other circumstances, shall have more than one vote.

19. Conflict of interest.

A trustee must absent himself or herself from any discussions of the trustees in which it is possible that a conflict will arise between his or her duty to act solely in the interest of the charity and any personal interest (including but not limited to any personal financial interest).

20. Minutes.

The 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 their decisions and, where appropriate, the reasons for those decisions. The trustees must approve the minutes in accordance with the procedures, laid down in regulations made under clause 21 of this deed. The requirements of this section of this deed shall be satisfied by the keeping of Minutes of the Council, which include all matters referring to the said Playground and any equipment or activity thereon.

21. General power to make regulations.

The trustees may from time to time make regulations for the management of the charity and for the conduct of their business, including:

- (1) the calling of meetings;
- (2) methods of making decisions in order to deal with cases of urgency, when a meeting is impractical;
- (3) the deposit of money at a bank;
- (4) the custody of documents; and
- (5) 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 of recording the signature that enables it to be properly authenticated.)

The trustees must not make regulations which are inconsistent with anything in this deed, or inconsistent with the statutory procedures or Standing Orders of the Council.

22. Accounts, Annual Report and Annual Return.

The trustees must comply with their obligations under the Charities Act 1993 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 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.

23. Registered particulars.

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

24. 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 or of the Council. All cheques and orders for the payment of money from such accounts shall be signed by at least two trustees.

25. Trustees not to benefit financially from their trusteeship.

- (1) (a) No trustee may buy goods or services from the charity, or sell goods or services to the charity, or receive remuneration, or receive any other financial benefit from the charity, or from any trading company owned by the charity, except in accordance with this deed.
- (b) The trustees may employ, or enter into a contract for the supply of goods or services with one of their number. Before doing so, the trustees must be satisfied that it is in the best interest of the charity to employ, or contract with, that trustee rather than someone who has no connection with the charity. In reaching that decision, they must balance the advantage of employing a trustee against the disadvantages of doing so (especially the loss of the trustee's services as a result of dealing with the trustee's conflict of interest as required by the next sub-clause). The remuneration or other sums paid to the trustee must not exceed an amount that is reasonable in all the circumstances. The trustees must record the reason for their

decision, in the Council's Minute Book.

- (c) A trustee must be absent from the part of any meeting at which his or her employment or remuneration, or any matter concerning the contract, are discussed. He or she must also be absent from the part of any meeting at which his or her performance in that employment, or his or her performance of the contract, is considered. He or she must not vote on any matter relating to his employment or the contract and must not be counted when calculating whether a quorum of trustees is present at the meeting.
- (2) This clause applies to a firm or company of which a trustee is:
- (a) a partner;
 - (b) an employee;
 - (c) a consultant;
 - (d) a director; or
 - (e) a shareholder, unless the shares of the company are listed on a recognised stock exchange and the trustee holds less than 1% of the issued capital, as it applies to a trustee personally.
- (3) In this clause:
- (a) "charity" shall include any company in which the charity:
 - holds more than 50% of the shares; or
 - controls more than 50% of the voting rights attached to the shares; or
 - has the right to appoint one or more directors to the Board of the company.
 - (b) "Trustee" shall include any child, parent, grandchild, grandparent, brother, sister or spouse of the trustee or any person living with the trustee as his or her partner.

26. 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.

27. Expenses.

The trustees may 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.

28. 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 (Application of Income), clause 8 (Duty of care), clause 25 (Trustees not to benefit financially from their trusteeship), or this clause without the prior consent in writing of the Commission; and
 - (b) no amendment may be made whose effect is that the charity ceases to be a charity at law.
- (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 certified copy of the deed effecting any amendment made under this clause within three months of it being made.

29. Interpretation.

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.