

Conversion of the ERF to a Charitable Incorporated Organisation (CIO) – changes to the approved constitution

At the EGM on 28th November 2024 the membership approved a recommendation to incorporate the ERF as a CIO in accordance with a suitably adapted constitution.

The application to the Charities Commission which followed was rejected on the grounds that the ‘objects’ listed in the constitution were not clearly and unambiguously ‘for the public benefit’ which is the principal requirement for charitable status.

The committee has carefully reviewed the feedback and remains convinced that the ERF’s objects are wholly charitable in character concluding that the rejection has arisen from the drafting. As the arguments in favour of incorporation as a CIO remain unchanged, a fresh application is proposed with a revised draft of the ‘objects’.

A revised drafting is shown below alongside the rejected version. In essence the changes are:

- Reinforcement of the overarching ‘public benefit’ purpose of the ERF
- Minor tweaks to align the language closer to the CC’s published guidance on ‘charitable purposes’
- Clarity that the Neighbourhood Planning role is performed solely in the service of the overarching purpose
- Relocation of the technical membership requirements for a designated Neighbourhood Forum to the ‘membership’ section of the constitution where it fits more logically

The committee believe that these revisions should be sufficient to assure a successful 2nd application (though there can be no guarantee!).

Members are recommended to approve the new drafting.

Pending processing of the application the ERF will continue to function as an unincorporated membership organization.

<i>‘Objects’ from proposed constitution approved by membership in November 2024 but rejected by the CC</i>	<i>New version</i>
<i>The Association shall have no political or religious affiliations and will work in partnership with local people, the local planning authority, statutory and voluntary bodies to:</i>	<i>The Association shall have no political or religious affiliations and will work for the public benefit in partnership with local people, the local planning authority, statutory and voluntary bodies to:</i>

<p>a. <i>promote the social, economic and environmental wellbeing of Emsworth by any means, including the continued publication of a local newspaper;</i></p> <p>b. <i>improve Emsworth for the benefits of its residents and protect the character of the area;</i></p> <p>c. <i>fulfil the role of a Neighbourhood Planning Forum under the 2011 Localism Act for the development, monitoring and amendment, as appropriate, of a Neighbourhood Plan;</i></p> <p>d. <i>fulfil the role of a Neighbourhood Planning Forum of advising the local authority on community priorities for the allocation of the neighbourhood portion of the Community Infrastructure Levy (CIL) and similar funds, provided an adopted Neighbourhood Plan is in place.</i></p> <p><i>Purposes c and d shall only apply as long as the Emsworth Residents Forum is designated as a Neighbourhood Planning Forum by Havant Borough Council. To remain designated a neighbourhood forum the membership must include a minimum of 21 individuals who either:</i></p> <p style="padding-left: 40px;"><i>i. live in the neighbourhood area;</i></p> <p style="padding-left: 40px;"><i>ii. work in the neighbourhood area; and/or</i></p> <p style="padding-left: 40px;"><i>iii. are elected members for a local authority that includes all or part of the neighbourhood area.</i></p> <p><i>The area of benefit for these purposes shall be the area designated for neighbourhood planning purposes.</i></p>	<ul style="list-style-type: none"> • <i>promote the social, economic and environmental wellbeing of the community of Emsworth by any means, including the continued publication of a local newspaper;</i> • <i>Promote social and community infrastructure improvements which meet present and future needs while conserving local character and heritage;</i> • <i>Promote community capacity building and volunteering</i> <p><i>In furtherance of the above objects but not otherwise the trustees shall fulfil the role of a Neighbourhood Planning Forum under the 2011 Localism Act for the development, monitoring and amendment, as appropriate, of a Neighbourhood Plan and associated functions</i></p>
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	<p><i>Further subclause to be added under 9. 'Membership of the CIO'</i></p> <p><i>(6) Special provisions for the Neighbourhood Planning Forum role</i></p> <p><i>For as long as the Emsworth Residents Forum is designated by Havant Borough Council as a Neighbourhood Planning Forum the trustees will assure that the membership will include a minimum 21 individuals who either:</i></p> <ul style="list-style-type: none"> <i>i. live in the neighbourhood area;</i> <i>ii. work in the neighbourhood area; and/or</i> <i>iii. are elected members for a local authority that includes all or part of the neighbourhood area.</i> <p><i>The area of benefit for these purposes shall be the area designated for neighbourhood planning purposes.</i></p>
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