

THE CHARITY COMMISSION FOR ENGLAND AND WALES

Under the power given in the Charities Act 1993

Orders that from today, the

3 June 2009

this

SCHEME

will govern the charity

known as

LOWTHER GARDENS, LYTHAM (1117054)

at

Lytham, Lancashire

Commission References:

Sealing: N312(S)/09

Case No: C-231981

1. Definitions

In this scheme:

“the charity” means the charity identified at the beginning of this scheme.

“the trustee” means the trustee of the charity acting under this scheme.

ADMINISTRATION

2. Administration

The charity is to be administered in accordance with this scheme. This scheme replaces the former trusts of the charity.

3. Name of the charity

The name of the charity is Lowther Gardens, Lytham.

OBJECT

4. Object of the charity

- (1) The object of the charity is to promote for the benefit of the inhabitants of Lytham and the surrounding area the provision of facilities for recreation or other leisure time occupation of individuals who have need of such facilities by reason of their youth, age, infirmity or disablement, financial hardship or social and economic circumstances or for the public at large in the interests of social welfare and with the object of improving the condition of life of the said inhabitants.
- (2) The land identified in part 1 of the schedule to this scheme must be retained by the trustee for use for the object of the charity.
- (3) The trustee may appropriate and use the land identified in part 2 of the schedule to this scheme for a pavilion building to be used for the object of the charity.

POWERS OF THE TRUSTEE

5. Powers of the trustee

In addition to any other powers which it has, the trustee may exercise the following powers in furtherance of the objects of the charity:

- (1) Power to lease part of the pavilion, subject to the prior written consent of the Commission, for purposes ancillary to the enjoyment of the gardens. The trustee must comply with the restrictions on disposal imposed by section 36 of the Charities Act 1993, unless the lease is excepted from these restrictions by section 36(9)(b) or (c) or section 36(10) of that Act.
- (2) Power to charge such reasonable sums as the trustee shall determine for use of the pavilion and for car parking.

- (3) Power to make rules and regulations consistent with this scheme for the management of the charity.

TRUSTEE

6. Trustee

Fylde Borough Council is the trustee of the charity.

CHARITY PROPERTY

7. Restriction on building

The trustee must not erect any additional buildings or extend the existing pavilion.

8. Use of income and capital

- (1) The trustee must first apply:
 - (a) the charity's income; and
 - (b) if the trustee thinks fit, expendable endowmentin meeting the proper costs of administering the charity and of managing its assets (including the repair and insurance of its buildings).
- (2) After payment of these costs, the trustee must apply the remaining income in furthering the object of the charity.
- (3) The trustee may also apply expendable endowment for the object of the charity.

POWER OF AMENDMENT

9. Power of amendment

- (1) The trustee (subject to the provisions of this clause) may from time to time amend the trusts if it is satisfied that it is expedient in the interests of the charity to do so.
- (2) The trustee must not make any amendment which would have the effect directly or indirectly of:
 - (a) altering or extending the purposes of the charity;
 - (b) authorising the trustee to do anything which is expressly prohibited by the trusts of the charity;
 - (c) causing the charity to cease to be a charity at law;
 - (d) altering or extending the power of amendment that is conferred by this clause.

- (3) The trustee must obtain the prior written approval of the Commission before making any amendment which would have the effect directly or indirectly of:
- (a) enabling it to spend permanent endowment or capitalise income of the charity;
 - (b) conferring a benefit of any kind on the trustee (or on members of its governing body) or on its successors;
 - (c) restricting the existing right of any person (other than the trustee) to appoint or remove the trustee, or to intervene in the administration of the charity, without the consent of that person;
 - (d) varying the name of the charity.
- (4) The trustee must:
- (a) prepare a written memorandum of each amendment that it makes;
 - (b) send to the Commission a certified copy of the memorandum within three months of the date of making the amendment; and
 - (c) retain the memorandum as part of the governing document.

GENERAL PROVISIONS

10. Questions relating to the Scheme

The Commission may decide any question put to it concerning:

- (1) the interpretation of this scheme; or
- (2) the propriety or validity of anything done or intended to be done under it.

SCHEDULE

PART 1

Lowther Gardens, Lytham. The land is described in an Indenture dated 16 February 1905 which was made between John Talbot Clifton of the first part and the Urban District Council of Lytham of the second part.

PART 2

Land with the building thereon known as Lowther Pavilion being part of the land described in part 1 of the schedule to this scheme.