

Westbourne Parish Allotment for Exercise and Recreation

Charity Commission number: 265105

1. History and background

Before the Inclosure Act of 1845, common grazing land around villages was usually owned by the Lord of the Manor who might, or might not, live locally. The Act sought to reallocate the common grazing land from the Lord of the Manor to local individuals, at the same time designating it for general public use though also giving the individual rights for grazing sheep as compensation. As someone had to own the land, and at that time there were no parish councils and local vestries were not empowered to be land-owners, members of the local 'establishment' were chosen.

In this case, the 'allotment of land' at Monk's Hill was, in 1859, granted to Admiral Sir Provo William Percy Wallis, who lived in Funtington. This award and allocation was granted subject to the following conditions

1. Obligation to preserve the surface in good condition.
2. To be at all times used as a place for exercise and recreation
3. Fences on the north, east and west sides to be repaired and maintained by the owner.
4. To be depastured by sheep only.

All of Wallis's estate was bequeathed to his wife, Dame Wallis, and Sir George Raper, Knight of Chichester (trustees). The land could be sold subject to the conditions as above. Wallis died on 13/02/1892. Dame Wallis died on 28/02/1894 without having proved the Will or appointing trustees. Raper died on 12/07/1901 having appointed four executors in his Will. By 1941, the four executors were dead.

In due course it passed, probably by inheritance, to Charles Sansome Preston (who was likely to have been a relative of Sir Lionel G. Preston or Col. R. L. Preston, both of whom, in their turn, owned Westbourne Court).

On 3 May 1948, it appears that Charles Sansome Preston appointed Frederick Gould Standfield and Harry Rodney Underhill, solicitors of Chichester, to sell the land to Westbourne Parish Council for the sum of £40.00. Restrictions and obligations as set out in the original enclosure deed. Acting for the Parish Council were Sidney Francis Morgan and Frederick George Hewitt.

In 1969, the Parish Council registered the land as a Village Green (WCSS is responsible for this registration). In 1974, the Parish Council registered the land with the Charity Commission as Westbourne Parish Allotment for Exercise and Recreation, number 265105. There are no records as to why these decisions were made but it is likely that the Parish Council, at the time, wanted to give as many protections to the land as possible to secure it for the future.

It was customary before 1914 to refer to any such land as an 'allotment' and this did not have the specific meaning it has nowadays.

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In 2019, the Parish Council employed Ian Davison, Surrey Hills Solicitors, to research the legal status of the charity in the absence of original documents and records. It is following this advice that the Parish Council has written this schedule of works and activities to ensure that the charity is run on a proper legal footing.

2. Objectives

The Parish Council aims for the recreation ground at Monk's Hill to be used at all times as a place for exercise and recreation for the inhabitants of the Parish of Westbourne and neighbourhood.

This is further outlined in the Conveyance signed by the Parish Council on 3 May 1948:

“All that piece or parcel of land in the Parish of Westbourne in the County of Sussex numbered 16 on the Inclosure Map of 1858 and containing four acres little more or less as the same was by the Westbourne Common Inclosure Award of 1859 allotted and awarded unto the Testator subject to the obligation of preserving the surface thereof in good condition and of permitting such land to be at all times used as a place for exercise and recreation by the inhabitants of the Parish and neighbourhood and subject also to the direction contained in the said award as to the repairing and maintenance of the fences on the north, east and west sides thereof by and at the expense of the owner for the time being and subject also to the direction that the said piece of land should be depastured with sheep only.”

3. Terms of reference

Westbourne Parish Council is the sole managing trustee of the charity as a corporate body. Individual councillors are therefore not charity trustees, as it is the Parish Council which is the charity trustee.

The Charity Commission advises (OG 56 A1) that:

“The charity needs to be independent of the local authority in the sense that decisions about the administration and operation of the charity need to be taken solely in the interests of the charity, with a view to furthering its charitable purposes, and for no other purpose.”

The Parish Council discussed this advice at its meeting on Thursday 9 January 2019. Members agreed unanimously (all in favour) to set up a S297 agreement which would enable the Parish Council to administer all activities on behalf of the charity (agreed on 12 March 2020). This decision was made with reference to the aims and objectives of the charity which clearly set out the purposes for which the land is to be used. In addition, the charity has no funds of its own, has a limited ability to generate income and is reliant on the Parish Council to award grants to fund its activities. There are benefits to the Charity of being overseen by the Parish Council in relation to general administration and shared resources. It is for this reason that it was agreed that separate financial accounts and bank accounts would not be required. It was agreed that the Clerk to the Parish Council would oversee all administration related to the charity.

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It was agreed that an annual general meeting of the Charity will take place once every financial year and that all Parish Council members will be invited to attend. This meeting will enable councillors to discuss issues relevant to the charity and agree an annual report, including financial accounts, to meet the Charity Commission's requirements.

The Charity will be registered with the Charity Commission as a Charitable Incorporated Organisation. The Parish Council will follow the rules, regulations, policies and procedures as required by such registration.

4. Facilities at Monk's Hill

A number of facilities are available at Monk's Hill recreation ground, including

- A children's playground
- Adult exercise equipment – gym equipment and a trim trail
- Benches and picnic tables
- Secure fencing around the perimeter and a height barrier
- Information boards
- Litter/dog bins

The Parish Council has paid for these facilities over a number of years by raising funds through its Precept and by obtaining grants from Chichester District Council. The Parish Council pays for the emptying of the litter bins on an annual basis, along with others that are available in the Parish.

The Parish Council has a contract with Longmeadows Landscaping Ltd who undertakes the grounds maintenance at Monk's Hill, as well as at the Parish Council's other recreation ground located on Mill Road in Westbourne.

5. Schedule of activities

The Parish Council, acting on behalf of the charity, will carry out the following activities:

1. Maintain and develop the recreation ground to ensure it is fit-for-purpose, safe, and pleasant for the exercise and recreation of the inhabitants of the Parish of Westbourne and neighbourhood.
2. Maintains the playground and adult exercise equipment, with weekly operational equipment checks during British summertime and fortnightly during the winter to ensure it is in good working order and state of repair. This includes operational and annual inspection as required by the insurance provider at least every six months.
3. To survey the trees on the boundary of the recreation ground every 18-24 months and to carry out maintenance to the trees as required.
4. Seeks to provide excellent facilities that encourages as many residents as possible to benefit from the recreation ground space.

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5. Looks for opportunities to further develop the range of facilities available at the recreation ground to enhance opportunities for exercise and recreation, including applying for grants for funding.

6. Financial affairs, assets and liabilities

The Parish Council will comply with the charity reporting and accounting requirements of the Charities Act 2011, including preparation of an annual report by the charity trustee.

The grant provided to the charity is generated from the Parish Council's Precept and, as such, it will be shown in both the Parish Council and charity's accounts as a grant to the charity.

The Charity leases a small section of land on the boundary of the recreation ground to the owner of 1 Sydenham Terrace, Covington Road, Westbourne in order to access a garage and to park two vehicles. The licence is £200 per annum, payable on 1 April each year. This is the charity's only income and is paid directly to the Parish Council on the charity's behalf.

The Parish Council awards the charity a grant of £6,500 per annum towards the cost of grounds maintenance at Monk's Hill. A grant of £750 per annum is allocated towards the cost surveying and maintaining the trees along the boundary of the recreation ground. A further grant of £900 per annum is allocated towards the cost of a playground inspector who inspects the playground weekly during British summertime and fortnightly during the winter. This is a total grant of £8,150 per annum.

In addition, the Parish Council includes the recreation ground, equipment and facilities in its insurance policy.

In previous years, grants have been awarded to the charity to purchase new play equipment. In 2018, a sum of £35,976.15 was spent on replacing the majority of the play equipment in the playground which had been raised from the Parish Council's precept since 2005/06. From financial year 2018/19, no funding from the Parish Council's Precept has been allocated towards new play equipment.

In 2019 the Parish Council applied for New Homes Bonus funding from Chichester District Council for new play and exercise equipment and received £5,731.12. In 2019, Chichester District Council awarded £7,736.46 of S106 funds to be spent on new play/sports/exercise equipment. The Parish Council is in the process of purchasing new equipment using the combined funds of £13,467.58.

7. Registration as a Village Green

Following advice received from Ian Davison, Surrey Hills Solicitors, the Parish Council has written to West Sussex County Council to request that the registration of the land as a Village Green is removed. It appears that in 1948 the Parish Council registered the land incorrectly as its status as a public open space is incompatible with the Village Green status.

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8. Licences for private or business use

The Parish Council often receives enquiries from businesses and individuals requesting use of the recreation ground for specific purposes. As the land is held for the charitable purpose of 'being used at all times as a place for exercise and recreation by the inhabitants of the Parish of Westbourne and neighbourhood' the use for private or business use is incompatible with this status and licences cannot be granted.