

THE DAVENPORT PARK COMMITTEE

Constitution and Rules November 2008

1. Definitions

- (1) In this Constitution the following expressions shall have the following meanings:
 - (a) "Committee" shall mean the committee known as the Davenport Park Committee elected by the Occupiers or appointed on their behalf in accordance with the provisions of this Constitution;
 - (b) "Davenport Park" shall mean the area traditionally known by that name, comprising Davenport Park Road, Clifton Park Road and Devonshire Park Road together with the properties abutting upon any of those roads. For the avoidance of doubt, Davenport Park, as so defined, shall not be treated as co-extensive with the Davenport Park Conservation Area, as designated from time to time by the Stockport Metropolitan Borough Council, but shall be deemed to include Stockport Grammar Junior School, each of the residential units within Clifton Lodge, Chatsworth Court, Devonshire Court and Beech Mews, numbers 1 to 12, Rutland Court, numbers 188 and 190, Buxton Road and part of 192, Buxton Road;
 - (c) "Occupier" shall mean the owner or occupier of any property within Davenport Park who is liable to pay the Subscription levied upon any such property;
 - (d) "Resident" shall mean any person who is normally resident at any property within Davenport Park but who is not an Occupier;
 - (e) "Subscription" shall mean the annual charge levied upon each property within Davenport Park for the purpose of providing the funds required to enable the Committee to carry out its functions under this Constitution; and the phrase "in Arrears of Subscription" shall have the meaning assigned to it by Clause 6(1) hereof.

2. Name, Functions and Objectives

- (1) The Committee established in accordance with this Constitution shall be known as the Davenport Park Committee.
- (2) The Committee shall be authorised to act on behalf of the Occupiers in all matters of common interest or concern arising out of or in connection with their ownership or occupation of properties within Davenport Park or otherwise relating to its status, condition, amenities, surroundings or environment.
- (3) Without prejudice to the generality of the foregoing, the Committee shall have the following objectives:
 - (a) To manage, maintain, repair, keep in good order and condition and improve, so far as the funds available to it from time to time shall allow, all of the roads, footpaths, gates, signs and other facilities of a similar nature within Davenport Park, and to take out and maintain in force suitable public liability insurance cover in respect thereof;
 - (b) To protect and improve the character and environment of Davenport Park having regard, amongst other things to its status as part of the Davenport Park Conservation Area;

- (c) To liaise and co-operate with the Stockport Metropolitan Borough Council, its elected members, officers and officials, and with representatives of any other organisations for the purposes of protecting and improving the amenities and surroundings of Davenport Park;
- (d) To consider and, if thought practicable, to act upon any matter raised by any Occupier or Resident concerning the welfare, safety or amenities of Davenport Park;
- (e) To promote and develop a community spirit amongst the Occupiers and Residents of Davenport Park.

3. General Meetings of the Occupiers

- (1) An Annual General Meeting of the Occupiers shall be convened by the Committee and shall be held each year in the month of November. An Extraordinary General Meeting of the Occupiers may be convened by the Committee at any other time, if it considers that it is necessary or desirable to do so; and in deciding whether to convene an Extraordinary General Meeting, the Committee shall have regard to any representations made to it by any Occupier or Resident. If the Committee is unable or unwilling to convene an Extraordinary General Meeting notwithstanding any such representations, an Extraordinary General Meeting shall nonetheless be convened if the Occupiers of not less than thirty properties within Davenport Park shall submit a requisition in writing to the Secretary; and if the office of Secretary is vacant or if the Secretary fails or refuses to act upon the requisition, the Occupiers may appoint some other person to do so on their behalf.
- (2) Not less than fourteen days' Notice of any General Meeting shall be given to the Occupiers in writing. Such Notice shall be given by addressing it to the Occupier of each property (or at least one of them, if more than one), either in his or her capacity as Occupier or by name, and by delivering the Notice to each such property. But no General Meeting and no proceedings or resolutions conducted or passed at any such General Meeting shall be invalidated on the grounds that any such Notice has not been delivered, whether in time or at all, provided that the number of instances in which this has or may have occurred is not substantial. Any objection on such grounds shall be taken before any other proceedings at the General Meeting and the decision of the Chairman on any such objection shall be final and conclusive.
- (3) The Chairman for the time being of the Committee, or, in his or her absence, such other person as may be nominated by the Committee for that purpose, shall act as Chairman of the General Meeting; and the Secretary of the Committee or his or her deputy shall make a record of those attending and keep minutes of the proceedings at the General Meeting.
- (4) Only the Occupiers shall be entitled as of right to attend, speak and vote at any General Meeting, provided that:
 - (a) Any Resident may attend and speak at any General Meeting and (save as hereinafter appears) may vote on any matter which, in the opinion of the Chairman, is unlikely to be contentious or is unlikely to involve any substantial expenditure of funds, unless a majority of the Occupiers present resolve that he or she should not be permitted to

speak or vote;

- (b) At the request of any Occupier, the Committee may authorise some other person to act as his or her representative and to attend, speak and vote on his or her behalf;
- (c) No Occupier or Resident shall be entitled to attend, speak or vote at any General Meeting, whether in person or by a representative, if and so long as he or she is in Arrears of Subscription, unless the Committee has previously determined that there are special circumstances which would make it just and equitable that he or she should nonetheless be permitted to do so;
- (d) At the discretion of the Chairman, the right to vote at any General Meeting may be limited to one Occupier from each separate property in respect of which a Subscription is payable; but the right to vote will normally be so limited on any proposal submitted by the Committee in accordance with Clause 3(5)(d) or Clause 3(5)(e) hereof; The Chairman shall not vote on any proposal save in the event of a tied vote, in which case he or she shall be entitled to a casting vote.

(5) At each Annual General Meeting:

- (a) The Secretary or his or her deputy shall circulate copies of the draft minutes of the last Annual General Meeting and of any Extraordinary General Meeting which may have taken place since the last Annual General Meeting; and the Annual General Meeting may approve them, with or without modifications, as a true and accurate record of the proceedings to which they relate;
- (b) The Committee shall present audited financial statements of its income and expenditure during the twelve months ended 30th September last and of its assets and liabilities as at that date, together with such other accounts and explanatory notes as it may consider necessary or desirable for the proper understanding of the financial statements;
- (c) The Officers for the previous year shall, if practicable, present a report of any matters of general interest or concern arising out of or in connection with his or her responsibilities;
- (d) The Committee shall submit a proposal as to the rate at which Subscriptions shall be levied during the forthcoming year; and the Occupiers shall, by a simple majority vote, decide whether to approve the proposal. If it is not approved, the proposal may be amended and resubmitted to the Annual General Meeting, provided that no amendment shall be such as to increase the rate above the level originally proposed. If the proposal or any amended proposal is not approved by the Occupiers, the rate shall remain the same as in the previous year;
- (e) The Committee shall also submit any proposal for the payment of any honoraria to any of the Officers or to the Home Watch Co-ordinator; and the same procedure shall apply in relation to any such proposal as is set out in Clause 3(5)(d) above;
- (f) Nominations shall be made for the office of Auditor and, if approved by a majority of the Occupiers, the person or persons so nominated shall be appointed as Auditor or Auditors for the forthcoming year;
- (g) An election shall, if necessary, be held to fill any vacancy amongst the Officers or Members of the Committee. Any Occupier may stand for election and may propose or second any other Occupier, The result of any election shall be by a simple majority vote of the Occupiers; and any Occupier may vote for himself or herself or for any candidate whom he or she may have proposed or seconded;
- (h) The Committee shall use its best endeavours to ensure that copies of the draft minutes

of the last Annual General Meeting, and of the audited financial statements shall be sent out with the Notice convening the Annual General Meeting. The Notice itself shall, if practicable, set out the names of any candidates for election and of any person intended to be nominated for the office of Auditor and shall provide brief details of the rate at which the Committee intends to propose that Subscriptions should be levied during the forthcoming year and of any honoraria which it intends to propose should be paid to any of the Officers or to the Home Watch Co-ordinator. But any failure to do so shall not prevent any eligible person from standing for election as an Officer or Member of the Committee at the Annual General Meeting or from being nominated for appointment to the office of Auditor; nor shall any such failure prevent the Committee from submitting any proposal or proposals to the Annual General Meeting in accordance with the provisions of Clause 3(5)(d) or Clause 3(5)(e) hereof.

- (i) Subject to the general restrictions on attending, speaking and voting at any General Meeting as hereinbefore set out, and subject to the power of the Chairman to control the conduct of any General Meeting, any Occupier, or his or her authorised representative, or any Resident, may speak on any matter of general interest or concern which may affect Davenport Park, its Occupiers or Residents and may propose or second any motion relating to any such matter. But it shall be entirely within the discretion of the Chairman to decide whether any such motion should be put to a vote unless not less than fourteen days' notice of the proposal in question or of a proposal substantially to the like effect has been given to the Occupiers in writing, whether in the Notice convening the Annual General Meeting or otherwise.
- (6) At any Extraordinary General Meeting, no proposal shall be put to a vote unless not less than fourteen days' notice of the proposal or of a proposal substantially to the like effect has been given to the Occupiers in writing in the Notice convening the Meeting.

4. The Committee and the Officers

- (1) The Committee shall comprise not less than five and not more than fifteen Members who shall be elected from amongst the Occupiers or, in the case of a casual vacancy, appointed by the Committee. The Committee shall, if practicable, include at least one Member from each of the following properties, namely Clifton Lodge, Chatsworth Court, Devonshire Court, Rutland Court and Beech Mews.
- (2) The Officers shall be the Chairman, Vice-Chairman, Secretary, Treasurer, Road Manager, and Conservation Manager who shall likewise be elected from amongst the Occupiers or, in the case of a casual vacancy, appointed by the Committee. Each of the Officers shall be a Member of the Committee by virtue of his or her election or appointment as an Officer.
- (3) Not more than one Occupier of any individual property may be elected or appointed to serve as a Member of the Committee or as an Officer at the same time.
- (4) The Members of the Committee and the Officers shall be elected at the Annual General Meeting. Each Member shall serve for a term of five years and shall retire by rotation at the Annual General Meeting nearest in time to the fifth anniversary of the date of his or

her election. Each Officer shall likewise serve for a term of five years and shall retire at the Annual General Meeting nearest in time to the fifth anniversary of his or her election, save that the Chairman and Vice-Chairman shall serve for a term of two years and shall retire at the Annual General Meeting nearest in time to the second anniversary of the date of his or her election. No retiring Member of the Committee shall be eligible for re-election until the Annual General Meeting next after his or her retirement, unless he or she is serving as an Officer or is intending to stand for election as an Officer. Upon the retirement of the Chairman, the Vice-Chairman will normally be permitted to stand unopposed for election as Chairman.

- (5) Notwithstanding the foregoing, any Member of the Committee and any Officer may resign at any time or may be removed by a resolution passed at an Annual General Meeting or an Extraordinary General Meeting of the Occupiers, provided that due Notice has been given of any proposal to that effect. Any Member of the Committee shall be deemed to have resigned from the Committee if he or she shall have failed to attend any Meeting of the Committee for a period of twelve successive months.
- (6) Any casual vacancy amongst the Members of the Committee or the Officers may be filled by the Committee at any Ordinary or Extraordinary Meeting. Any person so appointed to fill any casual vacancy shall hold office until the next Annual General Meeting; and if the appointment is confirmed at the next Annual General Meeting, he or she shall be deemed to have been elected to the Committee and may continue to serve for a further four years on the same terms and subject to the same conditions as if he or she had been duly elected at the previous Annual General Meeting.
- (7) Ordinary Meetings of the Committee shall be held at regular intervals. The Secretary or any two Members may convene an Extraordinary Meeting of the Committee at any time. In the case of Ordinary Meetings, the Secretary shall give each Member not less than seven days' notice in writing of the date, time and place of the Meeting; and the minutes of the previous Meeting shall be distributed to the Members in advance. In the case of an Extraordinary Meeting as much notice as practicable shall be given to each Member and all reasonable efforts shall be made by the person or persons convening the Meeting to contact each Member for that purpose. But, unless the Chairman, at his absolute discretion, shall determine the contrary, any failure to give notice to one or more of the Members shall not invalidate the Meeting or any business or resolution conducted or passed at the Meeting.
- (8) All Meetings of the Committee shall be conducted in accordance with the following procedures:
 - (a) Five Members shall constitute a quorum. In the absence of the Chairman, the Vice-Chairman shall preside; and in the absence of the Vice-Chairman, the Members present shall appoint one of their number to preside;
 - (b) A Member may vote on motions proposed at a Meeting of the Committee only if he or she is present in person;
 - (c) If a Member, or any organisation with which he or she is associated, has an interest in any matter under discussion at any Meeting of the Committee, the Member must declare that interest. In such circumstances, the Member may nonetheless attend and

speak at the Meeting but may not vote on any such matter and must not be present when any vote is taken in relation thereto;

- (d) The Home Watch Co-ordinator for Davenport Park, or a representative approved by the Committee, shall be invited to attend Ordinary Meetings of the Committee to report on Home Watch matters. But unless the Home Watch Co-ordinator is also a Member of the Committee, he or she will not count towards a quorum and will have no right to vote;
- (e) The Chairman, or, in the absence of the Chairman, the Vice-Chairman or the Member presiding at the Meeting shall not vote on any motion save in the event of a tied vote, in which case he or she shall be entitled to a casting vote;
- (f) The Secretary of the Committee or his or her deputy shall make a record of those attending and keep minutes of all proceedings at any Meeting of the Committee.

5. The Duties and Responsibilities of the Committee and the Officers

- (1) In carrying out its functions and pursuing the objectives set out at Clause 2 hereof, the Committee shall at all times endeavour to act in the best interests of Davenport Park and all of the Occupiers and Residents. It shall have due regard to any views expressed by the Occupiers or Residents at any General Meeting, but shall not be bound by any resolution passed at any such meeting unless at least fourteen days' notice of the proposal in question or of a proposal substantially to the like effect was given in writing to all of the Occupiers, whether in the Notice convening the General Meeting or otherwise.
- (2) The Committee shall be responsible for collecting and safeguarding the Subscriptions payable by the Occupiers and all and any other assets or income to which it may become entitled from time to time; and it shall hold the same solely for the purpose of carrying out its functions, pursuing the objectives set out at Clause 2 hereof and discharging its duties and responsibilities hereunder.
- (3) Bank accounts specifically authorised by resolution of the Committee shall be maintained in the name of the Committee; and all income from Subscriptions and any other income or monies received by or on behalf of the Committee shall be paid into those accounts; and all disbursements shall be made out of them. All payments of sums of fifty pounds or more shall be made by cheque signed by the Treasurer, Secretary or Chairman. No payment of any sum of five hundred pounds or more shall be made unless specifically authorised by a prior resolution of the Committee and, if authorised, shall be made by cheque signed by the Treasurer and counter-signed by the Secretary or Chairman.
- (4) All drawings for petty cash shall be made by cheque signed by the Treasurer, Secretary or Chairman. All cash disbursements shall be evidenced by a written voucher signed by the person responsible for the disbursement and lodged with the Treasurer. If practicable, any such voucher shall be accompanied by a receipt.
- (5) An honorarium may be paid to any of the Officers or to the Home Watch Co-ordinator provided that any such payment has been approved at a General Meeting of the

Occupiers.

- (6) The Committee shall be at liberty to obtain professional advice to assist it in carrying out any of its functions, pursuing any of the objectives set out at Clause 2 hereof or discharging any of its duties and responsibilities hereunder.
- (7) The Committee shall also be at liberty to enter into any such contract or contracts for the furtherance of the specific objectives set out at Clause 2(3)(a) hereof and to engage any such labour for that purpose as it may from time to time think fit. It may also purchase trees, plants, tools and other requisites and apply the funds at its disposal in any other way for the maintenance, repair, upkeep and improvement of the roads, footpaths, gates, signs and any other facilities of a similar nature within Davenport Park and for the benefit of those entitled to use them. The Road Manager shall have the primary responsibility for formulating a budget and a strategy for achieving these objectives, for negotiating any contracts for that purpose and for submitting suitable proposals to the Committee. But no contract shall be entered into and no funds shall be expended without the express authorisation of the Committee.
- (8) The Treasurer shall prepare the annual financial statements and shall arrange for the Auditor or Auditors to audit them in time for consideration by the Committee prior to the Annual General Meeting; and the Secretary shall convene a Meeting of the Committee for the purpose of considering and approving them in sufficient time to allow them to be presented to the Annual General Meeting.
- (9) The Committee shall ensure that the gates adjoining the A6 shall be manned and closed for at least one day in each calendar year.
- (10) Members of the Committee may communicate with outside bodies in the name of the Committee only if specifically authorised to do so by the Committee.

6. Subscriptions

- (1) A Subscription shall be levied for each calendar year on each and every property within Davenport Park and shall be paid by or on behalf of the Occupiers of each such property yearly in advance on the first day of January. If the Subscription levied on any property shall remain due and unpaid by the last day of June in any year, the Occupier or Occupiers of the property and any Resident at the property shall be considered to be in Arrears of Subscription until such time as it has been paid in full. But the Committee may resolve to waive all or any of the consequences which would otherwise apply to an Occupier or Resident who is in Arrears of Subscription if it considers that he or she bears no personal responsibility for the arrears or that there are other special circumstances which would justify such a waiver.
- (2) The rate at which the Subscription shall be levied on each property in any calendar year shall be determined by reference to the valuation band in which the property is listed in the valuation list maintained for the purposes of Council Tax; and the total amounts levied on properties in different valuation bands shall, so far as reasonably practicable,

be in the same proportions as those prescribed by law for the purposes of Council Tax; provided that the Committee may, in its absolute discretion, negotiate and agree the total amount payable in respect of any property or group of properties on an individual basis, without regard to the valuation band in which any such property is listed, if it considers that it would be just, and equitable to do so.

- (3) The Committee shall consider the rate at which Subscriptions should be levied for the next calendar year in good and sufficient time prior to the Annual General Meeting and shall submit its proposal as to the appropriate rate to the Annual General Meeting having regard to the expenditure incurred during the current and previous years, the expenditure likely to be incurred during the next calendar year and any other relevant circumstances.
- (4) The Subscriptions shall be levied in order to provide sufficient funds to enable the Committee to carry out its functions under this Constitution, to pursue the objectives set out at Clause 2 hereof and to discharge its duties and responsibilities hereunder; and such funds shall be used solely for the purpose of enabling it to do so and of defraying any expenditure properly incurred by the Committee or any of the Officers for that purpose.

7. Miscellaneous

- (1) No duties or responsibilities shall be owed by the Committee or any Officer to any Occupier or Resident who is in Arrears of Subscription. Nor shall any such Occupier or Resident be entitled to any indemnity or other benefit by virtue of any public indemnity insurance cover taken out and maintained in accordance with the provisions of Clause 2(3)(a) hereof.
- (2) The Secretary shall, on request, supply a copy of this Constitution to any Occupier or Resident, provided that, at the discretion of the Committee, a charge may be made to cover the reasonable cost of each such copy. The Secretary shall likewise, on request, supply to any such person a list of the names and addresses of the current Members of the Committee and the Officers.
- (3) The Secretary shall keep in safe custody all original documents and records held by the Committee together with authenticated copies of the minutes of all General Meetings and Meetings of the Committee. Any Occupier or Resident shall be entitled, on reasonable notice, to inspect any such documents, records and minutes, provided that he or she is not in Arrears of Subscription.
- (4) This Constitution may be altered or amended at any General Meeting, provided that not less than fourteen days' notice in writing shall have been given of any proposal to that effect, whether in the Notice convening the General Meeting or otherwise. But any further alterations or amendments may nonetheless be considered at the same General Meeting if, in the opinion of the Chairman, they come within the general scope and intent of the proposal. No alteration or amendment shall be made to the Constitution

unless the proposal is approved by the vote of at least two thirds of the Occupiers present and voting.