

Owners and Occupiers of Hanover Crescent Enclosure

Constitution

Preamble

- a) Hanover Crescent Enclosure (“HCE”) consists of 24 Houses and 2 Lodges (“Privileged Houses”) with a common area including a garden, road, pavement, gateposts, and a boundary wall between the gateposts (“Common Area”).
- b) The Privileged Houses and the boundary wall and gateposts on the Common Area are Grade 2 Listed.
- c) The Common Area is owned by Brighton and Hove City Council (“BHCC”) but managed on behalf of the occupiers and owners by a management committee (“Enclosure Committee”), as required by section 65 of the East Sussex Act 1981 (“ESA”) and in accordance with this Constitution.
- d) The Enclosure Committee appointed in accordance with the ESA and the Enclosure Committee appointed for this Constitution shall be the same persons and shall carry out a joint role, namely the duties imposed by the ESA and this Constitution.
- e) Money for the maintenance, management and improvement of the Common Area is collected by BHCC as part of the Council Tax and returned to the Enclosure Committee as the “Garden Rate”, in accordance with Brighton Enclosures (Special Levies) Regulations 1991, (“BER”) as amended.
- f) The formation of the Enclosure Committee, its roles and responsibilities and the collection of the Garden Rate are enshrined in the ESA and BER, as amended, and in accordance with this Constitution.
- g) The money collected through the Garden Rate is capped by inflation and is no longer sufficient to maintain and improve the facilities in HCE to the required standard and the Enclosure Committee feels it is necessary for additional monies to be collected directly by the Enclosure Committee (“Crescent Levy”), as detailed below, to make up the shortfall.

1. Terms

Unless defined in this Constitution all defined terms, being those terms that are capitalised in this Constitution, shall have the same meaning as given in the ESA and BER. If there is a conflict between any of the provisions of this Constitution and the provisions of the ESA and BER, the provisions of the ESA and BER shall prevail.

2. Powers

- a. The Enclosure Committee may from time to time make rules, in addition to those contained in the ESA and BER, for the conduct of the Enclosure Committee and the maintenance, management and improvement of the Common Area.
- b. The Enclosure Committee shall be responsible for dealing with the “Parking Regulations” applicable to the Common Area.
- c. The Enclosure Committee may once a year collect the Crescent Levy from the owner or joint owners (“Owners”) of every Privileged House or any part of a Privileged House occupied as a separate tenement (“Flats”).
- d. The annual amount of the Crescent Levy shall be levied on Owners on the basis of the Council Tax bands of the properties and the amount and its use will be proposed for approval at the annual general meeting (“AGM”).

- e. If an Owner is substantially in arrears in relation to the Crescent Levy then the Enclosure Committee may decide to cancel, withhold or not issue one or more parking permits to the Occupier of the Privileged House or Flat concerned, as provided for in the Parking Regulations. The Enclosure Committee in collecting the Crescent Levy or considering possible sanctions for non-payment will take into account any exceptional circumstances affecting the ability to pay.
- f. The Enclosure Committee shall be empowered to execute works in the Common Area and employ and remunerate contractors as necessary, expenses for which shall be incurred accordingly (“Expenses”).
- g. The Enclosure Committee will make reasonable efforts to obtain value for money from contractors including gathering multiple quotes where possible.
- h. The Enclosure Committee shall be empowered to open bank accounts and take out insurance in relation to the Common Area.
- i. The Enclosure Committee shall only propose a Crescent Levy to pay for Expenses where the Garden Rate is insufficient to cover the Expenses.

3. Membership

- a. All Owners of Privileged Houses and Flats are governed by this Constitution, and are entitled to attend and vote at all AGMs and Special General Meetings (“Meetings”) except under Section 7c.
- b. The tenants of the Privileged Houses or Flats (“Tenants”) are governed by this Constitution and are entitled to attend and participate at Meetings, but are not entitled to vote on the proposed Crescent Levy or its distribution but can vote on other issues.

4. Enclosure Committee

The Owners and Tenants elected to the Enclosure Committee under the procedures laid out in the ESA will also serve as members of the Enclosure Committee in accordance with this Constitution.

The Enclosure Committee will nominate the following officers:

- a. Chair, who shall chair committee meetings;
- b. Secretary, who shall be responsible for the taking of minutes and the distribution of all papers and for keeping records of Members; and
- c. Treasurer who shall be responsible for maintaining accounts.

The Owners and Tenants acknowledge and agree that the members of the Enclosure Committee are volunteers, providing their services without payment. They shall have no legal liability to other Owners and Tenants in connection with the good faith exercise of their rights and obligations under this Constitution.

5. General Meetings

- a. Annual General Meeting
 - i. An AGM will be held once a year within three months of the end of the financial year.
 - ii. At least 14 days’ notice of the AGM shall be given to all Owners and Tenants in writing (“Notice”). The Notice shall detail the location of the meeting and any other details in relation to attendance of the meeting.
 - iii. A physical meeting is preferred but a virtual meeting may have to be held at the discretion of the Enclosure Committee.

- b. The purpose of the AGM is to:
 - i. receive and adopt the annual accounts of the Enclosure Committee;
 - ii. receive the Annual Report
 - iii. elect members for the Enclosure Committee by the procedures in the ESA
 - iv. consider any motion before the meeting including the amount of the Crescent Levy and its distribution for infrastructure projects, to supplement the Garden Rate and to supplement a contingency fund as required.

6. Special General Meetings

- a. Special General Meetings (“SGM”) may be called by the Enclosure Committee whenever necessary with 21 days’ notice (“Special Notice”) given to all Owners and Tenants.
- b. The Special Notice shall give details of the business to be discussed at the SGM and the location of the meeting and any other details in relation to attendance of the meeting.
- c. The secretary shall also call a SGM within 21 days of receiving a written request to do so signed by no less than three or more Owners of separate Privileged Houses or Flats. This written request shall contain details of the business to be discussed and considered at the proposed SGM.
- d. Only the business specified in the Special Notice shall be discussed at the SGM.

7. Rules of Proceedings at all Meetings

- a. At any Meeting all motions, except alterations to this Constitution, shall be decided by a simple majority of the votes of eligible Owners. In the event of a tie the independent Chair shall have a casting vote only.
- b. Occupier Owners, being those Owners who reside full time at their property within HCE, shall have two votes and non-Occupier Owners, being all other Owners, shall have one vote. No individual shall have more than two votes. Absentee votes are not permitted.
- c. Owners who are in arrears in relation to the Crescent Levy will not be able to vote at Meetings.
- d. Tenants shall be able to vote on agenda items that do not concern the proposed Crescent Levy or its distribution and shall have one vote.

8. Quorum

The quorum for Meetings must be at least 10 eligible Owners. No business may be decided at a meeting unless a quorum is present.

9. Funds and Finance

- a. All funds collected under the Crescent Levy shall be devoted to maintenance, improvement of existing infrastructure, investment in new infrastructure and to supplement the Garden Rate. The Enclosure Committee will also maintain a contingency fund with the amount to be held reviewed annually at the AGM.
- b. Except for emergencies, any single expenditure over £1000 will require approval at an AGM or SGM.
- c. The financial year shall run from 1st May and each financial year accounts shall be independently examined or audited.

10. Communication

The Enclosure Committee will keep the Owners and Occupiers informed of the progress of

infrastructure projects and other matters through regular newsletters and reports at the AGM.

11. Data Protection

The Enclosure Committee will collect, retain and process certain information relating to Owners and Tenants in the exercise of its authority under clause 2 above, including names, addresses, payments, vehicle details, outstanding arrears or expenses, and email or other communications between the Enclosure Committee and such Owners or Tenants regarding the Common Area and related matters of relevance to the Enclosure Committee ("Personal Data"). Personal Data will: i) be kept secure; ii) be processed and retained only for the legitimate purposes provided in this Constitution; and iii) be made available to Owners and Tenants on request, in accordance with the rights of Owners and Tenants as data subjects, details of which are available at the U.K. Information Commissioner's website. Personal Data may also be shared on occasion with auditors, legal advisers and other third parties retained by the Enclosure Committee for the purposes of exercising rights and obligations under the Constitution, on the condition always that such third parties also respect appropriate security and confidentiality requirements and process Personal Data only as directed by the Enclosure Committee

12. Alterations to this Constitution

Amendments to this Constitution may be made by a resolution passed by a majority of the Owners at an AGM. Proposed alterations must be circulated to Owners at least 14 days prior to the date of the AGM.

13. Adoption

The Adoption of this Constitution was made by a resolution passed by a majority of the votes of Owners at the AGM held on 26th May 2022.