

**CHARITY COMMISSION
DECISION MADE ON
APPLICATION FOR REGISTRATION OF
THE COUNTRYSIDE ALLIANCE FOUNDATION**

The issue before the Commission

1. The Commission considered an application by a not-for-profit company limited by guarantee called “The Countryside Alliance Foundation” (“the Foundation”) for registration as a charity. If the company was established as a charity it should be entered on the Central Register of Charities under section 3(2) of the Charities Act 1993.

The Decision

2. The Commission:
 - a) having considered the case which has been put to it by and on behalf of the Foundation, including submissions and full supporting evidence; and
 - b) having considered and reviewed the relevant law and the proposed governing document and the proposed activities of the Foundationconcluded that the Foundation would be established for exclusively charitable purposes and may be registered as a charity with the following amended objects:-

To promote the conservation, protection and improvement of the physical and natural environment by supporting access and conservation projects and programmes that protect features of wildlife flora and fauna in the British countryside generally and responsible and sustainable use of these environments.

To promote agriculture for the public benefit.

To educate the public in subjects pertaining to the conservation, protection, and enjoyment of the countryside.

The promotion of sustainable development for the benefit of the public by: the preservation, conservation and the protection of the environment and the prudent use of natural resources; conducting or commissioning research and publishing the results of such research.

‘Sustainable development’ means “development that meets the needs of the present without compromising the ability of future generations to meet their own needs”.

3. This review decision on behalf of the Commission was taken by Lindsay Driscoll, John Williams and David Unwin as Board Members (“the Board Members”) under delegated authority.

The establishment, aims and activities of the Foundation

4. The Foundation was established as a company limited by guarantee on 09.01.2006. It has widely drafted objects which are set out in paragraph 8 below.
5. The Foundation is an initiative of The Countryside Alliance (“the Alliance”). All of the directors during most of the course of the application and review by the Commission were closely associated with the Alliance as members of the board or its executive.

6. The Alliance is a campaigning organisation for those interested in the countryside and the rural way of life. It aims to preserve and have put in place policies which facilitate and encourage the maximum sustainable economic and cultural exploitation of the land by those who live and work there and which safeguard the livelihoods and values of its working communities.
7. The Alliance's intention in establishing the Foundation was to carry out the 'charitable activities' of the Alliance which promotes the wider countryside for the benefit of the nation as a whole through the Foundation.

The relevant legal and factual background to the application

8. The Foundation's original objects were:
 - a) *To promote the conservation, protection and improvement of the physical and natural environment by supporting access and conservation projects and programmes that protect features of wildlife, flora and fauna in the British countryside generally and responsible and sustainable use of these environments.*
 - b) *To promote agriculture, rural life, and the rural environment.*
 - c) *To provide opportunities for the public to experience all aspects of rural life and the rural environment for the benefit of those who by reason of their poverty or social and economic circumstances can benefit from such opportunities, with the object of improving the condition of life of the beneficiaries and as a means of reduction of the incidence of crime and anti-social behaviour.*
 - d) *To educate the public in subjects pertaining to the conservation, protection and enjoyment of the countryside.*
 - e) *The promotion of sustainable development for the benefit of the public by:*
 - f) *the preservation, conservation and the protection of the environment and the prudent use of natural resources;*
 - g) *conducting or commissioning research and publishing the results of such research.*

"Sustainable development" means improving the quality of life while living within the carrying capacity of supporting ecosystems and the natural environment.

9. The original application was rejected on the following grounds:
 - a) the education and research may not be neutral but promotes a particular point of view/the cause of the Alliance;
 - b) the conservation purpose does not fall within the Commission's understanding of this purpose as set out in RR9 Preservation and Conservation¹
 - c) the meaning of rural life and rural environment was insufficiently clear for this purpose to be charitable

¹ On the Commission's website www.charitycommission.com

- d) the private benefit to local producers and food retailers and others may be more than ancillary and incidental

The Board Members' review

10. The Board Members considered that the original objects were not exclusively charitable. However, if they could be suitably clarified and if it could be demonstrated that the Foundation was not established to further the private interests of producers, then they would be minded to register.

Education and research

11. The Board Members noted that if research is undertaken, its useful results must be published for the public benefit², and its production should not be undertaken to promote the Alliance's interests.
12. The Board Members noted that the 'countryside' could be a proper subject for education³.
13. The Board Members agreed that the charitable purpose of advancing education⁴ for the benefit of the public does not require an absolute neutrality of view⁵. The fact that the education starts from the generally accepted position that the countryside is beneficial does not mean it promotes a point of view in a way that is not charitable.

Environmental protection and improvement

14. The Foundation intended working to support Sites of Special Scientific Interest and on Geographical Information Systems. It would also promote the planting of hedgerows and mixed farming. These activities, as well as more general work to protect flora and fauna could, in the view of the Board Members, further a charitable purpose for the conservation, protection and improvement of the physical and natural environment⁶.

The promotion of 'the countryside' or 'rural life' or the 'rural environment'

15. The Board Members noted that each of these phrases might be found in the objects of particular charities. Whilst charitable status is largely a question of precedent and analogy, it is still necessary to consider the phrases and terms in their specific context. The 'countryside' or 'rural life' may be clear as indicating, say, a proper subject for education in one context; but unclear as indicating a state of affairs whose promotion is charitable in another. The Board Members considered that the fact that the phrase 'rural life' may be used in charitable objects did not mean that the promotion of rural life or the countryside would itself necessarily be charitable. They also found it difficult to see what charitable purpose promoting the rural environment might mean which differed from the

² *Re Besterman's Will Trusts* (21 Jan 1980, Slade J)

³ *Re Melody* [1918] 1 Ch 228; see also Council for the Protection of Rural England 233179 and The Countryside for Education Foundation 327091

⁴ as to which, see the Commissioners' decision on Millennium College

⁵ c.f. The Commission's decision on the Fairshare Foundation; and see also *Southwood v AG* 2000 WL 877698

⁶ see the Commissioners' decision on the Environment Foundation

already recognised purpose to promote environmental protection and improvement.

16. The Board Members therefore considered that the object simply stated to promote rural life was not clear and precise enough to be charitable. If there was a purpose that was not already encompassed in the other objects, it would need to be more clearly articulated and then they would consider if that purpose could be recognised as charitable. Similarly an object to promote the rural environment again caused difficulty. They could understand an object to preserve or protect the rural environment could be charitable but were not clear what was meant by promoting it.
17. The Board Members took the view that unless the Foundation could explain, in terms of charitable purposes, what these phrases meant and how this differs from what is encompassed by the other objects, the Foundation would not have exclusively charitable objects.

The promotion of agriculture

18. The Board Members noted that to promote agriculture is charitable if it is undertaken for the benefit of the public and not principally for the benefit of those engaged in agriculture⁷. They also noted, on the same authorities, that the provision of a generally accessible market place for agricultural produce could be for the public benefit and charitable. The general promotion of agriculture for the public benefit includes demonstrating the results of applying techniques of agricultural production and also may very well include providing facilities for agricultural producers *generally*, or possibly producers of specific types of agricultural produce *generally*), to bring and display their wares for sale to the public. Public benefit issues may well be raised, however, if the purpose is simply to ensure that farmers' markets get a bigger share of the overall retail market.

Promoting local products and retailers

19. The Board Members considered that the promotion of agriculture for the public benefit has to be distinguished from promoting the interests of agriculturalists. Encouraging the purchase of locally grown food, the establishment of local markets for direct sale by producer to public, and farmers to use farmers' markets to sell their produce direct, all had the potential for providing private benefit as a main purpose or object⁸. The Board Members noted that the proposed website and background information contained names and details of specialist producers offering produce for sale. In this case it was not shown to be appropriate for a charity operating for the public benefit. If the proposals proceeded, the Board Members considered that any lists of particular producers must be removed from the proposed charity's proposed website and that promotional literature relating to individual businesses should not be given out nor should there be links to producers' websites..

⁷ *Yorkshire Agricultural Society v IRC* [1928] 1 KB 611; c.f. *Crystal Palace Trustees v Minister of Town and Country Planning* [1951] Ch 132

⁸ *IRC v Oldham TEC* [1996] S.T.C. 1218

Sustainable development

20. The Board Members noted that the Commission had previously agreed an understanding of the extent of this charitable purpose and that they had accepted that the Brandt Commission formulation was a sufficient definition⁹.

Links between Foundation and Alliance

21. The Board Members considered the links between the Foundation and the Alliance. They took the view that in the absence of clear evidence that the Foundation was directed by the Alliance these links were not fatal to the application.¹⁰ They noted, however, that it would be very desirable for there to be trustees independent from the Alliance's executive or board¹¹.
22. The Board Members further considered these issues following assurances from the Foundation that it intended to:
- a) restate the objects to omit 'to promote rural life' and 'to promote the rural environment'
 - b) substitute the definition of 'sustainable development' that the Commission had already accepted.
 - c) strengthen the independence of the Foundation from the Alliance both in its trusteeship but also by developing a Memorandum of Understanding between the organisations which ensured an arm's length relationship. They would retain the name Countryside Alliance Foundation on the basis of a formal licence as they considered it would give them access to a supporter base for funding but they recognised the importance of managing the consequent risk to the charity's reputation
 - d) ensure that there would be no non-incidental private benefits and that in particular they would not promote the private interests of farmers' markets, or individual businesses or producers.
23. The Foundation confirmed that it intended to adopt the objects set out in paragraph 2 above.

Conclusion

24. The Board Members considered these assurances and the proposed changes to the objects. They concluded that the objects would now be exclusively charitable and that the proposed activities would be consistent with such charitable purposes. They noted that Foundation directors understood their obligation to maintain independence from the Alliance. On that basis the Board Members agreed that the Foundation should be recognised as being in law a charity and entered onto the Register of Charities once the objects had been formally changed.

⁹ The Commissioners' decision on the *Environment Foundation*.

¹⁰ *Re the Trusts of the Arthur McDougall Fund* [1957] 1 WLR 81

¹¹ *Bonar Law Memorial Trust v IRC* (1933) 17 TC 503