



THE COUNTRYSIDE ALLIANCE – APPLICATION FOR REGISTRATION

DECISION OF THE COMMISSION – 23 MARCH 2017

Decision

1. The Commission has considered a request to register The Countryside Alliance (“the Alliance”) as a charity. Having taken into account the stated purposes of the Alliance as set out in its Memorandum of Association and all of the relevant evidence submitted in support of the application for registration, the Commission has concluded that the Alliance is not established for exclusively charitable purposes for public benefit and cannot be entered on the Register of Charities. The detailed reasoning is set out below.
2. The Commission recognises that the Alliance does important work protecting and promoting rural life at Parliament, in the media and on the ground, and representing the interests of people in the countryside from all backgrounds and geographical locations, but not everything that is beneficial for society is necessarily a charitable purpose for public benefit¹.

Background

3. In 2006 the Alliance applied to register a charity to carry out those aspects of its work which it considered furthered charitable purposes. The Countryside Alliance Foundation (“the Foundation”) was registered in 2007 after some amendments to its stated purposes to ensure they were exclusively charitable for public benefit². At that time the Alliance was not constituted as a charity and did not have exclusively charitable stated purposes.
4. The Alliance has subsequently reconsidered and revised its stated purposes set out in its Memorandum of Association. It is on the basis of these revised purposes that it has made its application to be registered as a charity.

The legal framework for determining whether purposes are charitable for the public benefit

5. Section 1(1) of the Charities Act 2011 (“the Act”) states that for the purposes of the law of England and Wales, “charity” means an institution which:
 - a) is established for charitable purposes only, and

¹ *Morice v Bishop of Durham* (1804) 9 Ves 399; *Williams Trustees v IRC* [1947] AC 447; *Scottish Burial Reform and Cremation Society Limited v Glasgow City Corporation* [1968] AC 138

² <https://www.gov.uk/government/publications/countryside-alliance-foundation>

- b) falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities.
6. Section 2(1) of the Act states that for the purposes of the law of England and Wales, a charitable purpose is a purpose which:
- a) falls within section 3(1), and
 - b) is for the public benefit.
7. Section 3(1) sets out 13 descriptions of purposes.
8. The Upper Tribunal in its decision in *ISC v Charity Commission*³ confirmed that in applying this test the proper approach is to first identify the particular purpose(s) of the institution. In their decision on *Crocels Community Media Group v Charity Commission*⁴ the First-tier Tribunal (Charity) summarised the key points from the *ISC* decision on identifying the particular purposes of the institution as follows: “The particular purpose is charitable if it falls within any of the categories listed in s.3(1) of the Act and is for the public benefit.” The Upper Tribunal also decided in *ISC* at [188] that the meaning of ‘established’ in the Act is “what the institution was set up to do, not how it would achieve its objects or whether its subsequent activities are in accordance with what it was set up to do”.
9. The starting point for identifying the particular purposes of an organisation is to look at the stated purposes in the governing document. If there is doubt or ambiguity about whether those purposes are charitable the court may examine the activities of the institution, in order to assess whether the implementation of the objects would achieve a charitable end result⁵.

The particular purposes of the Alliance

10. The starting point for identifying the particular purposes of an organisation is to look at the stated purposes in the governing document.
11. Clause 3 of the Alliance’s amended Memorandum of Association, dated as received at Companies House on 4 October 2014, sets out the purposes as follows:

“3. The objects of the Alliance are to

(1) 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,

(2) Promote agriculture, game and food production for the public benefit,

³ [2011] UKUT 421, at 82

⁴ CA/2015/0009, 18 July 2016

⁵ See further paragraphs 15 and 16 below.

- (3) Preserve, protect and promote the heritage and practice of activities relating to wildlife, the countryside, wildlife management including hunting, shooting and fishing together with the management of the natural environment.
 - (4) Educate the public on subjects pertaining to the conservation protection and enjoyment of the countryside and the history, heritage and practices of agriculture and the management of the physical and natural environment and to conduct or commission research in to such practices and management, publishing the useful results of such research,
 - (5) Promote sustainable development (meaning improving the quality of life while living within the carrying capacity of supporting ecosystems and the natural environment) for the benefit of the public by:
 - a. The preservation, conservation and the protection of the environment and the prudent use of natural resources,
 - b. Conducting or commissioning research and publishing the useful results of such research,
 - (6) Relieve need and disadvantage, particularly in relation to rural economies and communities,
 - (7) Preserve and protect the rural environment and to advance rural community life,”
12. The Commission raised concerns that the stated purposes are not exclusively charitable in law. Following discussion, by a letter dated 25 May 2016 the trustees indicated that they were willing to revise the objects to attempt to address some of the concerns raised, and have indicated that they would be willing to adopt the following amended objects (with proposed changes emphasised):

3. The objects of the Alliance are to

- (1) Promote the conservation, protection and improvement of the physical and natural environment (particularly in each case the rural 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,
- (2) Promote agriculture, game and food production for the public benefit,
- (3) Preserve, protect and promote the heritage and practice of activities relating to wildlife, the countryside, wildlife management including hunting, shooting and fishing together with the management of the natural environment.
- (4) Educate the public on subjects pertaining to the conservation protection and enjoyment of the countryside and the history, heritage and practices of agriculture and the management of the physical and natural environment and to conduct or

commission research in to such practices and management, publishing the useful results of such research,

(5) Promote sustainable development (meaning ~~improving the quality of life while living within the carrying capacity of supporting ecosystems and the natural environment~~ development which meets the needs of the present without compromising the ability of future generations to meet their own needs) for the benefit of the public by:

- a. The preservation, conservation and the protection of the environment and the prudent use of natural resources,
- b. Conducting or commissioning research and publishing the useful results of such research,

(6) Relieve need and disadvantage, particularly in relation to rural economies and communities,

~~(7) Preserve and protect the rural environment and to advance rural community life.~~

13. The Commission considered the stated purposes both as originally submitted and with the proposed amendments. Although the Commission can only make a final decision based on the objects of the Alliance as they currently stand, it is important to make clear for the Alliance what is the Commission's view on the amendments.

14. The Commission's concern is whether the particular purposes are charitable, or would be charitable with the amendments proposed, that is to say whether they fall within a particular description of purpose as set out in section 3(1) of the Act, whether the purposes are exclusively charitable, and whether they are for the public benefit. A purpose which authorises both charitable activities and non-incidental, non-charitable activities cannot be charitable⁶.

15. In considering these issues the Commission's approach is to apply the rules which relate to the construction of documents, and the rules on when an institution's activities can be taken into account. The approach to the construction of documents was set out in *Helena Partnerships Limited v Revenue and Customs Commissioners*⁷. The Upper Tribunal approved the approach set out by Lord Hoffmann⁸ to the construction of articles of association, being that the relevant meaning is that which the instrument would convey to a reasonable person having all the background knowledge which would reasonably be available to the audience to whom the instrument is addressed. The Upper Tribunal went on to say that although "it is not generally relevant to consider evidence about the activities of a company in construing its memorandum and articles

⁶ *McGovern v AG* [1982] Ch 321

⁷ [2011] UKUT 271

⁸ *A-G of Belize v Belize Telecom Ltd* [2009] UKPC 10, para 16, in reliance on the principles set out in *Investors' Compensation Scheme Ltd v West Bromwich Building Society* [1998] 1 WLR 896 at 912-913, in which the Court defines the background knowledge as "famously referred to by Lord Wilberforce as the "matrix of fact"," and goes on to say that subject to the requirement that it should have been reasonably available to the parties and another stated exception, it includes absolutely anything which would have affected the way in which the language of the document would have been understood by a reasonable man.

of association.....where there is doubt or ambiguity about whether the objects of an institution are charitable, the court may examine the activities of the institution. This is done not for the purpose of construing its constitution but for the purpose of assisting in assessing whether the implementation of the objects would achieve a charitable end result: see *Incorporated Council of Law Reporting for England and Wales v A-G* (1971) 47 TC 321 at 345-346”.

16. The courts have confirmed that considering the activities of an institution may be relevant both to a proper understanding of its true purposes and in assessing whether a purpose is capable of being for public benefit and in the context of that institution, will actually be for public benefit⁹. The First-tier Tribunal has also confirmed¹⁰ that it is appropriate to examine the activities of an institution where there is uncertainty and ambiguity in its objects and that in any event, the analysis that is required in order to establish whether the purposes of an institution will provide a public benefit must lead to an analysis and evaluation of its activities and proposed activities.
17. Having considered the meaning that these stated purposes would convey to a reasonable person having all the background knowledge which would reasonably be available to the audience to whom the instrument is addressed, it appears to the Commission that there is some uncertainty in the meaning of the objects, or that the scope of what may be permitted under some of the objects would not further a charitable purpose, with the result that the purposes expressed are not exclusively charitable. This applies in particular to the purposes set out in subsections (2), (3) (which itself expressly refers to activities), and (6) of the proposed revised objects clause, as well as purposes in subsections (5) and (7) of the objects clause as originally submitted. The Commission has therefore considered the activities of the organisation to assess whether the implementation of the objects achieves a charitable end result both as to purpose and public benefit.

Are the purposes charitable for the public benefit?

18. If even one of the stated purposes of the Alliance is not exclusively charitable then the organisation is not established for exclusively charitable purposes¹¹. For the sake of completeness though the analysis below sets out the Commission’s view on each of the stated purposes of the Alliance, both as to purpose and public benefit. However, the Commission follows the approach of the Upper Tribunal in *ISC*, recognising that where a purpose does not fall within one of the descriptions of purposes in the Act, the question of public benefit is not relevant¹².
19. The analysis is set out on the basis of the proposed amended objects, but also makes reference to the concerns the Commission has with the objects as originally presented.

⁹ *Southwood v AG* [1998/99] ITCLR 119; *AG v Ross* [1986] 1 WLR 252; *National Anti-Vivisection Society v IRC* [1948] AC 31; *Incorporated Council of Law Reporting for England and Wales v AG* [1972] Ch 73; *McGovern v AG* [1982] Ch 321.

¹⁰ *Full Fact v Charity Commission* CA/2011/0001 26 July 2011

¹¹ *McGovern v A-G* [1982] Ch 321

¹² *ISC v Charity Commission* [2011] UKUT 421, at 82(d)

Promote the conservation, protection and improvement of the physical and natural environment (particularly in each case the rural 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

20. This purpose has previously been accepted as charitable for public benefit and it is, with one minor difference, an existing charitable object of the Foundation. The amendment is set out in the brackets. Although the use of the phrase “to promote the rural environment” was an issue in relation to the registration of the Foundation, in the context of a purpose to conserve protect and improve the physical and natural environment by particular specified means, the phrase “rural environment” serves only to clarify the particular nature and location of the physical and natural environment to be preserved, and so is acceptable in the context of this object.

Promote agriculture, game and food production for the public benefit

21. The promotion of agriculture for the public benefit is a purpose falling within the description of purposes at section 3(1)(m)(i) of the Act because it was recognised as charitable under the “old law”¹³. The Alliance asks the Commission to recognise the purposes of the promotion of game and food production as either part of or analogous to or within the spirit of the charitable purpose of the promotion of agriculture¹⁴.

22. The Commission has previously accepted that, as a purpose conjunctive with the promotion of agriculture for the public benefit, the promotion of food production for the public benefit is a charitable purpose. In terms of public benefit, one current “campaign” on the Alliance’s website¹⁵ indicates that the Alliance is concerned to ensure that in the context of agricultural food production general aspects of the regulation of the agricultural industry and the onward sale of its products (such as abattoir regulation and food labelling) are carried out in a way that is generally beneficial for and improves the industry. It appears to the Commission that these means, if these represent the activities which the Alliance is likely to pursue, are capable of furthering the stated purpose of the promotion of agriculture for the public benefit in a way that is charitable.

23. The Commission considered whether the promotion of game production for the public benefit would also be a charitable purpose in this context.

24. The promotion of agriculture as a charitable purpose for the public benefit is concerned with the general improvement of agriculture for the general benefit of the public who receive benefit from the improved products and efficiency of the agricultural industry. This would include the general improvement of the industry, by means such as demonstrating the results of applying techniques of agricultural production, and may also include providing facilities for agricultural producers generally or a specific sector of agriculture generally for bringing their wares for sale to the public. But it does not

¹³ *Yorkshire Agricultural Society v IRC* [1928] 1 KB 611

¹⁴ Section 3(1)(m)(ii) Charities Act 2011.

¹⁵ <http://www.countryside-alliance.org/campaigns/food-farming/> - 26/01/17

include promoting the interests of agriculturalists or promoting particular means of selling products¹⁶.

25. The Commission considered the means by which the Alliance is promoting game or game production in order to consider whether the furtherance of this purpose produces a charitable result and is for public benefit.
26. The Alliance promotes game through a campaign called “game to eat”¹⁷. This campaign promotes the eating of game to the public. The Alliance’s website carries a link to the game to eat website¹⁸ where there is information about specific sellers of game to help the general public identify where to buy game as well as carrying recipes and information about the health benefits of eating game. The Alliance argues that there is a benefit to the public from its campaign because there is a health benefit in eating game and because the consequent management and preservation of the land and habitat required to raise the game has a conservation/environmental benefit for the public as a whole.
27. The Commission’s view is that, whilst these benefits may arise, it appears that the primary result of the furtherance of this purpose is private benefit accruing to those commercially involved in the production of game for eating. The private benefit flowing from this activity appears therefore to be more than incidental to the public benefit flowing from it¹⁹. It also seems difficult to draw a direct analogy with the promotion of agriculture for the public benefit, which has a focus on the improvement of the industry generally, rather than the promotion of specific products of the industry.
28. In conclusion, the Commission considers that this purpose is not exclusively charitable for public benefit.

To preserve, protect and promote the heritage and practice of activities relating to wildlife, the countryside, wildlife management including hunting, shooting and fishing together with the management of the natural environment

29. The Commission has not previously recognised this purpose as charitable and considers that it is not clearly exclusively charitable.
30. The wording of this particular purpose, as expressed in the governing document, lacks certainty and is unclear.
31. The purpose is to preserve, protect and promote the heritage and practice of activities relating to wildlife, the countryside, wildlife management together with the management of the natural environment. Three examples of such activities are given and these are hunting, shooting and fishing, but it is clear from the use of the word “including” that these are examples of activities falling within the scope of the purpose and are not intended to be the only activities within its scope. The phrase “together

¹⁶ *Yorkshire Agricultural Society v IRC* [1928] 1 KB 611 – this case makes a clear distinction between a society for the general promotion of agriculture and a society formed for the benefit of its members, who are agriculturalists.

¹⁷ <http://gametoeat.co.uk/gte/> - 26/01/17

¹⁸ <http://www.countryside-alliance.org/campaigns/game-to-eat/> - 26/01/17

¹⁹ *IRC v Oldham TEC* [1996] S.T.C. 1218

with” appears to indicate that “the management of the natural environment” is an area to which all activities must relate to be included within the scope of this purpose, but this is not certain and it is not clear if the other parts of this test are conjunctive or disjunctive. The Commission therefore engaged further with the Alliance about the meaning and scope of this purpose in order to understand the consequences of pursuing this purpose and assess whether it is exclusively charitable for public benefit.

32. In correspondence, the Alliance has termed the relevant activities as “farming and country pursuits”, and indicated that the Alliance is committed to educating the public on the contribution that farming and country pursuits make to society in general and the heritage and environmental protection aspects of society in particular. It has also used the phrase “traditional rural pursuits” to describe the activities included within the scope of this purpose. Regarding the specific reference to hunting, shooting and fishing in the objects, the Alliance has indicated that this was intended to be a precise and deliberate expression of the legitimacy of the continuing significance and importance to rural communities of these activities and has argued that this is consistent with charitable status.
33. The Commission has not previously recognised either the management of wildlife and the natural environment, or the preservation, protection and promotion of country pursuits generally, as charitable. Land and wildlife management may be a means of furthering other recognised charitable purposes, and the preservation of some particular activities that may be termed as country crafts or pursuits has also been recognised a charitable. But this purpose as drafted is in the Commission’s view much wider than that and not clearly exclusively charitable. The lack of clarity in the drafting would make it difficult for a court to determine what activities fell within or outside the scope of the purpose, and if, as represented, it could include country pursuits generally this would include within the scope of the purpose activities that it would not be charitable to preserve.
34. If the scope of this purpose could be clarified, the Commission would have to be satisfied that it is a charitable purpose, i.e. falls within one of the descriptions of purpose in the Charities Act 2011 and is for public benefit.
35. The Alliance argues that this is a charitable purpose falling within the description of purposes of the advancement of heritage and the advancement of environmental protection or improvement. The Commission did not identify any other relevant descriptions of purposes to consider, and has considered this purpose in relation to both of these descriptions of purpose.
36. The key cases relevant to interpreting the scope of the description of purpose of advancement of environmental protection or improvement are those regarding conservation and preservation, particularly conservation and preservation of the natural world – *Re Verall*²⁰ and *Re Jacobs (Deceased)*²¹. *Re Verall* deals with the general preservation of lands of beauty or historic interest and their natural aspect, features and animal and plant life. *Re Jacobs* concerns environmental conservation or improvement. This case related to a gift for the planting of a grove of trees in a land where there had been significant deforestation. In terms of the advancement of

²⁰ [1916] 1 Ch. 100

²¹ [1970] 114 SJ 515

heritage, the key cases are on preservation. *Re Cranstoun*²² and *CIR v White (Re Clerkenwell Green Association for Craftsmen)*²³ illustrate the need to identify a benefit to the public in what is to be preserved.

37. Given the potential scope of the purpose, it is not clear that this stated purpose falls within either of these descriptions of purpose.
38. In conclusion, the Commission considers that this purpose is not exclusively charitable because it is uncertain in scope, too broad to be exclusively charitable and does not fall within the scope of any of the descriptions of purposes. In light of this, it is not necessary for the Commission to consider the public benefit issue at this stage²⁴.

Educate the public on subjects pertaining to the conservation protection and enjoyment of the countryside and the history, heritage and practices of agriculture and the management of the physical and natural environment and to conduct or commission research into such practices and management, publishing the useful results of such research.

39. To be educational for the public benefit in the charity law sense, educational material must be on a proper subject of study, must be balanced and must not be promoting a particular point of view.
40. The Alliance provided a list of research that it considers would further this purpose. Amongst the research are pieces on the value of shooting and country sports, and countryside management for shooting, highlighting the value of these activities for conservation and biodiversity of species, as well as economic and social benefits.
41. When assessing the charitable nature of research the Commission accepts that material does not have to be absolutely neutral in its view. So the fact that material starts from the position that the countryside is beneficial and should be preserved does not promote a particular point of view that is inimical to charity. But where there are different means by which such preservation can be approached and the organisation starts from a premise that particular means are to be preferred this could amount to promoting a particular point of view.
42. Material produced by and on behalf of the Alliance sets out only material in support of the activities of hunting and shooting. The material appears to amount to promotion of these activities rather than balanced educational material. It appears to the Commission that this purpose is not being furthered in a way that is exclusively charitable for public benefit.

²² [1932] 1 Ch 537

²³ [1980] I.R. 155

²⁴ See para. 18 above. We acknowledge that there are strong differences of opinion as to the benefit arising from practices such as hunting, shooting and fishing which are referenced in the purpose, and where the public benefit of a purpose is not clearly accepted it must be demonstrated by evidence.

Promote sustainable development (meaning development which meets the needs of the present without compromising the ability of future generations to meet their own needs) for the benefit of the public by:

- a. The preservation, conservation and the protection of the environment and the prudent use of natural resources**
- b. Conducting or commissioning research and publishing the useful results of such research**

43. This is a purpose of the Foundation and is accepted as charitable. The Commission does not accept that the definition of “sustainable development” originally proposed is suitable for use in a charitable purpose.

To relieve need and disadvantage, particularly in relation to rural economies and communities

44. This purpose lacks certainty because the meaning is not clear. The Alliance considers that this stated purpose falls within the description of purpose of the relief of those in need because of youth, age, ill-health, disability, financial hardship or other disadvantage²⁵, and it is accepted that within rural communities there will be individuals who have such needs as fall within the scope of this description of purpose. If the purpose was to relieve the charitable needs and disadvantage of those living in rural communities this would be acceptable to the Commission. But the use of the word “economies” in conjunction with “communities” indicates that this is intended to reference something in addition to relieving the needs of individuals living within a rural community and may be about relieving the needs of communities as a whole or the needs of “economies” as a whole. The Commission has accepted as charitable some purposes which relate to addressing charitable need within a community as a whole, such as promoting community capacity building and the promotion of urban and rural regeneration. But both of these purposes have a particular scope, and this purpose is not limited to the scope of those purposes.

45. The Alliance summarises the needs to be addressed under this purpose as “rural poverty”. This includes addressing some clearly charitable needs of individuals such as unemployment and homelessness, but also includes some wider issues on which the Alliance campaigns, such as the provision of adequate broadband infrastructure, provision of more policing services and funding, and provision of Royal Mail services. Whilst these are all matters in which the public living in rural areas will have an interest, it has not been clearly demonstrated that campaigning for these needs to be met would relieve a charitable need in a way that is for public benefit where private benefit is incidental.

46. One possible interpretation of the use of the phrase “rural economies” is that an aim of the Alliance may be to protect and promote the rural economy generally. The promotion of the British economy generally or an aspect of it would not be a charitable purpose for public benefit. Whilst there is general benefit to the inhabitants of a country by promoting its economy, and there is a clear general public interest in a better economy, in considering charitable status the Commission is bound to apply the

²⁵ Section 3(1)(j) Charities Act 2011

narrower test of public benefit in charity law. From a charity law perspective the private benefit arising from such activity would significantly outweigh any charitable benefits. As discussed above, promoting the regeneration of an area of social and economic deprivation by charitable means would be charitable for public benefit as set out in the Commission's publication on Promotion of Urban and Rural Regeneration²⁶.

Preserve and protect the rural environment and advance rural community life

47. The Alliance accepted in the course of correspondence that this stated object could be removed from the objects of the Alliance. But for the sake of completeness the Commission reiterates the comments made in the decision on The Countryside Alliance Foundation, that an object to promote rural life is not clear and precise enough to be charitable and does not fall within a description of purpose set out in the Act or is not analogous to an existing purpose or analogous to an analogous purpose. If this stated purpose is intended to mean something in addition to the preceding objects, it would need to be more clearly articulated so that the Commission can consider whether or not it is charitable for the public benefit.

Conclusion

48. The Commission has concluded that not all of the Alliance's purposes – either as currently stated or with the proposed amendments – are exclusively charitable for the public benefit and it cannot be entered on the Register of Charities.
49. In the course of correspondence the Alliance has indicated that it has an expressed purpose of promoting efficient land management, conservation of habitat, environmental biodiversity and natural food production in the public interest. It has also expressed a purpose of the promotion of comprehensive, productive, biodiverse, environmentally sound and efficient rural land management and conservation. The Commission has to assess the purposes as set out in the Alliance's Memorandum of Association and so the Commission has not considered whether these more general purposes are charitable purposes, either as falling within the descriptions of purpose or by way of an analogy with a previously recognised purpose, for public benefit.

²⁶ RR2 – Promotion of Urban and Rural Regeneration -
<https://www.gov.uk/government/publications/promotion-of-rural-and-urban-regeneration-rr2>