

Carnbee Owners Association

Constitution

1 Name of Association

The name of the Association shall be “**Carnbee Owners Association**” hereafter referred to as the “**Association**”.

2 Aims of the Association

a) The Association shall look after the collective interests of the Members of the Association in respect to the management of areas of the estate which are outside the boundaries of individual feu holdings.

b) The Association shall maintain or manage the maintenance of common areas of the estate such that these areas reflect the reasonable standards and expectations of the Association Members.

The common areas of the estate shall be those shown on the attached map.

(Annex A)

c) The Association shall make all reasonable efforts to ensure that all areas within the management of the Association meet current safety regulations and requirements.

d) The Association shall make regular assessments and take relevant action to ensure that the risk of personal injury being sustained by individuals or groups engaging in appropriate lawful activities on the common areas is minimised.

e) The Association shall make regular assessments and take relevant action to ensure that the risk of damage to Members’ properties due to dangerous or damaged trees within the common areas of the estate is minimised.

f) The Association shall refer defects, which are beyond the remit of the Association and which occur on common areas, to appropriate bodies for investigation and repair.

g) The Association may make Regulations governing the use of any amenity or common ground of the estate.

h) The Association shall invite and receive tenders from contractors relating to the management and maintenance of common spaces and amenity areas, and shall select and appoint the most suitable tender to carry out the work as specified. The Association can elect to retain the services of the maintenance contractor in subsequent years, without having to go to tender every year, provided that the Committee consider the charges to be reasonable and the work satisfactory.

All contracts entered into by the Association shall be limited to a maximum lifetime of one (1) year.

i) The Association shall do such other things as may from time to time be necessary for the common interest of the Members.

j) The Association shall promote the social and community life of the estate.

3 Membership

There shall be two categories of membership of the Association.

1) Membership of the association shall be mandatory by authority of the Title Deeds for owners of properties built by Beazer Homes. This category comprises the Owners of 204 properties within the estate, representing dwellings in:

- Carnbee Avenue (54 households [including 18 flats]);
- Carnbee Crescent (60 households [including 18 flats]);
- Carnbee Dell (10 households);
- Carnbee End (26 households);
- Carnbee Park (54 households).

2) Membership of the Association is permitted and approved by the authority of the unanimous vote at the inaugural meeting of the Association for owners of properties built by Walker Homes, whose deeds carry no burden with respect to communal areas.

This category comprises the Owners of 36 properties within the estate, representing dwellings in:

- Carnbee Avenue (2 households);
- Carnbee Park (34 households).

Membership within this category shall be renewed annually by the voluntary payment of the Association's fees.

Properties qualifying for membership under this category are shown in the estate plan (Annex B) by the area shaded.

Association Membership rights, privileges and burdens, as specified in this Constitution, shall be equal to all members, irrespective of membership category. Membership of the Association is restricted to the owners thus specified, or the executors and successors of such owners.

Persons not qualifying for membership of the Association on the basis of property ownership, as stated above, shall not be eligible for membership of the Association in any circumstances.

A member shall continue to be a member until he ceases to be an owner and a new owner becomes a member in his/her place.

Where two or more persons are recorded as owners of any one dwelling only the first named individual on the Title Deeds shall be a Member of the Association although the other, or one of the others, may be authorised to attend on his/her behalf by proxy.

Each Member shall be entitled to one (1) vote on any matter

Any Member may be represented at a General Meeting by a proxy. This proxy may be a person nominated by the Member to attend on his/her behalf, or may be a signed form which authorises the Chairperson of the meeting to vote on behalf of the Member as per the Committee's recommendations on any matter.

Where one person is owner of more than one dwelling within the estate he/she shall have one vote for each dwelling owned by him/her.

The decisions of the majority of Members voting on any matter during any general meeting shall be final and binding on all Members except as noted in sections 11 and 12 below.

4 Committee

- a) A Committee shall be elected to carry out the business of the Association. The Committee may exercise all powers vested in it and do all such acts as may be done by the Association, but no expenditure shall be incurred beyond what is included in the Annual Budget (defined in Section 9(b)) without the express sanction of a General Meeting.
- b) The Committee shall be made up of the *Chairperson, Vice-Chairperson, Secretary, Treasurer and a minimum of three (3) other general members*. Only one member of any joint feu may be a Committee Member or Official at any one time.
- c) The Committee shall be elected at the Annual General Meeting of the Association. Vacancies arising throughout the term of office of the Committee may be filled by co-option. Additional members of the Committee may be co-opted as required to facilitate the organisation and execution of specific projects.
- d) The tenure of committee members and office bearers is 3 years, after which re-election may be sought. There is no limit to the number of times an individual may seek election.
- e) The Office Bearers shall carry out the actions given them by a general meeting of the Association.
- f) A quorum for the Committee meetings shall be four (4) people, at least two (2) of whom shall be Office Bearers.
- g) Questions arising at any meeting of the Committee shall be determined by a majority of the votes of the members present, and in the case of an equality of votes, the Chairperson shall have a casting vote in addition to a deliberative vote.

Auditor - One member of the Association, who is neither an Office Bearer nor Committee member, shall be elected Auditor for one year at a time. There shall be no limit to the number of occasions on which an auditor is re-elected.

Nominations - The proposer of a person nominated as a member of Committee or to act as one of the Office Bearers or as Auditor must, where the nominee is not personally present, be able to confirm that his nominee will be willing to act, if duly elected.

Restrictions on Committee - No member of the Committee, Office Bearer, or Auditor may enter into any Contract or arrangement with the Association.

No Committee has the power to agree to the altering of boundaries or sale of any land, pathways, or right of way throughout the Estate.

Vacating Office - A member of the Committee shall vacate office ipso facto if he/she ceases to be a member of the Association.

Retiring members shall demit office at the Annual General Meeting and shall be eligible for re-election (subject to Section 4(d) above).

Responsibility – The Committee is elected by the members to carry out the business of the Association. Responsibility and liability for the common areas, as noted in the title deeds, remains jointly and separately with the owners and does not transfer to the Committee.

5 Annual General Meeting

- a) There shall be an Annual General Meeting (AGM) of the Association held in September each year, at which the Committee shall make a report of its activities during the previous year, present an audited statement of accounts, and shall then retire.
- b) The AGM shall elect (or re-elect) the Committee based on the rules specified in Section 4 above; and vote on any recommendations or motions and any proposed amendments to the Constitution.
- c) The Secretary shall publicise the date, time, and venue of the Annual General Meeting to Members of the Association not less than twenty eight (28) days before the meeting.
- d) Minutes and accounts will be posted on our website within a period of 28 days after the AGM. Paper copies will be available on request from the Secretary.

6 Other General Meetings

There are two distinct additional forms of General Meeting.

- a) General Business Meetings of the Association can be held at any time within the year. These meetings can be called by the Committee as circumstances dictate.
- b) A Special General Meeting open to all Members of the Association will be held if ten (10) or more Members submit, in writing, a request for such a meeting to the Secretary of the Association. On receipt of such a request the Secretary will arrange for such a meeting to take place within twenty eight (28) days. Members requesting a meeting in this way must be aware that should the meeting fail to attain a quorum of Members (as described in Section 7 below), the Members requesting the meeting shall reimburse the Association for the costs of the meeting venue.
- c) In all cases, the Secretary shall publicise general meetings at least ten (10) days in advance of the meeting date.
- d) Minutes will be posted on our website within a period of 28 days after General Meeting. Paper copies will be available on request from the Secretary.

7 Quorum

At annual or other general meetings of the Association, no meeting shall be considered quorate unless a minimum of fifty (50) Members are present or represented by a proxy.

If within half an hour after the time appointed for the meeting a quorum is not present, the meeting shall be adjourned until such a later date as the Committee may appoint. All Members shall be notified of the adjourned meeting in writing; if no quorum be present at such an adjourned meeting those Members who are present shall be deemed to be a quorum and may transact all business which could properly have been disposed of at the meeting from which such adjournment took place.

8 Conduct of General Meetings

The Chairperson of the Committee shall preside at any Annual General Meeting, General Business Meeting, or Special General Meeting. If there is no such Chairperson, or if he/she is not present within fifteen (15) minutes after the time appointed for holding the meeting, the members present shall choose one of their number to act as Chairperson of the meeting.

Minutes shall be recorded for every General Meeting.

A *sederunt*, and record of all proxies shall be recorded for each meeting and held with the minutes of the meeting.

Voting - Every question submitted to a meeting shall be decided in the first instance by a show of hands (or voting cards). Each feu shall carry one vote and where joint feuars are present at the meeting only one such feuar may vote on any resolution.

Proxies - Any Member shall be entitled to appoint a proxy to attend and vote for him/her at any meeting and such proxy need not be a member of the Association. The instrument appointing a proxy shall be lodged with the Secretary not less than forty-eight hours before any meeting. Alternatively, the Member may appoint the meeting Chairperson to act as their proxy.

Secret Ballot - Any member present at a meeting in person or by proxy may demand a secret ballot. If a ballot is demanded, it shall be taken immediately and each feu represented at the meeting shall have one vote as above.

Casting Vote - In the event of an equality of votes, whether on a show of hands (or voting cards) or by a secret ballot, the Chairperson shall have a casting vote in addition to a deliberative vote.

Adjournment - The Chairperson of an Annual General Meeting may, with the consent of the meeting, adjourn the same from time to time, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

9 Finance

- a) A bank account shall be opened and operated in the Name of the Association. The Committee shall authorise in writing four (4) of its members for the purpose of drawing money or making payments by cheque. All cheques must be signed by not less than two (2) of the four (4) authorised signatories.
- b) The Committee shall, at their first meeting after the AGM, prepare an Annual Budget for the activities to be undertaken during their term of office. This budget should be based on known or anticipated recurring costs plus the anticipated costs of additional activities planned by the committee, or those activities requested and approved by the Members at the Annual General Meeting of the Association. The Committee shall notify Association Members of the budget summary no later than 15th November each year, and shall provide details of Members fees to be paid, and payment mechanisms (see Section 10).
- c) Members shall pay to the Association any fees specified to them annually by the due date (15th January). Fees shall be associated with individual feus, so Members owning multiple properties in the estate shall pay multiple fees. Members who are joint owners of property shall be jointly and severally liable for the payment of all Assessments due in respect of any feu owned by them.

Note: the Proprietor as at 15th January is liable to the Association for the FULL PAYMENT of the Annual Fee for the year (15th January to 14th January in the subsequent year) and that it is then up to the outgoing Proprietor to make any agreement/arrangement with regard to refund of same with the incoming Purchaser.

- d) The Association shall surcharge late payments by Members at the rate of 4% above the base rate of interest. This surcharge to be calculated monthly on the 15th day of the month after payment is due using the base rate advertised at close of bank business on that day. The Treasurer shall notify defaulting Members of the status of their unpaid fees on or after the 15th day of each month after payment is due, including the revised fee after the appropriate surcharge has been added. The notification shall state that the fee value listed there is only valid if payment is made before the 15th day of the next calendar month.
- e) The Committee, on behalf of the Association, shall take all appropriate processes in Law to recover unpaid fees due to the Association by Members for all fees where payment is more than three (3) months overdue, and where this debt is not due to the property being subject to probate, where the Executor has indicated to the Association that the fees will be paid in due course. The Association has the power to instruct their solicitor to collect any outstanding Fees due to the Association by any proprietor. The proprietor concerned will be responsible for any additional costs incurred.
- f) The Committee, on behalf of the Association, is authorised to offer early payment incentive discounts for Members' fees if appropriate.
- g) The Committee, on behalf of the Association, shall draw up contracts of work with individuals or organisations in order to undertake the work associated with the Aims of the Association specified above, and shall make payments to these contractors (as determined and detailed in the contract) in a timely manner in order to preserve the standing of the Association in the local and wider community.
- h) The Committee, on behalf of the Association, shall ensure that appropriate Public Liability Insurance is held to cover against any potential claim against the Association.
- i) The Association may not borrow without the sanction of a General Meeting.

Carnbee Owners Association Constitution

10 Dissemination of Information

The Association should endeavour, wherever and whenever possible to use the most appropriate methods for the dissemination of information and distribution of newsletters, details of meetings and information relevant to Members. Electronic methods of communications should be encouraged (including email and publication of material on the Internet (World Wide Web)).

11 Changes to the Constitution

- a) The Constitution can only be altered at the Annual General Meeting or at a Special General Meeting.
- b) All proposed changes to the Constitution at the AGM must be submitted in writing to the Secretary by 1st August.
- c) Any changes to the Constitution must be agreed by a majority of at least two thirds (2/3) of the Members present or represented by proxy at the meeting.

12 Dissolution of the Association

- a) The Association may only be dissolved by a Special General Meeting called for that purpose only.
- b) Such a meeting must be advertised to Members at least fourteen (14) days before the date of the meeting.
- c) A proposal to dissolve the Association shall only take effect if agreed by at least two thirds (2/3) of the Association Members present or represented by proxy at the quorate meeting.

13 Interpretation of Text

Within this document, unless the context otherwise requires:

"Month" shall mean a calendar month;

"Words" importing the masculine shall include the feminine;

"Words" importing individuals shall include companies or corporations.

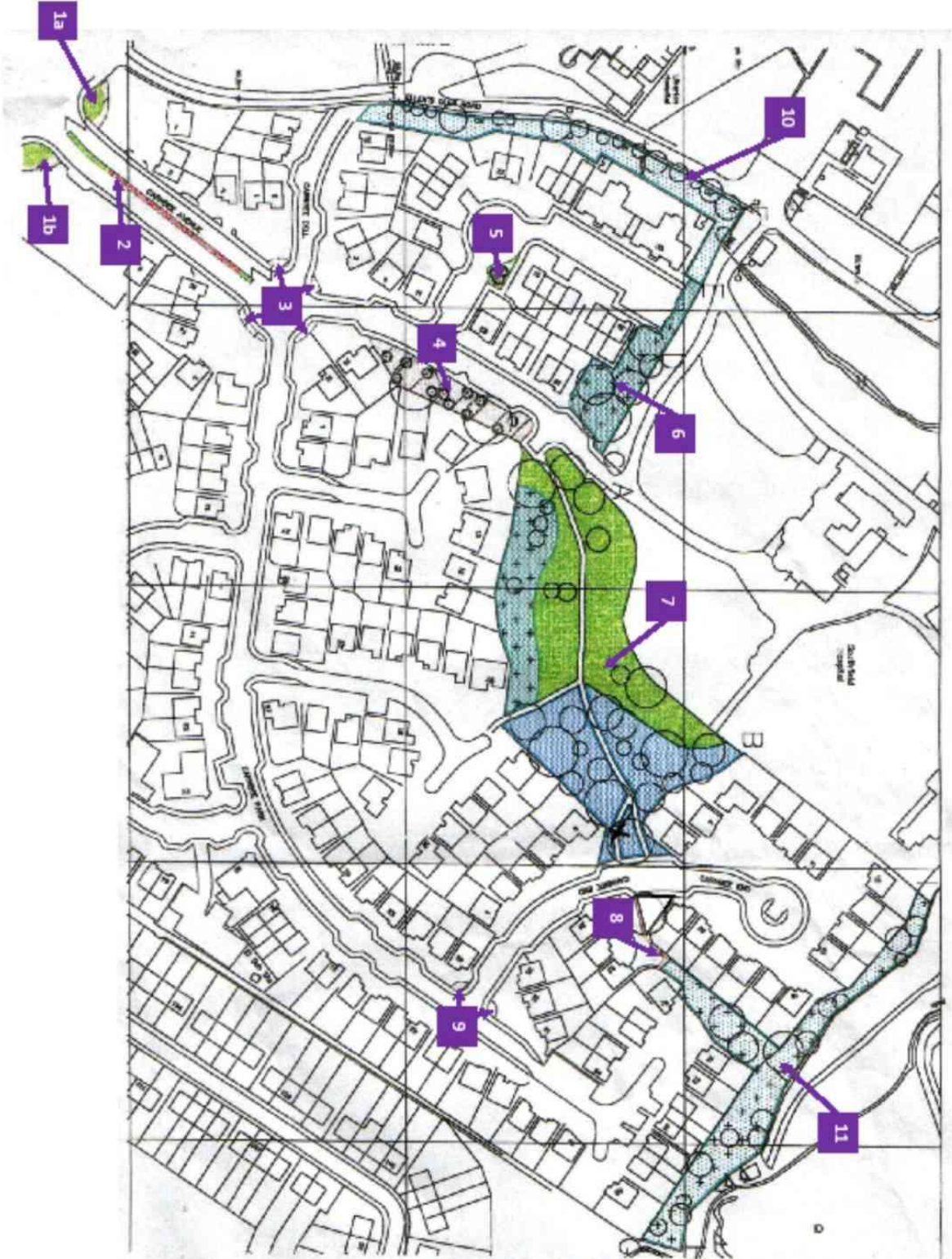
14 Arbitration

In the event to the foregoing Constitution or any addition or amendment thereto or any rules made in accordance with the Constitution being challenged by a Member as being illegal or ultra vires, the question shall be referred to an appropriate expert arbitrator. The judgement of this arbitrator shall be final and binding on all parties. The expenses of the reference shall be paid as awarded by the arbitrator.

Constitution Adopted **09** (date) **November** (month) **2009** (year)

Annex A

Map of Estate Showing Common Areas Managed by the Association.



Annex B

**Map of Estate Showing Properties Constructed by Walker Homes.
(shaded green)**

