

# Walberswick Common Lands Charity

Founded 1901 - Registered Charity No. 206095

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6 January 2020

Mr Mark Knight  
Clerk  
Walberswick Parish Council  
The Heritage Hut  
The Green  
Walberswick  
IP18 6TT

Dear Mr Knight

## **INCORPORATION OF WALBERSWICK COMMON LANDS CHARITY (“the Charity”) REQUEST FOR IN PRINCIPLE APPROVAL – CREATION OF CORPORATE TRUSTEE**

Over the past eighteen months, the Trustees have been investigating the options for incorporation of the Charity. Incorporation is a route increasingly adopted by charities, for example Walberswick Village Hall converted to an incorporated charity a few years ago.

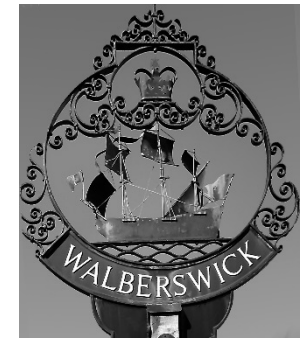
The Trustees have taken advice from charity law specialists Bates Wells and settled on the option of creating a corporate trustee. This option was selected because it allows the charity to retain its endowment land (Walberswick Common) within a single charitable entity. The following slides explain the rationale for this decision.

The Parish Council is a significant stakeholder in the Charity, as it has the right of appointment for four of our seven trustees. As such, the Charity Commission will require written evidence that the Council has given in principle approval for the creation of a corporate trustee. The process for wider community engagement is described in the slides.

Yours sincerely



**James Darkins**  
Chairman



# **Walberswick Common Lands Charity Incorporation via corporate trustee Request for in principle approval**

**PRESENTATION TO WALBERSWICK PARISH COUNCIL**

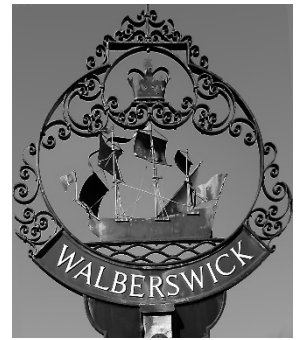
13 JANUARY 2020

James Darkins

Chairman of Trustees

Walberswick Common Lands Charity

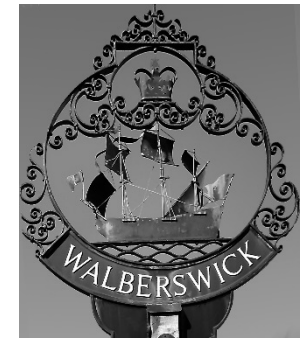
Established 1901 – Registered Charity No. 206095



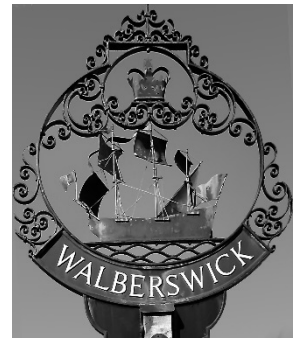
# Agenda

1. Existing Structure
2. Why incorporate?
3. Endowment land
4. Options for incorporation
5. Why corporate trustee?
6. Stakeholder & Community engagement
7. Questions

# Existing Structure



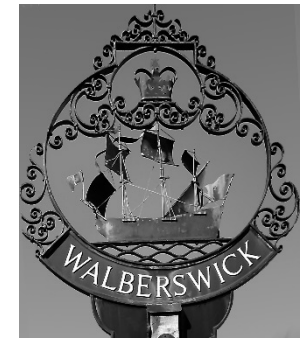
- Charitable trust – founded 1901
- The Charity / trust is not a legal ‘person’ (like a Company)
- The trustees act in their own names, not the name of the charity
- Land, property and investments are held by the trustees personally or the Official Custodian
- Walberswick Car Parks Ltd (WCPL) held ‘in-trust’ by two trustees
- The trustees are personally liable for what the charity does



# Why incorporate?

- The Charity can enter into contracts in its own name:
  - Land & property ownership
  - Banking & investments
  - Leases & licences
  - Construction, maintenance & services
  - Employment
  - WCPL shareholding
- The Trustees are protected by limited liability (but still personally liable under Charities Act)

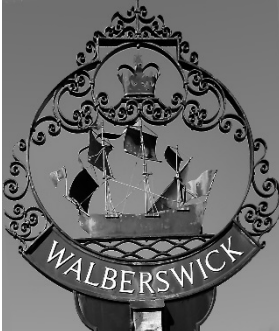
# Endowment land



“Functional permanent endowment land”:

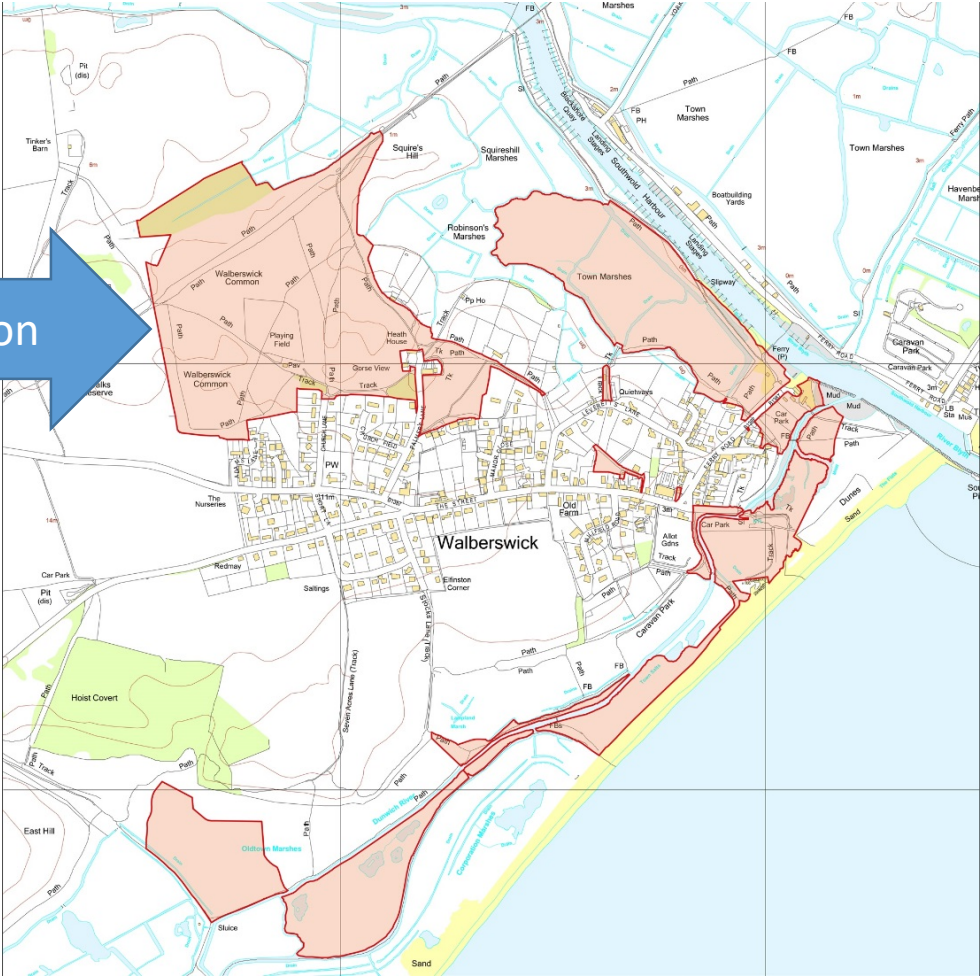
- *Property/assets which must be retained for use for particular purposes*
- *Common examples of functional permanent endowment; heritage property, recreation grounds*
- *Cannot usually sell it unless charity obtains a scheme to change purposes*

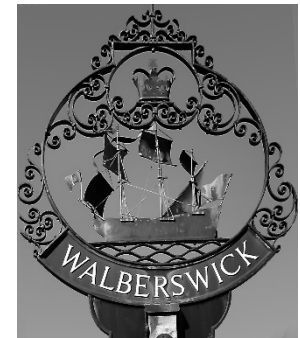
Source: Bates Wells



# Endowment land

The Common





# Endowment land

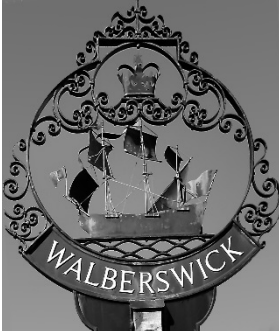
## 1901 Scheme:

*... provided that existing rights of pasturage (if any) over the lands ... of the Charity shall not be prejudicially affected by this Scheme and that nothing shall be done or permitted by the Trustees by which any part of the land of the Charity ... described as heath land shall be enclosed or cease to be an open space accessible to the inhabitants to the same extent as it was prior to the date of this Scheme.*

## 2009 Scheme:

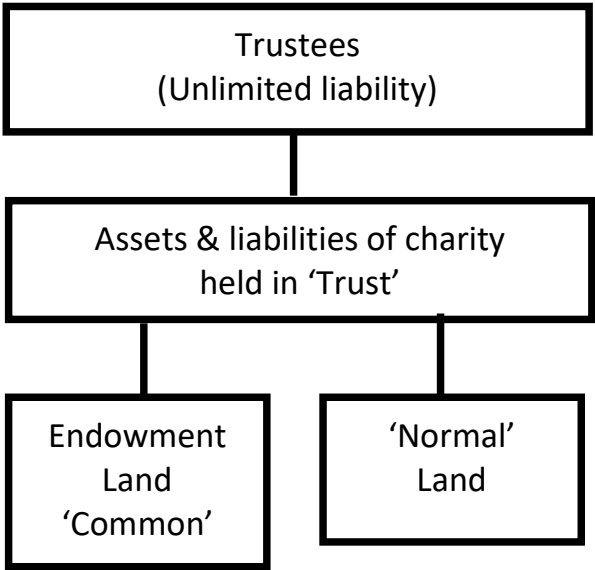
*Rights of pasturage (if any) over the property of the Charity or any part thereof, which existed prior to 4 February 1901, shall not be prejudicially affected by this Scheme, and nothing shall be done or permitted by the Trustees by which any part of the land known as Walberswick Common and described in Schedule 2 shall be or become enclosed, or cease to be an open space accessible to the inhabitants of Walberswick to the same extent as it was prior to 4 February 1901.*

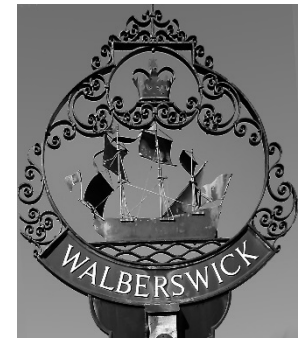




# Options for incorporation

## Existing structure

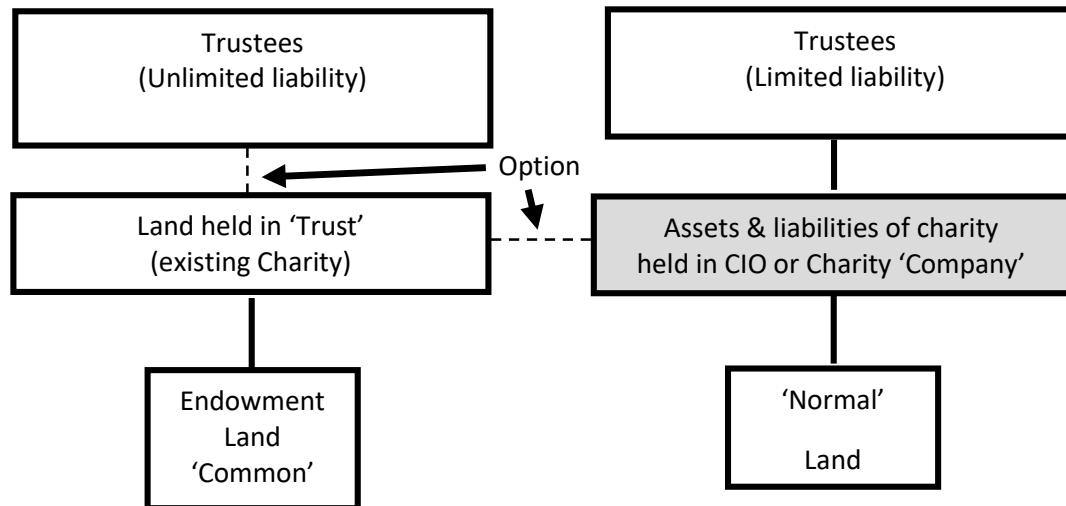




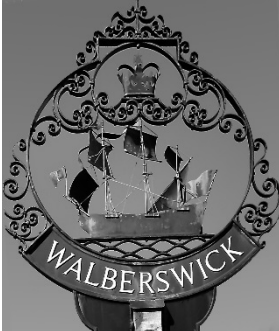
# Options for incorporation

## Company Limited by Guarantee (CLG)

Endowment land must continue to be held 'in trust',  
therefore dual structure

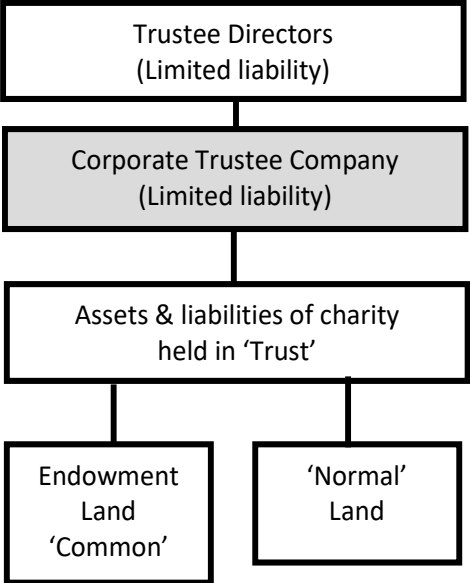


Note: Charitable Incorporated Organisation (CIO) can hold endowment land in single corporate structure but requires separate 'trusts' and is a less robust structure for property owning charities like WCLC.

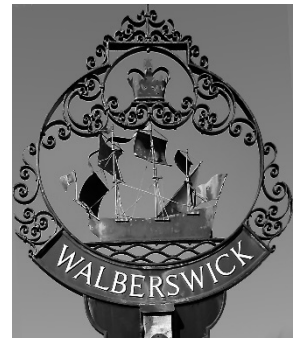


# Options for incorporation

## Corporate Trustee

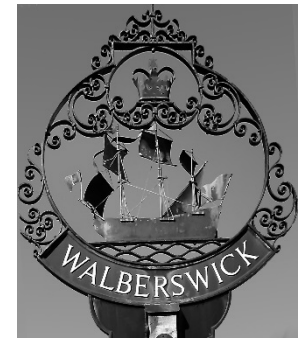


Trustee changes from individual trustees to a trustee company - Trustees become Directors of trustee company



# Why corporate trustee?

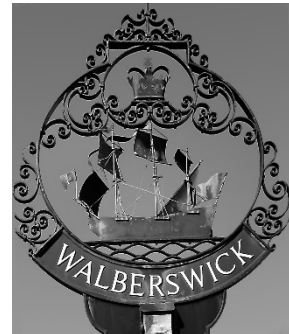
- Avoids dual structure
- Relatively simple to implement
- Captures all the benefits of incorporation (slide 4)
- NO CHANGE to Trustee responsibility & accountability:
  - Charity's Scheme
  - Charitable objects (environmental & community)
  - Charities Act
  - Stakeholders
  - Community
- Will take opportunity to 'modernise' documents



# Stakeholder & Community engagement



12 to 18 month process



# Questions

- Thank you