

APPENDIX 4

DURHAM COUNTY COUNCIL SECTION 109 OF THE LOCAL GOVERNMENT ACT 1972

Barningham Parish Meeting (Power to Incur Expenditure for Certain Purposes) No. 1 Order 2023

WHEREAS:

- (1) The Parish of Barningham (“the Parish”) is situated within the area of Durham County Council (“the Council”).
- (2) There is no separate parish council for the Parish.
- (3) On 27 May 2021 the Parish Meeting for the Parish (“the Parish Meeting”) resolved that an application be made to the Council seeking an order conferring on the Parish Meeting the functions of a parish council that would enable it to incur expenditure.
- (4) Under section 109 of the Local Government Act 1972, the Council has power to make the order sought.

BY THIS ORDER–

The Council, by resolution dated *[date of decision]*, confers on the Parish Meeting, subject to the paragraph below, the following powers -

- (A) The power to incur expenditure under section 19 of the Local Government (Miscellaneous Provisions) Act 1976 to contribute by way of grant or loan towards the expenses incurred or to be incurred by Barningham Village Hall (registered charity no. 1012226) in providing any of the recreational facilities which a parish council would have power to provide;
- (B) The power to incur expenditure under section 1 of the Parish Councils Act 1957 to provide and maintain seats and shelters for the use of the public;
- (C) The subsidiary power under section 111 of the Local Government Act 1972 to incur expenditure which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions, provided that they shall not, by virtue of this section, raise money,

whether by means of rates, precepts or borrowing, or lend money except in accordance with the enactments relating to those matters respectively.

- (D) The power to incur expenditure, not otherwise authorised, under section 137 of the Local Government Act 1972 ("section 137").

The Parish Meeting may not exercise the power under section 137 unless it satisfies the relevant conditions required under section 137, namely–

- (i) that in the opinion of Parish Meeting, the said expenditure is in the interests of, and will bring direct benefit to, the Parish or any part of it or all or some of its inhabitants;
- (ii) that the direct benefit accruing to the Parish or any part of it or all or some of its inhabitants of the Parish will be commensurate with the expenditure to be incurred;
- (iii) that the said expenditure in any financial year shall not exceed the amount produced by multiplying–
 - (a) such sum as is for the time being appropriate to the Parish Meeting under Schedule 12B of the Local Government Act 1972, by
 - (b) the relevant population of the Parish, calculated in accordance with Local Authorities (Discretionary Expenditure) (Relevant Population) Regulations 1993;
- (iv) that, as regards the said expenditure, the Parish Meeting complies with the accounting provisions under sections 137(7) and (7A) of the 1972 Act.

COMMENCEMENT

This Order comes into force on [date].

**THE COMMON SEAL of
DURHAM COUNTY COUNCIL**

was hereunto affixed in the presence of:

Authorised Signatory

Print Name

Job Title

DRAFT