

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

THE KING GEORGE THE FIFTH MEMORIAL PLAYING FIELD TRUST

The States are asked to decide:

Whether, after consideration of the policy letter entitled 'The King George the Fifth Memorial Playing Field Trust' of the Policy & Resources Committee, they are of the opinion:

1. To agree that a revised or new statutory trust is created by Projet de Loi in order to:
 -) Consolidate the King George the Fifth Memorial Playing Field Trust and The Friends of KGV Trust;
 -) Alter the definition of 'King George's Fields' so as to allow the commercial parts of the trust property to be used as security;
 -) Remove the Bailiff as a trustee, retaining a power of trustee appointment and removal; and
 -) Make all necessary and ancillary amendments to the King George the Fifth Memorial Playing Field Trust.
2. To direct the preparation of such legislation as may be necessary to give effect to the above decision.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4 (1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

THE KING GEORGE THE FIFTH MEMORIAL PLAYING FIELD TRUST

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

7 July, 2020

Dear Sir

1 Executive Summary

- 1.1 This policy letter proposes the enactment of legislation to create a new or revised statutory trust so as to update the King George the Fifth Memorial Playing Field Trust (Guernsey), Law, 1985, in order to modernise the trust and meet the requirements of the Trustees.

2 Proposal

- 2.1 HM Procureur has written to the Committee in the following terms:
- 2.2 *“The King George the Fifth Memorial Playing Field Trust was created in 1936 with the objective of commemorating the life of King George the Fifth by creating a playing field, paid for through public subscription, for the benefit of the people of Guernsey. This trust was subsumed into a statutory trust in 1985, the King George the Fifth Memorial Playing Field Trust (Guernsey) Law, 1985 (‘the Trust’).*
- 2.3 *The facilities of the King George the Fifth playing fields have been improved over the years, and further land has been acquired by a new (non-statutory) trust to enhance the site and further the public benefit. It has become clear that the management and use of the site would be simplified if the Trust and the non-statutory trust were consolidated. From discussions between my staff and representatives of the current trustees it has become clear that it would be*

best to consolidate the trusts by creating a revised or new statutory trust. The proposal is more fully set out in the attached letter from Mr Stuart Falla, MBE, Chairman of the Friends of KGV Limited.

Recommendation

- 2.4 *I support the proposals which seek to ensure that the King George the Fifth playing fields remain accessible to and for the benefit of the people of Guernsey. I agree that a revised or new statutory trust should be created by Projet de Loi in order to:*
- a. consolidate the Trust and the non-statutory trust;*
 - b. alter the definition of 'King George's Fields' so as to allow the commercial parts of the trust property to be used as security;*
 - c. remove the Bailiff as a trustee, retaining a power of trustee appointment and removal; and*
 - d. make all necessary and ancillary amendments to the Trust.*
- 2.5 *I therefore recommend that the necessary Projet de Loi be drafted.*
- 2.6 *If the Committee is minded to support this recommendation, I would be grateful if you could please put this before the States of Deliberation for approval."*
- 2.7 The Committee supports the recommendation put forward by HM Procureur. It is clear from her letter and from the letter from Mr Stuart Falla, MBE, that the revised or new statutory trust will be for the benefit of the public of the Bailiwick of Guernsey.

3 Compliance with Rule 4

- 3.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 3.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- 3.3 In accordance with Rule 4(4), it is confirmed that the propositions have the unanimous support of the Policy & Resources Committee.

3.4 In accordance with Rule 4(5), the Propositions relate to the duties of the Policy & Resources Committee to examine issues which expressly do not fall within the mandates of other committees.

Yours faithfully

G A St Pier
President

L S Trott
Vice-President

A H Brouard
J P Le Tocq
T J Stephens



President, Policy & Resources Committee
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

25 June 2020

Dear Gavin

KGV STATUTORY TRUST

The King George the Fifth Memorial Playing Field Trust was created in 1936 with the objective of commemorating the life of King George the Fifth by creating a playing field, paid for through public subscription, for the benefit of the people of Guernsey. This trust was subsumed into a statutory trust, the King George the Fifth Memorial Playing Field Trust (Guernsey) Law, 1985 ('the Original Trust').

The facilities of the King George the Fifth playing fields ('KGV') have been improved over the years, and further land has been acquired by a new non-statutory trust called The Friends of KGV Trust ('the Friends Trust') to enhance the site and further the public benefit. Both trusts are registered as having charitable purpose.

The Trustees of both trusts are of the view that the management and use of the site would be simplified if the statutory and the non-statutory trust are consolidated by the creation of a revised or new statutory trust.



Background

The assets that currently comprise KGV have been assembled and created over in excess of eighty years. The original trust, the King George the Fifth Memorial Playing Field Trust, was created in 1936 with the objective of commemorating the life of King George the Fifth by creating a playing field, paid for through public subscription, for the benefit of the people of Guernsey in his memory. This local initiative was part of a nationwide movement which saw over four hundred such playing fields created across the country although only approximately ten percent of those remain in existence today.

The Original Trust is chaired by the Bailiff of Guernsey who appoints two fellow trustees and who, under the terms of the Trust, can appoint an unpaid Management Committee to manage the facility.

Since 1936, the facilities have been improved and enhanced by successive Management Committees. The funds needed to provide these additional elements have come from public subscription and fundraising initiatives of many types. Originally, the site was the home of cricket, field hockey (played on grass) and, at times, athletics. In the 1950's a cricket pavilion, with changing rooms and social amenity, was provided by a local benefactor in memory of her husband, the Reverend P T Mignot OBE.

Throughout the years, KGV has been run commercially by the Management Committee on a non-dividend basis achieving a small surplus which has been reinvested into the facilities. The Committee has levied charges for use of the facilities, run a food and beverage outlet and employed staff to look after the facilities.

However, the terms of the Original Trust do not permit assets to be charged by way of security for borrowing which restricts securing commercial borrowing in order to develop the facilities. Therefore, further development of the facilities was undertaken by a second non-statutory trust, the Friends of KGV Trust, the Trustees of which do not include the Bailiff.

The Friends Trust owns a limited liability company, Friends of KGV Limited (which also is registered as having charitable purpose), which in 2008 purchased a neighbouring vineyard to add to the playing fields. A major project is in progress to substantially develop and improve the facilities including: construction of all-weather floodlit playing fields, cricket nets and paddock area; construction of the Lord Taverners Pavilion; extension to and refurbishment of the Clubhouse; and provision of office



space being used by Headway Guernsey, Guernsey Cricket Board, Health Improvement Commission and Guernsey Community Foundation.

This project has been part-funded by the issuance of preference shares to shareholders - there is a mix of interest bearing and non-interest bearing preference shares which have been subscribed with either fixed or open redemption dates.

In addition, funding for this project has been provided through commercial loans with security being provided through an exchange of letters between Trustees, including the Bailiff, and the bank. The only asset which can be offered as security by the Friends of KGV Limited company is the all-weather playing area as it is the only land that it owns.

Proposal

The Trustees of the Original Trust and the Friends Trust are of the view that the management and use of the site would be simplified if the statutory and the non-statutory trust were consolidated by the creation of a new statutory trust. This would have a number of benefits:

- The history of the land acquisition for the site has resulted in a mix of land ownership with an equivalent mix of conditions applied. It would be better if these conditions were standardised;
- The commercial trading asset, the KGV Clubhouse, could be offered as security for a loan, instead of the playing field which would instead be held in trust for the people of Guernsey;
- The Bailiff's role as a Trustee could create, or be perceived to create, a conflict with their judicial responsibilities. Under a new statutory trust, the Bailiff would no longer be a Trustee but would retain a power of appointment and removal in respect of the trustees of the trust.
- The terms of the Original Trust are out-dated and a new statutory trust would benefit from having new terms and conditions.

The original objective of the underlying trust would be maintained by the playing fields (including the all-weather pitch and cricket nets), the new pavilion and stores, part of the car park and one access road being vested directly in the trust under the definition of 'King George's Fields' and these assets would not be capable of being offered as security against any current or future loans.



The KGV Clubhouse, as extended, together with a part of the carpark and other access road would also be vested in the trust but not included under the definition of 'King George's Fields' and these assets would be used as security for current and future loans.

Therefore, it is requested that the States of Guernsey creates a revised or new statutory trust by Project de Loi in order to:

- Consolidate the King George the Fifth Memorial Playing Field Trust and The Friends of KGV Trust;
- Alter the definition of 'King George's Fields' so as to allow the commercial parts of the trust property to be used as security;
- Remove the Bailiff as a trustee, retaining a power of trustee appointment and removal; and
- Make all necessary and ancillary amendments to the King George the Fifth Memorial Playing Field Trust.

It is intended that the first five Trustees would be Mark Thompson, John Greenfield, Dominic Wheatley, Steven Lloyd and Nigel Le Page.

Yours faithfully

Stuart Falla MBE
Chairman, Friends of KGV Limited