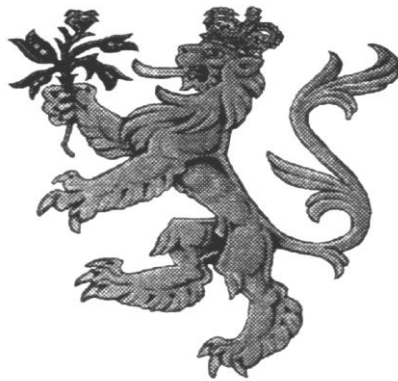


STATES OF ALDERNEY



BILLET D'ETAT

WEDNESDAY 24TH MAY 2017

Price: £2.20

STATES OF ALDERNEY

BILLET D'ETAT

FOR WEDNESDAY 24TH MAY 2017

Members of the States:

I have the honour to inform you that the Meeting of the States will be held at 5:30 pm on Wednesday 24th May 2017. This will be preceded by the People's Meeting, which will be held on Wednesday 17th May 2017 at 7:00 pm in the Island Hall.

W Stuart Trought
President

Item I Capital Funding – Refurbishment of the Nunnery

The following letter was received jointly from Mr Dent, Chairman of the Policy and Finance Committee, and Mrs Paris, Chairman of the General Services Committee:-

“This report deals with the necessary renovation and repair of the residential units within the Nunnery and separately the potential lease of the units. The Policy and Finance Committee is mandated to deal with capital approvals and the General Services Committee acts as landlord for the property. Given the crossover it was considered appropriate that the matter be presented to the States jointly from the Chairman of both Committees.

The Nunnery is one of the oldest Roman structures in Europe and within the walls of the Roman Fort it contains a house together with some German WWII bunkers, as per the attached photo. The site has possibly been occupied, more or less continuously, for 1,900 years.

Following the expiry of a 50 year lease in 2015, the responsibility for the building reverted back to the States, and once the residential section of building had been vacated a full dilapidations report was commissioned. It highlighted a significant requirement for renovation. The Committee decided this was a timely opportunity to carry out this urgent work necessary for the residential building to be put to any practical use, and try to find an appropriate use for the building that would enable public access and contribute towards its upkeep and improvement as an important heritage site.

Capital funding request

The residential element is dilapidated, all the services require replacement and the roof requires extensive refurbishment. The more historic outbuildings also require attention but in a sympathetic way to reflect their historical context and

there will be separate plans coming forward with regard to their retention and safeguarding.

An amount of £280,000 was subsequently included in the 2016/2017 approved capital budget at £30,000 and £250,000 respectively. It should be noted that this expenditure is essential irrespective of the usage of the refurbished building.

The necessary works were scoped, and the tender process carried out with expressions of interest invited from suitably experienced multi-trade builders and some seven responses were received and tenders issued accordingly. Three tenders were returned and opened by the Policy and Finance Committee on 2nd March 2017.

The lowest tender was selected as being the preferred tenderer and pre-contract negotiations have been carried out in order to reduce the tender to within the approved budget in line with some minor amendments to the original specification but without significantly amending the plan of works.

At the Policy & Finance Committee meeting held on 4th April 2017 the Committee approved the appointment of the lowest tenderer, Tickled Pink, and that the Chief Executive be authorised to negotiate and award a contract subject to the approval of the full States of Alderney, together with the States of Guernsey as per the financial rules. This capital request is therefore being considered concurrently by the Policy & Resources Committee.

The capital funding request is therefore summarised as follows:-

	£
<i>Building works including contingency</i>	<i>240,000</i>
<i>Fees - Project Manager, building fees etc & preliminary costs to date etc</i>	<i>40,000</i>
Total	£280,000

Proposed leasing of the Refurbished Building

When the Nunnery reverted to the States the Alderney Wildlife Trust's Alderney Bird Observatory (ABO) initiative was at the inception stage. The ABO is the newest and most southerly bird observatory in the UK and it has received national and international television coverage. There is growing visitor interest as it becomes more and more apparent that large numbers of migratory birds pass through Alderney. Encouragement of the ABO as a new aspect of niche tourism is exactly compatible with States policy, and has the added advantage of being most active in the shoulder months of the tourism season.

In order to ensure that this initiative continued a temporary six month lease was granted to Alderney Wildlife Trust (AWT) in March 2016, renewable on a monthly basis, in order to provide accommodation for the Bird Observatory Warden and his partner, pending the outcome of decisions regarding the future usage if the building.

AWT have provided a draft Nunnery Covenant and business plan outlining their objective to provide basic, self-catering accommodation for use by bird ringers and heritage and educational groups wishing to explore the site. A significant amount of archaeological and historical research is still to be carried out and a small museum is envisaged. All surpluses will be used to continue the investigation, preservation and enhancement of the site.

In summary: reaching this decision to award a 5 year lease lease to AWT for the operation of the Nunnery Field Centre, the General Services Committee took into account:-

- *the commitment to the creation of a Nunnery Covenant, which will be overseen by the Chief Executive, the Chairman of the General Services Committee and representatives of Heritage Guernsey,*
- *the long term survival of the site by the development & implementation of a management & conservation plan,*
- *the positive economic benefits which arise from the ABO as a tourist attraction, enhancing Alderney's reputation as a niche tourism market,*
- *the ensuring of the security & basic maintenance of the site by having a resident warden,*
- *the utilisation of the Nunnery in a sustainable way for the benefit of the Island, and to ensure it remains open to the public,*
- *the plan for the Nunnery Field Centre's commitment to investing all surpluses back into the conservation of the historic site.*

The Policy & Finance Committee considered the above at their meeting held on 4th April 2017, and approved the terms of a new five year lease and requested that the Chief Executive be authorised to finalise the Agreement to Lease. Although the length of the lease would not usually require States approval it was considered that as this is of significant public interest that the matter should be included with the submission for the funding.

We would therefore be grateful if you would place this matter before the States of Alderney with appropriate propositions.

*James Dent, Chairman, Policy and Finance Committee
and
Norma Paris, Chairman, General Services Committee"*

The States of Alderney is asked to :-

- 1. Approve the award of the contract for the refurbishment of the Nunnery building to Tickled Pink builders; and**
- 2. Approve expenditure of £280,000, to be charged to the Capital Account; and**
- 3. Approve leasing the building to Alderney Wildlife Trust for an initial period of 5 years.**

Item II The Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016

The following letter was received from Mr Dent, Chairman of the Policy and Finance Committee:-

"This item was originally tabled at the April meeting of the States of Alderney in 2016 but was withdrawn until further clarity was provided on the disposition of funds arising from the increase in fines arising from discretionary penalties.

The Projet increases the maximum fine from £200,000 to the "relevant sum"; this is £4,000,000 (capped at 10% of turnover in the case of fines exceeding £300,000) for a licensee or former licensee (other than a personal fiduciary licensee); and £400,000 for a personal fiduciary licensee or relevant officer. In assessing the level of fine for a personal fiduciary licensee or relevant officer the Commission must take account of his or her emoluments.

The previous Chairman of the Policy and Finance Committee discussed this matter further with the Law Officers and information has been provided to the satisfaction of the previous Chairman. Subsequently we are now requested to table the above legislation at the next available States meeting for approval.

I would be grateful if you place this matter before the next meeting of the States of Alderney with an appropriate proposition.

James Dent, Chairman”

The States of Alderney is asked to approve “The Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016”

Item III Triggering of Article 50 in respect of Protocol 3

The following letter was received from Mr Dent, Chairman of the Policy and Finance Committee:-

“The following statement was noted by States Members at the Policy and Finance Committee meeting on 25th April 2017:-

Acknowledging the triggering of Article 50 of the treaty on European Union in respect of ‘Protocol 3’

Article 50

In March 2017, the European Union (Notification of Withdrawal) Act (‘the Brexit Act’) was given Royal Assent. This conferred on the Prime Minister the power to notify, under Article 50(2) of the Treaty on European Union, the United Kingdom’s intention to withdraw from the European Union (‘EU’). The Act ensured that the necessary parliamentary process occurred in the UK.

*On 29 March 2017, the UK Prime Minister invoked Article 50 of the Lisbon Treaty, which means that the UK is scheduled to leave the EU on **Friday, 29 March 2019**. **Article 50 effectively obliges the EU to negotiate and conclude an agreement with the UK “setting out the arrangements for its withdrawal, taking account of the framework for its future relationship” within 2 years.** If no agreement can be reached then withdrawal from the EU takes effect regardless.*

The UK’s membership of the EU creates a legal framework of reciprocal rights and obligations between states, which also confers rights and obligations to businesses and individuals. When the UK leaves the EU, some of those legal rights and obligations will fall away. Many of these rights and obligations will need to continue where they are of benefit to the UK. There will have to be a change to the UK’s domestic legislation to reflect this.

Similar issues will arise, albeit on a much narrower scale, for the Bailiwick of Guernsey insofar as Protocol 3 applies. Whilst it is not for the Bailiwick of Guernsey to pass the same Act as in the UK it is desirable, constitutionally, for the States of Alderney to recognise the formal commencement of the Brexit process.

The Great Repeal Bill

On 2nd October 2016, the UK Government announced that it would introduce a Bill to repeal the 1972 Act which gives direct effect to all EU laws. More detail was

given on 30 March 2017. The Great Repeal Bill is a separate, but related, parliamentary process to that relating to the triggering of Article 50. The timing of the Great Repeal Bill and associated secondary legislation will run parallel to the Article 50 negotiations. The Bill will repeal the 1972 European Communities Act, which was the instrument by which the UK Parliament gave effect to the UK's obligations and duties under EEC treaties (now EU) in national law and effectively gave European law precedence over laws passed in the British parliament. A further purpose of the Bill is to ensure that the UK's domestic statute book is ready in advance of the exit from the EU to ensure a smooth transition and to give legal certainty. Under the Great Repeal Bill, the UK Parliament can then alter any relevant legislation as necessary and decide, for example, which elements of EU law they might wish to keep, amend or repeal.

A similar exercise will need to be carried out with regards to the European Communities (Bailiwick of Guernsey) Law 1973 and the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994. Various measures have been implemented using these laws, including, *inter alia*, matters relating to customs, EU international sanctions and food supplements. Other areas of law and agreements make reference to certain EU directives and regulations and there is likely to be a need to identify these and to consider whether relevant EU references should remain, be amended or be replaced.

If these measures were simply removed it would lead to uncertainty and create holes in Statute book. It may be necessary to preserve some measures at first and then look to unpick them, where desirable, over time.

The Bailiwick Dimension

In recognition of these two processes, on 8th March 2017 the States of Deliberation in Guernsey considered a Policy Letter on the triggering of Article 50. The States noted that Her Majesty's Government intended to issue a notice under Article 50 of the Treaty on European Union. They also noted and recognised the subsequent impact this and the withdrawal of the United Kingdom from the European Union would have on the Bailiwick's domestic legislation and on the legislative and other measures that ought to be taken in consequence of the issue of the notice and withdrawal.

The Policy Letter recognised that the Crown Dependencies are constitutionally different to the UK. It also provided a parallel parliamentary process to the UK that, whilst not identical in nature, acknowledged that the UK's exit will inevitably impact the islands to the limited extent that Protocol 3 has effect.

While Guernsey administers certain matters on behalf of Alderney, the European Communities (Bailiwick of Guernsey) Law 1973 applies directly to Alderney and the triggering by the UK of Article 50 will have an impact on the island. It is therefore recommended that the States of Alderney note that the UK Government has issued a notice under Article 50 of the Treaty on European Union, and recognise the subsequent impact that this will have on Alderney's domestic legislation.

This will ensure that there has been a proportionate parliamentary process for Alderney as a self-governing jurisdiction and will set the foundation for any future matters that need to be considered by the States of Alderney during the exit process and in future negotiations."

In considering the above statement the Committee recognises that much work lies ahead. This will include close liaison with the rest of the Bailiwick to discuss issues of common interest such as trade in goods and services, freedom of travel, data protection, financial disclosure requirements and other matters.

It will also involve ensuring Alderney is represented as appropriate so that opportunities, which may be niche to the Island as a separate jurisdiction, can be considered as well as ensuring clarity on its status as a dependency of the Crown and having the option to seek delegated authority from H.M Government to negotiate on certain international matters through letters of entrustment, should the need arise.

The Committee also proposes to ensure there is ongoing engagement with the UK and others as the process unfolds and negotiations begin.

As part of the exiting process it is inevitable that some pieces of domestic legislation will need to be changed. In this respect there is merit in commencing an early review of the domestic legislation to assess whether it is, or is likely to become, outdated as a result of the changed environment.

The Committee will report to the States as and when further information is obtained and decisions are needed.

James Dent, Chairman”

The States of Alderney is asked:-

To note that Her Majesty's Government has issued a notice under Article 50 of the Treaty on European Union.

To note and recognise the subsequent impact this and the withdrawal of the United Kingdom from the European Union will have on the Bailiwick's domestic legislation and that the legislative and other measures that will need to be taken in consequence of the issue of the notice and withdrawal.

To agree that the Policy and Finance Committee:

- 1. Maintain a close dialogue with relevant Committees in the other members of the Bailiwick of Guernsey on issues of common interest such as positions on matters of trade in goods and services, freedom of travel, data protection, financial disclosure regulation and other matters that may be undertaken by Guernsey;**
- 2. Seek to ensure Alderney is represented as appropriate so that opportunities, which may be niche to the Island, as a separate jurisdiction, can be considered as well as ensuring clarity on its status as a dependency of the Crown and its entitlement to seek delegated authority from H.M Government to negotiate on certain matters, through the use of letters of entrustment, should the need arise;**
- 3. Engage, as appropriate, with the UK as the exit process unfolds and negotiations begin;**
- 4. Initiate a review, in liaison with the Law Officers, of domestic legislation that is, or is anticipated will become, outdated, as a result of the changed environment; and**
- 5. Report to the States as and when further information is obtained and decisions are needed.**

Item IV **Requête regarding Membership of Policy and Finance Committee**

Under Section 45(4) of the Government of Alderney Law, 2004, four Members of the States have signed the following Requête:-

“THE HUMBLE PETITION of the undersigned Members of the States of Alderney

SHEWETH:

1. *That at their meeting on 11th January 2017 the States resolved under Item X to appoint all ten States Members to be members of the Policy and Finance Committee.*
2. *That your petitioners no longer have confidence in a ten person committee delivering good governance for the people of the island.*
3. *That your petitioners seek to return the Policy and Finance Committee to Committee with a maximum of five members as had been the custom.*

THESE PREMISES CONSIDERED, your Petitioners humbly pray that the States of Alderney maybe pleased to resolve

That at its next meeting of the States it should:

1. *Revoke its resolution to appoint all States Members to the Policy and Finance Committee.*
2. *Elect a new Policy and Finance Committee consisting of a Chairman and four Members.*

AND YOUR PETITIONERS WILL EVER PRAY

ALDERNEY, this 5th day of May, 2017

Signed by Messrs Birmingham, Dent, McKinley and Barnes.”

Item V **Questions and Reports**

The attached report entitled “**BDCC Membership**” was received from Mr Birmingham, Chairman of the Building and Development Control Committee.

Issued: 12th May 2017