

KING GEORGE'S FIELD, MILE END

(Registered Charity no: 1077859)

STATEMENT OF THE COMMISSION'S REASONS IN ACCORDANCE WITH SECTION 86(3)(b) OF THE CHARITIES ACT 2011 ("the Act")

Grounds for making the order dated 24 March 2021 under the power given in section 84 of the Act ("the Order")

Under section 84 of the Act, the Commission may, at any time after it has instituted a statutory inquiry under section 46 of the Act, and where it is satisfied the grounds in section 76(1) (a) or (b) of the Act have been met, by order direct the charity trustees to take any action specified in the order which the Commission considers to be expedient in the interests of the charity.

The grounds in section 76(1) (a) and (b) of the Act are as follows:

"(a) that there is or has been any misconduct or mismanagement in the administration of the charity; or

(b) that it is necessary or desirable to act for the purpose of protecting the property of the charity or securing a proper application for the purposes of the charity of that property or of property coming to the charity."

KING GEORGE'S FIELD, MILE END ("the Charity") is a registered charity and was registered with the Commission on 20 October 1999. It is governed by Scheme of the Charity Commissioners dated 28th February 2000.

The Charity's objects are:

"The land within the areas shown edged red on the plan no. Kgf.1 attached hereto which has been acquired by the council or the London county council shall be preserved in perpetuity as a memorial to his late majesty King George V under the provisions of the foundation."

On 20 September 2013 a statutory class inquiry under section 46 of the Act was opened (and is ongoing) into 'those charities (to the exclusion of charitable companies who are in confirmed formal administration or liquidation) who have been in default twice under the relevant sections 163(1), 164(1) and (3), and 169(3) of the Act in the last five years to submit to the Charity Commission:

- i) a trustees' annual report pursuant to section 162 of the Act
- ii) accompanying documents to the annual report described by and pursuant to section 164 of the Act
- iii) an annual return pursuant to section 169(1) of the Act

(together referred as "the documents"), such defaults being in respect of two separate financial years of the charity and where those charities have a gross annual income of £150,000 and above, and have received a final written warning.

The Charity met the above criteria, being still in default on 21 March 2021, and consequently became part of the Inquiry on 22 March 2021.

For the reasons given below, the Commission is satisfied that the statutory ground of section 76(1)(a) for the exercise of its powers under section 84 of the Act has been met and the actions set out in the Order are expedient in the interests of the Charity. Further, the making of the Order is in pursuance of the Commission's statutory objectives, and is in accordance with the principles of best regulatory practice and the Commission's published policies.

Section 76(1)(a) of the Act: that there is or has been any misconduct or mismanagement in the administration of the charity;

Misconduct includes any act (or failure to act) that the person committing it knew (or ought to have known) was criminal, unlawful or improper.

Mismanagement includes any act (or failure to act) that may cause charitable resources to be misused or the people who benefit from the charity to be put at risk.

1. The Charity has failed to submit annual accounts, trustees' annual reports and/or annual returns ("the accounting information") to the Commission for the financial years ending 31 March 2019 & 2020. The Charity has regularly been sent computer generated reminders from the Commission regarding the submission of their accounts. In addition, we wrote to the Charity on 14 March 2021. The Charity has therefore failed to comply with its legal requirements in spite of numerous reminders.
2. This is misconduct and/or mismanagement in the administration of the Charity and the charity trustees may have committed criminal offences by their default. Under section 173 of the Act, if the requirements under section 163, 164 and 169(3) are not complied with, namely the transmission of the accounting information, a charity trustee of the charity is guilty of an offence.

For the reasons given in paragraphs 1 and 2 above, the Commission considers that the ground of misconduct or mismanagement has been met.

Proportionality

3. The Commission, as a public authority and regulator of the charitable sector, has the duty to increase public trust and confidence in charities and to promote compliance by charity trustees with their legal obligations in exercising control and management of the administration of their charities.
4. As set out above, there is or has been misconduct and/or mismanagement in the administration of the Charity. It is necessary to take steps to address this misconduct and/or mismanagement and protect the Charity's property, including its funds, in particular by directing the trustees of the Charity to take the action specified in the schedule of the Order, which relates to the Charity preparing the accounting information for the financial years ending 31 March 2019 & 2020 and providing copies of the accounting information to the Commission.

5. The Order is proportionate to the level of risk to the Charity as its trustees have failed to provide the accounting information which is required to be provided under charity law. The Commission is directing the charity trustees to undertake actions that they are already under a statutory duty to take.
6. There is a public expectation that the Commission will take appropriate steps to safeguard the Charity and its property, including funds. The Commission considers that this action is warranted given the risk to charitable funds, due to the non-submission of the accounting information, and the Commission's subsequent inability to assess the financial and governance position of the charity.
7. Before making the decision to exercise its powers under section 84 of the Act, the Commission gave careful consideration to both the proposed use of this power and whether the same result could have been achieved by alternative means, including the use of its other statutory powers.
8. The Commission has followed and will continue to follow its guidance and procedures in the making of the Order.
9. The trustees of the Charity have the right to appeal the making of the Order to the First-tier Tribunal (Charity).

Human Rights

10. The Commission has also considered its duties under the Human Rights Act 1998 and is satisfied that, should the Order constitute an interference with human rights, this would be lawful, proportionate in pursuit of a legitimate aim, and in the public interest. The Order is not intended to cause undue burden to the trustees of the Charity or the Charity. The Order is considered the most expedient, and least intrusive, step to safeguard the Charity's funds and to promote their proper application. The Order is made in the furtherance of the Commission's statutory objectives as set out in section 14 of the Act. These objectives include:
 - a. to increase public trust and confidence in charities;
 - b. to promote compliance by charity trustees with their legal obligations in exercising control and management of the administration of their charities; and
 - c. to enhance the accountability of charities to donors, beneficiaries and the general public.
11. By acting in accordance with the Order, the trustees of the Charity can demonstrate that appropriate steps are being taken to protect charitable funds, and the management and administration of the Charity is on a proper footing, in discharge of the charity trustees' statutory and other legal duties
12. In the Commission's view Article 8 rights (respect for private life) are not engaged in relation to the trustees of the Charity by the Order as it arises from a voluntary public duty and responsibility, rather than in relation to private affairs.

13. Even if there were interference with Article 8 rights, these are qualified rights. Interference with these rights is permitted under the Human Rights Act where the Commission can demonstrate that the interference is legal, is in pursuit of a legitimate aim, and properly balances the rights of the possessor against the public interest. In the Commission's view, the making of this Order would fall within these limited circumstances.
14. Any such interference is lawful (under the Commission's section 84 power) and is in accordance with the Commission's statutory functions and objectives (Public Confidence and Benefit, Compliance, Charitable Resources and Accountability). The Commission's primary legitimate aim in making the Order is to protect charitable funds (which are analogous to public funds), so the Commission is properly exercising its powers in the public interest for the economic well-being of the country.

Equality Act

15. In considering whether the Commission should make the Order, the Commission has considered its public sector equality duty under the Equality Act and it has had due regard to this duty in making this decision.
16. The Commission considers that the Order will not adversely interfere with any rights under the Equality Act.

Better Regulation Principles and Economic Growth Duty

17. The Commission has considered the better regulation principles in making this decision and is satisfied that it is in accordance with them.
18. The Commission has had regard to the economic growth duty and in particular on the impact of this particular regulatory power on the desirability for economic growth of the charity. It is satisfied that this power will have no impact on the charity in this regard.