

ADDRESS by MR M J W GILSON as CHAIRMAN of THE FRIENDS OF BATH RESIDENTS' RECREATION GROUND to THREE COUNCILLORS representing B&NES COUNCIL as CORPORATE TRUSTEES of CHARITY No. 1094519 at BATH GUILDHALL on WEDNESDAY, 20<sup>th</sup> JANUARY 2010 at 1 p.m.

Conflicting and unsubstantiated statements by Councillors and Bath Rugby Plc in recent months have caused enormous concerns amongst the legal beneficiaries of the Rec Charity right across the City and generated far wider fears over the future of Bath's unique architectural heritage and status as a tourist attraction and World Heritage site.

It has, therefore, been gratifying that after so many years and such enormous waste of tax-payers' money, as well as the stagnation of Bath Rugby's prospects that a new-comer to Bath appears to have told everyone, Councillors and the Bath Chronicle included, what the original and genuine Friends of the Rec, as the true resident beneficiaries of the Charity have been telling successive Councils since 1994 - that the Rec is not available for commercial exploitation by anyone, and those who persists in this violation of the Charity's legal constitution and purpose will do so at their peril, just as happened over the illegal building of the Sports Centre on the Charitable Open Space in the 1970's and, to this day, is causing such serious problems it could still be at the risk of demolition.

If the Judicial Review now recommended by the Charity Tribunal and eventually European Law has to be invoked, it could be in even more serious danger of demolition at the Council's expense and therefore it hardly seems sensible for Councillors to defiantly repeat similar mis-use and abuse of the Rec with an illegal stadium after all that is known and made clear by the High Court Judgment handed down by Mr Justice Hart eight years ago, in which he was absolutely specific that the restrictive covenants and contractual obligations governing the use of this **Public Open Space** upon all successive Councils are as binding today as they were when they were first enshrined from 1922 onwards, and that B&NES Corporate Council, which you as a

sub-Committee purport to represent must respect the indisputable legal facts that:-

1. "You (B&NES Council **as Trustees**) enjoy no unfettered discretions" because "there are legal limits to every power you (or the Charity Commission) have".
2. These limits contained within the constitution of the Charity expressly identify the terms under which your powers are limited are absolute in that :-

"the whole land conveyed and subject to pre-conveyance contract **"shall FOREVER REMAIN as Public "OPEN SPACE"** and that all covenants and contractual obligations **shall subsist "INTO WHOSEVER HANDS THE SAME** (the "Open Space") **MAY COME...."**.

The fact that Mr Blofeld appears to be showing the intelligence and professionalism to recognise these insurmountable barriers to all commercialisation and building development on the Rec is, on the one hand, gratifying vindication of all that Bath residents as beneficiaries have repeatedly been telling Councillors for fourteen years, but on the other hand his proposals as yet are unclear and shrouded in mystery and contradiction that puts their credibility still at serious risk of failing to be acceptable or succeeding.

Present references in the national press to further ultra-vires and potentially fraudulent leases for as long as 125 years would not only be a further defiant and gross breach of trust by errant Councillors, but is fast bringing us to the brink of a Judicial Review which may prove even more suddenly "terminal" for Bath Rugby in exactly the same way as our Group warned Councillors and the Plc would be the result of the High Court challenge in 2002 but no-one listened then, and now, eight years later, Councillors' conduct has not improved.

If Mr Blofeld's initiative to get Mr Brownsword's business and traffic operations off our public Open Space by recognising the

need for a more appropriate site, especially Western Riverside”, then if he, Councillors and the Bath Chronicle are truthful and sincere now in wanting to do what is lawful and best for Bath Rugby, then you should mend your ways and support Mr Blofeld’s initiative in every way possible whilst there is still time and before a Judicial Review forces your hands far more quickly and terminally than we similarly warned would be set in motion by the High Court Case in 2002.

Mr Blofeld, even as a total newcomer, seems to be showing better judgment and sense of responsibility to all concerned than our Councillors have done in over a decade and therefore we urge everyone, the Bath Chronicle included, to realise that if this initiative is sincere, and all aspirations of further ultra-vires leases of the Rec for professional and business exploitation are dropped and publicly denounced, whilst getting behind the Club in securing a more appropriate alternative business site in everyway possible before more time is lost, or the Court imposes sanctions and “Orders” that will enforce the final termination of business exploitation on this valuable Charitable asset, then you need to achieve the PLC’s move from the Rec without further prevarication and delay. This will in the end be far more successful than if this avoidable stalemate continues.

Let no-one be under any illusions that following consultations with the Charity Tribunal and Senior Counsel no-one will ever again be allowed to carry long leases of the Charity’s asset of public Open Space on their business balance sheets, nor will any attempt to ‘float’ on the stock market with such an asset remain unchallenged at every level by beneficiaries through far more potent ‘regulators’ than the deplorably secretive and failed Charity Commission has shown the ability to regulate so far.

I for one do not want to see Bath Rugby forever scarred with the blame for desecrating the heart of the otherwise beautiful City they are supposed to represent and promote in a better way.

  
(M J W Gilson)

19.01.10