

BATH AND NORTH EAST SOMERSET

BOARD OF TRUSTEES OF THE RECREATION GROUND, BATH

Thursday, 16th December, 2010

Present:

Councillors Chris Watt, David Hawkins and Vic Pritchard

51 EMERGENCY EVACUATION PROCEDURE

The Chair drew attention to the Emergency Evacuation Procedure.

52 APOLOGIES FOR ABSENCE

There were no apologies for absence.

53 DECLARATIONS OF INTEREST UNDER THE LOCAL GOVERNMENT ACT 1972

There were none.

54 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none

55 QUESTIONS AND STATEMENTS

Statements had been submitted by the following members of the Friends of the Recreation Ground (copies of which are available on the Minute book);

- Worthy Gilson
- Keith McGarrigle
- Tony Hooper

Councillor Andy Furse regretted that there had been no papers available for the meeting; he wanted to know about the costs associated with the consultation and how the questions would be set. Without a report, he felt there was no transparency for the beneficiaries of the Trust.

56 MINUTES

On a motion from Councillor Hawkins, seconded by Councillor Pritchard it was

RESOLVED that the Minutes of the previous meeting were confirmed as an accurate record and signed by the Chair.

57 LAUNCH CONSULTATION ON FUTURE LAND USES AT THE RECREATION GROUND

The Chair introduced this item by explaining that the Charity Commission have stated that they believe that the Trust is at a point where it is ready to apply for a new scheme which must be done by 31st March 2011. The Commission have also made clear that the Trust is required to consult with the beneficiaries on the main aspects of the plans.

The consultation exercise will have to involve a detailed description of any Trust land involved and, if there are detriments from land lost to the beneficiaries, it will need to be clear what land might be available to balance these detriments.

The consultation will last for 8 weeks and will involve a range of activities such as publication of paperwork, website entries, public meetings, surveys etc.

The Trust has a duty to resolve the abuses that exist and it is appropriate to use the Trust's resources to bring about this resolution. It is reasonable for the Trust to expect that any body that may benefit from a resolution of the current abuses to contribute to the cost of any consultation on the matter, which could include the Council and the Rugby club. The consultation document will be designed by the Trust to seek the views of beneficiaries on the Trusts proposals to resolve the existing abuses.

Councillor Watt explained that the new ownership of the Rugby club had brought clarity to the club's demands and the Trust now needed to review these to see if they could accommodate these within the framework set by the Strategic Review. The Board did not consider the 31st March deadline to be optional so would be starting the consultation exercise very soon.

The Chair apologised that, due to the number of parties involved and the situation changing up until the point of the meeting, it had not been possible to produce written proposals for the meeting. He then opened the meeting up for further questions – key points arising from these are set out below;

- Third parties will have no input in influencing the content of the consultation document and questions;
- Advice for drafting the consultation document would come from the Trust's independent Advisor, legal Counsel, the Strategic Director and officers with experience of running effective consultation exercises;
- The Trust will not run a separate consultation exercise regarding land at Firs Field as this is a matter for the Council not the Trust;
- In considering land values, the Trust would take into consideration the size, displaced activities, utility and commercial value and would be advised by independent valuers.

Due to the commercial sensitivity of the discussions that were needed (as set out in the Public Interest test document circulated to the meeting), the Chair explained that the meeting would now be moving into exempt session.

58 EXCLUSION OF THE PUBLIC

It was moved by Councillor Chris Watt, seconded by Councillor David Hawkins and

RESOLVED that in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business because of the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act, as amended.

The meeting ended at 8.00 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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STATEMENT 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 THE BATH GUILDHALL on THURSDAY, 16th DECEMBER 2010 at 5 p.m.

It is totally unacceptable that after years of refusing to answer beneficiaries' highly important questions over the Council's defiant and prolonged breaches of trust in contempt of the law, violation of the Charity's constitution and Trustees' legal obligations set in stone in 1956 and subsequently re-affirmed by the high Court in 2002, that you now have the audacity to be contemplating yet further delays in remedying your conduct by engaging in yet more dubiously unnecessary and expensive 'Consultation and propaganda charades' whilst paying no regard to your blatantly obvious statutory obligations incumbent upon all Trustees in situations of this kind.

The irresponsible and devious conversion of intended public benefit to favoured private gain through breach of trust in contempt of the High Court can never be made legal. Your deplorable conduct and that of the Charity Commission will remain open to investigation and challenge as Mr Justice Hart made perfectly clear over eight years ago.

You do not need and should not waste yet more money to indulge favoured commercial interests in the potentially fraudulent mis-use of our Charity's assets for private business gain any further – you simply need to respect the law, honour your legal obligations and return the Rec to the clean, safe and un-dominated public Open Space as Bath's de-facto Village Green it is intended to be.

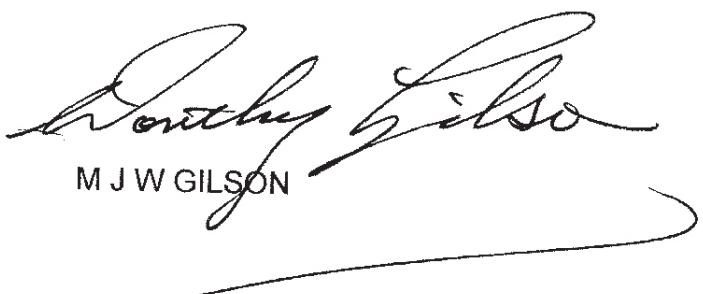
As a number of beneficiaries have pointed out, and as legal precedent makes clear, any abuses of power and breaches of trust in dereliction of duty and facilitating mal-administration or fraudulent mis-use of charitable assets for Trustee favoured private gain will always remain subject to scrutiny and open to prosecution of all parties involved. Commercial sensitivity or exemption from publication is no defence against criminal conduct or collusion to defraud and is best avoided.

This is even more important at a time when your refusal to answer serious questions and your unacceptable conduct has already placed beneficiaries on the cusp of having to seek the help of the Serious Fraud Office, Customs and Revenue and others to provide enforcement of more lawful conduct at even greater public expense through the CPS to have these issues prosecuted and resolved in the wider public interest and for the protection and probity of Charities everywhere.

In the circumstances it is impossible to have trust or confidence in you, and the vast majority of beneficiaries believe that rather than wasting further resources on biased and unnecessary consultation exercises designed to promote the continuance of the mis-use and abuse of the Charity's assets, the more honourable course of action is for you to resign and let others undo what you have so defiantly and wantonly inflicted upon our City and its inhabitants without further delay or waste of money at a time when front line services have greater need of the money you are contemplating squandering to achieve what are widely seen as anti-Charity and anti-social ends for the benefit of Council and Charity Commission favoured millionaires for which future generations will condemn you as much as you are widely condemned in the press and elsewhere today.

3.

What you are deviously facilitating is not the proper purpose of the Charity or what the law requires and this must be remedied without the unnecessary waste of any further biased consultation charades to indulge the Council's very serious conflicts of interest and commercial favouritism for private anti-Charity gain.


M J W GILSON

15.12.10

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Statement by Mr Keith McGarrigle to the Trustees , Bath Recreation Ground Trust Meeting , 16th December 2010 at the Guildhall , Bath , at 5.00pm.

Mr Chairman , yet again we are in a meeting with The Trustees which has been arranged at short notice with no information being made available in order that citizens can respond in an appropriate manner .

There is a complete absence of detail as to what is being proposed.

For whose benefit is yet another consultation being proposed ?

Who will be footing the bill for this consultation in these austere times ? especially in the light of expected government cuts to local authorities in the next financial year . If this consultation goes forward can we look forward to unbiased results monitored by independent parties ?

The lack of information is entirely unsatisfactory and is clearly designed to disadvantage beneficiaries and prevent them from having any input into what will surely be yet another waste of public money.

This meeting should be abandoned pending the production and open publication of a fully comprehensive written report and statement of intent by the Trustees , there should be full transparency as to :

- 1 who will conduct this latest consultation farce?
- 2 In what form will it be presented and promoted ?
- 3 What will be the cost ?
- 4 For whose benefit is this “consultation ” being conducted, in the light of the charade of the last Strategic Review and prior to that the clarification in the High Court in 2002 , of the Recreation Ground’s proper use as a **Public Open Space** , which judgment was handed down at enormous cost to council taxpayers and since which nothing has changed in regard to recognising the status of the Rec as a Public Open Space , The village green in the heart of Bath .

5 Less than 24 hours ago The Friends Of the Bath Recreation Ground received correspondence from Mr Glen Chip; Strategic Director for Service Delivery at Bath & N E Somerset Council . This letter was in response to a number of questions , raised by our Chairman , Mr Gilson . Mr Chip has indicated in his letter that the purpose of this consultation is about a proposed scheme to address both existing abuses of Trust Assets . Mr Chairman please inform this meeting today as to the exact nature of these abuses of Charity Assets .As the Trustees it is your duty to uphold the covenant and contract on the Recreation Ground which should safeguard it for future generations against further domination of the open space by any one organisation or sport.

Statement by Mr. A. B. Hooper to B&NES Council Recreation Ground Charity
sub-Committee meeting at Bath Guildhall on Thursday, 16th December 2010

My statement is as brief and clear as your legal responsibilities and obligations are enshrined in law to stop the defiant and potentially fraudulent mis-use and abuse of the Recreation Ground Charity's **Public Open Space** for Council and Charity Commission favoured millionaires' business ambitions and private gain. Your duties are clear from every aspect of the Charity's constitution, the Council's contractual obligations and the law in many respects.

It is therefore seen as utterly irresponsible for you to be even thinking of squandering yet further public funds or Charity resources to perpetuate the Trustees or the Commission's blatant disregard for the law and contempt of beneficiaries' complaints so far by engaging in any further biased consultation exercise and propaganda for the inappropriate benefits of the Council's favoured Plc as previously seen.

I urge you, therefore, to desist from any such further waste of resources on yet more dubious and unnecessary consultation exercises to circumvent your legal and moral obligations and to have the decency to resign now so that after guidance has been received from on-going discussions and forthcoming investigations which you have already made it necessary for beneficiaries to seek from the Serious Fraud Office, Customs and Revenue and the Crown Prosecution Service, etc., other more reliable Trustees can be brought in to remedy the unlawful mis-use and abuse you have got our otherwise honourable and important Charity into.

2.

Please have the decency to go now as we have previously requested in order to avoid yet more waste being incurred and more detriment to the Charity and damage to the community which is caused by your deplorable conduct that shames the Council and deprives inner City children of the charitable amenity as **Public Open Space** the Rec is legally intended to provide and for which no further dubious **consultation** expense is either necessary or justified.

A B Hooper

A B HOOPER/16.12.10

Bath & North East Somerset Council		
MEETING:	Bath Recreation Ground Trust Board	
MEETING DATE:	16 December 2010	AGENDA ITEM NUMBER
TITLE:	Launch consultation on future land uses at the Recreation Ground	
AN OPEN PUBLIC ITEM (with exempt appendix)		
List of attachments to this report: Exempt Appendix 1 – Briefing Note for Trustees (exempt by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 as amended.)		

1 THE ISSUE

1.1 This paper gives the Trustees an update on the lease proposal. The Trust Board is asked to consider the proposal and the consultation with beneficiaries about getting the Charity Commission to progress with the resolving of both existing abuses at the site.

2 RECOMMENDATION

The Bath Recreation Ground Trust is asked to agree that:

- 2.1 The position with the proposal is noted
- 2.2 Agree actions in relation to the proposal and existing abuses at the site
- 2.3 The Trustees resolve to delegate the finalisation of the consultation document to the trust advisors, in conjunction with the Chair of the Trust Board.

3 FINANCIAL IMPLICATIONS

- 3.1 The financial implications of the holding of this meeting is contained within the budget held by the Monitoring Officer.

4 THE REPORT

- 4.1 Attached at Exempt Appendix 1 is a briefing note to the Trustees about the proposal and matters to be discussed.

5 RISK MANAGEMENT

5.1 Risks are financial and are associated with the proposal and outcome of the existing abuses at the site.

6 ADVICE SOUGHT

10.1 Not applicable as this report is for information only.

Contact person	Glen Chipp - Strategic Director for Service Delivery – 01225 394567
Background papers	<i>None</i>
Please contact the report author if you need to access this report in an alternative format	

Access to Information Arrangements

Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA/10/020

Meeting: Bath Recreation Ground Trust Board

Date: 16 December 2010

Author: Glen Chipp

Report : Launch consultation on future land uses at the Recreation Ground

Appendix Title/s:

Appendix 1 – Briefing Note for Trustees

The appendix constitutes exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:

3. *Information relating to the financial or business affairs of any particular person (including the authority holding that information).*

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the meeting resolve to exclude the public. The paragraphs below set out the relevant public interest issues in this case.

PUBLIC INTEREST TEST

If the Committee wishes to consider a matter with press and public excluded, it must be satisfied on two matters.

Firstly, it must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local Government Act 1972. Paragraph 3 of the revised Schedule 12A of the 1972

Act exempts information which relates to the financial or business affairs of the investment managers which is commercially sensitive to the investment managers. The officer responsible for this item believes that this information falls within the exemption under paragraph 3 and this has been confirmed by the Council's Information Compliance Manager.

Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds.

Factors for disclosure:

Disclosure would:

- Further public understanding of the issues concerned.
- Promote accountability and transparency by the Council for the decisions it takes and in the spending of public money.
- Allow individuals and companies to understand decisions made by the Council affecting their lives and assist individuals to challenge those decisions.
- Further public participation in the public debate of issues.

Factors for withholding:

- The Appendices contain information which relates to the financial and business affairs of the Council.
- The Appendices contain commercial information detailing proposals regarding the future occupation and use of the Recreation ground. It is important that the Council is able to protect its commercial position in this matter while the options are considered and progressed.
- It is also important that the Committee should be able to retain some degree of private thinking space while decisions are being made, in order to discuss openly and frankly the issues under discussion.

Reasons why the public interest favours withholding disclosure:

- The Council considers that the public interest has been served by the main report will be disclosed.
- The Appendix refers to unresolved issues about which the Trustees of the Recreation Ground Trust haven't yet formed a final view - there is an important public interest in the Trustees being able to consider these issues in private.

- It is in the public interest that the Council is able to deliver cost-effective solutions in relation to significant local issues. This depends partly on the Council being able to protect its commercial position while the detailed terms of relevant schemes are agreed. Release of this information would prejudice this function, as outlined above, and is therefore not in the public interest.
- It is important for public authorities to have some measure of ‘private thinking space’, and that they are able to share important information with Elected Members tasked with representing the local community.

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