

**Response by J Sparrow to the objections raised to the Town Green Application for the
Bath Recreation Ground**

1. **General statements that should be read in conjunction with the later specific responses to the individual objectors.**

Before writing my response to the seven letters of objection I thought it would be useful to itemise the fundamental issues on which my application is based. I will then consider each objection letter with respect to these issues referred to as A, B, C and D below and refer to the relevant section or appendix accompanying the application if appropriate.

- A. **The original conveyance and associated covenants from 1922 and 1956. These can be seen in full in appendices 1 and 2 of the application.**

These documents are the primary source against which all aspects of the Recreation Ground should be tested. The documents outline by whom, the citizens of Bath and what the Recreation Ground can and cannot be used for, the covenants. If Town Green status had existed in 1956 then the Recreation Ground would already be registered as such. It conforms with all the requirements of a Town Green as a local open space for residents to enjoy legal sports and pastimes (LSP), cause no disturbance to the local residents and provide 'as of right access' at all times. This should have existed for the past 57 years!

- B. **The High Court ruling of 2002 see appendix 3 of the application for a summary and refer to case no. HC 01012125 for the full document.**

In 2002 B&NES Council wished to break the covenants so that they could exploit the Recreation Ground in inappropriate ways. In this they failed, at high cost to the taxpaying residents and their action resulted in the High Court judgement which confirmed not only that the Recreation Ground is subject to covenants, which restrict what can and cannot be done with and on the Recreation Ground but also that it should have been run from 1956 as a charitable trust. Since that time the Council have continued to operate as though they own the Recreation Ground and in my view is thus in contempt of the High Court ruling. This view is largely confirmed by noting that it is B&NES officers, as advisors to the Trustees, who have made objection number 6 to the Town Green application.

- C. **The rules for the Recreation Ground Trust set up by the Charity Commission in 2002 following the High Court ruling. See appendix 4 of the application.**

Following the High Court judgement the Charity Commission became involved to set the rules by which the Trustees should run the Bath Recreation Ground Trust. These rules incorporated all those previously defined in A and B above. At this stage a number of buildings and/or activities were found to be in breach of the rules and thus illegal. Although this was 11 years ago nothing has been done by the Council, the Trustees or the Charity commission to rectify the situation. In fact in many ways they have made the situation even worse as will be explained later.

The most important thing, amongst many others, is that all A, B and C above state that the Recreation Ground must be retained as an Open Space in perpetuity.

The 1956 conveyance in particular was to the Mayor, Aldermen and Citizens of Bath. This now equates to some 80,000 residents. Being located in a City of this size it was appropriate that it should be described as a Town, not a Village, Green. The original open space was to be made available to the citizens at all times and as of right. In this respect it clearly meets the locality/neighbourhood requirement of a Town Green and the significant number who might wish to use the facilities for a variety of legal purposes. Many of the ways citizens have used the recreation ground are identified in the witness statements in appendix (10x) to the application. In the theoretical possibility that a very significant number of citizens might wish to use the open space at the same time it is sensible to ensure that large gatherings for sporting events; festivals; charitable functions etc. should be co-ordinated so that clashes of use could be avoided. The Mayor and Aldermen as referred to in the conveyance were the obvious personnel to achieve this but have never been involved in this way.

This state of affairs was achieved quite successfully for many years, as witness statements presented as appendices 10(x) to the application indicated, in some cases for over 45 years. No restrictions were ever placed on individual or small groups of people having access as of right throughout this period.

Two illegal events however caused this situation to change dramatically;-

- a. The illegal erection of the Leisure Centre on the open space by the Council.**
- b. The introduction of Professional Rugby in 1995/6 and the erection of more illegal buildings.**

The leisure Centre only prevented access over a small section of the Recreation Ground but did not prevent 'as of right' access through the underground car park or via either side of the building. It provided citizens with indoor facilities to be enjoyed mostly in daylight hours.

The Commercial Rugby introduction spoilt both the access to and the inability to use the grass open space, which they then surrounded by large extra stands both permanent and temporary enclosing the playing area and making it inaccessible to citizens, not only for their matches but at all times. The main pitch is only used at most for 20 premier matches but the whole area is denied access for the months of September to May every year and during the summer months other activities run or sponsored by the Rugby Club prevent citizen access to the playing area. The witness statements in appendices 10(x) clearly show this to be true. They cut off one of the access points around the Leisure Centre in their push to treat their pitch as though it was Fort Knox. Some of the statements included, in objection 7 from the Rugby Club, even refer to young children being asked to leave the pitch area as though they could do more damage to it than 30 heavy men playing on a match day!

The very people, initially the Council and latterly the Trustees, who should have been ensuring the open nature of the whole Recreation Ground were directly responsible for breaking all the rules set out in A, B and C above. In one case a senior officer and a legal representative of B&NES Council have produced one of the objections to the Town Green application! The Recreation Ground has had open access for over 70 years, well over the 20 years required for Town Green status and furthermore, it has only been compromised by illegal activities since 1996.

It is sensible practice for those permanent sports facilities, which need playing areas to be marked out and maintained, to be protected by small boundary fences providing they

maintain an open membership to any person who wishes to enjoy the sport. This is true of all groups except the Rugby Club.

In a similar fashion it is sensible for the whole Recreation Ground to be closed at nights to avoid any damage or unsociable activities taking place under cover of darkness. In my opinion the Recreation Ground cannot be said to be not an open space when sensible precautions are taken to preserve it for all to use.

The High Court in particular made it clear that the current B&NES Council do not own the Recreation Ground but only hold it in charitable trust.

D. The Trustees and the Charity Commission both agree that the Rugby Club's occupation and the Leisure Centre building are both illegal entities on the Recreation Ground according to A, B and C above. See the Trustees recent submission for a 'scheme'. So I am referring to this as D in the responses.

Those deciding the case should dismiss any objections to the Town Green Application, which rely on the presence of the illegal Leisure Centre Building or the Rugby Club, for support, especially concerning access and 'as of right' entry. It is difficult for me to understand how B&NES Council can be involved at all with the decision making process on the Town Green application given their close relationship with the Recreation Ground and their inability over many years to ensure that the rules affecting its use are obeyed. I would suggest that an independent body is required from the outset to determine the validity or otherwise of the Town Green application.

The law, in my opinion, is very straight forward. Matters are either legal or they are not. Rather like pregnancy where a woman is either pregnant or not.

In 2003 the situation regarding the Leisure Centre was clarified between the B&NES Council, the Charity Commission, various residents and confirmed by the High Court. See appendix 5 of the application. It should no longer be termed illegal but it should not be used as support for objections.

It may also be of interest to know that there were also eighteen letters supporting the application although the notification posted by the Council only requested letters of objection. Several people enquired as to whether this was a correct practice on behalf of the Council. Others have contacted me privately to offer their support and I believe have sent letters to Mr. Stark.

The Town Green Application if approved will help ensure that the rules set out in A, B and C above will be satisfied and D will be resolved. It will not affect any current or future legitimate users of the Recreation Ground, by individuals or groups and the Recreation Ground can remain a Charitable Trust.

Since the current and previous Trustees and their Advisors from B&NES Council have failed to abide by the rules, set out in A, B and C above and agree D is true, it has become necessary to apply for Town Green Status to redress the situation and return the Recreation Ground to the open space as it was originally conveyed.

All but one of the 7 objectors use the illegal presence of the Rugby Club and to a lesser extent the Leisure Centre to show, in their view, that a free access and access ‘as of right’ has not been possible over the past 20 years. I cannot see that something, which is illegal, can be used in evidence to object to a perfectly legal Town Green application.

I need to make a correction to the Map that was displayed with the council notice of the application. It was necessary for me to outline the area I wished to register as a Town Green on a 1:2500 scale map in the original application. Since I have no map drawing software I drew a red outline around the area described as The Bath Recreation Ground. In doing so I made a few minor mistakes with my felt tipped pen. When this map was reproduced for the application notice it showed some minor errors on the north and eastern boundary of the land to be registered. Since I was not sure that I could improve on this with the tools available to me I agreed to let the situation stand and would rectify it at a subsequent stage. This I am doing now by attaching a copy of the land to be registered hatched in blue, in a similar fashion to the map published by the Council. I would stress that in all the written text the correct designation of ‘The Bath Recreation Ground’ was used to define the area for registration. If this has caused any confusion then I apologise. I believe that the area defined as ‘The Bath Recreation Ground’ is registered properly with the land commission.

There are three new issues that have arisen since the application made in November 2012. They are all relevant to the Town Green application and should I think be considered by those determining the outcome of the application. The issues are:-

- a. ‘Scheme’ proposed by the Trustees/ Charity Commission.**
 - b. The Core Strategy being devised by B&NES Council.**
 - c. The issuing of a document to local residents by the CEO of Bath Rugby Ltd.**
- a. In late November 2012 the Trustees and their advisors proposed a way forward for the Recreation Ground which they claimed would overcome the illegalities that exist. Only one month was given for citizens to respond and only 3000 leaflets were made available when all 80,000 beneficiaries should be consulted. It arose over one year after a flawed consultation in 2011 in which only 4515 responses were obtained, the vast majority from unknown addresses. None of this information was presented or discussed at Trustee meetings throughout 2012. It was only made available on the Trust’s website after, or just before, the closing date of 31st December 2012 so that responders could not use the information it contained in their responses. If it were to succeed then the Rugby Club would not even be a tenant of the Trust but a sub tenant of an off shore company! I suggest that those deciding the future of the Town Green application obtain a copy of the Trust proposal and the communication with the Charity commission dated 23rd December 2011. The trustees further compounded their felony by claiming the ‘scheme’ was put forward by the Charity Commission! The document did not report that an agreement had already been entered into by the trustees and their advisors in early November 2011 to lease a larger plot of Recreation Ground land to the owner of the Rugby Club in order that he could develop it, using an off shore company Arena 1865, based in the Bahamas. This is clearly not allowed by the conditions laid down in A, B and C above. If further proof is needed this shows how illegally the Trustees have been in running the Recreation Ground.**
- b. B&NES Council are quite rightly attempting to produce a new core strategy document after the previous one was rejected. They are attempting to get the Recreation Ground designated as a development area, against all that is laid down in A, B and C above,**

primarily so that the Rugby Club can develop a new Stadium to seat 18 to 25,000 supporters on what should be our Town Green. This is yet another reason why I believe that B&NES Council should play no part in deciding the Town Green application.

- c. In March 2013 the CEO of Bath Rugby issued a document, to some but not all residents who live close to the Recreation Ground asking if they would support an attempt to break the covenants on the Recreation Ground despite the fact that the High Court had already ruled on this matter in 2002. Apart from being issued by an illegal occupant of the Recreation Ground it was possibly illegal in other respects. It asked for a yes/no response to whether the respondent supported or not another attempt to go to the High Court, indicating some level of contempt for the previous adjudication, but also requested legal reasons for saying no in case this could be used subsequently in any court case that might arise. This caused upset, fear, disgust and general concerns amongst the small section of citizens contacted by unsolicited mail. This is another example of the Rugby Club intimidating members of the public and to date no action has been taken by the Trustees to address the issue showing how ineffective they are in representing the Citizens interests. Again I would suggest that those deciding on the Town Green need to appraise themselves of this intimidating document.

On the grounds above, I believe that those examining the application should reject the objections and agree that the Recreation Ground should become a Town Green. In future any Trustees should ensure that the conditions included in A, B and C are complied with rigorously.

To comply with the request from B&NES council I respond individually to the 7 objections below.

2. Objection Letter 1 from Darius Mehta.

- a. He does not give his address so it is impossible to know if he is a true citizen of Bath and thus a beneficiary or not. He needs to live in the city of Bath to qualify as a beneficiary.
- b. The limit of 5 or more persons is an unnecessary, probably illegal, self-imposed limit by the trustees. It is not stipulated in any of A, B or C above. Many families have more than 5 members. For larger events it is clearly a sensible arrangement if the Recreation Ground needs any preparation for the facilities to be enjoyed or may clash with other large ongoing legal users. The designation of a Town Green would not change this. Local residents have certainly held picnics and played games with more than 10 people present without being challenged or restricted.
- c. I addressed the situation regarding the Leisure Centre in appendix 5. It is not unreasonable that persons using expensive indoor facilities would need to contribute and clearly the building itself require locking outside operating hours. Payment for participative activity is valid within the covenant rules. Persons can still enter the Recreation Ground from North Parade Bridge road unless they are prevented from doing so by permission that the Trustees have given for a large charitable event. Town Green status need not change these arrangements.
- d. Since the Rugby Club became a professional and commercial organisation in 1996 the Trustees and the Charity Commission declare its use of the Recreation Ground illegal, see D above. They would need to vacate the Recreation Ground if Town Green status is approved. There would be no restriction on amateur rugby being played, as it was for many years prior to 1996, providing it abides by the rules and keeps the Recreation Ground as an open space. Restricting access is illegal but the Trustees and the Charity Commission, against A and C above, have supported this since 2002 despite it being illegal.
- e. I addressed the issue of the croquet club and the tennis clubs in an addendum to the application. All these groups are open to new members and clearly need to protect the lawns and courts from damage and the other users of the Recreation Ground from their balls. They all pay annual or longer-term lease fees to the Trust for the upkeep of their facilities and this would not need to change following Town Green acceptance. The use of the Recreation Ground with or without charge is acceptable according to the covenants. See Appendices 1, 2 and 4.
- f. The only sport or pastimes that have been preventing access for extensive periods since 1956 are Professional Rugby and to a much lesser extent the Leisure Centre. The position of the latter has been resolved, see appendix 5, and the Town Green Application would overcome the Rugby illegality, by forcing them to move elsewhere.
- g. If access has been denied then this is due to the Trustees not operating the Trust in an appropriate manner since 2002, breaking the rule of keeping the Recreation Ground as an open space as defined in A, B and C above.

3. Objection letter 2 from Zoë Tarrant, Seasons Holidays PLC

- a. If the plan you have seen suggests that any land owned by you is included in the Town Green Application then this is an error on my part. The plan included with the application required that the area requesting Town Green status needed to be edged in red on a scaled plan 1:2500. Not having access to map drawing facilities I edged the Bath Recreation Ground in red by hand as Map A. This map was redrawn by Mr Stark, to the one shown in the posted advert around the Recreation Ground. With full map drawing facilities this exaggerated any minor errors in my hand drawn version. I could not be sure that I would not make a similar minor error if I did it again so I allowed it to go ahead.
- b. You will find in the full application that all references to the area concerned are described correctly as 'The Bath Recreation Ground'. It appears with this name on all the ordinance survey maps and is referred to in the legal documents supplied as appendices 1 and 2. I believe it has been registered as such with the Land Registry.
- c. The Town Green Application includes the croquet lawn up to but not beyond the wall that separates it from your hotel boundary.
- d. Unfortunately there was no copy of your land registry entry included with the objection letter copy sent to me but I can assure that there is no intention to include any of your land within the Town Green Application.
- e. Please see a copy of the attached revised Map A for the Town Green Application drawn in a similar fashion to the one posted with the application around the Recreation Area.

4. Objection letter 3 from Jason Curtis of Aquaterra

- a. The Leisure Centre is built on land owned by the Recreation Ground Trust.
- b. B&NES Council erected the building prior to the Trust being set up in 2002 when they were acting as if they owned the land rather than it being held in a charitable trust. The High Court ruling in 2002 confirmed that B&NES Council did not own the land but only held it only in a charitable trust for the owners, namely the Citizens of Bath.
- c. Since 2002 the building has been illegal according to both the Trustees and the Charity Commission see A, B and C above.
- d. However since 2003 it was agreed, between the B&NES Council, the Trustees and the Charity Commission that the Leisure centre can remain for its natural life provided, it is maintained by the Council and removed by them at the end of its natural life, at no cost to the Trust. See appendix 5.
- e. Aquaterra do not deny access to the building. Quite to the contrary they encourage as many of the public to use it as possible to cover costs. Locking the building out of hours is a necessary security precaution.
- f. The land remains in the ownership of the trust, including the car parking area and access is freely available to the Recreation Ground through the car park and around the building at ground level.
- g. As with other leaseholders of the Recreation Ground, since 2002 the lease should be with the Trust with any monies paid going to the Trust. At present if your lease is still with B&NES then you are only sub-tenants and B&NES should pass the lease charged to the Trust.
- h. It is within the agreed covenants that fees can be charged for use of the facilities see A and C. This is the case with all the other amateur users of the Recreation Ground who hold annual or longer leases with the Trustees (i.e. The Drama Club, the Croquet Club and the Tennis Clubs). It also applies to the Rugby Club but they are illegal because they run a commercial and professional club unlike yourselves who deal with amateur sports and are a not for profit organisation.
- i. None of the current arrangements would need to change if the Town Green Application is approved and the above conditions are observed.
- j. The registration concerns the land. Any buildings on it must be legal under the conveyance conditions and covenants of 1956, see appendix 2. Buildings on the land are not allowed by the regulations in A, B and C or they would have to be removed! In the case of the Leisure Centre this has been resolved. See appendix 5.
- k. Objections based on the Leisure centre's presence should not be acceptable, see D above.

5. Objection letter 4 from Ian Wilson

- a. The only sporting activities that should need prior approval are large amateur or charitable events, which may need facilities to be prepared by the Trust or checked that they do not prevent other users from accessing the open space.
- b. If the Trustees are going beyond and above this then they are in breach of A and C above.
- c. There is acceptance in the covenants that users of the Recreation Ground with appropriate agreement can charge for their activities. This is usually included in the leases granted by the Trustees and covers preparation of playing areas, laying out such areas. Fees paid by those enjoying the various sporting activities are a contribution to the lease charge. See the addendum to the original application.
- d. However since 2003 it was agreed, between the B&NES Council, the Trustees and the Charity Commission that the Leisure centre can remain for its natural life provided, it is maintained by the Council and removed by them at the end of its natural life, at no cost to the Trust. See appendix 5. The land however remains in the Trust.
- e. It is within the agreed covenants that fees can be charged for use of the facilities see A and C. This is the case with all the other amateur users of the Recreation Ground who hold annual or longer leases with the Trustees (i.e. the drama Club, the croquet Club and the Tennis Clubs). All these amateur clubs are open to new members but clearly must protect their playing or performing areas. See the addendum to the application, which dealt with this particular aspect.
- f. The Rugby Club's use of the Recreation Ground is illegal and agreed so by both the Trustees and the Charity Commission. This has been the case since 1996 when they became professional and in 2002 when the charitable status of the Recreation Ground was established. See B and C above.
- g. The illegal presence of the Rugby Club should not be used by objectors against the Town Green Application, see D above
- h. The Trustees are at fault in closing the whole Recreation Ground on match days when the Rugby Club only lease part of the area and the rest should be left as open space. They should only exercise this responsibility for sports or other events, which satisfy the covenants and charity objectives in C above.
- i. *Barvis v North Yorkshire Council* is irrelevant because the High Court have already ruled that the Council do not own the land but only hold it in trust. See B above.
- j. If the Trust, via the Trustees, and the Council before them had held the Recreation Ground in the way you suggest then there would have been no need for the Town Green Application to be made.
- k. The Town Green approval would not affect any of the present or future legal amateur activities. The Leisure Centre's future for the natural life of the building is assured, providing that B&NES Council honour their commitment to maintain it and demolish it when it is no longer viable to maintain. See appendix 5.
- l. The only risk to the Leisure Centre is if the Council fail to honour this agreement.
- m. The only activity at risk is the illegal Rugby Club. They run a commercial professional organisation in buildings, which should not have been authorised under A and C. Both B&NES Council and the Trustees are guilty of contravening the rules set up in A and C above. Being illegal the Rugby Club should relocate elsewhere.

6. Objection letter 5 from Phillip Dunning

- a. I do hope that Mr Dunning read the full application in addition to the letter in the Bath Chronicle.
- b. All the events mentioned would be able to continue if the Town Green Application was successful.
- c. Amateur local Rugby could still be played as it was quite successfully before 1996. It would of course have to obey the rules identified in A and C above. When Rugby became professional and grew rapidly into a large commercial organisation, it became illegal, which is against the regulating documents in A and C above.
- d. The old west stand which you find an embarrassment is probably the only official building, with the possible exception of the original club house, that are a legal under the conditions of A and C above.
- e. The TV cameras are part of a commercial development, which is also against the regulations.
- f. Currently there are no plans for the public to see how any new buildings satisfying the rules can be developed. Developments in general are not permitted within the rules set by A, B and C.
- g. The Rugby Club have had secret discussions with the Trustees but the beneficiaries of the Recreation Ground have not been party to these discussions nor have they been presented with any legal plans. You have clearly found the same problem.
- h. Granting Town Green Status to the Recreation Ground would not mean that progress could not be made but that it would have to satisfy the rules set out in A, B and C above.
- i. Cooperation with all the organisations of which you are a member could be helpful in this respect. They could perhaps provide members of a new and properly independent set of trustees.
- j. It is clear that the present Trustees are unable to carry out their duties within the rules as they have shown over the past twelve years.
- k. Part of the problem is that the trustees appointed arbitrarily by the council represent no one but the Council and the Rugby Club. They cannot be described as independent as they should be for a charitable trust.
- l. Unfortunately because the planning committee are too strongly influenced by trustee councillors, or are not fully made aware of the rules in A, B and C above, they have tended to approve illegal developments, almost on the nod, as can be seen in appendix 9 of the application.
- m. Access to the Leisure Centre building is easy, providing you are prepared to pay a small charge for the benefit of using the equipment and supervision provided by Aquaterra. This is acceptable under the rules outlined in A and C and would remain so after Town Green approval. Locking the building at night is clearly a necessary security issue in this day and age. Access is still permitted to the Recreation Ground, unless gates are closed for security purposes when a large charity event is taking place on the Recreation Ground. Since the building was erected illegally it cannot be used as an objection to the Town Green application, see D above.
- n. When Bath Rugby is holding home matches the Recreation Ground should not be closed for access by the public except for the area which they currently lease illegally. Extending their use of the Recreation Ground is even more illegal, if such a concept is a reality! The trustees are clearly at fault and should restrict the Rugby

Clubs use to the area they currently lease illegally, until that situation is resolved by them moving elsewhere.

- o. Town Green Status has only been proposed to ensure the Open nature of the Recreation Ground demanded by A, B and C above.
- p. I am afraid the Rugby Club proposals only demand that a further 35 metres across the whole width of the Recreation Ground will be needed for their illegal expansion plans. Open access for the rest of the legal users will be at Lambridge instead!
- q. If the Recreation Ground trust were to be provided with all the money owed to it by past misdemeanours and ineffectively collecting fees due to them then there might be sufficient funds to develop the plans that you find most desirable if they can be achieved within the rules outlined in A, B and C above.
- r. Town Green status does not mean the end of the charitable status for the Recreation Ground but it really does need a better set of Trustees to run it.

7. Objection number 6 from Andrew Pate and Andrew B Reed of B&NES

- a. Since both these objectors are senior members of B&NES their objection clearly demonstrates a strong conflict of interest, since it is B&NES, as I understand it, which will initially decide the outcome of the application.
- b. Messrs Pate and Reed are the current advisors to the Trustees but are employees of the B&NES Council.
- c. Since 1956 the Council ran the Recreation Ground as if they owned it, which was clearly identified as being wrong by the High Court. During this time they failed to adhere to the clear covenant rules laid down in the Conveyance to the Citizens of Bath. They erected the Leisure Centre illegally, which they now accept.
- d. Since 2002 the Recreation Ground should have been run by the Trustees under the rules and regulations prescribed by A, B and C. This they have clearly failed to do by breaking every covenant and denying the owners of the land, the citizens of Bath, open access to all of their Recreation Ground.
- e. Both before 2002 and after, I produced as evidence in the application two leases that had been agreed with the Rugby Club. Even the first, see appendix 6 with the application, which was for legal amateur Rugby shows that only brief reference was made to the conveyance of 1956 and its accompanying covenants, see appendices 1 and 2. It still permitted buildings to be extended, an illegal temporary east stand, albeit much smaller than the present one and it prevented open access to the Recreation Ground all against A, B and C above. The second is a copy of the original lease to the professional rugby club for the 'temporary' East stand, see appendix 7. This was against A and C above and has been made worse over the past 10 years by being granted annually in ever increasing size. Further more it was signed by the Council and not the Trustees and Mr Reed was the named Council employee!
- f. The Rugby Club and the Leisure Centre's presence on the Recreation Ground are declared illegal by the Trustees, their B&NES Advisors and the Charity Commission so using them in arguments to support objections to the Town Green should not be acceptable, see D above.
- g. What I find unacceptable is that the Leisure Centre building is regarded as illegal yet all the Rugby buildings are not. This surely shows undue preference to the Rugby Club and yet another broken covenant.
- h. The advisors may be acting for the Trustees but this only demonstrates that the trustees are not independent of the Council as they should be.
- i. It is clear that most of the material produced by the trustees is actually written by senior council employees, who do not recognise the authority of the High Court nor do they abide by the rules laid down in A, B and C above. B&NES Council still behave as though they own the Recreation Ground, which the High Court ruled in 2002 is not the case. Clear evidence of this can be seen in the flawed consultation of 2011 and the more recent 'scheme', which the trustees appear to want to pass off as a Charity Commission proposal.
- j. If the application is not approved following proper advertising and a significant case being made then it will need to be decided by a higher authority and Mr. Pate is wrong to suggest otherwise. If there are any failings in the application, particularly concerning access 'as of right' and openness, then this is entirely due to the failings of the Trustees and their advisors over many years. Their failure is a catalogue of disaster from day one but particularly since 1996 when professional rugby started. This will only been exacerbated by their futile attempts to regularise the situation in

the land swap scam. Even if this illegal process were to go ahead the Recreation Ground would still be in existence, with all its associated rules and regulations, which it appears the Trustees, their advisors and the B&NES Council are only too willing to ignore. B&NES and their advisors to the trustees are not impartial so any decision on the application should be undertaken by an independent person or body from the outset.

- k. Access to the land not leased by the Rugby Club is currently restricted illegally on match days and residents have been refused access through the gate by the river and the main turnstile gate. This is an illegal practice which occurs some 20 times per year. However for the remaining 345 days there is no restriction! This illegal practice is supported by the Trustees!
- l. Access is freely available through the turnstile gate, the river entrance, the roadway entrance at the end of Pulteney mews and around the Leisure Centre. There has never been anything to restrict access, except on Rugby match days, which is against A and C above. Nor have there been any notices to say that restrictions are in place, apart from illegal parking. This implies that the Trustees and their Advisors know that to place any such notices would be against the rules laid down in A and C above.
- m. The footpath from William Street to the River entrance is also illegally closed on Rugby match days.
- n. It is interesting to note that this objection is written on B&NES headed notepaper and does not appear to have any supporting evidence from the Trustees themselves. B&NES claim to be the sole Trustee but the Trust board members should represent the citizens of Bath. The trustees after all are supposed to represent all the owner beneficiaries, i.e. the citizens of Bath. Town Green status would achieve this position and bring the Recreation Ground back to the original objective of the conveyance in 1956.
- o. I sincerely hope that there will be other members of B&NES Council who will need to decide the way ahead and that they will not be biased by the views of council employees and trustee councillors who have failed to obey A above from 1956 and B and C above since 2002. It would of course be preferable that independent assessment was possible from the outset of the evaluation.
- p. In the next paragraphs I will also refer to the numbered sections in Mr Reed's objection. This is yet another member of the same B&NES Council who will be deciding the initial outcome of the application!
- q. [1] The Council has shown in numerous ways that it still operates as though it still owns the Recreation Ground rather than allowing the Trust to act for all the beneficiaries identified in A above.
- r. [2] I too reserve my position to provide more information when other details are put into the public domain. These would cover any developments proposed and any valuations concerning the Recreation Ground. Including those suggested, but not included in the trustees 'scheme'. I have suggested in my general section that those evaluating the proposal should obtain copies of the correspondence between the Trustees and the Charity Commission dated 21st December 2011. Although the 'Heads of Terms' relating to the 'scheme' have now been put up on the trust website no dates are included and the valuations are not there. This is not surprising as I doubt anyone in Bath would believe that Lambridge is seen to be more valuable than the Recreation Ground. If Mr Reed disagrees he could always publish the valuations from Jonas Drivers Deloitte in the Bath Chronicle and wait for the outburst!
- s. [2] Since it is possible that the Council are still trying to designate the Recreation Ground as a development area, against all the rules pertaining to A, B and C, in their

new core strategy. This too may need a further submission. See appendix 8 with the application. I understand that this is of course not within their remit, since they do not own the land in question, see B above.

- t. [3] I believe to the best of my ability, with the information available in the public domain, that I have done just that. Trustees and their advisors, who do not provide access to relevant information relating to the Recreation Ground, like leases to illegal users and holding private discussion at Trustee meetings, to which the public, i.e. the beneficiaries are excluded, is less than helpful to say the least.
- u. [5] The conveyance of 1956 defines the citizens of Bath as the beneficial owners. The public at large are entitled to use the open space provided it does not conflict with the conditions specified in A, B and C. I cannot see how you believe other than that the Recreation Ground is located in central Bath!
- v. [6] Residents of Bath and those from further around use the Recreation Ground, 'as of right' without consulting the Trustees or B&NES on a regular basis. Clearly larger gatherings need to ensure that they will not conflict with other larger gatherings at the same time. Town Green status would not change this arrangement. Families often go onto the Recreation Ground without seeking permission so the arbitrary lower figure set by the Trustees is inappropriate, even if not another illegal practice. I do not believe that there is anything mentioned in A, B or C to support this view. The evidence produced to support the application was in fact the same as the number of objections. If you add in the 18 unsolicited letters of support to the application and those that have contacted me privately and I believe written to Mr. Stark then the number grows. You will appreciate that the application is done in conjunction with the Pulteney Estate Resident Association (PERA) who represent several hundred residents local the Recreation Ground. Numbers do not seem so important when Trustees and Advisors carry out their so-called consultations! Only 5 citizen objectors out of a possible 80,000 means, on the Trustee way of measuring success, the majority must be in favour of the application! The 2 remaining ones from the B&NES Advisors to the Trustees and the Rugby club should be discounted on the grounds of conflict of interest and illegal use of the Recreation Ground respectively.
- w. [7] I have dealt with the situation regarding the Leisure Centre, which was built illegally by the Council in appendix 5 to the application. The Rugby Club is still illegally using areas of the Recreation Ground, which they lease, as agreed by Trustees and the Charity Commission. The removal of the Rugby Club, which would be necessary if Town Green Status was achieved, would remedy this illegality overnight, something that Trustees and their B&NES Advisors have failed to do over the past 11 years. Furthermore the Trustees permit them to use, or rather misuse, the whole Recreation Ground on their match days. All the stands you mention are also illegal structures according to A and C above clearly preventing the open space being used as it should be. Just out of interest I think you will find in the days of amateur rugby on the Recreation Ground locals not only played on the rugby pitch but used it also for other activities. This did not cease until 1996 when rugby became a professional and commercial organisation with no right to remain on the Recreation Ground. Since the Trustees and the Charity Commission agree that the Rugby Club usage is illegal any arguments using them for support must be spurious, see D above.
- x. [8] I am glad we can agree on something although I do not accept professional Rugby in my definition of legal usage.
- y. [9] The only reason that there has been breakage or non-qualifying requirement in the past 20 years is because first the Council and then the Trustees and their Advisors did not adhere to the legal specifications in A, B and C.

- z. [10] The same comment as [9] above applies to the “as of right”. The buildings are illegal and this is accepted by the Council and the Trustees who are attempting to rectify this by a ‘scheme’ with the Charity Commission, which would push legitimate users of the Recreation Ground to an inferior site on the edge of Bath while extending the illegal use by the Rugby Club on the Recreation Ground! At the same time they wish to put costs associated with the Leisure Centre onto a new Trustee Board, without observing the agreements that were made earlier between the Council, the Charity Commission and the Trustees. See appendix 5 of the application. I note that this agreement was referred to in minutes of the Trustee meetings, which were supplied by the Rugby Club solicitor as part of their objection.
- aa. [11] All the refusals mentioned by witnesses to the application, relate to the illegal use by the Rugby Club, which supports my view that the Trustees and Advisors are abusing their powers and not adhering to A, B and C above. As a result, as shown in D, this should not be used to support the objection to the application. I doubt, that in the case of Somerset County Council EWHC B14, a High Court had ruled that the Council did not own the land and that it was and is subject to a Charitable Trust, see B above.
- bb. [12] I understand that the High Court ruled that the Recreation Ground should be treated as a charitable trust and that the trustees need to conform to the conveyance and covenants set out legally in A and as restated in C above. The Recreation Ground should only be used for legal sports and pastimes, festivals and charitable events and remain as an open space in perpetuity, providing ‘as of right’ access at all times to the beneficiaries. All the restrictions are clearly set out in the covenants in A and C above. In 2002 the Council attempted unsuccessfully to break these covenants on the pretext of requesting clarification. They got the clarification, which did not go the way they had hoped but, in my view, have decided to ignore it ever since. A matter of contempt of the High Court quite possibly! If only the current and all previous Trustees and their advisors had followed this ruling and the rules of the charity, subsequently established by the Charity Commission, the application for Town Green status would have been unnecessary.
- cc. [13] In my view your arguments based largely on the inappropriate way the Recreation Ground has been managed, relying heavily on limitations imposed by illegal users, should mean the application should be passed. If the CRA, whoever they may be, do not pass it on the paper submission then it may well require a public enquiry when all the relevant facts will emerge.

8. Objection number 7 from Travers Smith LLP representing the Bath Rugby Club

- a. I see that the objector is based in London but I am sure that he will be aware that the Rugby Club's occupation of the Recreation Ground is illegal. This is the view of all the bodies associated with the activities on the Recreation Ground, namely B&NES Council, the Charity Commission and the Trustees of the Recreation Ground Trust.
- b. It is confirmed by the Rugby Club themselves who are engaged in a flawed 'scheme', with the Trustees and the Charity Commission, to make the situation regular by swapping inferior land at Lambridge, which they did not own until 2012, with more space on the Recreation Ground to carry on their illegal activities. In my view this cannot be seen to change the present illegal use into a legal one.
- c. On the basis of the Rugby Club's illegal use of the Recreation Ground any objections raised, based on this illegal use, are inappropriate, see D above. Even more so from the organisation that is itself illegal!
- d. The objector claims to have a legal lease for their use of part of the Recreation Ground. It is my understanding that an organisation that is illegal cannot have a lease to operate, which is legal!
- e. If such a lease exists, signed by the Trustees and not the Council, then it would have been more valuable to include in the package than most of the material submitted. It would show just what had and had not been agreed by the Trustees and just how much abuse of the rules specified in A, B and C were being broken by the Trustees and the Rugby Club.
- f. Trustees have spoken about various leases at various times that have been cancelled, replaced and sold on from one owner of the Rugby Club to another without ever providing a specimen, which beneficiaries could have seen at any regular Trust meeting. The Trustees get out clause is that it contains confidential commercial information but I cannot accept that as an excuse. The lease is about fees for the lease, which should be declared in the annual accounts and restrictions placed on the club so that they conform to the rules under A, B and C above. None of this affects the commercial running of the organisation, although running a commercial professional sporting business on the Recreation Ground is not permitted, especially as it clearly shows preference for one particular sport, breaking yet another of the rules in A and C.
- g. The size of the file attached to these illegal objections, more than 3 inches thick and 855 pages, was clearly designed to intimidate the applicants. This is a tactic which I believe has been used in the past by the Rugby Club but on this occasion it will not succeed. It has recently been used yet again by Mr. Blofeld, in his recent communication to some residents living near the Recreation Ground wanting their support to overcome covenants that have already been ruled valid by the High Court see B above and suggesting legal action might follow if they disagree.
- h. If the club were legally entitled to use the Recreation Ground then only the first 9 pages of the objection are really relevant.
- i. These objections are similar to those expressed by the B&NES advisors in their objection, which I have already dismissed as not permissible because they arise only from the illegal use of the Recreation Ground, primarily by the Rugby Club.
- j. The sections q[1] to cc[13] in my response above, to Mr Reed, a B&NES advisor to the Trustees, equally apply to those by Travers Smith. Other specific points raised I address in the following paragraphs with the objectors number included.

- k. [8] The land has been used lawfully since 1956 for sports and pastimes allowed by A and C above. Only since 1996 have unlawful events and practices been undertaken by the professional and very commercial Rugby Club.
- l. [11] I doubt that in the case referred to a High Court judgement has been made to ensure that the land is designated for charitable use and described in legal documents to be maintained as an open space in perpetuity.
- m. [13] All the sports and pastimes mentioned here are legal except those relating to Rugby. All other users of the Recreation Ground who have leases also have open membership to enable their sport to be enjoyed at low cost. Premier Rugby is not open in this way and involves expensive contracts to be placed, mostly if not entirely, from players with no initial contact with the area. There is no participate rugby by locals only highly priced supporter activity from stands which are illegally constructed according to A and C.
- n. [15] The trust allows legal sporting events to take place and the marking out is well within the conditions laid down. The trust do not own the land they only operate it as trustees for the owners who are the Citizens of Bath, see A above. The rugby club does not even allow junior mini rugby to use their 'legal' area or even the ladies. Could the latter be classed as sex discrimination?
- o. [16] This practice is definitely against the conditions laid down in A and C above.
- p. [17] This too is a breaking of the conditions laid down in A and C above. If it is done with the agreement of the Trustees then they too are at fault for the same reason.
- q. [18] It is only the illegal use by the Rugby Club that has prevented the open access defined in A, B and C above.
- r. [19] Apart from the original west stand and the original club house all the remaining buildings do not conform to the rules set out in A and C. This is partially responsible for all the authorities involved, including the Rugby Club, to declare the Rugby presence on the Recreation Ground as illegal.
- s. [20] Since 1956 the only period when access has been denied is since the start of Professional Rugby in 1996. Prior to that time the amateur rugby pitch was used in the summer months to erect tents for other legal participants to enjoy their sports on the remainder of the area or for other types of entertainment. There is thus a period of 40 years when the Recreation Ground was used as an open space for all to enjoy.
- t. [22] Equally there were only 7 objections. If you discount those from B&NES and the Rugby Club, who in my view are clearly the major offenders in preventing open access, add in the 18 who wrote in support although not requested to do so the balance in favour of the application increases.
- u. [23] The land was conveyed in 1956 but the Trust was not set up until after the High Court ruling in 2002. The council should have been running it as a trust but were not doing so until 2002 after the High Court ruling. Nevertheless between 1956 and 2002 local residents had full and free 'as of right' access to the whole of the Recreation Ground. Only professional Rugby destroyed this from 1996 onwards.
- v. [24 to 27] The rules of usage are set out in A and C above.
- w. [28 to 32] These are either sensible arrangements in this day and age to prevent inappropriate actions taking place after dark or are illegal practices by the Rugby Club and/or the Trustees.
- x. [29b] Erection of notices about dogs and golf practice should be for the owners, the citizens of Bath, to decide and to my knowledge they have never been asked. For my part I would recommend dog walking, with high financial fines for those who do not 'pick up' but not golf practice, since this could be fatal in a public open space. Dog walking has been done in past years and whilst not perhaps classed as a sport, it is

exercise for both the dog and the handler. Elderly persons who cannot walk very far, I am sure, would appreciate the dog walking option returning in an open and green area.

- y. [30] Many residents have been denied access by the Rugby Club on match days so now they exercise sensible precautions it not attempting access in defiance of persons manning the main entrance! Some legal users wanting to access the croquet or tennis courts or just cross to the Leisure Centre have also been denied. The footpath from William Street to the river Avon is also denied on match days, another illegality.
- z. [33] The 1956 conveyance refers to the Citizens of Bath as the owners. The city of Bath is a well defined area and one to which our local MP is elected. My addendum, to the application, listed the wards which are included in this definition.
- aa. [37 to 39] It is not for the Rugby Club to attempt to bring any pressure to bear on the proper evaluation of the application, this is for others to determine. If the dates of August 2013 and 2015 are so critical can I suggest that the Rugby Club do the honourable thing and move their activities elsewhere? There are two obvious sites, both of which they own, at Lambridge and Farleigh Hungerford. Neither of these sites would have the problems that they encounter at the Recreation Ground namely the present area is too small; they are illegal occupants and they have insurmountable development problems to overcome.
- bb. The remainder of the bulky objection is largely padding but it does throw up some interesting points, which help to support the application for Town Green status.
- cc. The next major section, from page 1 to 301, consists of statements from most of the senior employees of the Rugby Club. They appear to be little more than job descriptions, which whilst of possible interest to a future employer, provide little other evidence other than confirming the illegal use being made of the Recreation Ground by the Rugby Club.
- dd. The statements include some interesting pictures showing just how dominant Rugby is on the Recreation Ground and how it destroys the area for all the genuine users.
- ee. Page 10 shows the East stand, which now dominates the Recreation Ground appearing to be larger than any of the remaining stands. It is of course illegal under the conditions of the conveyance and covenants. It virtually bisects the open area and its back presents an ugly view for all the other legal users.
- ff. Page 14 shows the back of the East stand. Not only does it provide an ugly view but some of the area behind it, not leased to the Rugby Club, is completely churned up and unusable. This of course is in addition to the area under the stand, which has to be reseeded each year because the stand has damaged the surface. Pages 16 and 19 show an even more shocking picture of a similar area. If the Trustees give permission for this extra space then again they are in breach of A and C.
- gg. Pages 32 to 41 show pictures of the security fences and gates erected to protect the commercial interests of the club. Not what you would expect to see on charitable land that should be open to the public, for access at all times.
- hh. Pages 43 and 57 show pictures of many beer barrels, which are not a pretty sight for what should be an open space. The Council and the Trustees should be concerned because one of their main reasons for falling over backwards to keep Rugby at the Rec. is because it brings trade to the pubs and restaurants on match days. These pages show clear evidence that much of the trade goes directly to the Rugby Club and into its coffers.
- ii. Pages 59 to 138 list events, which have taken place in the clubhouse. Again this is trade, which is taken away from the general providers in Bath who pay B&NES very high rents, rates, council taxes and/or leases. How much of the clubs profits go to the

trust for illegally permitting this commercial activity to take place on charitable land? Does the lease, that no one has seen, cover this activity and ensure that the Trust benefits? The items from the Trustee papers included which show some very simple accounts do not refer to any such item!

- jj. Page 148 shows a picture of parking restriction on the Recreation Ground. How many parking permits does the Rugby Club have? Does the income from them go to the Trust rather than the Council as it should? The trustee accounts shown later do not make this clear. This parking area, used mainly on match days, clearly ruins the surface of the grass for other users in the area they access at all times. Who gave planning permission for this? It is not included in appendix 9 of the application, a list of all planning permissions on the Recreation Ground despite the fact that most of those included are illegal developments according to the rules in A and C above.
- kk. Page 150 seems a more appropriate car parking notice by the trustees.
- ll. Page 153 is a picture more of what the Recreation Ground should be, a green open space with no large illegal rugby stands and free access for all.
- mm. Pages 155 and 161 I assume are pictures of the seating for a charity concert allowable under the rules. I only hope that the profits made at the clubhouse were donated to the appropriate charity!
- nn. Pages 169 and 170 show that other legal activities take place on the Rec, but not in the rugby area, which is controlled rather like Fort Knox. Even the mini rugby seems to use only the general area although I feel that the young players would love to play on the 'hallowed turf' as should be their right. Town Green status with professional rugby moved elsewhere would give them that right. So too the ladies rugby that the commercially run operation only permits them to play at Lambridge!
- oo. Pages 231 to 242 relate primarily to the voluntary running of mini rugby by John Harrison and Stuart Woodington. This would still be possible under Town Green status but they could also use the area barred to them by the professionals and not need to use Lambridge at all.
- pp. Pages 243 to 313 gives more credibility to the fact that Rugby on the Recreation Ground is big business and has no right to be occupying a charitable location, which is primarily for local residents to enjoy all manner of pastimes. The fact that they want to obtain an even larger footprint on the Rec. indicates that they have outgrown the area and should move elsewhere and return the Recreation Ground to its rightful owners.
- qq. There are no longer any local residents playing in the professional rugby team unlike the days when it was amateur and most, if not all the players, were local and often more successful than at present. Professional Rugby is now only a supporter exercise, at very high cost, with no local active participation as was originally envisaged in A above. This could be enjoyed at any other location.
- rr. Pages 315 to 343 are just copies of the application without all the supporting appendices. Surprising as the appendices would have made the Travers submission even bigger!
- ss. Pages 359 to 854 appear to be copies of Trustee meetings and some of their accounts. As these are all in the public domain I am not sure what they were supposed to add to the objection.
- tt. As far as I am concerned they show an organisation well out of its depth, who make very little progress between their meetings and whenever contentious matters are raised the public, mainly citizens of Bath, to whom the Recreation Ground was conveyed, are asked to leave. The most important matters concerning the future of the Rugby Club, negotiations with the Charity Commission and trust financial

matters are kept well away from the prying eyes of the public they are supposed to represent and inform.

- uu. Pages and pictures that I have not referred to are either more job descriptions or duplicate pictures, which padded out the folder but did not really add anything to the objection except to confirm why it was necessary to make the application in the first place.

Bath Recreation Ground needs a new set of Trustees who will follow the rules set out in A, B and C above and a successful Town Green application would be the first step in that direction.

I urge whoever or whatever body is to determine the next stage in the Town Green process take note of my response to the objections above and progress the application favourably.

**Jack Sparrow
31st March 2013**