

Response to Mr. L Blohm's second advice for consideration by Mr. Stark

It is clear to me that the use of plain English and the legal interpretation of English are quite different. It is thus not surprising that normal folk find it difficult to follow legal interpretations. The phrases 'as of right', 'by right' and 'as if of right' cause such confusion.

I propose from now on to use yet another phrase, which I do not think can be misinterpreted, namely 'THE RIGHT'. It is my view, and that of many other lay people, that all the Bath Citizens have 'The Right' to access their own Recreation Ground, given to them through the conveyances of 1922 and 1956. Their only restriction should be to act within the covenants contained in these two documents and the pre conveyance contract of 1956. I would thus propose that in all of my previous correspondence the words 'as of right' are replaced by 'The Right'. Only users not covered by the 1956 conveyance, i.e. other users outside the City of Bath, would then have other rights of access. The Rugby Club, and to a much lesser degree the Leisure Centre, deny the Beneficiaries 'The Right' of access.

Any other restrictions imposed by those illegally using the Recreation Ground, by not adhering to the covenants, should not be used to deny the Bath Citizens their rights! This equally applies to the Council, who only hold the land in trust, alongside the Bath Citizens and the Recreation Ground Trustees, who should operate within the same rules for the main benefit of the Bath Citizens. **This means that the objections from the Council's advisors to the Trustees, the illegal Professional Rugby Club and the illegal Leisure Centre should all be dismissed.**

All the other objectors, with the exception of the Hotel in Pulteney Road, used the illegal presence of the Rugby or the Leisure Centre to support their case. **It is interesting that neither the Council nor the Trustees themselves made any direct objections!**

To the contrary, all the supporters gave evidence, which should not have been necessary, since they were all beneficiaries and they only pointed out the restrictions to their right of access by the offending bodies. However some of those who wrote independently, although not invited to do so by the Authority, gave more examples of the use by Bath Citizens in support of my original application (see Mr. Blohm's annex C).

Most locals do not record every entry they make to the Recreation Ground nor for what purpose since they all carry out their activities well within the rules under the conveyance and covenant conditions. These same rules should be adhered by all other users and most especially by the Trustees. It is after all the fact that the Trustees are breaking the rules, which prevents Bath Citizens and others from enjoying the open space and the various recreational facilities throughout the year as is 'Their Right'.

I think that Mr. Blohm has read the legal documents, which should control what happens on the Recreation Ground, with very limited vision. **Nowhere do the rules state that sport must be**

competitive. Equally I do not believe for the Recreation Ground to be designated as a Town Green do sports and pastimes need to be competitive! Even Mr. Pate appears to agree with me on this point, although why Mr. Blohm feels this would make it less likely to gain Town Green Status eludes me.

Many forms of exercise such as friendly football matches with coats to indicate the goal posts, or more formalized games amongst friends, are sport but for pleasure and not recognized as competitive. The rules of course do allow for competitive sport, with the Trustees arranging to mark out the appropriate pitches. These include Lacrosse, Volleyball, Cricket and Mini Rugby alongside Croquet and Tennis.

Nowhere do the rules state that dog walking is not a suitable pastime and certainly it is a form of recreation for the elderly, disabled, young and old to exercise themselves and their pets. This is considered by most health professionals as very worth while activity and well within the rules pertaining to the Recreation Ground. **For some persons a level walking area on grass and away from traffic is most necessary and desirable. Bumpy ground is not what the elderly, very young or mothers with pushchairs would desire alongside their dog walking activities.**

Dog walking is only prevented largely by notices put up by the Council saying dogs are not allowed. This may well be against the intentions of the original conveyance especially as they do not own the land but only hold it in trust. **In other recreational areas of Bath dogs are allowed and the warning signs only say that their excrement should be picked up, with fines for disobeying the acceptable rules. This should apply to the Recreation Ground. The footpath through the Recreation Ground from the William Street entrance to the River Avon is one area that is certainly used by dog walkers, despite the Council's and the Rugby Club notices, and rightly so!**

The extra information I supplied was primarily to show that the way in which the Trustees were operating was outside the rules. It remains to be seen, which of these proposals sees the light of day, since the charity Commission scheme is still being challenged and the views of the new non B&NES Trustees are not yet known. The Charity Commission, in setting the objectives for the Recreation Ground Trust, following the High Court ruling in 2002, clearly stated that both professional Rugby and the Leisure Centre, for different reasons, were illegal and did not conform to the Trust's rules.

I am sorry if my earlier response was too long but this is an important issue for Bath Citizens and needs full exposure. In this technological age it is easy to enlarge the type face, if necessary, as was done by Mr. Blohm in reproducing my response as his Annex B. **I do not believe that Mr. Blohm dealt adequately with all my points. I was after all, only responding to each of his paragraphs. I can only hope that Mr. Stark will deal with all the points, all of which are valid, more fully in his report to the Authority.**

I do not believe there is any doubt about who the land was conveyed to. This was set out as The Mayor, Aldermen and Citizens of Bath. This was referred to in the body of the conveyance as the 'corporation'. If the conveyance was only to the Council at the time then the conveyance would have been to the Bath City Council but I believe the vendor had the foresight to ensure that whatever council took over in the future the Bath Citizens would still be recognized as the main beneficiaries.

The local planning authority have certainly not obeyed the rules, since the Leisure Centre is illegal and so too should be the various buildings around the rugby pitch erected since 1956.

The land has certainly been a trust since its creation in 1956 but this was only recognized by the Council and the Charity commission through the High Court ruling in 2002. **The only restrictions on the beneficiaries are what is laid out in the conveyance and covenants. As conveyed in 1956 the land should have been seen to have Town Green status with all the Bath Citizens having 'The Right' of access.**

Whilst the Authority may not take account of any possible future developments in coming to their decision, I do believe it should take account of all the wrongs, which have occurred to date.

If Bath Citizens have been prevented from making use of their Recreation Ground over the past 20 years, by illegal users, then I believe this should be taken into account in making the final decision on Town Green Status.

If all sport has to be competitive, as Mr. Blohm suggests, then those taking part are legitimate but those purely watching would not be so. Thus the 12,000 or so who purely watch competitive illegal professional Rugby would not be legitimate, unless they purchased food and drink from a commercial vendor, not permitted within the conveyance rules and then decided to eat and drink as though enjoying a picnic preceded or followed by some competitive sport on their own behalf!

Perhaps the local rugby supporters do not realize they are breaking at least three rules, which pertain to how the Recreation Ground should be used. Additionally they are paying highly to enjoy only part of their Recreation Ground, some fifteen times a year, to which they should have 'The Right' of full and free access at all times!

I urge Mr. Stark to take all my points into account, along with those made by Mr. Blohm, in recommending the way forward to the Authority in their decision making process.

J Sparrow

15th October 2013