

## ATTACHMENT Bi

### RESOLUTIONS OF THE ALEXANDRA PARK AND PALACE ADVISORY COMMITTEE – 7 OCTOBER 2008 AND RESPONSES OF THE ALEXANDRA PALACE AND PARK BOARD - 21 OCTOBER 2008

#### *Future of the Asset*

#### **RESOLVED**

- i. That the Advisory Committee notes with considerable concern and disquiet the findings of the independent review into the granting of a Licence to Firoka to carry out the functions of the trading company, in its place, , and that this Licence seemingly ran counter to the previously expressed requirement that the Board at all times had to ensure that it obtained the best possible return reasonably obtainable from the assets of the Charity;*
- ii. That the Advisory Committee repeats its earlier concerns at the lack of consultation by the Board in respect of the proposed terms of the Lease with the Firoka Group, and that they be fully consulted, and that all relevant matters be disclosed to it, in advance of any decision, in respect of the Board's plans for the future of the asset; and*
- iii. That in respect of the planned consultation about the future of the Palace (the "Away Day") the Board widen the invitations to attend to representatives of both the Advisory and Consultative Committees, in order to obtain input from representatives of the local Community.*

#### ***Response and discussion from the Board – 21 October 2008***

Mr Aspden advised the Board that the circulated decisions of the Advisory Committee were divided into 3 separate sets of resolutions marked 'A' to 'C'.

In respect of resolution 'A' Mr Aspden commented:

- that there had been considerable concern expressed in relation to the creation of the licence as detailed in the Walklate report
- That that the levels of consultation and communication between the Advisory Committee and the Board needed improving;
- That in terms of the proposed away day the Board considers widening the invitation to both members of the Advisory, and Consultative Committees to be involved in the brain storming.

In response the Chair advised that in terms of the away day it was a fact that the date had not been finalised but the Board were keen for it to take place before Christmas. In terms of invitees, the Chair felt that the core Trustees needed to sit down together with a blank canvas in order for the core Board members (that is those legally responsible as charity trustees) to discuss parameters and options for moving forward. Therefore, the initial away day should be for the charity trustee members of the Board, then widened at future away days. It was imperative that the Board was clear in its mind as regards the basis for future direction.

Councillor Hare shared the views of the Chair in terms of the need for the charity trustee Board members to come together initially and then widening the inviting of others to further future meetings.

In conclusion, the Chair summarised and it was;

## **RESOLVED**

- i. That the Board notes the expressed concerns of the Advisory Committee as detailed and in the main reaffirms to the Advisory Committee the Board's previous resolutions with regard to the JR and decisions arising therefrom;
- ii. That attention of the Advisory Committee be drawn to the recommendations of the Walklate report in relation to an Alexandra Palace action plan on the governance arrangements for the Palace and the detail of certain recommendations would be effective in terms of future consultation with the Board's subsidiary bodies; and
- iii. That the Advisory Committee be advised that in respect of the initial away day session that this would be only for charity trustee Members but that the subsidiary bodies would be briefed as soon as possible after and that it was the intention of the Board to involve the subsidiary bodies in subsequent consultation meetings. be one outcome

which would have a wider effect on the Board's relationship with the Advisory Committee;

- (b) **Alexandra Park Cricket Club**, in respect of the rent review of the Lease

**RESOLVED**

- i. *That the Board consults the Advisory Committee in respect of the terms of any proposed sub-lease, following the variation of the Cricket Club's existing lease; and*
- ii. *that consultation with this Committee should occur before any proposed sub-lease is considered by the Board, in order for the Committee to express its views to the Board.*

**Response and discussion from the Board – 21 October 2008**

In respect of resolution 'B' Mr Aspden commented that the Advisory Committee would appreciate the opportunity of seeing more details re the terms of the sub-lease, and details of finances (rents) as it was viewed by the Advisory Committee that this matter did relate and come within its ambit in terms of the Park.

The Chair asked that the General Manager and Trust Solicitor, and LB Haringey's legal representative respond to this point.

The General Manager – Mr Loudfoot advised that in this respect the Trust would be fundamentally acting beyond its charitable requirements and that in terms of a commercial lease arrangement this was not a matter within the Advisory Committee's ambit.

The Trust Solicitor – Mr Harris advised that Mr Loudfoot had correctly stated the legal position..

The LB Haringey Legal representative – Mr Mitchison advised and referred the Board to the terms of the 1985 Act and specifically in the 1985 Act Schedule 1 para 19 which gave the SAC powers and duties to advise the trustees on "the general policy relating to the amenities of local residents.", and the ambit of the Advisory Committee, and in stating the areas which fell within the

ambit of the Advisory Committee, commented that it would be difficult to see how this request fell within it.

In thanking officers for their response, the Chair asked Mr Aspden if he could enlighten the Board of what exactly the Advisory Committee wished to see.

In response, Mr Aspden commented that in terms of a sub lease this was in the Committee's view a further area of darkness and that in terms of matters within the Advisory Committee's ambit and that in his view the ambit of the Advisory Committee had been eroded over the years. He questioned the views expressed that it was not within the Committee's ambit to question uses within the park in terms of usage by 3<sup>rd</sup> parties without reference to the Advisory Committee, together with the matter of bad publicity in terms of proposed rent increases being imposed on the Club. It was also the case that there had been discussions regarding the future use by the planned school in the Haringey Heartlands with the LB Haringey Education service and possible use of the grounds by pupils of the new school. Mr Aspden commented that it seemed that there was a presumption on the part of the Board that if there was any doubt as to consultation then a matter was not referred to the Committee for consideration, and that in his view this was not the correct attitude or manner. It should in fact be the reverse and that if there was doubt then a matter should be put to the Advisory Committee. Mr Aspden commented that he was a little alarmed that officers had taken the view that matters of this nature did not fall within the Committee's ambit in terms of scrutiny.

Mr Mitchison further commented that the general policy of consultation was in relation to planning applications, and events which were significantly large to have an effect on the Park but that did not mean that every matter that the Board considered had to be referred to the Advisory Committee for its view/scrutiny. A sub lease arrangement was not a matter for consideration and that in terms of interpretation of the remit of the Advisory Committee within the Act it was the case that such matters were not in the purview of the Advisory Committee.

Councillor Hare commented that he did recognise some of the concerns of the Advisory Committee in terms of issues to be consulted upon and what was exactly within the Committee's remit. He felt that that in terms of broad issues for consideration the Act and interpretation in this respect was sufficiently vague.

Mr Loudfoot responded that it was clear that in terms of planning issues and events the remit of the Committee was clear but the matter of sub leases were not within the Advisory committee's remit.

Mr Aspden responded that commented that in terms of the Advisory committee's remit perhaps, within the general terms of issues raised it may be appropriate that the Advisory Committee at least have the intention of the sub lease explained to it in the public domain.

The Chair commented that in terms of the comment of 'being left in the dark' it was the case that in terms of the Firoka bid there had been considerable amounts of information given to the Advisory Committee in terms of negotiations, and indeed redacted parts of that proposed lease. However, there were not similarities in terms of this issue and that this agreement was entirely different and that therefore it was not matter for the Advisory committee's consideration. The matter of planning applications etc was within the remit of the Advisory Committee and indeed the Committee were consulted.

The Chair further commented that the matter of a sub-lease as commented on by the general manager was of a commercially sensitive nature and therefore a confidential contractual matter. It was a fact that such matters would not be in the public domain for consideration by any Council Committee, or indeed the Board. Whilst he appreciated that, the Advisory Committee did not agree with this fact full disclosure was impossible, and would remain so.

Councillor Egan concurred with the views expressed by the Chair, and added that in terms of general principles of consultation the Board would consult where appropriate.

Mr Harris advised that in terms of the general policy, there was an issue of general principle and the general principle would not include consultation or consideration of such matters.

Mr Aspden commented that in terms of negotiations in terms of the issues within the Advisory committee's ambit it was the case that the Board needed to be clear on what exactly it would/would not consult on as this seemed to be rather ambiguous.

Mr Harris advised that the Act required that the Advisory Committee be consulted on specific matters that the Board had to consider and that there were no obligations by the Board to take on Board any recommendations recommended to it by its Advisory committee. He reiterated his earlier comments that this matter was not within the remit of the Advisory committee. He also further commented on the rule relating to the general principles issue.

The Chair commented that in drawing this discussion to a conclusion that the Board rejects the recommendations of the Advisory Committee in respect of Resolution B and recognised the remit of the Advisory Committee in terms of the general principles of the Act.

In response to clarification from the General Manager, the Chair commented that the general principles should be explained by the General Manager to the Advisory committee.

Mr Aspden commented that he regretted the outcome of the discussion \and the overriding legal advice in terms of the Advisory committee's remit, and that it went against the requirement of local community interest and involvement.

The Chair commented that he did not accept the expressed view. It was the a case that that the Statutory advisory committee had a role within certain parameters however he was happy for the Board to further discuss and explore the wider involvement of the Committee in the future as part of the further discussions as to the future of the asset but that the remit of the Committee was as detailed in the Act and would remain so.

It was

## **RESOLVED**

That the recommendations of the Advisory Committee be rejected, and the general principles of the Act and consultation be advised to the Committee by the General Manager at its next scheduled meeting.

**(c) Legal clarification of advice given by the LB Haringey re:- the Gaming Licence (Occasional**

**Use Notice) under section 39 of the Gambling Act 2005, and the Advisory Committee's remit**

**RESOLVED**

- i. That the Board be requested to note that the Advisory Committee does not agree with the advice received from the LB Haringey's Legal Service that the above matter did not fall within its remit;*
- ii. That the Advisory Committee intends to convene either a Special or Urgency Sub-Committee meeting in mid November 2008 to discuss the advice and that it has requested that the LB Haringey's Legal Service attend that meeting for the purpose of the Committee receiving the advice and having an opportunity to consider the same with the officers/ advisers concerned; and*
- iii. That the Advisory Committee intends to consider (following such meeting) obtaining a second opinion as to the legal advice tendered by the LB Haringey's Legal Service.*

***Response and discussion from the Board – 21 October 2008***

The Chair commented that in terms of the recommendations he would ask Mr Mitchison for his view.

Mr Mitchison advised that the resolution had arisen as a result of the clarification sought by the Clerk to the Committee following a meeting of the Advisory Committee in February 2008 in respect of an "application" submitted to the Council for an "occasional use notice" (OUN) under s.39 of the Gambling Act 2005. This applied to any "track" or premises where "sporting events" take place or are intended to take place. There did not have to be any track as such or an existing use for gambling but the person serving the OUN must already have had a betting operating licence from the Gambling Commission in order to provide betting facilities at the premises. The person serving the OUN must be the occupier of the premises or a person responsible for the administration of the betting event there. The OUN authorises gambling for up to 8 days in a calendar year. It must be served on the Council as Licensing Authority and copied to the local Police.

Provided no more than 8 days gambling is proposed, there is no right for the Council as Licensing Authority or the Police to refuse or object to the OUN.

Mr Mitchison advised that the event had given rise to the OUN just before Christmas 2007 for a betting ancillary to the long-established darts competition at the Palace. This was a one day event attracting no more than 2,000 people of whom only a minority might be expected to engage in gambling/betting.

Mr Mitchison again referred to the 1985 Act Schedule 1 para 19 which gave the SAC powers and duties to advise the trustees on "the general policy relating to...events...in the Park & Palace" and their effect on the local inhabitants and environment. Specifically within the remit are "events attracting 10,000 people at any one time" and proposals requiring planning permission. In para 20 the SAC is to try to ensure that no events allowed by the trustees are "a nuisance or annoyance or of detriment to the amenities of local residents."

Mr Mitchison advised that from this was it evident that the SAC is mainly expected to consider the "bigger picture" in terms of general policy on events and relatively large scale attractions. Seemingly, the exception to this was in "proposals which require planning permission" which could range from major redevelopment to quite small scale building operations or changes of use. However, there was no mention of "licensing", "gambling", "betting" or any other form of permit or control other than "planning" falling within the SAC's remit.

Mr Mitchison further added that the reference to nuisance, annoyance and detriment to amenities also pointed to the conclusion that only the very noisy or large scale events were appropriate matters of concern for the SAC. In the case of the OUN, the event was indoors and not likely to attract very many more persons than those who would have come in any event for the darts competition.

Mr Mitchison further advised that that the Council had at that time been aware that there was an application for a permanent premises licence to permit track betting at the Palace made by or on behalf of Alexandra palace Trading Ltd. The purpose of this was to authorise the one day betting in connection with the annual darts competition on a permanent footing so as to avoid the need to serve an OUN each year. The permanent application was not of sufficient large scale nor sufficiently significant in terms of "policy" to fall within the SAC's remit.

Mr Mitchison concluded that the advice had been given to the Advisory Committee and there would be little point in further



attending a meeting of the Advisory Committee by him to reiterate this advice.

The Chair asked if there were any points of clarification.

Mr Aspden commented that he was not happy with the advice or information imparted by Mr Mitchison and that he would be reporting back to the Advisory Committee and that, it would be their intention to seek further legal clarification.

Councillor Hare commented that as he earlier stated in his view there was a degree of haziness as regard to the remit and its interpretation. He did feel that it required a legal interpretation as the charitable activities

Mr Harris advised that this issue was not within the remit of the SAC.

The Chair responded that it was his view that the recommendations would be rejected by the Board, as not being within the remit of the Advisory Committee.

In response to comments of Mr Aspden Mr Harris advised that he did not see that any external advice would actually differ.

Mr Loudfoot commented that in his view, it was an attempt by the Advisory Committee to 'land grab' and that it was most definitely not within its purview or remit.

Mr Aspden commented that this was not the case and perhaps the General manger should withdraw his remark. at the purview.

The Chair further reiterated his earlier comments in relation to the Advisory Committees' ambit but that he was happy for the further mechanisms for consultation to be discussed as part of the issue of the future of the asset.

In drawing the discussion to a close, the Chair summarised and it was:

## **RESOLVED**

That the recommendations of the Advisory Committee be noted and that the Advisory committee be advised that the Board was unable to respond as the points raised were not within the control of the Board, and that the LB Haringey's head of legal services representative would write to the Chair of the advisory committee setting out the legal position as stated.

