



Your ref:

Date: 23 December 2008

Our ref: LEG/AP&P

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Mr. David Liebeck,
Chair of the Alexandra Park & Palace Advisory Committee

Dear Mr Liebeck,

REMIT OF THE ALEXANDRA PARK AND PALACE ADVISORY COMMITTEE

I am writing to you as Chair of the Alexandra Park & Palace Statutory Advisory Committee ("the SAC") following the meeting of the Alexandra Palace & Park Board on 21st October 2008 when the Board considered a resolution of the SAC from its own meeting on 7th October. That resolution concerned legal advice, given by the writer on behalf of the Head of Legal Services of Haringey Council, concerning the statutory remit of the SAC and an Occasional Use Notice served under section 39 of the Gambling Act 2005.

At the Board meeting on 21st October, the SAC's representative, Mr Aspden, restated the SAC's disagreement with the legal advice from the Council and repeated its request that the writer attend a future meeting of the SAC to discuss that advice. The Board was advised by the writer that there would be little point in an oral discussion but that a letter would be sent confirming the legal position as the Council perceives it. I apologise for the delay in sending this letter because of other recent urgent matters.

As you will be aware, the statutory functions or remit of the SAC are set out in Schedule 1 to the Alexandra Park & Palace Act 1985 ("the 1985 Act") and, more specifically, in paragraphs 19 and 20 of this Schedule. I have attached a copy of these provisions to this letter for convenience.

Broadly, the powers and duties of the SAC are to promote the objects of the charity and to advise the trustees (i.e. the Board) on the matters listed specifically in sub-



paragraphs 19 (i) to (vii). In doing so the SAC must try to ensure that none of the activities in the Park and Palace are a nuisance or annoyance or a detriment to the amenities of local residents.

Section 9 of the 1985 Act requires the trustees to consult the SAC on all the matters specified in paragraph 19 and to "have due and proper regard to advice from the said Committee on those matters and shall use their best endeavours to give effect to such reasonable recommendations of the said Committee as are expedient in the interests of the charity and consistent with the trusts thereof." In other words, though not absolutely bound to follow the SAC's advice on all matters within its statutory remit, the Board must give that advice appropriate weight when it is reasonable and in the charity's interests.

It is apparent that paragraph 19 does not require the Board to consult the SAC about every individual decision affecting the Palace and Park nor about every proposed activity or event that will need the Board's consent or approval. If that was the case then Schedule 1 could have said so.

In fact, the matters requiring consultation are not, in the main, individual proposals but the factors and circumstances forming part of the bigger and longer term picture. In other words consultation is mostly about policy and infrastructure not the merits or demerits of individual events.

This is obvious in the case of sub-paragraphs 19 (i), "the general policy relating to the activities and events arranged or permitted in the Park and Palace", 19 (ii), "the effects of such activities and events upon the local inhabitants and local environment", 19 (iv), "the adequacy of car parking arrangements within the Park and Palace so as to avoid overflow into adjoining residential streets", 19 (vi), "the establishment and maintenance of the Park as a Metropolitan Park", and 19 (vii), "the furtherance of recreation and leisure in the Alexandra Park and Palace."

In contrast, sub-paragraph 19 (v), "any proposals which require planning permission", does impose an express duty on the Board to consult the SAC about each planning application individually. This would encompass all applications ranging from a major redevelopment scheme to minor building works affecting only a small part of the Palace's exterior.

Sub-paragraph 19 (iii) deals with the frequency of, and the maximum numbers permitted at, events attracting more than 10,000 people. This sub-paragraph could be interpreted as encouraging consultation on each new proposal for an event on that scale depending on whether there was a policy in place that might be breached by the event.

What is noteworthy is the absence of any category or matter in paragraph 19 that is the equivalent of sub-paragraph (v) but in relation to applications or proposals for any form of statutory licence or permit other than planning permission. Had it been the intention that consultation was to be required for any individual application to sell alcohol or to provide betting facilities, for example, then the 1985 Act could have been drafted to include this expressly.

Turning now to the Occasional Use Notice ("OUN") under section 39 of the Gambling Act 2005, there are several points to take into account.

By way of background, section 39 provides that betting on a "track" for 8 days or less in any calendar year may be permitted through service of a OUN without the need for a full

premises licence from the Council as local licensing authority. In this context a "track" is not just a horse-race or dog-race track but includes any other premises where sporting or competitive events have been held or are intended. This would cover the World Darts Tournament within the Palace.

The OUN must be served on the Council as local licensing authority and on the Police before the betting takes place. The purpose of the OUN is to allow a person or body with an operating licence from the Gambling Commission to use the "track" premises for temporary betting of short duration. A fresh OUN would have to be served for each subsequent year when betting was to be authorised. There is no provision for any objection to the OUN by third parties or local residents and the Council has no power to refuse permission.

I understand that the SAC's concern arose from the OUN served in December 2007 before the World Darts Tournament when Ladbrokes, as sponsors of the event, wished to be able to offer betting for 8 days as an ancillary facility for those attending. The Tournament was an indoor event within the Palace attracting no more than 2,000 people only a minority of whom wished to bet. The existence of the betting facility was unlikely to have increased attendance significantly.

In these circumstances, the service of the OUN was clearly not a matter relevant to "the general policy relating to the activities and events arranged or permitted in the Park and Palace" nor would it have any effect on the "local inhabitants and local environment". Given my observations above on the scope of the SAC's remit, I cannot see that the OUN would fall within that remit for any other reason.

If you or your Committee consider that I have missed or misinterpreted anything in the legislation, I would be happy to review your response.

I am copying this letter to the General Manager and the AP&P trust's Solicitor who have been consulted on these points.

Yours sincerely,

T. A. Mitchison

T. A. Mitchison
for Head of Legal Services



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SCHEDULES

Section 9.

SCHEDULE 1

ALEXANDRA PARK AND PALACE ADVISORY COMMITTEE

PART I

CONSTITUTION OF THE ADVISORY COMMITTEE

1. The Alexandra Park and Palace Advisory Committee (herein referred to as "the Advisory Committee") shall consist of 16 members.
2. Eight members of the Advisory Committee shall be appointed by the Council of the London Borough of Haringey from the members of the Council, and of those eight members—
 - (a) one shall be appointed from the councillors elected to represent the ward of Alexandra;
 - (b) one from those for the ward of Bowes Park;
 - (c) one from those for the ward of Fortis Green;
 - (d) one from those for the ward of Hornsey Central;
 - (e) one from those for the ward of Muswell Hill;
 - (f) one from those for the ward of Noel Park.
3. Eight members of the Advisory Committee shall be nominated by local residents' associations as hereinafter provided.
4. Any association of residents which satisfies the requirements of paragraph 5 below may notify its existence to the person nominated by the Trustees for the purpose ("the proper officer"), who shall maintain a register of such associations.
5. The requirements mentioned in paragraph 4 above are—
 - (a) the association shall represent residents in one or more wards mentioned in paragraph 2 above and membership of it shall be open to all residents within the area of the association;
 - (b) the association shall have a written constitution;
 - (c) the association shall require an annual subscription from its members;
 - (d) the association shall meet regularly;
 - (e) the constitution of the association shall provide for annual elections of its officers;
 - (f) the association shall not include party political objectives among its purposes.
6. Each association on the register shall annually not later than 1st February in each year notify the proper officer of the number of households represented in its membership, and it shall be the duty of the association to satisfy the proper officer of the accuracy of the number, and that it satisfies the requirements of paragraph 5 above.

7. Not later than 1st March in each year, the proper officer shall prepare a list of associations on the register with not less than 50 households represented in its membership according to the notification in the last preceding year and the associations on that list shall for that present year be qualifying associations.

8. Not later than 1st May in each year, the proper officer shall convene a meeting of representatives of the qualifying associations to determine which qualifying associations shall be entitled to nominate members of the Advisory Committee, but if there are 8 or more qualifying associations, no one association shall nominate more than one member.

9. No later than 1st July in each year, each qualifying association which under paragraph 8 above is to nominate one or more members of the Advisory Committee shall nominate one or more of its members to serve on the Advisory Committee.

10. Members of the Advisory Committee shall be appointed or nominated for a period of one year, and shall be eligible for re-appointment or re-nomination. No member of the Advisory Committee may be a member in two capacities.

11. In the event of a casual vacancy among the members appointed by the Council, the Council shall appoint a person from among the members of the Council to fill the vacancy, and if the vacancy arose among the councillors elected to represent one of the wards mentioned in paragraph 2 above, the casual vacancy shall be filled from among those councillors.

12. In the event of a casual vacancy among the members appointed by local residents' associations, the vacancy shall be filled by the appointment of a successor by the residents' association whose nominee has ceased to be a member of the Advisory Committee.

13. Notwithstanding paragraph 10 above, the period of membership of a person appointed or nominated to fill a casual vacancy shall expire at the end of the period of membership of his predecessor and he shall be eligible for re-appointment or re-nomination.

14. Where it appears to the Trustees and to the Advisory Committee expedient for the purpose of assisting the continuation of the Advisory Committee—

- (a) to make such amendments to sub-paragraphs (a) to (f) of paragraph 2 of this Schedule as appear to be appropriate in the light of any alterations made or to be made in the names or areas of the wards therein mentioned; or
- (b) to amend the provisions of paragraphs 4 to 13 of this Schedule;

then, with the approval of the Charity Commissioners expressed in writing or of the Chancery Division of the High Court expressed by order, they may by resolution of the Trustees and of the Advisory Committee make such amendments.

Sch. 1
—cont.PART II
PROCEDURE OF THE ADVISORY COMMITTEE

15. The Advisory Committee shall appoint its own Chairman and Vice-Chairman.

16. The quorum for a meeting of the Advisory Committee shall be six, including not less than three appointed members and nominated members from not less than three different residents' associations.

17. The proceedings of the Advisory Committee shall not be invalidated by any vacancy among their number or by any defect in the appointment, nomination or qualifications of any member thereof.

18. The Advisory Committee shall prescribe its own rules of procedure (including provision for the consideration of matters of urgency) and otherwise shall decide the frequency of its meetings.

PART III
FUNCTIONS OF THE ADVISORY COMMITTEE

19. The powers and duties of the Advisory Committee shall be to promote the objects of the charity and assist the Trustees in fulfilling the trusts by considering and advising the Trustees on the following matters:—

- (i) the general policy relating to the activities and events arranged or permitted in the Park and Palace;
- (ii) the effects of such activities and events upon the local inhabitants and local environment;
- (iii) the frequency of activities and events attracting more than 10,000 people at any one time and the maximum number to be permitted on such occasions;
- (iv) the adequacy of car parking arrangements within the Park and Palace so as to avoid overflow into adjoining residential streets;
- (v) any proposals which require planning permission;
- (vi) the establishment and maintenance of the Park as a Metropolitan Park;
- (vii) the furtherance of recreation and leisure in the Alexandra Park and Palace.

20. In discharging their functions under paragraph 19 above, the Advisory Committee shall endeavour to ensure that no activities undertaken or permitted by the Trustees in the Park and Palace shall be a nuisance or annoyance, or of detriment to the amenities of local residents.