

Report Title: **Little Dinosaurs Planning Issues, General Lease Management and General Planning Proposal Procedure**

Report of: **Mark Evison, Park Manager**

1. Purpose

- 1.1 To inform the committee of the procedures followed in the Little Dinosaurs case and the extent of the demised area following discussion of the matter at previous meetings.
- 1.2 To inform the committee of the general approach to lease management.
- 1.3 To inform the committee of the general procedures for planning proposals.

2. Recommendations

- 2.1 That the Committee notes the content of this report.
- 2.2 The Committee considers what advice, if any, it wishes to give to the Alexandra Palace and Park Board (APPB).

Report Authorised by: **Andrew Gill, Interim General Manager**.....

Contact Officer: **Mark Evison, Park Manager, Alexandra Palace & Park, Alexandra Palace Way, Wood Green N22 7AY Tel No. 020 8365 2121**

3. Executive Summary

- 3.1 This report explains the background to the planning enforcement case against the Little Dinosaurs facility. The topic has been raised a recent meetings by various members.
- 3.2 The report should clarify the actions taken and the reasons why, it should clarify the extent of the facility's boundary and the current status of the planning case.
- 3.3 In response to numerous queries, the report also sets out the general approach to both lease management and to planning proposals in relation to the duty of the Board to consult the Alexandra Park and Palace Advisory Committee (APPAC).

4. Reasons for any change in policy or for new policy development (if applicable)

- 4.1 N/A

5. Local Government (Access to Information) Act 1985

- 5.1 N/A

6. Little Dinosaurs, The Actual Workshop

- 6.1 The Actual Workshop building had lain empty for at least four years when the Alexandra Palace and Park Board agreed on 21st October 2008 to advertise the premises for let.
- 6.2 Following advertisement and a tender process, a tenant was chosen by a Panel on 29th April 2009. The agreement to convert the building into a soft-play centre was subject to planning permission.
- 6.3 The tenant submitted a planning application and the proposals attracted some considerable local opposition. The Advisory Committee considered the Planning Application on 16th June 2009. The resolutions of the Advisory Committee and the Board's responses were as follows (note: a small typographical error in has been corrected and is denoted by *):
- APPAC Resolution i: That the business described itself as an "indoor adventure and soft play area with small café" when in fact it appeared to be a small indoor play area with (larger) café area.
APPB Response: *That the Board was neither able to accept or reject the resolution as this was a statement that the Board was unable to give a view on.*
- APPAC Resolution ii: That the boundaries for the site were unclear on the map provided and how and when it was intended to extend the play area to the outside area.
APPB Response: *The boundaries of the site would identified within the draft lease to be entered into*
- APPAC Resolution iii: That the Board consider consulting the long established businesses in the vicinity which may be affected by this proposal
APPB Response: *That the proposal be rejected as whilst the Board would consult with its Advisory Committee – it would be neither practical, nor feasible* for the Board to carry out such consultation and the proposals had already been consulted upon with all similar users within the Park, and indeed the Advisory Committee representatives through the Advisory Committee.*
- 6.4 Planning permission was granted by the local authority on 4th August 2009 and the lease was duly completed on 14th October 2009. The building was converted and opened for business in December 2009.
- 6.5 In early 2010, the tenant proposed a number of items for the surrounding grounds:
- Erection of demountable, wooden storage sheds on the west end of the building
 - Installation of additional decking
 - Paving over the existing concrete pad in the east of the site
- 6.6 The tenant took advice from the Planning Department and was informed verbally that these items were acceptable and would not require further planning permission, or that retrospective planning permission may be required if the items caused local concern. On that basis, the Park Manager agreed to the proposals, which is inline with the approach historically taken with other leased premises. As the proposals were not deemed to require new planning permission, the Advisory Committee were not consulted.
- 6.7 The lease is usually a confidential document, but part of it is reproduced here as it is already in the public domain because a local resident submitted a Freedom of Information request and obtained a redacted copy.

- 6.8 According to the lease, the tenant covenants:
...not without the previous consent in writing of the Landlord (such consent not to be unreasonably withheld or delayed) to make any alteration or additions of a non-structural nature to the Demised Premises PROVIDED ALWAYS that the Landlord may as a condition of giving any such consent require the Tenant to enter into such covenants with the Landlord as the Landlord may reasonably require in regard to the execution of any such works and the reinstatement of the Demised Premises at the end or sooner determination the Term...
- 6.9 It is clear that the tenant did not have previous written consent, but verbal permission had been granted.
- 6.10 Following representations to the Local Planning Authority by a concerned local resident, a planning enforcement officer visited the facility. On 19th April 2010 a copy of a planning enforcement notice (dated 15th April 2010) was received at the trust offices. In summary, the tenant was required to demolish the storage sheds and remove the wooden decking and concrete paving.
- 6.11 The tenant lodged an appeal, dated 12th May 2010, against the Enforcement Notice. The local planning authority informed the trust of this appeal in a letter received on 2nd June. The case was taken up by the planning inspectorate but their website did not allow access to any of the documentation.
- 6.12 One of the grounds for appeal was "ground (a)", that planning permission should be granted for what is alleged in the notice. At this stage officers of the trust were unaware that "ground (a)" is in effect a retrospective planning application, so no action was taken.
- 6.13 Following correspondence from a concerned committee member it was established that "ground (a)" is, in effect, a retrospective planning application. However, this was not established until after the consultation period.
- 6.14 It has been argued that the matter should have been brought before the Advisory Committee. The tenant did not consult the trust on the details of the appeal, and as neither the Local Planning Authority nor the tenant informed officers that this was in effect a retrospective planning application, there was no mechanism to trigger a report to the advisory committee.
- 6.15 However, the proposal, that the three structures should be granted planning permission, is not considered to be radically different from the original proposal presented to the Committee on 16th June 2009.
- 6.16 In terms of enforcing the conditions of the lease, officers took the view that until the Planning Enforcement case was settled, no enforcement action was necessary.

7. Lease plans and demised area

- 7.1 The building and its grounds have always been considered by officers of the trust as a single entity and they were advertised as such at the outset of the letting process. However, several different plans of the demised area have been in circulation. These include versions for Board reports, the draft lease plan, surveyor's reports and the planning application.
- 7.2 Confusion amongst the public and committee members has been caused by three factors:
- i) On some versions of the plan, the Ordnance Survey base-lines show the previous incarnation of the building and the surrounding fenceline (this previous building was destroyed by fire in the early 1990s)
 - ii) There have been at least three different authors of the site plans using various base plans including old and new OS maps, and landscape architects plans.
 - iii) The fenceline was relocated at the commencement of the lease term to reclaim some open space from the demise. This was despite the fact that the property was advertised as the original layout, the new tenant conceded some land (for no reduction in proposed rent) at the request of the trust.
- 7.3 The position of the final, agreed, extant fence line is attached as Appendix A.

8. General lease management

- 8.1 The first of a series of annual reports on Property Matters was presented to the Board on 14th October 2010. This report was, and future reports will be, exempt because they contain commercially confidential information, such as rent. The purpose of this new, regular report is intended to give the Board an overview of the current property situation at a strategic level.
- 8.2 The general terms, dates, rent reviews and other relevant information was presented to the Board. However, the background to this report is a detailed review of all of the trust's lease agreements.
- 8.3 Hitherto, officers of the trust have taken an even-handed approach to enforcing the requirements of any given lease. No two leases have identical terms and conditions. The tenants generally act reasonably and good relationships have been built up. Minor matters have been agreed verbally, and larger issues, such a large development proposals, are dealt with according to due process.
- 8.4 It is intended that all issues arising from the detailed lease review are 'regularised' so there is a consistent approach to lease management for all tenants.
- 8.5 In a bid to improve communication between the trust and its tenants, the first of a series of meetings has been scheduled for December 2010. The purpose of this meeting is to improve communication and to reinforce the tenant's responsibilities on matters such as fire & emergency response and planning proposals.
- 8.6 This and future meetings should increase understanding of the important matters that tenants should consider in order to improve longer term management of issues such as planning permission and improvement works.

8.7 The trust's tenants have also been advised that they have a right to become members of the Alexandra Palace and Park Consultative Committee and a number have already taken up this offer.

9. Planning proposal Procedure

9.1 The bullet point procedure for a planning proposal on site is as follows:

- Development proposal is considered by the trust or its tenants
- Proposal is presented to the Alexandra Park and Palace Advisory Committee for consideration
- The Advisory Committee decide whether it has any advice for the Alexandra Palace and Park Board
- The Board consider whether to accept or reject the advice of the Advisory Committee and whether to approve or reject a development proposal
- Only if a Planning Application is radically different from the original proposals would a new report to the Advisory Committee be required.

10. Recommendations

10.1 That the Committee notes the content of this report.

10.2 The Committee considers what advice, if any, it wishes to give to the Board.

11. Legal Implications

11.1 The Trust's solicitor's advice has been taken into consideration in the preparation of this report.

11.2 LBH Head of Legal Services advises that the functions of the Board as landlord are distinct from the functions of the Council as Local Planning Authority. Once an appeal against a planning enforcement notice under ground (a) has been lodged, any decision on the grant of planning permission will be a matter for the Planning Inspectorate.

12. Financial Implications

12.1 The LBH CFO notes the contents of this report.

13. Use of Appendices/Tables/Photographs

13.1 Appendix A: Plan showing current building and fencing arrangements.