

**MINUTES OF THE ALEXANDRA PARK AND PALACE ADVISORY COMMITTEE.  
TUESDAY, 5 FEBRUARY 2008**

The Committee then discussed the matter further, the main points of the discussion being:

- The total lack of due consideration by the Board of the Advisory Committee advice and recommendations including the previous requests from the Advisory Committee to have sight of the complete documentation (unredacted) relating to Firoka;
- ,that the Board is now formally requested, especially in light of the Judicial Review judgement, to ensure that the Advisory Committee are given sight of all of the relevant documents (unredacted) when the Charity Commission commences its further consultation process in order to enable the Advisory Committee to give clear advice to the Board;
- That the Advisory Committee did not wish to be seen as being obstructive and their request was in line with their powers and duties as set out in the 1985 Act, acting in the best interests of the Palace as a whole;
- That the Advisory Committee wish to remind the Board of the stated policy of Haringey in relation to any consultation process and that they should respond to any advice or recommendations proffered to the Board by giving its detailed reasons for either accepting or rejecting such advice;
- That this Committee considered that the Board would be failing in its duties to act in accordance with the 1985 Act by not respond in such a manner;
- That although the Advisory Committee did not have a power of veto of decisions taken by the Board, the Board was required to use its best endeavours to have due regard to the advice provided.

The Chair then summarised and it was:

**RESOLVED**

that in respect of a number of recommendations put to the Board by the Advisory Committee on 16th October 2007 (and the subsequent response of the Board to those recommendations on 30th October 2007) (see attached marked A) the Advisory Committee request the Board to respond to the following points of clarification in a clear and considered manner giving reasons for either accepting or rejecting the Advisory Committee's advice:

- i. that the decision of the Board on 30th October 2007 not to review and/or reconsider the Board's responses of 14th November 2006 (as per attachment B), and deferring such consideration until the Charity Commission had indicated its position, was in the view of

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the Advisory Committee, unacceptable and that it appeared to this Committee that the Board was thereby failing to act in accordance with the 1985 Act;

- ii. that in view of the Judicial Review Decision of 5<sup>th</sup> October 2007 that the consultation process carried out by the Charity Commission was flawed; when the Charity Commission publishes its statement on how it intends to carry out a further consultation the Advisory Committee be provided with the relevant documents (unredacted) in order to enable the Advisory Committee to consider the proposals and express their view and tender advice to the Charity Commission and to the Board;
- iii. that the Board be asked to consider the points previously made in respect of the lack of disclosure of the proposed Lease and Project Agreement to the Advisory Committee, and to comment on the view of this Committee that, had proper disclosure been made, the outcome of the Judicial Review may have been different;
- iv. that the Board should confirm that in respect of this Committee it will in future adopt the policy, principles and objectives of the London Borough of Haringey and central Government in relation to the consultation process concerning the Firoka proposals;
- v. that the Board agrees to respond in detail to the Advisory Committee's advice in future and provide the reasons for either accepting or rejecting such advice; and
- vi. that the Advisory Committee did not wish to be seen as being obstructive in its requests but was merely seeking be properly equipped to fulfil its duties under the 1985 Act and to act in the best interests of the charity.

Councillor Dobbie asked that his dissent to above resolutions be recorded.

- iii) **Draft minutes of the meeting of the Alexandra Palace and Park Board held on 30 October, 5 & 17 December 2007 (Special meetings), Alexandra Palace and Park Panel – 22 & 29 November 2007) and the Alexandra Palace and Park Consultative Committee of 23 October 2007.**

The Chair asked if there were any points of clarification to the circulated minutes. The Committee's attention was drawn to the comments (at page 16 of the minutes of the Board of 30 October 2007) licensing arrangements entered into between Firoka and Alexandra Palace Trading Ltd, as referred to in the summary of exempt minutes of the Special Board meeting of 17 December 2007. Questions were raised concerning the details of the licence, which the Committee were advised were of an exempt/confidential nature.

## ATTACHMENT A

### MINUTE EXTRACT & RESOLUTION OF THE ALEXANDRA PALACE AND PARK BOARD OF 30 OCTOBER 2007 IN RESPECT OF THE RECOMMENDATIONS OF THE ALEXANDRA PARK AND PALACE STATUTORY ADVISORY COMMITTEE – 16 OCTOBER 2007

#### MINUTE EXTRACT

Arising from consideration of the minutes of the Advisory Committee we noted that in respect of a number of recommendations put to the Board on 31 October 2006, and the subsequent response of the Board to those recommendations on 14 November 2006, the Advisory Committee had requested the Board to reconsider the advice and recommendations of the Advisory Committee and its responses, and advise the Advisory Committee how they intended to implement their responses.

Councillor Hare referred to the notice he had given of a number of questions he wished to raise which related to the Advisory Committee's request and sought clarification of whether he might ask them at this juncture. The Chair indicated that the questions might be better considered during consideration of the report of the Trust Solicitor on the present position with regard to negotiations with Firoka (see Minute APBO.22 below).

The Trust Solicitor having advised that it was not appropriate to discuss the future of the asset until a clear view had been obtained from Firoka as to their intentions, the Chair added that any discussion would be hypothetical until that position was clarified.

Mr Liebeck expressed concern that the matters raised by the Advisory Committee should not be allowed to fall by default and having referred to the recent Court ruling and the continuing role of the Advisory Committee. He voiced disquiet that the Advisory Committee had still not seen the proposed lease with Firoka and expressed the hope that the advice and recommendations made by the Advisory Committee would be taken into account when the Charity Commission carried out the second consultation exercise. The Chair indicated that the full transcript of the Court ruling specifically regarding consultation would be considered by the Board and at that time it would be both appropriate and reasonable that advice and those recommendations from the Standing Advisory Committee would be considered in the light of the Courts direction.

Councillor Beacham having asked why the proposed lease could not be made available at this time to the Advisory Committee, the Trust Solicitor again advised that negotiations with Firoka were at an extremely delicate stage and until Firoka's position was made clear it would not be helpful to publish what the proposed lease had said.

Councillor Hare expressed the view that there was little reason why members of the Advisory Committee should not see the lease if they had signed

confidentiality agreements and were being asked for their views on related matters without knowing its contents. He suggested that as a number of lay people had now seen the lease a protocol should be agreed to allow Advisory Committee members to see it also. The Trust Solicitor commented that the Charity Commissioners had yet to decide on the scale and scope of their second consultation process and that it would be premature for the trustees to pre-empt the Charity Commission decision and publish the lease and project agreement until they had arrived at a view. Once details of the Charity Commission's proposed consultation process were known the Board would be able to consider that with the appropriate advice.

Councillor Hare indicated his disagreement with the advice offered by the Trust Solicitor and with what he viewed as the selective withholding of information and re-iterated his opinion that a copy of the lease should be provided to members of the Advisory Committee. The Chair responded indicating that he did not share that view and in the light of the advice of the Trust Solicitor he moved that the proposed lease between the Trust and Firoka Ltd. should not be made available for the time being but that as soon as the Charity Commissioners informed the Board of the consultation process they proposed to carry out all information that could be placed in the public domain be made available to the Advisory Committee. On being put to the vote Councillors Cooke, Dogus, Egan and Peacock appeared in favour and Councillors Beacham, Hare and Oakes against and it was declared carried.

The Chair then proposed a second motion that when the Board was in a position to reconsider the advice and recommendations of the Advisory Committee first put to them on 31 October and the responses given on 14 November 2006 they do so on the advice of the Trust's solicitor. On being put to the vote Councillors Cooke, Dogus, Egan and Peacock appeared in favour and Councillors Beacham, Hare and Oakes against and it was declared carried.

Councillor Hare was of the opinion that the Advisory Committee would not be able to function properly in the light of the decisions taken. The Trust Solicitor responded indicating that the Board was required to act in the best interests of the Charity and that advice had already been given about premature disclosure of information. Negotiations with Firoka were at a delicate stage and should be allowed to continue without prejudice, the threat of a claim for substantial damages based upon the trustees alleged repudiatory breach of contract remained and anything which the Board did in advance of the Charity Commission's decision might prejudice this.

#### **RESOLVED:**

1. That the minutes of the meeting of the Alexandra Park and Palace Statutory Advisory Committee held on 16 October 2007 be received.
2. That the proposed lease and project agreement between the Trust and Firoka Ltd. should not be made available for the time being but

that as soon as the Charity Commissioners informed the Board of the consultation process they proposed to carry out all information that could be placed in the public domain be made available to the Advisory Committee.

3. That the advice and recommendations of the Advisory Committee first put to the Board on 31 October and the responses given on 14 November 2006 be reconsidered once the Charity Commission had indicated its position.

**ATTACHMENT B**

**ADVICE AND RECOMMENDATIONS OF THE ADVISORY COMMITTEE DRAWN FROM THE MINUTES OF ITS MEETING ON 31 OCTOBER 2006 PRESENTED TO THE ALEXANDRA PALACE AND PARK BOARD MEETING ON 14 NOVEMBER 2006 COMPLETED WITH THE BOARD'S ACCEPTANCE/REJECTION AND REASONS WHY AS APPROPRIATE**

	Advice and Recommendations	Accepted	Rejected and Reasons Why
1.	<p>(i) Item 4 – Minutes – Alexandra Palace and Park Board (12 September 2006) and Statutory Advisory Committee 29 August 2006</p> <p><b><u>RESOLVED</u></b></p> <p>That in respect of the decision of the Board from its meeting of 12 September 2006 to not take any action in respect of the Advisory Committee's recommendation of 29 August 2006 requesting that a traffic assessment is undertaken for the entire Alexandra Palace and Park site as part of the Firoka Group's developments, the Alexandra Palace and Park Board be requested to ensure that as part of the planning application process an overall traffic</p>		<p>That, as previously stated to the Advisory Committee, in respect of their previous request to the Board that a traffic assessment is undertaken for the entire Alexandra Palace and Park site as part of the Firoka Group's proposals, and that the Alexandra Palace and Park Board be requested to ensure that as part of the planning application process an overall rather than piecemeal traffic assessment of the scheme as a whole be made then the Advisory Committee be advised that this request is not within the remit of the Board to request . It is an issue to be addressed by Firoka to the Planning</p>

	<p>assessment of the scheme as a whole was made but not in a piecemeal fashion.</p>		<p>authority when it makes an application for planning permission.</p>
<p>2.</p>	<p><b>(ii) Item 5 – Future use of the Asset</b></p> <p><b><u>RESOLVED</u></b></p> <p>(A) that in terms of the draft Order the Board should provide and disclose to the SAC the proper procedures it intends to devise to monitor and review the performance by (Firoka) of the covenants contained in the lease, and how these procedures will restrict the use of the leased premise to uses consistent with the aims of the charity; in particular to maintain the Palace as a place of public resort and recreation and for other public purposes, bearing in mind the SAC's statutory obligation to promote the objects of the charity;</p>	<p>The principle behind this advice is substantially accepted.</p> <p>The post of Monitoring Officer will have within its remit the role of monitoring and reviewing the performance by (Firoka) of the covenants contained in the lease, and how these procedures will restrict the use of the leased premise to uses consistent with the aims of the charity; in particular to maintain the Palace as a place of public resort and recreation and for other public purposes, and that the SAC's statutory obligation to promote the objects of the charity will be covered under the residual arrangements of the Charity after the lease was granted.</p> <p>There will also be an employee of the charity who will exercise its continuing</p>	

		<p>role as part of its landlord function. Exact details of these roles and responsibilities will need to be worked through by the Board as Trustees with the assistance of professional advice.</p>	
	<p>(B) that the Board should address itself to the question (and provide the SAC with a written answer in detail) of how the role and function of the SAC, as provided for in Part III, Schedule 1, paras 19/20 of the Act will be maintained after the lease is entered into with the tenant, with particular regard to the question as to how the SAC is to discharge its statutory duties under the Act</p>		<p>That the Board advises the Advisory Committee that there will be no change to the role of the Advisory Committee, and it will continue under the existing rules after the lease to the Firoka Group has been granted.</p>
	<p>(C) . that the Board ought to make a provision in the lease to preserve the current powers and duties of the SAC to enable the local community in the form of the current make-up of the SAC (local residents' associations' representatives and councillors) to continue to be consulted and for the tenant to have due and proper regard to its views, and use their best efforts to give effect to its recommendations, in respect of the general policy relating to the activities and events arranged or permitted in the Palace, and</p>		<p>That the Board advises the Advisory Committee that there will be no change to the role of the Advisory Committee, and it will continue to exist after the lease to the Firoka has been granted.</p>



	generally in respect of the functions of the SAC under Schedule 1 Part III of the Act		
	(D) that the Board provides the SAC with a copy of the draft lease, the project agreement and master agreement to be entered into by the Board of Trustees and the Firoka Group to enable the SAC to become conversant with the terms of the lease insofar it effects the role of the SAC and the aims of the charity under the provisions of the Act.	That the Board advises the Advisory Committee that its Chair has been provided with such copy draft documentation but that it is not appropriate for the Board to disclose the draft documentation to the Advisory Committee as they contain confidential and commercially sensitive information. The Board also considers that in advancing this request the Advisory Committee is going beyond its remit.	
3	<p><b>Item 7 (ii)The structure of the residual organisation that will be left to deal with matters relating to the Palace and the Park, on behalf of the Board</b></p> <p><b><u>RESOLVED</u></b></p> <p>that in respect of the Board's residual functions post transfer of the asset to the Firoka Group, the Advisory Committee requests that the Board establishes a proper and effective monitoring procedure in respect of Firoka's works and that the</p>	That the Advisory Committee be advised that in respect of its request that the Board establishes a proper and effective monitoring procedure in respect of Firoka's works and that the post be created of a 'Clerk of Works' to ensure that the works are carried in accordance with the terms of the project agreement, the Advisory Committee be advised that the proposed role of Monitoring Officer to	

	<p>post be created of a 'Clerk of Works' to ensure that the works are carried in accordance with the terms of the project agreement.</p>		<p>the Trustees will encapsulate a proper and effective monitoring procedure in respect of Firoka's works.</p>