

FOBRA COMMENTS ON CHARITY COMMISSION SCHEME FOR THE RECREATION GROUND, BATH

The Federation of Bath Residents' Associations represents 26 local associations in central and outer areas of Bath. We have followed developments on the Rec closely for several years. We have serious concerns about the steps leading up to the publication of the Charity Commission's Scheme, the process which is being followed, and the Scheme itself.

Previous steps

The Scheme is based on the premise that the consultation by the Rec Trust in 2011 showed that respondents agreed that the benefits of the changes proposed outweighed the detriments. We believe that consultation was deeply flawed, with too little information given, the incredible view that beneficiaries could be anybody anywhere, and no realistic check on who was responding or how many times they responded from different email addresses. The Federation said then that we could neither agree nor disagree that the benefits outweighed the detriments. Our view remains that these problems undermine the validity of the 2011 consultation. The present Scheme is therefore unsound.

Process

We think it is unreasonable for the Commission to specify only a one-month deadline for comments over the Christmas period, when everyone is busy with other things, and many are away. The Government's code of practice states that "*consultations should normally last for at least 12 weeks*". This unnecessarily tight deadline undermines the value of the current exercise.

We understand that the Charity Commission must decline jurisdiction in a case if it considers that, "by reason of its contentious character, or of any special question of law or of fact or for other reasons", the case is more suitable to be adjudicated by the High Court¹. The present case is highly contentious in Bath, and we believe it should therefore be adjudicated by the High Court.

The proposed Scheme and the Rec Trust booklet

If, notwithstanding these objections, the Scheme proceeds, we have concerns about the detail and about the Rec Trust's booklet, which is meant to clarify it.

We welcome the statement on page 4 of the booklet that the Rec Trust "*manages the Rec for the benefit of the people of Bath and the surrounding areas*". These are obviously the correct beneficiaries, as envisaged when the land was conveyed to the Council in 1956, and we believe your present exercise should have demanded respondents' addresses and affiliations to check that it is only beneficiaries whose views are being counted. Moreover, as your current framework for this charity (Registered No. 1094519) states the

¹ Charities Act 2006, further altered by the Transfer of Functions of the Charity Tribunal Order 2009 (S.I.1834).

beneficiaries to be “The General Public/Mankind”, we suggest that the Scheme should now amend the definition to make clear that the beneficiaries are local people.

Para 3 of The Scheme states that “The land specified in Part 1 of the schedule.....shall be.....used for the purpose of providing facilities for recreation (including indoor recreation).....”, and Part 1 makes clear that the land includes the car park. We believe this would make it *ultra vires* to use the car park for non-recreational purposes, such as shopping or business in Bath. Any limitation on usage is likely to reduce the income of the Rec Trust, which the Scheme is otherwise intended to boost, and we suggest this should be deleted.

We believe that para 4.1 of The Scheme should specify the purposes for which any fresh lease is granted (such as “organizing professional rugby and related activities”). Otherwise Bath Rugby would have carte blanche to use the land for purposes other than the sport which the Scheme is intended to permit.

Part 4 of the Scheme’s Schedule lists the two nominated Trustees from Bath and North East Somerset Council. To ensure continuity and consensus, we suggest that one of the two Council trustees should be from the party currently in power and the other from the official opposition. This principle should be stated either in this Schedule or in para 5(2) of the Scheme.

We are concerned that the detail of what is being proposed should be spelt out clearly. The draft Scheme is essentially about land use at the Rec and at Lambridge. It must include properly drawn maps of the two locations, preferably at the same scale, so that people can easily compare what is being gained and lost. Plans 1 and 2, (pages 5 & 9 respectively) of the Rec Trust’s booklet incorrectly show the size of the present Leisure Centre and of the present temporary stand. None of the plans are scaled, including that of the Lambridge site, so comparison is difficult.

We question the equivalence of the Lambridge site to the Rec asserted in page 8 of the booklet. Lambridge is simply not as well-situated as the Rec, as it is within walking distance of a much smaller number of residents, and has far fewer public transport links. Nitrogen dioxide levels at Lambridge are also notoriously high, at around 80 micrograms per cubic metre or twice the permitted legal limit, and we question the suitability of this site for more intensive sporting use by the general public.

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