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14 September 2006

Dear Victoria

Alexandra Park and Palace (Registration Number 281991)

Thank you for your letter of 8 September.

I appreciate the priority you continue to afford to this matter, notwithstanding its complex nature, having regard to the timescale to which the parties are seeking to work.

As was the case in respect of my letter of 2 August, your letter of 8 September has been copied to the team advisers and this response is sent with the benefit of their input. I should, perhaps, add that whilst I recognise the necessity for a proper audit trail in regard to the decision making process, this correspondence remains confidential as between the Commission and the Charity's professional advisers.

Without intending to be critical, whilst your response is lengthy, I do not believe the key areas where you have asked for further information are many. What I propose, therefore, is to make some observations in response to your requests and then deal with the substantive issue. My reading of the substantive issue is that you would like information on the other possibilities considered by the Trustees.

I will deal with the general points under the following numbered paragraph:-

1. **Spatial Area**

A copy of the Lease plan will, of course, be provided once the documentation has been agreed. The Charity's advisers will ensure that this contains no land outside the land on the plan annexed to the Scheme.

2. **Use**

Forgive the observation, but in the second paragraph under this heading you refer to the 1913 Act. That is not material for present purposes because all it did was to extend the Trustees' powers. What are generally referred to as the objects of the Charity appear in the tailpiece to paragraph 17 of Schedule 3 to the 1985 Act, which was originally Section 17 of the 1900 Act.

In the third paragraph of your letter under this heading you say that

"facilities at the Palace will not be provided on a charitable basis".

This statement does not seem material to me or to take the issue forward. If you will again forgive the observation, it seems to mix the concepts of "not charging" and charity.

As the Court of Appeal decided in the ski slope case, the fact that the trustees have powers to charge has no bearing upon the charitable status. Indeed, it is only by charging that the trustees are able to provide the recreational facilities desired and in accordance with the objects of the Charity. Put succinctly, charitable does not mean without charge.

At the foot of page 2 of your letter you have asked for my comments on your observation that the trustees can flexibly respond to changing uses and beneficiary needs by monitoring compliance with the tenant's covenant not to be a nuisance or do anything which would infringe the provisions of the legislation.

The trustees have serious regard to the ongoing nature of their obligations as trustees of the Charity. They are presently considering how best to meet these obligations and the level and range of officers that they will need to employ for this purpose.

The trustees consider that there are two elements of continuing involvement:-

- (a) What I classify in the broadest sense as the "charity" elements. This covers governance issues, compliance with rules relating to accounts and the overall strategy and objectives of the Charity; and
- (b) Issues arising out of the trustees' role as landlord of Firoka under the Lease and Project Agreement.

The issue of the continuing role and functions is presently in the nature of "work in progress", but I hope it is sufficient for me to emphasise the seriousness with which the trustees view their continuing obligations.

3. Is the granting of the Lease expedient in the interests of the Charity and furtherance of its objects?

You suggest at the foot of page 3 that it cannot be said that the Lease of the Palace directly furthers the objects.

I am not sure that I would agree with this statement. The Lease contains specific development obligations which will enable an improvement of the recreational facilities provided by the trustees in accordance with the objects of the Charity.

Perhaps semantically the Lease does not further the objects, but the obligations the Lease imposes on the Lessee will further the objects of the Charity.

4. Risk – Development Agreement Obligations

You ask for confirmation that the advice received includes that of a quantity surveyor. If that request relates to the advice to Firoka the bid document records that Ridge has advised Firoka. As there indicated Ridge's expertise includes "Ridge Project Managers, Quantity Surveyors and M & E Service Engineers".

As regards the Trustees they have received advice on project costs from King Sturge. It carried out a very comprehensive survey in three parts:-

1. Of the state of the building and the investment required to bring it to a "core" condition for redevelopment
2. The likely costs to create alternative uses and
3. A review of the bidders figures for development costs.

The Trustees professional advisory team included the quantity surveyors Robinson Low Francis.

5. Credentials of Tenant

At the foot of page 5, you have stated that Firoka's professional team appears to be largely Oxford based. You have asked me how the team was selected, on what basis and what considerations were undertaken.

First and foremost, I have to make the point that Firoka selected its own professional team. This was not a matter for the Trustees and I have no knowledge or information as to its selection process.

That said, the statement that it appears to be "largely Oxford based" does not seem to me entirely correct.

The architects, Messrs Aukett Fitzroy Robinson, is a plc company, which I believe is quoted on AIM. It is based in London and has offices in major European cities, albeit that I can find no mention of Oxford amongst them.

Gerald Eve has two London offices – one of them is immediately adjacent to one of my firm's premises. It has a network of offices in the UK, although again, no presence in Oxford.

Ridge has a number of offices in England, two of which are in Oxford.

JPPC Planning Consultancy does appear to be based in Oxford.

Lewis Silkin's main office is in the City of London, with an additional office in Oxford.

I am not sure if I can say anything more about the professional advisers and I hope that I have allayed any concerns you may have in this regard.

I come now to my substantive response.

6. Have the Trustees considered all other options in respect of the palace?

As I have indicated earlier in this letter, this seems to be the substantive matter with which you are concerned and upon which you require further information.

You have previously raised this question and I had provided information in reply on page 4 of my letter dated 2 August.

In the third paragraph, under that heading, I said,

"It was not my understanding that the basis of the 2004 Order was that the Trustees would consider "all other options"."

You have interpreted that sentence as amounting to a statement that