

Lydiard Park Trust Meeting
8th February 2017, 13.30 - 15.30 CR 1

Attendees SBC: John Gilbert (Chair), Cllr David Renard, Cllr Garry Perkins, Richard Bell, Adrian Arnold, Rob Richards, Kehinde Awojobi, Jim Catton

Attendees LPHT: Sarah Finch-Crisp, Mike Bowden, Daniel Rose, Kevin Fisher & Per-Axel Warenjso.

Apologies: Nil

Item	Minutes
1.	<p>Introductions Introductions were made</p>
2.	<p><u>Current SBC Assessment of the transaction</u></p> <p>a) R Bell of SBC stated their position that, following further work between officers of the council and the Trust representatives, and based on the Business Case presented by the LPHT requiring a minimum of £4.94 M funding, officers would not be seeking authorisation from Cabinet and Council to proceed with completing the Business Transfer Agreement and Lease for legal reasons.</p> <p>b) K Awojobi, the SBC lawyer, said it would be unlawful for SBC to enter into the transaction as it would not be fulfilling its statutory duties under:</p> <ul style="list-style-type: none"> ○ Best Value legislation. ○ Best Consideration legislation. ○ State Aid legislation ○ Ultra vires <p>c) SBC stated (A Arnold and D Renard) that commercially it would not be in SBC interests as the cost of borrowing to SBC for the £4.94 M funding requirement in the LPHT bid would be between £300k to £400k p.a. This amount is not currently budgeted for so would cause a significant on-going pressure for the SBC Revenue Budget.</p> <p>d) In general, SBC stated that the changes requested to continue with this bid are now so far away from the original application that it would be at serious risk of challenge.</p> <p>e) SBC confirmed they had considered the outsourcing to be a public procurement and had complied with public procurement rules.</p> <p>f) A Arnold of SBC explained the breakdown of the £160k in the 2018 / 19 Revenue Budget paper and confirmed that capex of £850 K for Lydiard was also in the 2018 / 19 budget.</p>
4.	<p><u>LPHT assessment of the transaction and response to SBC's legal assessment</u></p> <p>a) LPHT suggested the legal advice was both 6 months late and very convenient to the council who may well have just changed their mind.</p> <p>b) LPHT asked why the legal decision had taken SBC 6 months (from when they presented their survey findings to SBC) to be reached. There was no response to this question</p> <p>c) LPHT asserted that the all the material changes to their first bid were due to the inaccurate and potentially negligent disclosures by SBC (e.g. the condition survey, Chartridge business and dilapidations).</p> <p>d) LPHT did not ask for £4.94 M 'funding' as asserted by SBC in their legal analysis.</p> <p>e) During the 3 November meeting between SBC and LPHT there was joint</p>

Lydiard Park Trust Meeting
8th February 2017, 13.30 - 15.30 CR 1

	<p>agreement that it was important to agree the work that needs doing, and not the cost of that work. Since LPHT had made a clear stated preference that SBC should do the work, and SBC (B Brannon and G Perkins) had accepted this direction of travel, LPHT felt the word 'funding' to be inappropriate.</p> <p>f) LPHT asserted that since the legal analysis had not considered the likelihood of SBC undertaking the agreed works at their own cost, the legal conclusion was flawed.</p> <p>g) Notwithstanding the above LPHT points, the trust did not agree with the legal advice provided but, because they were not pre-briefed of the decision and therefore unable to carry out their own research into the legal process before the meeting, were not able to provide a technical legal assessment of the relevant legislation during the meeting.</p> <p>h) LPHT asked what SBC thought the purpose of due diligence was if after discovering disclosure inaccuracies SBC simply pulled the plug. The question was not answered.</p> <p>i) LPHT expressed surprise and disappointment that no attempt appeared to have been made to look for solutions to the legal issues -e.g. SBC doing the agreed works themselves.</p> <p>j) LPHT also re-iterated their view (which had previously been made in writing) that they felt the minutes of the 3rd November 2017 meeting between SBC and LPHT were not a true reflection of the meeting. This assertion was made since they were only produced in January 2018 and reflected how SBC wanted the meeting to have gone rather than a true reflection of the actual meeting. There was no response from SBC to these assertions.</p>
<p>3.</p>	<p><u>Backlog Maintenance - Output from November 27th technical meeting</u></p> <p>a) LPHT stated that both parties' surveyors, during their 27 November meeting, reached an agreement on 81 % of the work items listed within the trusts survey. A further percentage required additional assessments before agreement could be reached and the bulk of the rest could be attributed to dilapidations which Chartridge should have contractually been made to pay. Therefore, the work needs doing, whoever is managing the park and house and that ignoring it will simply lead to the eventual closure of the heritage asset to the public on safety grounds.</p> <p>b) LPHT stated that if SBC did not complete all the agreed (from the 27 Nov 2017 meeting) backlog maintenance works that the problem will only continue to get worse year on year leading to the eventual closure of the heritage asset.</p> <p>c) G Perkins of SBC agreed that, if 81 % of the surveyors report had been agreed, then the work needed to be done</p> <p>d) K Awojobi of SBC stated there were no legal issues with SBC doing the 81 % agreed work.</p> <p>e) R Richards of SBC asserted SBC and LPHT surveyors had agreed a total cost of £1.1 m for the works. LPHT strongly challenged this assertion - R Richards was unable to produce any evidence and agreed to provide such evidence as a follow up to the meeting.</p>

Lydiard Park Trust Meeting
8th February 2017, 13.30 - 15.30 CR 1

5.	<p><u>Amendment to Chartridge dilapidations obligation in the Dec 2016 lease</u></p> <p>Chartridge notifications to quit:</p> <ul style="list-style-type: none"> a) R Bell of SBC advised Chartridge had given notice to quit by <u>13th April</u> . b) LPHT asked if SBC had accepted short notice (i.e. less than the contractual 6 months) or had SBC delayed informing the trust of the notice to quite. The trust asked SBC for the actual date Chartridge gave notice. No one from SBC was able to answer these questions. c) R Richards of SBC agreed to confirm the date notice had been received, the period of the notice and, if less than 6 months, why that had been accepted. d) LPHT asked what the plan was for all the weddings that had been booked to occur after the 13th April 2018. R Bell of SBC stated that Chartridge had either refunded the clients or moved them to their Marsh Farm hotel. The Trust asked whether SBC had sought any compensation for their lost revenue caused by Chartridge moving weddings to their other venue. There was no response to this question. e) LPHT voiced concerns about the futures of Chartridge staff that all face redundancy. They asked whether SBC had spoken to them. SBC stated they had not since they were not their staff. LPHT voiced surprise at that approach pointing out that they had taken the time to speak with the staff and wondered why SBC did not feel any obligation to do so themselves. There was no further response to this issue. <p>SBC ability to reclaim dilapidations from Chartridge.</p> <ul style="list-style-type: none"> f) LPHT asked if the dilapidations provision in the 2016 lease might amount to an unlawful gift from SBC to Chartridge and asked SBC to confirm the value assumed for the removal of the dilapidations obligation. The trust asked why the dilapidations requirements in the revised Chartridge lease had been reset. g) R Richards of SBC stated that the trust was wrong in that assessment and that SBC will be compensated by Chartridge for dilapidations. Sarah Finch-Crisp of LPHT reported that Kathy Sherratt of SBC had confirmed in an earlier meeting that the Chartridge dilapidations obligation had been changed due to commercial pressure. h) LPHT responded by reading the relevant clauses within the new contract. i) R Richards restated that the trust was wrong. j) The trust continued to reference the relevant clauses and challenged SBC to provide evidence proving their assessment was wrong. No evidence was provided. k) LPHT stated that, since dilapidation payments from Chartridge should have a material effect on the costs of maintenance itemised in the trusts surveyors report, why had the dilapidations amount had not been factored into the Councils assessment of backlog maintenance before any legal decisions was made. There was no response to this question.
6.	<p><u>Working Capital</u></p> <p>This agenda item was not discussed</p>
7.	<p><u>Next Steps – Working Together</u></p> <ul style="list-style-type: none"> a) It was agreed by both parties that the formal bidding process in place since February, 2016 has now ended, and that Lydiard House and Park would remain

Lydiard Park Trust Meeting
8th February 2017, 13.30 - 15.30 CR 1

	<p>in the running of SBC.</p> <p>b) LPHT voiced concerns about any future program of working together, to which D Renard of SBC indicated that it was only the legal advice that had prevented SBC doing the deal with LPHT and he was supportive of all the agreed work being undertaken by the council.</p> <p>c) R Bell and G Perkins of SBC accepted and acknowledged that the council did not have the skill set to properly and effectively run Lydiard.</p> <p>d) LPHT picked up on these statements and voiced concerns about the fact that there are more vacancies on the SBC / Lydiard organisation chart than employees. The fact that the head gardener had recently left was of high concern to the trust.</p> <p>e) R Bell of SBC acknowledged the trusts concerns particularly with respect to the head gardener. He pointed out that SBC had purposely not been backfilling vacancies with permanent staff to ensure the trust had maximum flexibility once it took over management (this point was acknowledged by LPHT). He went on to state that he does not have enough people to run the park once the new season starts and that he needs to get on with restructuring with STEAM.</p> <p>f) SBC reconfirmed that they would comply with the eleven 'red lines' put to them by the Friends of Lydiard Park in 2015 / 16.</p> <p>g) SBC made a clear desire for the two organisations to work together in the future in two areas, with SBC gaining from the expertise of LPHT Members:</p> <ul style="list-style-type: none"> • The Works including scope and timescales. • Future management of the House and Park. <p>l) LPHT highlighted the vulnerability of the building after Chartridge's exit. R Bell (of SBC) stated appropriate security would be provided.</p>	
<p>8.</p>	<p><u>Impact of Local elections</u></p> <p>a) LPHT advised that they have been contacted by the local Labour Group for an update on the current position.</p> <p>b) K Awojobi of SBC stated his advice would be the same no matter which party was in power</p>	
<p>9.</p>	<p><u>Joint Communications</u></p> <p>a) J Gilbert of SBC asked if the trust would enter into a joint press release. LPHT responded that they would consider the request on receipt of the SBC draft by 14 February.</p> <p>b) LPHT suggested that as it was SBC contention that it was only the legal concerns that had caused the council to abandon the process, they should be prepared to confirm in their public statement that the backlog maintenance and repair work their surveyors had agreed with Caroes (the LPHT surveyor) would be undertaken at council cost over the next 2 years. The council agreed to address this issue in their public statement.</p> <p>c) SBC agreed to reconfirm in a public statement that they would comply with the 11 Friends undertakings (red lines) with some minor amendments re subletting - (e.g. Jungle Parcs).</p>	
<p>10.</p>	<p><u>Actions</u></p> <p>1. SBC to produce draft minutes by COP 12th Feb.</p> <p>2. SBC to provide evidence supporting the claim that the SBC and LPHT surveyors had agreed a total cost of £1.1 m for the works.</p>	<p>SBC - JC SBC - RR</p>

Lydiard Park Trust Meeting
8th February 2017, 13.30 - 15.30 CR 1

	<p>3. SBC to provide the evidence that Chartridge do have a contractual obligation to contribute to dilapidations dating back to their original contract terms signed a decade or so ago and SBC to confirm the value of the dilapidation claim</p> <p>4. SBC to copy the trust on their draft press release by 14 Feb</p> <p>5. LPHT agreed to consider a joint statement on receipt of the SBC draft promised by 14 Feb.</p> <p>6. A program of works based upon the agreed line items (from the November surveyors meeting) along with follow up assessments of the flat roof problem and M&E work to be proposed by SBC.</p> <p>7. SBC to offer a response to the fact that LPHT had used money from charitable sources -i.e. SBC should consider reimbursement.</p>	<p>SBC - RR</p> <p>SBC - JG LPHT</p> <p>SBC - RR</p> <p>SBC - JG</p>
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