



SCRUTINY BOARD (CULTURE AND LEISURE)

Meeting to be held in Civic Hall on
Monday, 8th October, 2007 at 10.00 am

A pre-meeting will take place for ALL Members of the Board
in a Committee Room at 9.30 am

MEMBERSHIP

Councillors

B Atha	-	Kirkstall
A Barker	-	Horsforth
B Gettings	-	Morley North
T Hanley (Chair)	-	Bramley and Stanningley
A Hussain	-	Gipton and Harehills
B Jennings	-	Weetwood
G Kirkland	-	Otley and Yeadon
V Morgan	-	Killingbeck and Seacroft
L Mulherin	-	Ardsley and Robin Hood
L Rhodes-Clayton	-	Hyde Park and Woodhouse
G Wilkinson	-	Wetherby

Please note: Certain or all items on this agenda may be recorded on tape

Agenda compiled by:
Governance Services
Civic Hall
LEEDS LS1 1UR
Telephone No:

Andy Booth

247 4356

Principal Scrutiny Adviser:
Sharon Winfield
Telephone No: 2474707

AGENDA

Item No	Ward/Equal Opportunities	Item Not Open		Page No
11		10.4(1, 3)	MIDDLETON PARK EQUESTRIAN CENTRE INQUIRY To consider a report of the Head of Scrutiny and Member Development regarding the Board's Middleton Park Equestrian Centre Inquiry. An appendix to this report is designated exempt under Access to Information Procedure Rule 10.4 (1) (3).	1 - 10

**LEEDS CITY COUNCIL
MIDDLETON PARK EQUESTRIAN CENTRE
RIDING FOR THE DISABLED ASSOCIATION
Summary**

MIDDLETON PARK EQUESTRIAN CENTRE

The Middleton Park Equestrian Centre was set up by the City Council in conjunction with the Riding for the Disabled Association to provide Riding for the Disabled and also opportunities to ride to disadvantaged people living in the neighbourhood which consists of a number of Wards with a very high deprivation rating.

The agreement was that RDA would provide capital for the Centre and the Council the running costs with the RDA additionally meeting the costs of tack and horses.

There are currently five trustees and the Secretary is Mr Gaye, Leeds City Council.

Funding

Mrs Charlotte Bromet (a Trustee) personally raised the first £400,000 towards the total cost of a predicted £500,000 expenditure. B Atha (a trustee) applied for a grant from the Foundation for Sport and the Arts receiving an award of £200,000 towards the cost of the Centre. The Centre was opened by the President of the RDA, Princess Anne

Lottery Bid and Council Business Plan

In 1998 the Council impressed by the Centre's success decided to extend the Centre to make it one of the largest in the UK as had originally been planned. An application to the Sports Council together with a three year business plan was prepared by Council officers and submitted by the City Council, the RDA receiving a grant of £838,448 towards a total cost of £1,010,178 (the first Sport Lottery grant in the country). The construction of the extension was project managed by the Council Officers.

Aggregate contributions by RDA

In summary therefore the RDA Trustees and manager Mrs Bev Backhouse have raised the following for capital development of a site owned by the Leeds City Council.

£400,000 Charlotte Bromet personally
£200,000 B Atha from FSA
£ 76,000 Bev Backhouse personally
£838,448 Sport Lottery Fund payable to RDA

and made the following payments as donations:

£132,000 from the RDA's Funds on being assured the management changes proposed would be implemented
£23,428 by C Bromet on closing the Tadcaster account.

This totalled £1,669,876

In addition annual fundraising efforts are undertaken by the manager Bev Backhouse which have included revenue raising schemes such a sponsoring a horse, a fundraising ball and an annual major fundraising event by Charlotte Bromet.

In 2005 B Backhouse raised £90,000 to meet the cost of covering the outdoor arena to permit lessons in winter, The trustees had to project manage this themselves.

Achievements

The Centre has operated successfully for many years and gradually increased its contribution to the well being of the society in which it is situated.

It has accommodated a considerable number of youth offenders from the youth offending team who spent their time at the Centre learning about horses and undertaking stable work. This task was undertaken without any charge.

The Centre has also accepted young people on probation from the Probation Services, often numbering 3 to 4 a week. Again no charge was made for this service.

Children in Care of the Social Services in Leeds regularly ride at the Centre, giving them an opportunity to experience something that would otherwise never be in their compass.

The Centre also accepted children who for behavioural problems had been excluded from School. Attending the stables and working with the horses proved to be highly therapeutic and many of these children returned to School after a period of time spent at the Centre.

As Hospital Specialists increasingly understand the therapeutic benefits of horse riding, increasing numbers of rides are given to individuals who are referred for medical reasons to the Centre for riding lessons. The number increases every year and now is approaching something like 50 referrals a year from Hospitals.

The Centre has accepted persons sentenced to Community Service Orders and is specifically used where high profile offenders are involved.

This is in addition to the 220 or more rides or drives per week given to disabled people, many of whom have learning or multiple disabilities. For all disabled riders, their time at the Centre is the highlight of their week.

It also acts as an equestrian training centre to NVQ3 and trains young people on two year modern apprenticeship courses.

Enforced Change

When the Centre was extended VAT advice said that the Centre must become independent or the VAT position of the whole city council would be endangered. Sports England grant also was dependent on the council giving RDA a lease.

The RDA Group reluctantly agreed in order to help the City Council which indemnified the Trustees of RDA from any consequences arising from the lease.

Four years uncertainty

There ensued a long period of confusion in the relations with the city which is well documented. This confusion ended by Cllr Procter alleging on three occasions in Council that the three trustees were personally responsible for debts of a sum in the region of £200,000.

This the trustees have always denied in the published accounts prepared by the Council. The Trustees challenged the Council's lawyers to prove this. After a three month period the lawyers stated that it was impossible to say how much the Trustees owed. The Trustees asked the Council to state exactly what if anything they owed. The Council has refused to respond formally..

Trustees view

The trustees hold that this was in effect a council enterprise and the council continued to meet the annual deficit as they do for libraries, sports centres ; swimming pools, playing fields and all facilities which are provided for the public such as latterly some millions for the Grand Theatre. The payments were however totally consistent with the original agreement between the Council and the RDA which has never been changed by agreement. The trustees have never asked for the additional finance nor agreed to repaying it.

Threat of closure

A series of meetings has been held by the trustees and council representatives. They have proved ineffectual in sorting out the relationship between the two despite many promises. In March a letter signed by J Davies now retired, said that the Council would cease to support the Centre in November if the the trustees did not agree to the Centre being taken into total control of the Council. The withdrawal of grant would mean the immediate closure of the Centre, the sale of the assets of the RDA and the proceeds to go to RDA National. The lease would remain in the hands of the RDA trustees who would have to transfer the lease to RDA National along with its current reserves of approximately £140,000. If the RDA were to be forced to allow the Centre to become part of the Council's mainstream facilities certain problems arise.

The grant from Sports Lottery is re-payable pro rata

The Wooden Spoon might insist its donation of £35,000 be returned as it was made to a charity and not the city council.

The £200,000 grant from the FSA is technically repayable though this is not necessarily certain.

The Council would have to become a member of RDA which may prove to be impossible possibly not legal.

The £141,000 in the RDA accounts (9 June 2007) would have to go to RDA National.

The lease is charitable property and therefore subject to the Charities Act and presumably would have to be taken over on the same trust obligations as the RDA originally held the land.

A sensible alternative

The trustees of the RDA have proposed a simple alternative.

1. The Centre continues as now.
2. A proper agreement is drawn up between RDA and the Council specifying the grant from the Council and quarterly meetings between RDA and the City Council.
3. RDA remains a trust and continues fundraising.
4. RDA commits its reserves to the costs of the Centre.

Middleton Park Equestrian Centre. Position statement at July 2007

History

- 1. Management agreement** The equestrian centre was a Council enterprise very similar to Roseville in some ways with a Management Committee of Leisure Services Councillors and with the Council's Leisure Services Department administering its finances, HR and legal requirements and the RDA carrying out the equestrian activities under the auspices of the Council Management Committee which was chaired by a Council Member and whose Minutes went to the full Council Meeting for adoption. The Council acted as Secretary and still does in theory the current Secretary being Mr Gaye one of the most senior officers of the Council.
- 2. Capital costs** The RDA raised £1.7m initially to build and later expand the Centre. The manager Mrs Bev Backhouse has subsequently raised £90,000 approx which included £35,000 from Wooden Spoon towards the cost of the arena and has every year since the Centre opened raised substantial sums annually as has the Chair of trustees, Charlotte Bromet. The Council capitalised the cost of the arena and claimed the Vat thereon which is believed to be £15,000.
- 3. Extension and Lease** In 1998 the City Council, having been impressed by the success of the equestrian centre, decided to extend the centre and duly applied for Lottery grant funding in the name of the RDA. RDA were able to provide support in a number of ways. One measure of practical support was that partnership funding was made available from a fund already established by RDA and the corresponding bank account arranged so that withdrawals would require joint signatures from both the RDA and the Council's Leisure Services Department. The amount contributed from this RDA account was in the region of £132,000.

Sports England attached a number of conditions one of which was that a lease had to be granted in respect of the equestrian centre. This condition was ultimately agreed by all parties although the RDA Trustees preferred the status quo and required and received the comfort of an indemnity from the Council from any adverse consequence of the change.
- 4. VAT** After the lease conditions had been reluctantly accepted by the RDA and City Council, the Council's VAT expert said that there was a possibility of the scheme damaging the Council's own "VAT disregard" position. The conclusion stemming from discussions about this problem was that Middleton Park Equestrian Centre would have to be reconstituted to act as an entity legally independent of the City Council. This was agreed by the RDA to assist the City Council in its difficulties. It was an agreement not freely entered into for that reason. RDA was not offered an alternative. Middleton Park Equestrian Centre – Riding for the Disabled Association (MPEC) was registered as a charitable unincorporated body and its members are trustees with unlimited liability. The original agreement whereby the Council met the costs of the operation of the Centre apart from horses and tack remained unaffected.
- 5 Trustees left exposed** The change from being a City Council operation to an independent charitable organisation immediately exposed MPEC's trustees to a liability which they had never originally envisaged when they agreed to support the Council Leisure Services Department to build the original centre in 1989. Nor was it a liability they undertook freely or willingly. Despite their concerns over this new serious liability, the Trustees of RDA

felt there was no alternative if the Centre was to continue and flourish, but they regretted the end of a system of management set up in 1989 which had worked so well and economically for more than ten years.

6. The Original Agreement The Middleton Park Equestrian Centre was set up by an Agreement signed 20th day of June 1989 between the City Council and Riding for the Disabled Association. Each party was to contribute roughly equally to the capital cost of the development. The Council would pay the running costs and RDA would fund the costs of horses and tack.

Important statements within the 1989 agreement are :

S 10 "The Centre is to be used by the Council for the provision of riding facilities for the use of the general public or otherwise as the Management Committee shall direct, save that the Council allows the RDA to have exclusive use of the Centre facilities for such hours of the day as may be agreed between the Council and the RDA from time to time."

S 12 "The RDA shall provide sufficient horses and tack to enable the riding facilities to be properly available to the public in accordance with the requirements of the management Committee".

S 13 "The Council shall be responsible for the keeping grooming feeding and stabling of the horses veterinary and other bills including insurance save that RDA shall be responsible for replacing any sick dead or dying horses as necessary."

S 17 : "Except as provided otherwise in the Agreement the Council shall pay all the costs of running the Centre and shall provide such equipment and facilities as it shall in its absolute discretion consider necessary".

As already described the Centre ran very effectively under a Management Committee chaired by a Member of the Council and made up of Councillors and representatives of the RDA. The division of duties and responsibilities between the City Council and RDA worked harmoniously and effectively until the lottery scheme development and VAT considerations arose. During this period Bev Backhouse was line managed more in theory than in practice by inter alia John Morgan, Steve Bumby and Vicki Nunns all of whom were very helpful and supportive.

7. The Lottery Grant The City Council as outlined above applied for a Lottery grant on behalf of the two parties and the application was successful. The Lottery bid was based on the Business Plan prepared by the Council's Leisure Services Department. The Lottery grant was £838,448 to "assist LCC/RDA (The Organisation) in financing an estimated allowable expenditure of £1,010,178". Important clauses within the award letter included:

S 18: "The arrangements for the management and community use of the facilities will be as agreed by the ESC (English Sports Council) and will not be changed without prior consultation".

S 25 makes the grant or a proportion of it repayable to Sport England if the Organisation i.e. LCC/RDA fails to comply with the terms and conditions in the award letter.

A condition of grant from the Sports Council was that a lease be executed giving the RDA a longer term lease in order to ensure the use of the grant for the purpose for which it was given. This lease condition altered the relationship between the RDA and Leeds City Council and led to the need for a new management agreement. The lease placed heavy contingent liabilities on the Trustees the fears of whom were calmed by the prospect of a new Management Agreement (never produced) and the Council agreeing to indemnify the trustees from any financial consequences.

The City Council's LDA Department "project-managed" the building project which was opened by Princess Anne on 3 November 2000. The grant funding did not cover the cost of the full project and so some elements were postponed with RDA being given an undertaking that there were funds available to complete these elements at a later date.

8. Financial Maladministration And Withdrawal Of Support When MPEC was constituted as an independent charity a period of deep uncertainty and confusion developed. This was because the RDA trustees had been given assurances that the Council's Leisure Services Department were continuing to administer the finances of MPEC to an appropriate professional standard only to find out after some considerable time that this was not the case. This led to the first occasion when audited accounts were submitted late. Furthermore those operational activities and functions which the Council had been undertaking on behalf of its Equestrian Centre as an "in house" operation, were withdrawn without any discussion with the trustees thereby placing an impossible financial burden on them. For instance the legal department refused any assistance in three industrial tribunal cases and one civil claim in negligence which the trustees had to deal with themselves. All were successfully accommodated but only at a price of time and worry. Particularly concerning was to find that insurance cover had been withdrawn without the knowledge of the Trustees which coincided with the specious claim in negligence which the Trustees won in the courts.

In this interregnum period the trustees had to deal with a number of situations: the security situation on the site which requires twenty four hour cover, temporary cover to allow B Backhouse some time off the site, the legal implications of the tenancy of the bungalow and other assorted matters, although in the case of the bungalow the Council was prepared to offer advice which was welcomed and valuable.

9. Funding Agreement The above period of uncertainty led Councillor Atha to seek a meeting with the Leader of the Council and subsequently Mr Page.

The Trustees of the MPEC pointed out at these meetings that they have co-operated fully with the Council and proceeded step by step in accordance with guidance given by the Council. They stated that they are currently in the unsatisfactory position of trustees with unlimited liability through no fault of their own. Some trustees have already resigned and unless the position could be resolved, the remaining trustees faced with the uncertainties of unlimited liability might equally feel unable to continue and would have to go to the Charity Commission for advice. If the trustees felt forced to resign and the Charity Commission agreed, this could leave the Council with the sole responsibility of managing the equestrian centre and having to repay the grant in whole or part to the Sports Council.

10. A Series of meetings were held a brief resume of some of them is given below. They are given to illustrate the efforts trustees made to sort out the problems. Full documentation is available upto the present.

Resume of meetings etc

28th March 2003 Mr Dave Page referred to in an e mail of 28/03/2003. "I feel Leisure are genuinely on board.....number of employment issues will need to be considered to effect the transfer (of staff to LCC... I have asked Peter Alp to look at the relative pros and cons of this (reverting to the original system of management Committee etc)

16/05/2003 E mail to Atha from Mr Page " next stage a meeting to discuss and agree a preferred way forward. I will ask Pam to fix up a meeting"

19th June 2003 Meeting:

MPEC to remain a charity. Personnel and line management of staff to be by LLS;
Permanent staff to be employed by LCC and temporary, trainees or part time staff by RDA;
Finance function to be undertaken by Corporate Services;
All financial transactions to be through LCC;
All bank accounts to be merged and trustees to be augmented when problems resolved.
Caveat from Trustees. Fundraising would dry up if there was no RDA account. - People will not give to the City Council. Moreover payment of trainees expenses and such require MPEC to have a bank account all details of which can be incorporated by the Finance Department.

22nd January 2004

Meeting with Doug Meeson

Progress reported on earlier decisions

19th March 2004

Meeting Atha, Alp, Meeson Preston

Agreed proceed exactly as agreed at 19th June meeting.

In a further meeting arranged with Mr Page it was agreed that now the problem of VAT had disappeared there was no reason why the Centre should not revert to the original agreement and a joint Management Committee. Moving to this position was delayed by unspecified but doubtless realistic pressures on Leeds Leisure Services.

15th September 2004 B Atha to D Preston e mail expressing concern about the Centre being in limbo, offering to refer matter to Scrutiny to make recommendations and need for LLS to make budget provision.

20th September D Preston suggested a meeting - will also bring along "someone to do some of the work to make sure it gets done"

4th October 2004 Meeting attended by Mrs Preston, Cllr Atha, Mr Alp and Richard Welbourn agreed to expedite the new system and Mr Welbourn was tasked with drawing up the appropriate report. A very useful meeting but no action followed.

7th January 2005 e mail from B Atha to Welbourn - have heard nothing for three months. What is the position.?

14th January e mail to Welbourn - have had no reply. What is the reason?

28th January e mail from Welbourn to Atha - has been trying to arrange meetings with officers Could I let him have some dates when we could meet?

28th January 2005 e mail Atha to Welbourn giving dates.

2nd February meeting Atha and Welbourn - Welbourn clearly not briefed fully.

10th February 2005 Atha and Welbourn Visit the Centre. Then silence - no action.

From early 2004 Cllr Atha expressed concern over the danger that audited accounts would not be submitted on time, several phone calls and e mails to Mr Alp being recorded (e.g. e mail 13.10 04 quoting a Charity Commission reminder). Mr Alp was concerned that an account known as the Tadcaster account had to be included in the MPEC accounts before the accounts could be audited. Several letters were sent to Mrs Bromet re this matter in 2004. In December 2004 Mr Bromet closed this account and sent the balance, £23,428.71, by cheque to Mr Alp together with some figures for the year 2003-2004 which Mr Alp suggested were incomplete. Meanwhile the Charity Commission on 7th October 2004 wrote warning of the deadline for submission.

On 8th March 2005 the expected letter came from the Charity Commission saying that neither accounts nor the two returns required had been received and that the matter was of grave concern and involved serious consequences. On 15th March on the authority of the trustees B Atha wrote to Mr Gay asking that the accounts be audited without reference to the Tadcaster account (which was the only thing which had been holding the audit up for six months) even if this meant qualifying the accounts specifically for this reason and requiring the auditors to be informed of the intention to return to the original governance and financial arrangements which would be relevant in terms of auditing on "an ongoing basis."

Mr Alp prepared draft accounts on 17th March. B Atha completed a draft trustees report and phoned Mr Bateson the auditor to arrange a meeting. Mr Bateson was unaware that any accounts had been submitted. B Atha said Mr Alp would be back from leave on or about April 4th when he hoped all partes could come together and settle the audit.

Meeting Alp and Atha 4th April. Atha expressed anger that further delay had occurred in the audit. Alp says Mr Gay not happy to submit accounts for audit carrying a reference to Council support. Atha arranged meeting with Mr Gay.

5th April meeting Gay and Atha. Atha expressed his growing intense concern about the audit, pointed out that this was the third years accounts which had been submitted late, that he had been pressing for an audit since October 2004 and that the Charity Commission was quite right to treat the matter severely. Mr Gay promised immediate action (two days), would see Alp and get accounts out for audit. Re-assured Atha a day or two later that the accounts had been submitted.

10th May 2005 Meeting arranged at MPEC with Mr Page, Mrs Preston and Trustees to discuss finance and future relations between city and MPEC. Mr Page : "We must bottom this" Officers asked to go away and come up with some structure which would enable the Centre to continue effectively, Bev Backhouse to draw up a budget for 2005, no chance of clearing deficit in one year, a number of misunderstandings on the part of Mr Meeson were cleared up. A long list of suggestions were received by the Trustees but not actioned by the Council.

No action ensued. Mr Welbourn did not produce a report although management accounts of some kind were produced for the first time in four years. The Centre continued operating at a high level of efficiency.

A meeting on 22nd July with Mr Meeson was very positive and Mr Meeson suggested a number of possibilities of dealing with what he called the debt to the Council. B Atha agreed to contact Mrs Bromet about the bank Statements and to provide a precise costing for the covering of the outdoor arena.

No action ensued other than B Atha asked Mrs Bromet to obtain once again the bank statements she states she has already submitted twice.

A maximum figure for the outdoor arena was confirmed at £90,000 which had been roofed and enclosed by money raised by the Trustees and Manager B Backhouse The Centre remains one of the country's exemplars of RDA.

At a Trustees meeting on the 6th September 2005 B Atha was instructed to write to Mr Page to inform him of the Trustees anger and concerns, enclose a resume of the position referring only to information of which there is documentary proof, and agreed that a request for the mediation of the Charity Commission be deferred for two weeks to see if any decision is made by the Council in that period.

The above is an indication of the efforts made by the trustees to get a satisfactory solution. Similar reports are available upto the present date and can be provided if required.

11. Meetings in 2006 A further series of meetings took place in 2006 the relationship being not improved by Councillor Procter announcing in Council that the Trustees owed a figure of approximately £200,000 to the Council which was his estimated cumulative deficit over a number of years. This allegation has been made three times. The Trustees have always denied this and have challenged Procter to prove the debt. He received legal advice in 2007 that no debt could be proved. The trustees asked for a copy of this advice but have been denied it by the Chief Legal Officer. The trustees have however seen a Council report which states that it is not possible to say what the trustees owe. This would appear to be a face saving way of saying there is no debt owing although previously submitted accounts have said there was.

12. Threat In March 2007 a letter from Mr J Davies, now retired, said that the Council would withdraw its grant support from the commencement of the financial year 2008/09 and withdraw its employees from the Centre unless the RDA trustees agreed to return the Centre "to Council management". (Permanent staff are employed technically by the Council for insurance reasons)

13. Problems

If the RDA were to be forced to allow the Centre to become part of the Council's mainstream facilities certain problems arise.

The grant from Sports Lottery would become re-payable pro rata

The Wooden Spoon might insist its donation of £35,000 be returned as it was made to a charity and not the city council.

The £200,000 grant from the FSA is technically repayable though this is not necessarily certain.

The Council would have to become a member of RDA if it was to remain a riding for the disabled centre which may prove to be impossible and possibly not legal.

The £141,000 in the RDA accounts (9 June 2007) would have to go to RDA National.

The lease is charitable property and therefore subject to the Charities Act and presumably would have to be taken over on the same trust obligations as the RDA originally held the land if the Charity Commission gave approval.

The trustees would disband and the fundraising would stop.

Above all the many disabled people who ride and drive every week plus the other users would have their lives severely disturbed.

A sensible suggestion

The trustees of the RDA have proposed a simple alternative.

1. The Centre continues as now.
2. A proper agreement is drawn up between RDA and the Council agreeing a budget, specifying the grant from the Council and quarterly meetings between RDA and the City Council.
3. RDA remains a trust and continues fundraising.
4. RDA commits its reserves to the costs of the Centre.

August 2007

As no progress of any kind had been made the Trustees wrote in August to the Charity Commission and to Mr Rogerson informing him of this referral. To date (September 21st) no response has been received from Mr Rogerson. In the meantime the Centre continues to operate successfully at its previous level of activity.

Prepared by B P Atha

B P Atha
July 2007

Reports/ MPEC

Commission June 2007