



The Noble Organisation
limited

20 October 2006

Professor Stephen Crow
The Casino Advisory Panel
C/o DCMS
4th Floor
2-4 Cockspur Street
London
SW1Y 5DH

Our Ref: DHB/VH/
Please quote our reference on all correspondence

Your Ref:

Dear Professor Crow

RE: BLACKPOOL EiP

With reference to the Council's letter of 14 September, addressed to Valerie Curtis, the Council has now responded to our written representations to the CAP and to our oral evidence to the EiP on 29 September.

Through Herbert Smith, we will, in turn, respond by close of business today, as the CAP's Secretariat has requested.

However, the purpose of this letter is to respond to the highly personal attack that Mr Weaver has made in his above-mentioned letter. As I am sure it is Mr Weaver's intention that that letter should be before all Panel members, I thought it appropriate to address our reply directly to you. In doing so, I am sorry to have to add to your reading list.

While most of Mr Weaver's assertions are irrelevant to the CAP's task, his plain intent is to discredit Leaguenotion's objection to the Blackpool bid; to impugn the Company's and, indeed, my integrity; and to influence the CAP's assessment of the outstanding legal challenge to the adoption of the Local Plan. Accordingly, it is important to reply in some detail.

In doing so, I should stress my surprise at Mr Weaver's references to our dealings with both the Council and the URC because those dealings were, at all times, confidential and without prejudice. Indeed, on 11 March 2004 Mr Haslam, then an Officer of the Council, signed a confidentiality agreement covering our dealings and binding the Council. Furthermore, it is interesting to note that although Mr Weaver was expressly asked by me, and agreed, to attend the meeting on 22 June, he failed to do so. As it is implicit, from his letter that Mr Weaver speaks for both the Council and the URC and has chosen to break the confidentiality of our discussions, placing the Council in direct breach of contract, my company cannot now be bound by confidentiality either. That was not the case at the EiP.

1a Dukeway Court, Team Valley, Gateshead, NE11 0PJ. Telephone 0191 491 1212, Fax 0191 491 3236

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To deal with each of Mr Weaver's various points as briefly as I can:-

1. **The EiP Process – "...your detailed questions were somewhat distorted by the commercial interests of Leaguenotion"/Mr Weaver's criticism that the Council had not had sight of our detailed written representations.**

Leaving aside Mr Weaver's apparent criticism of your decision to allow us to take part at the EiP, you will recall the discussion that took place about the exchange of documents. As was explained, and I believe accepted by the Panel on 8 September, the process that the CAP's Secretariat had established was for representations to be filed with the CAP for publication on the CAP's website. That was the practice that we (and, so far as I know, the Council) followed.

Of course, perhaps no one, including your Secretariat, could have appreciated the pressure of so many EiPs occurring within a short space of time and the inevitable last minute nature of some of the necessary representations (due, in the Blackpool case, to the very late receipt by us of a considerable volume of information from the Council).

While it was certainly regrettable that our written documentation had not reached the Council before 8 September, you will appreciate that there was a great deal of the Council's information (and indeed other information which had not reached the website) that had not reached us.

Once we appreciated that the Council had not had access to information submitted by us we made copies available to the Council during the break at the EiP hearing and have since offered copies to all other participants.

More pertinently, Mr Weaver's criticism of Leaguenotion ignores the Council's own behaviour in relation to making information available.

One of our fundamental criticisms of the Council's bid is that it is flawed and misleading in a number of important respects. To consider and expose those flaws we made a request for information (essentially copies of the documentation referred to in the endnotes to the Council's bid to the CAP) under the Freedom of Information Act on 15 June. We expressly asked the Council not to withhold information until all that they intended to send us was available. That is exactly what they did and it made the preparation of our case for the EiP extremely difficult.

Even now, information is being withheld and Herbert Smith have warned the Council that unless that information is received forthwith, we will be forced to consider a formal complaint.



In addition, you may recall that Mr Weaver implied, just before lunch on 8 September, that the Council had a copy of a report prepared by NERA that was contradictory of the evidence in NERA's new material sent to you. Yet he refused to provide this to me. In fact, Mr Dodgson of NERA traced the report himself and Mr Weaver's assertion proved groundless in any event.

2. **"Mr Biesterfield's statement that his Company had withdrawn its interest to the Council in developing a regional casino ... was news to me and colleagues in ReBlackpool"/Mr Weaver's reference to dealings between Leaguenotion and ReBlackpool.**

Mr Weaver's statement relies on a mis-statement of what I told the EiP on 8 September (at which point I felt I was bound by the confidentiality of our discussions with the Council and the URC) and is misleading.

As I explained to the Panel, my Company, in January 2005 and in response to the Council's prospectus, lodged a formal expression of interest in developing and operating a regional casino on the CCQ.

However, what I went on to explain at the EiP was that we had withdrawn our interest in operating a casino and that is indeed the case.

In summary, our position is and always has been that we do not believe regional casino development in Blackpool is a prerequisite to either the town's survival or regeneration. Like both Leisure Parcs and the Pleasure Beach, both of which publicised plans for regional casino development, we considered operating such facilities.

It was in that context that, in late 2004, our architect prepared an illustrative scheme which we later used at the Local Plan Public Inquiry to demonstrate that regional casino and hotel development could take place on the combined Coral Island and Palatine sites with linkage to a conference centre.

However, like Leisure Parcs and the Pleasure Beach (as I understand it), we changed our minds about operating such facilities.

Nevertheless, if such development was to occur, we took the view that it would be sensible to consider co-promoting it as joint-venture developers (not operators) in order to better ensure the realisation of the value of our assets.

It is not necessary to rehearse the full history of my Company's dealings with the Council and ReBlackpool in this regard, but I can confirm that at a meeting that I attended with Mr Weaver, Mr Haslam and Alan Harris of Montagu Evans on 18 May 2005, the Council confirmed that they did not want to "get into bed" with an operator before the "competition" and therefore discussions with my Company were, in any event, only to be on the basis of a potential joint-venture development rather than with a view to my Company being operators.



That theme was continued at our next meeting in December (Messrs Garret, Haslam and Harris were present) when I expressly made it clear that we did not see ourselves as regional casino operators but were willing, in principle, to partake in a joint property development but that the terms of any development agreement would have to recognise the value of our business and property interests and would need to reflect the risk that we would be taking as joint development partners.

By the time of the meeting in December 2005, ReBlackpool had technically replaced the Council as the body with which we were expected to deal although it was always clear that the Council and the URC were in all material respects acting as one.

Our position was again fully explained to ReBlackpool at the meeting on 22 June 2006 to which Mr Weaver refers. I instigated the meeting because ReBlackpool appeared to be dragging its feet in terms of our ongoing discussions. We remained willing to see if an agreement could be reached with the Council and the URC that would have avoided the massive prejudice to our interests to which their now evident plans would give rise – but time was running out.

So concerned about the delays had I become that I telephoned Mr Weaver and Mr Garrett separately on 14 June. I can do no better than attach a copy of my file-note of these conversations. The note speaks for itself and makes absolutely plain that we were willing to participate in Blackpool's plans provided they were "not adverse to us but that we could plainly not do so if major prejudice was likely".

At the meeting on 22 June, which Mr Weaver inexplicably did not attend, I laid our cards on the table. By this time, it was abundantly clear that a scheme involving a single regional casino need not take up anything like as big an area as the CCQ yet the Council's apparent intention was to combine their planning and licensing powers with their land ownership by procuring that the regional casino, if permitted, would be built on its land, thereby denuding our assets of their value.

Our position at the end of that meeting could not have been more clearly explained to those attending (which included Mr Garrett and Mr Haslam);

- i. While not of the view that regional casino development is necessary, we were willing to be co-promoters of a major property development involving our existing interests. Our involvement would be predicated on the fair value of our interests being reflected in the development appraisal because they would be subsumed within the new scheme. We were willing to leave open the prospect of taking trading space of one sort or another within the scheme though almost certainly not as the regional casino operator. We saw ourselves as full partners within any redevelopment; that development would have to reflect the value of our existing interests both in land and business terms; and we would expect to share in the developer's profit, proportionate to the risk that we would be taking;



- ii. What we could not countenance was a situation where, contrary to the application of the sequential approach, our land was left out of the development scenario, with the regional casino being built on the Council's land, such that our business would be emasculated because our adult machine customers would plainly vote with their feet in favour of the 1250 category A slot machines that it would be within the Council's gift to award to the casino operator.

It is correct, as Mr Weaver says, that a document was produced setting out the Council's view on the framework for a co-promotion. I would not describe it as a "draft legal proposal". As Mr Weaver says I responded to that document and raised a number of serious concerns about it.

It is correct that Mr Garret wrote to me again on 27 July. The arrival of that letter coincided both with the preparation of our representations to the CAP and my departure on a fortnight's holiday. However, I was shocked to note Mr Garret's assertion that "even where casino development occurs on the adjacent site, we do not agree that it would adversely affect the value of your business".

That statement showed that we had made our position clear. Importantly, it convinced us that ReBlackpool and the Council have no serious intention of dealing with us fairly.

Mr Weaver also distorts the history of my dealings with Eversheds. The extent of those dealings was a telephone call from Mr Scott Morrison of Eversheds which I returned. Indeed, to the best of my recollection, I tried to ring him back on several occasions but he did not return my calls. I therefore held no conversations with anyone from Eversheds, beyond their receptionist.

3. **The legal challenge to the adoption of the local plan and the opinion of Mr Katkowski QC.**

It is clear that the opinion presented to you has been prepared specifically for that purpose. Its bias is therefore obvious and I suggest that it is better to leave the outcome to the High Court. Save to say that you will also know that our Counsel Richard Phillips QC is not in the habit of pursuing cases that are "flimsy to the point of being utterly without substance". While Mr Katkowski's opinion is singly lacking in any proper analysis of the challenge, in short:-

- a. It is trite law, as you will know, that until a Local Plan Policy is quashed it remains valid. However, if the relevant policies (RR5 and RR6) are quashed, fresh policies will need to be prepared, consulted upon and tested at a public inquiry;



- b. There is a serious public law and planning issue at the core of the case. There is no doubt that the Council disregarded the advice of the Inspector who conducted the Local Plan Inquiry; that it mis-applied the reasoning behind the conclusions that he reached on the basis of the legal framework which existed at the date when the Local Plan Inquiry closed; and that the intent and effect of the Council's decision making process, in the planning context, is to support the prospects of the development of a regional casino on its own land, thereby enhancing its own financial prospects at the expense of ours.

It is plain that that is why the Council is determined to avoid the application of the sequential test to development within the CCQ, since such a test favours development on the Coral Island site over development on the central station site which is further from the town centre.

The Council's conflict of interest as landowner, planning authority and licensing authority are therefore writ large.

I will leave you to make what you will of this exchange but, as I suggested at the close of the EiP, we ask only that the Panel scrutinise the Blackpool bid and judge it strictly according to the terms of reference and in the context of the legal framework as it stands.

Given our long-term and substantial commitment to Blackpool and our desire to continue both operating and investing there, we find the Council's behaviour in this affair and the misrepresentations implicit in the bid document of considerable concern.

Yours sincerely

PP D H Biesterfield

FILE NOTE

Ref: DHB/VH
Date: 14 June 2006
Re: Blackpool Defence

I today phoned Steve Weaver and Doug Garrett. I agreed with each of them that the conversations were confidential. I explained my concern at the delay on Blackpool Re's part in sending the promised information following 15 March meeting. Time is pressing on and we are concerned, in light of the bid and draft planning brief, that our interests may be seriously affected by their plans. I repeated our willingness to go along with and support the plans if they were not adverse to us but that we could plainly not do so if major prejudice was likely.

I warned them that the Council would receive a lengthy requirement for information because we need to protect our position with the possibility that we might have to make a representation to the CAP. I said that they should not assume that the request meant we would oppose but we needed to protect our position in case that became necessary.

Weaver took all this on board and we agreed it would be sensible for him to attend the meeting with Blackpool Re. Garrett assured me that plans would not be adverse; he agreed to press for the meeting; and apologised for the delay in getting back to us. He said the appraisals had not been sent as they were not complete, drawings still being prepared etc etc.

DHB