



# Friends of the Recreation Ground, Bath

E mail: [friendsofbathrec@gmail.com](mailto:friendsofbathrec@gmail.com)

[www.friendsofbathrec.org](http://www.friendsofbathrec.org)

## **STATEMENT: October 2020**

**Bath Rugby Ltd.'s Application in the High Court of Justice, Business & Property Courts to claim relief from the 1922 Covenant restricting development on the Rec was dismissed by the Judge at the Hearing which took place 16/17 September 2020 (for full transcript refer: EWCA 2662). The Claimant's application to Appeal was refused on 27<sup>th</sup> October with costs awarded to the Defendants.**

*The Claim concerned the enforceability of the restrictive Covenant burdening the Rec created in the Conveyance of the property to the Bath & County Recreation Company in 1922 to benefit the adjoining premises and neighbourhood in Bathwick. The Claimant (Bath Rugby Ltd.) sought the Court's determination as to whether the benefit passed with the power to enforce the 1922 Covenant to anyone.*

*The Defendants (local residents) held that their property was representative of over 100 properties within Bathwick that had the benefit by way of annexation, and that the 1922 Covenant is enforceable, and furthermore the Claimant's commercial development breaches the 1922 Covenant.*

## **The 2020 Decision dismisses the Claim with the judgement that the 1922 Covenant is enforceable by virtue of the doctrine of annexation.**

*The 1922 Covenant was later incorporated into the Agreement and subsequent and current Conveyance of the property to the "Mayor, Aldermen and Citizens of Bath" (the "Corporation") in 1956 with additional conditions which include: **..the Corporation to hold in fee simple upon trust that the Corporation for ever hereafter shall manage.. and ...shall not use the property hereby conveyed otherwise than as an open space... and for the ...use of recreational activities with no favour to any particular sport or organisation.** The 2002 High Court ruling concerning the Rec, declared... **it was intended the Corporation be the trustee in perpetuity... to provide recreational facility for the public... and that the trusts are charitable trusts.***

*In 1956 the Recreation ground was gifted to the Mayor, Aldermen & Citizens of Bath, conditional on it being used in perpetuity as a public open space for amateur recreation. Bath Council to act a Trustee to uphold the conditions of legacy.*



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Representations by citizens and this Association have been made to B&NES Council over many years regarding policies concerning the Rec and are ongoing. Amongst reported breaches of the 1922 Covenant and 1956 Conveyance terms have been planning decisions and Local Plan designation. Risks to biodiversity, conservation & heritage status and pollution (air, water and noise) concerns have also been raised.

Our present Lib Dem Council was elected in 2019 under the banner of *making a difference* and in the very least, the Association seeks that the Council is seen to **be upholding the rule of law** by complying with the High Court Decisions of 2002 and 2020, the Covenants in the 1956 Conveyance and enforces operation on the Rec within the terms of the Lease with the Claimant.

**Many** of the Friends Association members are passionate about rugby; **most** are passionate about the benefits of the City's heritage and status as a UNESCO World Heritage site; **all** are passionate about the Rec remaining a public open space for all citizens leisure activities, a green lung at the heart of Bath together with the quality of the residential environment.

**The Friends thank** all who contributed to the Appeal Fund for financial support to the legal case to defend the Rec, though the Defence was principally paid for by four concerned pensioner residents in Bathwick. This support and generosity shows that citizens are prepared to defend property rights and the quality of life in the neighbourhood, to retain the Rec as a facility for all citizens of Bath and will continue to resist moves by the Claimant to question the 2020 Decision or undermine the rule of law.

The Friends is not a subscription association. Concerned citizens are invited to re-confirm their E mail addresses to: [friendsofbathrec@gmail.com](mailto:friendsofbathrec@gmail.com)

RSN Carne

For the Friends of the Recreation Ground, Bath

For further information please see our website: [www.friendsofbathrec.org](http://www.friendsofbathrec.org).

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