

## **DELAMERE PARK MANAGEMENT LIMITED**

### Minutes of Special General Meeting of Plot Holders on Tuesday 12<sup>th</sup> July 2016

Present: John Gilbody            Chair of Trustees  
          Carla Brown            Trustee  
          John Muir                Trustee  
          Daren Shepherd        Trustee  
          Ian Sharp                 Trustee

Delamere Park Plot Holders

#### Introduction

The meeting was convened at the request of Mr Frank Stewart and 40 Petitioners to vote on the following proposed resolutions:

1. The Trustees shall revoke the changes introduced in clause (1) of Bye Law 2.3 dated November 2015 and promptly issue new Bye Laws reflecting the removal of that clause.
2. The Trustees shall not make any further changes to the Bye Laws that alter Plot Owners rights to exclusive use of the DPML facilities without the consent of the plot holders expressed by means of a resolution passed at an Ordinary General Meeting.
3. The Trustees shall modify the final section of the Bye Law to state:

The Trustees reserve the right to amend the above Bye Laws at their discretion having given due regard to the common interest of Plot Holders.

Any Proposed changes to the Bye Laws in future will be notified to all plot holders giving a minimum of 30 days due notice before being formally enacted.

#### Statement by the Chairman of the Trustees

The Chairman of the Trustees welcomed the attendees and made a statement to the meeting providing background to and clarification of the issues which had initiated the meeting. Attendees were requested to raise questions after listening to the statement, following which there would be a vote on the proposed resolutions.

The statement is summarised as follows:

The Trustees had acted on advice received and had considered the change to the Bye Law to be minor. In view of the concerned reactions of a number of a number of residents and with the benefit of hindsight the Trustees recognise that, irrespective of the outcome of the vote, any future change to the bye laws would be decided at the AGM.

The Trustees remain of the opinion that the change to the Bye Law was correct, for the reasons stated in the notice of the meeting, essentially that all residents should be allowed to use the clubhouse facilities and it would be wrong to exclude any resident through no fault of their own.

The statements made in the recently circulated anonymous letter suggested that the concerns of the plot holders had been ignored. This was not the case. A meeting was convened with Mr Stewart to explain the reason for the change but this was met with a refusal to discuss the issue apart from the related procedural process.

Examination of the records indicates that from 1986 to 2012 Bye Law 2.3 states that “facilities are provided for residents of properties on Delamere Park”. The Bye Law was changed in 2012 by the Trustees, including Mr Stewart, without an AGM, to replace “residents” with “plot holders” which resulted in the exclusion of certain residents. Speculation that the change to the Bye Law would be detrimental has proved to be unfounded, the change having effectively reverted to an established 26 year old bye law which to date has not been taken up by a single resident.

Regarding invoking the meeting notice period as stipulated by the Companies Act; lack of strict compliance with the requirements is acknowledged, however, there were mitigating circumstances relating to the departure of the Estate Manager and the organisational administration aspects associated with the meeting of which Mr Stewart was aware.

Mr Stewart and the Petitioners have the right to request the SGM and the Trustees have made their best endeavours to comply in organising and preparing for the meeting at considerable expense of money and time, therefore, the petitioners wish to cancel the meeting cannot be understood.

The Trustees recommend that the plot holders vote against the three resolutions for the reasons explained in the notice of the meeting.

#### Questions and Debate

The following questions and observations were from the floor:

The need for presentations to the meeting of the resolutions and counter arguments was raised as a point of order.

The supporting documentation to the notice of the meeting was considered to contain the background information relating to both aspects and therefore presentations would not be required.

The strict interpretation of right of access to the DP facilities by plot holders and their families was questioned. The meeting was advised that the signatories to the Title Deeds of the property have the right of access which would also include their respective family members.

The right for the Trustees to change the Bye Law without consultation with Plot Holders was challenged. In response it was stated that advice had been taken from the Estate Manager as to the relative significance of the proposed change and based on precedence such a change was considered to be minor and, therefore, not requiring consultation. Subsequently the right to exercise this judgement had been checked with the DP solicitors and the decision confirmed.

The rationale for applying the proposed annual £100 fee for a tenant to be permitted access to the facilities was questioned. It was explained that since the Plot Holder had paid the £600 management fee, which represents the individual contribution to the management of DP including all the ground, building maintenance and administration costs, then to charge the tenant the same amount for access rights was considered inequitable. The £100 fee was applied to cover administration and was not based on an assessment of the individual elements constituting the overall management costs.

Concerns were raised regarding the rights of non-resident Plot Holders and their tenants to access the facilities and whether there should be any differential with those of resident Plot Holders. Considerable debate ensued which generated many additional questions and varied interpretations of the related Bye Laws.

A motion was proposed from the floor that in order to move towards resolving the evident differences of opinion and reaching a workable agreement the Trustees should undertake to document a comprehensive set of proposals in relation to access the DP facilities in respect of Plot Holders, residents and tenants with the respective pro's and con's for each option that would be presented to the Plot Holders prior to the AGM in order that votes be cast on which option shall apply in the Bye Laws going forward.

The motion was put to the vote and unanimously agreed.

Post the SGM the Trustees were advised that Frank Stewart had stated his acceptance of the proposal to refer the matter of access to the AGM but with the caveat that this was subject to no agreement to allow tenant access for £100 being entered into prior to this meeting. Due to the level of noise in the meeting this caveat was not heard by the Trustees or a number of other Plot-owners and thus was excluded from the carried motion.

### **Closing Statement**

The Chairman thanked the attendees for their contributions and acknowledged the offers of help that had been received in respect of moving towards reaching a mutually acceptable resolution.