

## Annual Reports

### CHAIRMAN'S REPORT, 2002, by Robin Morris



**"I've heard of black-headed gulls  
Mabel, but you must be a new  
species!"**

*'Sorry Seems To Be The Hardest Word'*

*Popular song - Sir Elton John*

The year that has passed since my last report has been a somewhat unsettling period. We have had much good news but this has, to some extent, been counter balanced by a number of disappointing events. One of the best pieces of news in 2001 was that Gloucestershire has been acknowledged as having its own University. This is a great step forward for learning and culture, particularly as institutions which make up the core of the University are located in Cheltenham and Gloucester. The news fully justifies the work and persistence on the part of the Oxstalls Action Group, who fought bravely for the retention of Oxstalls as

a centre of learning in the City of Gloucester. One of our members, Evelyn Christmas, was one of the prime movers in the group and I am sure that she feels fully justified in the efforts which she made to preserve the campus. In a much more minor role, the Trust supported the campaign financially and again we feel fully justified in the end result.

Gloucester, through its publicity guides, properly seeks to emphasise that it offers 'loads of culture'. It was therefore a very disturbing development when, at the Budget update, the Executive of the City Council was looking into a number of possibilities. One of these possibilities was to close the City Museum. It was further stated that the draft Budget already included savings to be generated from Sunday/Monday closure of the City Museum, and that greater savings would be forthcoming from complete closure if staff could be suitably re-deployed. The City Museum and Art Gallery figures as one of the main attractions in all the brochures produced by the City. It beggars belief that they should consider closing it when they are seeking to attract tourist business, and to indicate to visitors that Gloucester is a city of culture. It rather reminded me of a statement by a public relations officer for a chain of fast food restaurants, that Gloucester is not a Stratford-upon-Avon. This is of course nonsense. Gloucester has as much going for it as Stratford, York and other well-known centres of tourism. What we need to do is look after what we have got and promote it, It is therefore very sad indeed that 2001 should have seen the demise of the Robert Opie Museum in the Docks. It was surely a unique feature and its disappearance means that there is one less venue for the visitor to the Docks.

One of the worst events at the end of 2001 was announced by The Citizen on the 12th December with the headlines "Blackfriars Fatal Blow". The Citizen was referring to the judgement by The Hon Mr Justice Elias in the case of British Telecommunications plc and Bloomsbury Land Investments v Gloucester City Council. Persons aggrieved by the judgement immediately sought to portray the Claimants as the bogey men. The judgement by the learned Judge should be compulsory reading. It is clear from paragraph 3 that he had grasped exactly what was at stake; "Blackfriars is an area of land in Gloucester. It is bounded by Southgate

Street to the East, Westgate Street to the North, and Commercial Road to the South. It is an area of some archaeological interest, for it is believed that there are significant archaeological remains from the Roman and Medieval eras. In Roman times it was known as a colonia, which means that it was one of the few areas where Roman citizens were allowed to live. There are also in the area some fine buildings of historical and architectural interest. There are a number of listed Grade 1 and Grade 2 buildings. One of these is Blackfriars Priory, from which the area takes its name which is both a listed Grade I building and a Scheduled Ancient Monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979. Another of the buildings which figures to some extent in these proceedings, is Robert Raikes House. This is a Grade 2\* listed building fronting Southgate Street and is owned by the second Claimants"

Much of the subsequent argument revolved round Town & Country Planning (Assessment of Environment Effects) Regulations 1988 which were made under Section 2 of the European Communities Act 1972. The effect of these regulations was summed up by the learned Judge, "The directly enforceable right of the citizen which is accorded by the Directive is not merely a right to a fully informed decision on the substantive issue. It must have been adopted on an appropriate basis and that requires the inclusive and democratic procedure prescribed by the Directive in which the public, however misguided or wrong headed its views may be, is given the opportunity to express its opinion on the environmental issues... It would frustrate the process of debate about the merits of such a development if the planning authority could determine that the impact was beneficial and as a consequence rule that no environmental statement was needed." The Judge went on to say that it follows that in his view the planning authority did approach this question by applying the wrong test to determine whether an environmental statement was needed.

One of the other major points at issue was the question of the archaeology. "In this case it is clear that there would be potentially highly significant effects on the archaeology, unless measures are directed to eliminate them. Accordingly, Mr Scott erred in law taking these measures into account when deciding that no significant effect was likely. The measures themselves ought to have been identified in an environmental statement. Indeed, in this case the Claimants contend that the mitigating measures are wholly inadequate properly to protect the archaeological remains."

After considering all the arguments advanced by two leading Counsel and four junior Counsel, Mr Justice Elias summarised the position as follows "This challenge succeeds but only on one of the five grounds advanced by the Claimants, namely the fact that the planning authority did not properly address the question whether or not an environmental statement was required. In my judgement, had that issue been properly addressed, the only proper conclusion was that such a statement was required in the circumstances of this case (assuming, at least, that it was thought that there was sufficient information to determine the matter at all). It follows that the planning permission must be quashed."

Undoubtedly this was a very expensive way of proving a point /which should have been obvious from the outset. If one refers to the basic rule-book on the subject The Encyclopaedia of Compulsory Purchase and Compensation, edited by C M Brand, it specifies that if the acquiring authority acts outside the limits of the power conferred by Parliament e.g. by seeking to acquire land for a purpose or function beyond that for which the acquisition is authorised or if there is any failure to observe any essential procedural or statutory requirement the compulsory purchase order made by the authority would be open to challenge in the Courts by any person aggrieved by the Order. Similar principles apply to planning permissions. The failure on the part of the Executive of the City Council to follow basic ground rules was bound to end in disaster not only for the developer but also for the City and its inhabitants at large. This means very sadly that we may have lost the commercial impetus for the time being at least. The City may also have lost the possibility of a second multiplex cinema as it seems unlikely that either the one in the Docks (which the City resisted) or the one on the Blackfriars development will ever be built. One is bound to feel concerned for the Council Tax Payers and Business Rate Payers within the City whose money has been lost as the result of the

defective procedures and the expensive legal costs which resulted. In a sense however I feel much sadder for the people whose lives and businesses have been blighted by this longstanding saga. It is probably inappropriate to mention names but one cannot help thinking about the Fleece Hotel and the Rich family. I have not noticed a public expression of apology and I am wondering whether the various individuals affected by the matter have received letters of regret from anybody in authority. Perhaps as Sir Elton John says "sorry is the hardest word". To end on a brighter note however, Emperor Nerva is coming. Quite when I do not know but he is definitely coming.