

Improving People's Lives

To: All Members of the Alice Park Trust Sub-Committee

Bath and North East Somerset Councillors: Rob Appleyard (Chair), Paul Myers (Vice-Chair) and Joanna Wright

Independent Member: Graham Page

Chief Executive and other appropriate officers
Press and Public

Dear Member

Alice Park Trust Sub-Committee: Wednesday, 30th September, 2020

Please find attached a **SUPPLEMENTARY AGENDA DESPATCH** of late papers which were not available at the time the agenda was published. Please treat these papers as part of the agenda.

Papers have been included for the following items:

UPDATE REPORT AND RECOMMENDATIONS REGARDING THE ALICE PARK CAFE LEASE

ALICE PARK CAFE LEASE - EXEMPT APPENDIX

Yours sincerely

Marie Todd
for Chief Executive

If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.

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Bath & North East Somerset Council	
MEETING/ DECISION MAKER:	Alice Park Trust Sub-Committee
MEETING/ DECISION DATE:	30th September 2020
TITLE:	Update Report and Recommendations regarding Alice Park Café Lease
WARD:	Lambridge
AN OPEN PUBLIC ITEM	
List of attachments to this report: Exempt Appendix 1 – Update Report with Recommendations to Alice Park Trust Sub-Committee (exempt pursuant to Paragraph 3 of Schedule 12A Local Government Act 1972 (as amended) - information relating to the financial or business affairs of any particular person).	

1 THE ISSUE

1.1 The purpose of this report is to provide an update following the Sub-Committee meeting of 22nd January 2020 and to advise the Sub-Committee about the following issues:

- Summary of discussions with current tenant.
- Proposal to discontinue with a marketing strategy and to deal direct with the tenant.

2 RECOMMENDATIONS

2.1 The Alice Park Trust Sub-Committee is recommended to:

- 1) Enter into direct negotiations with the tenant;
- 2) Delegate to the Corporate Property Officer in consultation with the Chair of the Sub-Committee, the authority to finalise the terms and to ensure completion of the necessary legal documents and formalities with the current tenant if satisfactory terms are negotiated. This may include require a tenancy at will (or appropriate document) to be put in place whilst the lease is documented.
- 3) If the new tenancy is not completed by 31st December 2020, then the power is delegated to the Corporate Property Officer to revert to openly marketing as originally planned.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 It is incumbent on the Trust to achieve the best terms that can be reasonably obtained. When exercising the decision in 2.1 b) it is acknowledged that those who are delegated the power will need to be satisfied that the terms on which the disposition is proposed to be made are in their opinion the best that can reasonably be obtained.
- 3.2 The cost for Property Services and the Council's Legal Services team would be kept to a minimum (based on an hourly rate).

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The Council is sole corporate trustee of the Alice Park Trust. The Alice Park Trust's Sub-Committee's terms of reference are to undertake the operational management functions in respect of the Alice Park site and its resources, in accordance with the Trust's objects and the duties it owes pursuant to the charities legislation.
- 4.2 Members in their capacity as trustee must administer the Trust in good faith, abiding strictly to the objects of the Trust and administering the Trust for the benefit of the public which may at times conflict with the interests of the Council.
- 4.3 The objects of the Trust require the land bequeathed to be used as a public park and children's recreation ground. The Sub-Committee must consider whether any proposed use falls within the Trust's objective, and if so, whether to permit the use requested. If it permits the use then it must decide on what terms, in order to ensure effective use of the park while minimising any conflict between the different uses to which the park is subject to under the terms of the Trust Deed.
- 4.4 The Council as sole trustee must comply with S120 (2) (b) of the charities Act 2011. In particular it must consider the advice on the proposed disposition of a person who is reasonably believed by the trustees to have the requisite ability and practical experience to provide them with competent advice on the proposed disposition, and decide that they are satisfied, having considered that person's advice, that the terms on which the disposition is proposed to be made are the best that can reasonably be obtained for the charity.

5 THE REPORT

- 5.1 The exempt report in Appendix 1 sets out the proposed terms, including proposed rent calculation, that the Sub-Committee can consider for the proposed lease of Alice Park Café.

6 OTHER OPTIONS CONSIDERED

- 6.1 An advisory note detailing options to for the Sub-Committee was previously set out in the exempt Appendix (Sub- committee meeting held 22nd January 2020.) Re-tendering the facility was debated and is being reconsidered in light of the current economic climate.

5 CONSULTATION

5.1 The Section 151 and Monitoring Officer have had opportunity to review and input into this report.

6 RISK MANAGEMENT

6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Contact person	Andrea Frow – Team Manager, Property Management Email: andrea_frow@bathnes.gov.uk Tel: 01225 477242
Background papers	None
Please contact the report author if you need to access this report in an alternative format	

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Access to Information Arrangements

Exclusion of access by the public to Council meetings

Information Compliance Ref: 1104/20

Meeting / Decision: Alice Park Trust sub-committee

Date: 30th September 2020

Author: Andrea Frow - Team Manager, Property Management

Report Title: Update Report and Recommendations regarding Alice Park Café Lease

Exempt Appendix 1 - Update Report with Recommendations to Alice Park Trust Sub-Committee

The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the exempt appendix be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

PUBLIC INTEREST TEST

If the Alice Park Trust Sub Committee wishes to consider a matter with press and public excluded, it must be satisfied on two matters.

Firstly, it must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local Government Act 1972.

The officer responsible for this item believes that this information falls within the following exemptions and this has been confirmed by the Council's Information Compliance Manager.

The following exemptions are engaged in respect to this report:

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds. It is considered that there is a public interest in information about property disposal being disclosed into the public domain. Other factors in favour of disclosure include:

- furthering public understanding of the issues involved;
- furthering public participation in the public debate of issues, in that disclosure would allow a more informed debate;
- promoting accountability and transparency by the Council for the decisions it takes;

Weighed against this is the fact that the exempt appendix contains strategic and financial information which could prejudice the commercial interests of the parties if disclosed at this time. The exempt appendix also includes the observations and opinions of officers regarding the proposal. It would not be in the public interest if advisors and officers could not express in confidence opinions which are in good faith and on the basis of the best information available. It is important for public authorities to have some measure of 'private thinking space', and that they are able to share important information with Elected Members tasked with representing the local community.

The Council's funds are in essence public funds and there is an obligation to obtain best value for money. Disclosure of this information would prejudice the Council's ability to ensure it obtains best value in this matter. It is in the public interest that the Council is able to deliver cost-effective solutions. This depends partly on the Council being able to protect its commercial position while the detailed terms of relevant schemes are agreed.

It is considered that the public interest is best served in this matter by not releasing this information at this time. Relevant information regarding any property matters will be put in the public domain at the appropriate time. Therefore it is recommended that exemption 3 applies. The Council considers that the public interest is in favour of not holding this matter in open session at this time and that any reporting on the meeting is prevented in accordance with Section 100A(5A).

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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