

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 Non-Voting Member: Graham Page

Chief Executive and other appropriate officers
Press and Public

Dear Member

Alice Park Trust Sub-Committee: Monday, 7th December, 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:

PUBLIC QUESTIONS

Yours sincerely

Marie Todd
for Chief Executive

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**Questions for the Alice Park Trust Sub-committee meeting of 7
December 2020**

Agenda Item 4

The first paragraph states “This would avoid the Trust incurring and further legal Charges”. In item 11(3) of the minutes of the meeting of 4 September 2019 the sub-committee agreed to a threshold of £6,000 for disposal fees.

Question 1

Is the cost to the Trust in relation to the Council Skatepark on its land now going to be higher than £6,000? If so, does this not need agreement?

Agenda Item 7 Chair’s Update

Item 1 The Skatepark

It would appear that there may be issues with the size and location of the skatepark not being in accordance with the plan. It is clear that due to the fact that the skatepark is very close to the children’s’ sandpit that a substantial fence will need to be constructed for safety reasons.

Question 1

The skatepark is a Council facility that has been constructed on Charity Land. As the charity receives no income from the lease of the ground to the Council can the Committee confirm that the cost of the required fencing is a cost wholly for the Council and that the Charity will have no share of the cost, apart from what may be left of the £6,000 above?

Agenda Item 8

Item 1

In the budget the Trust is being shown as having to pay just under £16,000 pa to maintain the public conveniences. I believe this payment is paid by virtue of a contract between the council and Healthmatic that is in excess of 7 years.

Question 1

Could the sub-committee advise as to whether the contract for the cleaning of the toilets was subject to tender as required by the Charities Act as the agreement was for longer than 7 years?

If this contract was not subject to tender, can the sub-committee advise whether they are legally bound by it?

Item 2

The budget is showing property income of £14,701 in 19/20 and 20/21. We are advised elsewhere that a new lease has been agreed for the Café from September 2020 and yet there appears to be no change in income.

Question 2a

Either the budget is wrong, or the new lease is on the same terms as before?

Question 2b

Can the committee confirm that all leases are for less than 7 years as I can see no record of any tendering process, which is a legal requirement if the lease period is in excess of 7 years.

Item 3

The audit fee I see is set at £255. I would be grateful for confirmation of who the independent examiner of the accounts will be. I note that in the past it has been the Internal Audit function of the Council who provide an internal audit function.

Question 3a

Are members of the Sub-Committee happy for the internal auditor function closely associated with the Council to perform this function?

Question 3b

A professional accountancy firm in Bath has offered to fulfil this role pro bono. Would this not be seen to be more independent and also save the Charity £255 per annum and give users of the accounts more confidence?

Agenda Item 9

Item 1

Firstly I would like to advise the sub-committee that the interaction between themselves and the Charity Commission in 2020 is subject to a Freedom of Information request and I can also confirm that the Charity Commission are reviewing their processes at a senior level so their decision may be subject to review.

I am grateful for the restatement of the facts of the matter which are, simply, that the original sale of Cottage no 2 was in contravention of the Charities Act.

In the minutes of the Sub-Committee meeting of December 2016 it was confirmed that the matter was illegal and sub-committee members were advised by Counsel that they were potentially conflicted by the dual role as Councillors of the Trustee and members of the Sub-Committee.

Question 1

What advice did those potentially conflicted councillors take?

Item 2

The treatment that was agreed by the Sub-Committee was to treat the original sale as a Charity Trust sale, but then to claim back the exact same value by reducing the subsidy in a later year.

It has now been clarified that the support from the Council is in the form of an income subsidy vs running costs and the recent accounts have confirmed this treatment by showing these amounts as “gifts in kind” and this year’s budget describes this contribution as an Income subsidy.

This treatment of the property I believe is fundamentally flawed as it confuses revenue and capital. It shows a fundamental lack of understanding of the loss to the charity and also to the Council.

Question 2

Does the committee agree that the property should not have been sold and should still be an asset of the Charity?

My belief is that the property is now worth £550,000 (Zoopla) and that the loss to the charity is much higher than the £90,000 disclosed. Do the members agree?

Item 3

The charity has lost the ability to generate significant income for over 20 years on this asset. This has resulted in the council subsidy being much greater than it should have been. While I have not quantified the loss of income, I would estimate that this is in excess of £200,000.

Question 3a

Does the committee agree that the trust has lost a significant income from Cottage no 2 since 1999?

Question 3b

Does the committee agree that the council has incurred additional subsidy costs to the detriment of local Council Taxpayers?

Question 3c

It would appear that the Charity has been illegally denuded of an Asset worth £550,000 and I would be interested what the sub-committee now intend to do about that - if anything?

Question 3d

Are the sub-committee comfortable that they have the access to competent advice outside of the council, as to me the Trustee has demonstrated over 20 years that they do not have sufficient expertise to manage the Charity effectively?

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Questions for Alice Park Trust Sub-Committee – 7 December 2020

The present state of the skatepark

1. Since the skatepark is not officially open, why was its opening announced?
2. The compromise reached over the skatepark was so that younger people under 14 would have a local place for skateboarding, where they could learn safely. The argument was that they could not travel to the skate park at Victoria Park alone. At present, even before the official opening, there is considerable illegal use, largely by male adults. What specific steps are being planned to ensure use only by the appropriate age group? There are clearly safeguarding issues here.
3. Given the illegal use is the trust liable for injury or nuisance? (Nuisance includes noise late at night, floodlights, music).
4. The design of the skate park appears to be different from the plans and located in a different place, dangerously close to the children's sand pit. Please provide a copy of the risk assessment that was done for the final location and the design constructed, together with details of actions to mitigate risk.
5. There has been increased incidence of antisocial behaviour in the park since the contractors left the skatepark site. What specific plans does the trust have to deal with this?

Trust deed

6. The trust deed requires 4 acres of the park to be set aside for under 14s. What action is the trust taking to ensure adherence to the trust deed?

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