

Improving People's Lives

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

Bath and North East Somerset Councillors: Rob Appleyard (Chair), Sally Davis and Joanna Wright

Co-opted Non-Voting Members: Holly Dabbs and Bill Shaw

Chief Executive and other appropriate officers
Press and Public

Dear Member

Alice Park Trust Sub-Committee: Thursday, 16th September, 2021

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:

HEALTH AND SAFETY AND SAFEGUARDING ISSUES - OFFICER COMMENTS

COTTAGE NO. 2 - OFFICER COMMENTS

ALICE PARK LEASES - OFFICER COMMENTS

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.

This Agenda and all accompanying reports are printed on recycled paper

Bath and North East Somerset Council – Alice Park Trust Sub-Committee

Health and Safety and Safeguarding Issues – Alice Park

As a result of the construction of the skate park adjacent to the children's playground a new fence has been installed separating the playground from a newly designated skate park area. Two new gates have been installed: one in the newly created fence allowing access between the playground and the skate park area, a second set of double gates allowing access between the playground and the general park area.

Concern has been expressed by parents and carers that these new gates have reduced the safety and security of children using the playground.

There are two issues:

1. Both of the new gates open OUTWARDS. Convention relating to areas where small children play open INWARDS. This stops children, particularly toddlers, from being able to easily exit the playground area whilst allowing the maximum opportunity for free play. Particular concern has been expressed about the gate leading to the skate park area as allowing easy access to the skatepark area exposing them to hazards from the use of the skate park.

Comments from Officer

All the play area gates in B&NES parks are configured to open outwards. The guidance from ROSPA is that [play area] '*Gates should normally open outwards except where opening outwards may cause a hazard to others (i.e., opening into the path of pedestrians/cyclist etc). This is because dogs find it easier to push a gate than pull it and therefore can access a gate opening inwards much more easily*'. This is also the standard approach taught on play inspector courses as it allows for children to quickly leave a play area in the event that they are being bullied.

The gates are heavy and tall enough that the likelihood of an unsupervised toddler opening them would be low.

2. Until recently entry to the skate park area was solely via the children's playground. As the skate park is used by all ages concern has also been expressed relating to children being exposed to alcohol and drug misuse and the presence of people in the playground area who have no legitimate reason to be there.

Comments from Officer

This has been done to provide for parents that have children of a mix of ages – to allow them to adequately supervise both younger children using play equipment in the main play area and older children that might want to use the skatepark.

The gate allowing access directly from the general park area to the skate park has been re-opened which now exposed all users of the park access to the skate park area and the danger that poses to both skate park activities and the

dangers of people inadvertently falling into what is in effect an unguarded deep hole sufficient to cause serious injury.

Comments from Officer

There is a gate at the entrance to the skatepark which prevents anyone from inadvertently walking in.

A report was submitted for consideration by the management sub-committee relating to these issues, but the chair of the sub-committee prevented that report from being considered. That report is attached as an appendix.

In the light of these concerns these matters need to be revisited and measures undertaken in modifying gates and or introducing additional protective measures to minimize the risks outlined.

Graham Page

Independent Member of the Charitable Trust Board

Bath and North East Somerset Council – Alice Park Trust Sub-Committee

Cottage No 2, Alice Park – Charities Commission Ruling

Recently, the Charities Commission, following a complaint, ruled that the sale of Cottage No. 2 Alice Park by Bath and North East Somerset Council was unlawful. As a result of further complaint, the Commission further ruled that following representations by the Council they proposed no further action.

For a long time, there has been concern in the community that the park has been deprived of a valuable asset. A Freedom of Information request for the details that led to that decision between the Commission and the Council was refused “as not being in the public interest”.

As it is the Charitable Trust that is most affected by this, the Trust need to know if only on a confidential basis the details of any decision made so that the Trust (which is in Law independent of the Council) can satisfy itself as to whether it has benefitted or conversely adversely affected by this.

The beneficiaries of the park are entitled to be assured that the Trust is acting in their interest and is not acting as or as agents of the council.

Officer Response

Members of the Alice Park Trust sub-committee discharge BANES' duty as sole corporate trustee and in doing so are bound by local government law and BANES' code of conduct. Cottage No 2 has been discussed on many occasions and the reports and minutes of the meetings are in the public domain. Reparations for the sale of the cottage have been made, accounting processes adjusted to the satisfaction of the Charities Commission and the matter is now considered closed.

Graham Page

Independent Member of the Charitable Trust Board

This page is intentionally left blank

Bath and North East Somerset Council – Alice Park Trust Sub-Committee

Leasing Arrangements between Bath and North East Somerset Council and Alice Park Trust

In 2019 the Alice Park Trust came to a twenty-five-year agreement with Bath and North East Somerset Council for the council to:

1. Lease the six tennis courts and refurbish them to modern-day standards,
2. Lease an area in the south-west corner to construct a skate park.

Both these proposals were submitted to the Charities Commission for approval which was given.

However, as the works progressed it has become clear that issues have arisen that are not referred to in the original lease agreement.

Tennis Courts:

The work on the tennis courts have included the provision of an electrical supply to power flood lights and the gate monitoring and payment system.

Some of this work has involved laying of electrical power cables outside the leased area and involves the tennis pavilion which was not part of the original agreement. Whilst this work is necessary it is important that a further agreement be entered into to ensure:

1. That formal permission is given (retrospectively) for that work to be undertaken,
2. The revised agreement assigns responsibilities between the Trust and the Council,
3. That the positioning of sub-soil works be properly surveyed and recorded for future reference,

All such work to be carried out the council's expense.

Comments from Officer

The works on the tennis courts have been completed.

The work on the tennis courts have included the provision of an electrical supply to power the gates system.

Some of this work has involved laying of electrical power cables outside the leased area and involved the tennis pavilion which was not part of the original agreement. Although I note that the tennis pavilion is included in the lease plan.

This work was necessary so will require a further agreement be entered into to ensure:

1. That formal permission is given (retrospectively) for that work to be undertaken.

2. The revised agreement assigns responsibilities between the Trust and the Council.

3. That the positioning of sub-soil works be properly surveyed and recorded for future reference.

Skate Park:

In 2019, when the lease was agreed, the positioning of the skate park and therefore the leased area was defined and agreed by both parties and the Charities Commission. When the skate park was constructed, it was in a position substantially different from that agreed. The revised positioning has never been formally agreed with the Trustees or the Charities Commission. The revised proposals are laid down in a map produced by Canvas in 2020 which has not to my knowledge ever been before the Charitable Trust Board or the Alice Park Trust Sub-Committee.

Comments from Officer

A copy of the most up to date lease is attached. This appears to show an updated location and plan for the skatepark.

Therefore, other liabilities that the Council have agreed to have not been fulfilled. These are referred to as a separate item.

General Access to Leased Facilities:

The Council provide a number of services to the benefit of the park i.e., horticultural and tree maintenance, litter collection, playground safety inspections. Clearly this involves Council Personnel and Vehicles entering the park on a routine basis. This access is part of a service level agreement. However, the legal position is that the park is Trust property.

The new leases therefore need to include provision to allow the Council and their agents access for maintenance purposes. It also requires the lease document to include safeguards for the Trust and to assign liabilities and responsibilities.

As a general point, council officers and staff should be made there is variation from existing agreements aware that Alice Park is not council property and when work is be carried on by the council and their agents that in appropriate circumstances permission may be required if there is a variation from existing agreements.

Comments from Officer

This is best covered by updating the (out-of-date) service level agreement. That would capture significant changes: e.g., creating wildflower meadows or planting shrubs. Otherwise, Council Officers need some guidance as to the Trust's decision-making process relating to such management changes.

The Alice Park Trust Sub-Committee should look again at these agreements and carry out any necessary amendments to the existing leasing.

Graham Page

Independent Member of the Charitable Trust Board

This page is intentionally left blank