

ALICE PARK TRUST SUB-COMMITTEE

Minutes of the Meeting held

Monday, 7th December, 2020, 3.00 pm

Councillor Rob Appleyard (Chair)	- Bath and North East Somerset Council
Councillor Paul Myers	- Bath and North East Somerset Council
Councillor Joanna Wright	- Bath and North East Somerset Council
Graham Page	- Independent Member

8 WELCOME AND INTRODUCTIONS

The Chair welcomed everyone to the meeting.

9 APOLOGIES FOR ABSENCE AND SUBSTITUTION

There were no apologies for absence.

10 DECLARATIONS OF INTEREST

There were no declarations of interest.

11 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was no urgent business.

12 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

Derek Swift and Janet Marton had both submitted questions to the sub-committee. The Chair informed the members that responses would be prepared and sent to the questioners within 5 working days of the meeting.

(A copy of the questions and answers are attached as Appendices 1 and 2 to these minutes).

13 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 30 September 2020 were confirmed as a correct record.

14 CHAIR'S UPDATE

The Chair gave an update on the following matters:

(a) Skatepark

The skatepark has been constructed but some additional work still needs to be completed, including landscaping, other cosmetic work and the provision of permanent fencing between the skatepark and the sandpit. The area is currently fenced off as the skatepark is not yet open to the public.

(b) Tennis Courts

The legal process to approve the lease has been concluded. However, due to the impact of Covid-19, the Council's tennis concession had not been tendered. The project needs to be completed within 2 years to avoid having to go back to the Charity Commission for further approval (there are around 18 months remaining).

The Chair agreed to contact the Head of Leisure and Projects Development to clarify the position regarding the tennis courts.

(c) Café Lease

The formal legal agreement has now been completed. The former leaseholder now has a new lease and both parties are happy with the new agreement. The Chair congratulated Tony Hickman and his team and thanked them for all they have done to enhance the park and to provide such an excellent facility for the local community.

(d) Community Garden

The Chair reported that a request has been received to carry out some improvements at the entrance to the community garden. Some funding has been secured for this work and there will be no cost to the Trust. Improvements will be made to the gate, and some hedging will be provided. This will improve the area and will provide a better connection to the wooden structure already in place. The use of the wooden structure by community groups could also generate a small income for the Trust. The area will remain available to the local community. The Sub-Committee supported this proposal.

The Chair agreed to ask the volunteers who run the community garden to contact the B&NES Council Parks Team to discuss future maintenance of the hedge.

(e) Independent Member Vacancy

The vacancy for an independent member of the Alice Park Trust Sub-Committee has been advertised. Interviews will shortly be arranged, and it is hoped that a new member will be appointed before the next meeting.

(f) 10-Year Plan

The Council currently gives an annual grant to the Alice Park Trust to support its running costs. However, in the current economic climate, it is important for

the Trust to become more self-sufficient so that the amount of subsidy provided by the Council can decrease over time. It was agreed that the sub-committee should set out a 10-year plan to increase revenue opportunities for the park. The agreement of a new café lease will help towards this. A rate card is in place to charge commercial users of the park a small fee when carrying out their activities. This has raised about £1,800 so far and it is hoped that this will increase in the future. Most commercial users have responded positively to this approach. It would be helpful to find someone who could take on the booking process for events in the park before the summer activities begin.

(g) Community Engagement Plan

Members supported the proposal for the Trust to develop a community engagement plan and noted that more discussion on this was required outside of a formal meeting environment. Graham Page suggested that the creation of a “Friends of Alice Park” group should also be explored.

RESOLVED: To arrange a workshop to discuss the scope and objectives for both a community engagement plan and a 10-year business plan for the Trust.

15 ALICE PARK BUDGET 2020/21

Paul Webb, Finance Manager, presented the budget report. He informed members that income from the tennis courts had decreased this year and that income from events was higher than budgeted for. The majority of costs were fixed. The Council had budgeted for a subsidy of £24k and this was now likely to be about £21,800 this year.

RESOLVED: To note the report.

16 SALE OF COTTAGE NO. 2, ALICE PARK

The Sub-Committee considered a report which provided an update on the sale of Cottage No. 2 at Alice Park. It was noted that the Sub-Committee had accepted this position in 2016 and that the Charity Commission has now closed its enquiry into this matter following receipt of the Council’s explanation.

RESOLVED: To note the report.

17 POLICIES FOR ALICE PARK

The Sub-Committee discussed whether policies should be put in place to cover activities such as sky lanterns and barbeques within the park.

Graham Page noted the potential areas for conflict within the park such as the use of electronically propelled vehicles and drones. He felt that some form of regulation would be helpful.

Cllr Wright suggested that the Sub-Committee could adopt the regulations currently in place for the parks managed by B&NES Council as this would provide clarity

throughout the district.

Paul Pearce, Parks Team Leader, informed members that B&NES Council does not permit barbecues within its parks unless there are facilities provided to enable them to do this safely. Drones are not allowed within the parks. He stated that it is useful to have guidelines in place but if any behaviour constitutes a public nuisance then this is a matter for the police.

RESOLVED:

- (1) To request the Parks Team Leader to circulate details of the B&NES regulations which are in place for the parks managed by the Council.
- (2) To consider this matter at the next meeting.

18 **MEMORIAL TREES AND BENCHES**

The Sub-Committee discussed whether they should accept the principle of memorial trees and benches within the park.

Graham Page stated that this could raise revenue for the park and also provide an opportunity to improve the benches.

Cllr Myers pointed out that there would be a cost implication, as long-term maintenance would be required. Any policy agreed should be clear about the obligation to maintain and replace the trees and benches.

Paul Pearce, Parks Team Leader, explained that B&NES Council has two approaches to memorials. People can either sponsor a bench and maintain it themselves or sponsor a bench for a 10-year period. There is a need for someone to manage the process.

Cllr Wright stated that Alice Park has a number of trees already and that there will be opportunities for tree planting elsewhere in the authority area which people could donate to.

Cllr Appleyard stated that there could be one bench with a number of memorial plaques on it.

RESOLVED: To discuss this issue further at the forthcoming workshop and bring a proposal to a future meeting.

19 **SURVEY OF ALICE PARK**

The Sub-Committee considered a report by Graham Page giving details of a survey he had carried out within the park. This identified areas of work that needed to be carried out to improve the appearance of the park such as ironwork, benches, markings in the car park area, signage, the gate at the entrance to London Road and repairs to the tennis hut.

Cllr Appleyard thanked Graham Page for carrying out the survey. He noted that these works would require some resources and felt that the sub-committee should

focus on the more urgent aspects in the first instance.

RESOLVED: To discuss with Council Officers the best way to carry out a refresh on the following areas within the park:

- Park entrance and car park area.
- Gate providing access to London Road to ensure that this opens and closes properly as this could be a health and safety issue.

20 **MULTI-USE GAMES WALL**

The Sub-Committee considered a proposal to install a multi-use games wall in the park. This may require some ongoing maintenance.

Graham Page felt that an impact analysis should take place before a final decision is made including how it would affect interactions with other park users.

RESOLVED: That Graham Page carry out a SWOT analysis of this proposal and bring a report to the next meeting for consideration.

The meeting ended at 4.12 pm

Chair

Date Confirmed and Signed

Prepared by Democratic Services

This page is intentionally left blank

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 any 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?

Response

No, the total cost of the external legal advice was £5,896. Therefore, no further agreement is required.

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?

Response

The skatepark fence will be funded by the Council.

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?

Response

The contract for 'The Provision and investment of A Public Convenience Service' the Council holds with Healthmatic was awarded in 2013. The opportunity was advertised and tendered with partner authorities Bristol City Council and City of York in compliance with public procurement regulations. The contract commenced on 6 January 2014 and has an initial term of 15 years, with the option to extend by a further 5 years to January 2034.

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

Response

The contract was subject to tender.

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?

Response

The budget paper was prepared in advance of the new lease being agreed and therefore is still reflective of the previous value.

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.

Response

The proposed new lease for the Café is to be less than 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.

Response

The independent examiner of the accounts will be One West.

Question 3a

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

Response

The Sub-Committee members are happy for One West 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?

Response

One West are a professional auditor and neither the Council as Trustee, nor the Charity Commission as regulator have concerns over conflict of interest.

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.

Response

The Council appointed the Charitable Trust Board to facilitate the management of the charitable trusts for which the Council is the sole trustee; independently, in accordance with their governing documents and in the best interest of the charity. This created a separation between the two roles.

Question 1

What advice did those potentially conflicted councillors take?

Response

The Charitable Trust Board and the Alice Park Trust Sub-Committee were created to address the issue of conflict. This was done in accordance with counsel's advice.

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?

Response

The cottage was sold in error and the Council has reimbursed the Trust together with interest. The Charity Commission have confirmed that they are satisfied with this course of action.

The Council has never provided a "gift in kind", it has always provided a cash grant/subsidy. If the term "in kind" has been provided previously then it has been in error.

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?

Response

In 2016 the Sub-Committee dealt with the situation which it inherited. Its views on this matter now are not relevant.

Question 3b

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

Response

In 2016 the Sub-Committee dealt with the situation which it inherited. Its views on this matter now are not relevant.

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?

Response

A report has now been submitted to the Sub-Committee giving an update on the sale of the cottage. The Charity Commission has accepted the Council's explanation and has now closed its enquiry into this matter. The Sub-Committee accepted the position in 2016 and have noted the update report which provided further clarity.

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?

Response

The Sub-Committee acknowledges that mistakes have been made but these have now been rectified. The Alice Park Trust has been retained as a Council responsibility. Lessons have been learnt since the creation of the Sub-Committee and there is no evidence that the charity has not been managed effectively since it has taken on this responsibility.

This page is intentionally left blank

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?

Response

There has been no official announcement that the skatepark is open.

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.

Response

The skatepark is for all ages but the design is aimed at the younger age groups. Use by over 14s is not illegal.

3. Given the illegal use is the trust liable for injury or nuisance? (Nuisance includes noise late at night, floodlights, music).

Response

The Trust is not liable for injury or nuisance and users of the skate park do so at their own risk. Anti-social behaviour is a matter for the police.

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.

Response

This issue will be reviewed, and a report will be brought to a future meeting of the Sub-Committee.

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?

Response

Anti-social behaviour is a matter for the police. The construction area is fenced off and checked on a regular basis. Steps are being taken to prevent people gaining access to the skate park site until it is officially open.

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?

Response

All areas of the park are open to under 14s.