

Alice Park Trust Sub-Committee

Date: Thursday, 16th September, 2021

Time: 2.00 pm

Venue: Brunswick Room - Guildhall, Bath

Councillor Rob Appleyard (Chair)

Councillor Sally Davis

Councillor Joanna Wright

Co-opted members non-voting: Holly Dabbs and Bill Shaw

Chief Executive and other appropriate officers

Press and Public



Marie Todd

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NOTES:

1. **Inspection of Papers:** Papers are available for inspection as follows:

Council's website: <https://democracy.bathnes.gov.uk/ieDocHome.aspx?bcr=1>

2. **Details of decisions taken at this meeting** can be found in the minutes which will be circulated with the agenda for the next meeting. In the meantime, details can be obtained by contacting as above.

3. **Recording at Meetings**

The Openness of Local Government Bodies Regulations 2014 now allows filming and recording by anyone attending a meeting. This is not within the Council's control. Some of our meetings are webcast. At the start of the meeting, the Chair will confirm if all or part of the meeting is to be filmed. If you would prefer not to be filmed for the webcast, please make yourself known to the camera operators. We request that those filming/recording meetings avoid filming public seating areas, children, vulnerable people etc; however, the Council cannot guarantee this will happen.

The Council may broadcast the images and sounds live via the internet www.bathnes.gov.uk/webcast. The Council may also use the images/sound recordings on its social media site or share with other organisations, such as broadcasters.

4. **Public Speaking at Meetings**

The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group.

Advance notice is required not less than two full working days before the meeting. This means that for meetings held on Thursdays notice must be received in Democratic Services by 5.00pm the previous Monday.

Further details of the scheme can be found at:

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=12942>

5. **Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are signposted. Arrangements are in place for the safe evacuation of disabled people.

6. **Supplementary information for meetings**

Additional information and Protocols and procedures relating to meetings

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13505>

Decision Making Powers of the Sub-Committee:

1. To discharge the Council's role as Corporate Trustee for the Alice Park Trust, in line with Charities Commission guidance. The objects of the Alice Park Trust are for use as a public park and children's recreation ground.
2. To agree the Trust's annual budget and business plan.
3. To approve the use of any reserves.
4. To agree the Trust's annual accounts.
5. To receive and respond to the audit findings relating to the annual accounts.
6. To receive reports on the effective day to day management and financial performance of the Trust.
7. To allow interested parties to give their view on the performance and direction of the Trust.

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

at 2.00 pm in the Brunswick Room - Guildhall, Bath

A G E N D A

1. WELCOME AND INTRODUCTIONS

2. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out on the Agenda.

3. APOLOGIES FOR ABSENCE AND SUBSTITUTION

4. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is **a disclosable pecuniary interest** *or* an **other interest**, (as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer or a member of his staff before the meeting to expedite dealing with the item during the meeting.

5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

The Chair will announce any items of urgent business accepted since the agenda was prepared under the Access to Information provisions.

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

7. MINUTES OF THE MEETING OF 29 MARCH 2021 (Pages 7 - 10)

To confirm the minutes of the meeting held on 29 March 2021.

8. CHAIR'S UPDATE

To receive an update from the Chair of the Sub-Committee.

9. BATH AREA PLAY PROJECT INVOICE

To approve the payment of an invoice from the Bath Area Play Project.

10. HEALTH AND SAFETY AND SAFEGUARDING ISSUES IN ALICE PARK (Pages 11 - 14)

To consider a report by Graham Page, Independent Member of the Charitable Trust Board, regarding health and safety and safeguarding issues at Alice Park.

11. CHARITIES COMMISSION RULING - COTTAGE NO. 2, ALICE PARK (Pages 15 - 16)

To consider a report by Graham Page, Independent Member of the Charitable Trust Board.

12. ALICE PARK LEASING ARRANGEMENTS (Pages 17 - 18)

To consider a report by Graham Page, Independent Member of the Charitable Trust Board.

13. DATE OF NEXT MEETING

To consider when the next meeting of the sub-committee should take place.

The Democratic Services Officer for this meeting is Marie Todd who can be contacted on 01225 394414.

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ALICE PARK TRUST SUB-COMMITTEE**Minutes of the Meeting held**

Monday, 29th March, 2021, 2.00 pm

Councillor Rob Appleyard (Ch) - Bath and North East Somerset Council
Councillor Paul Myers - Bath and North East Somerset Council
Councillor Joanna Wright - Bath and North East Somerset Council
Bill Shaw - Independent Member (non-voting)

35 WELCOME AND INTRODUCTIONS

The Chair welcomed everyone to the meeting.

36 APOLOGIES FOR ABSENCE AND SUBSTITUTION

Apologies were received from Paul Pearce, Team Leader, Parks and Trees.

37 DECLARATIONS OF INTEREST

There were no declarations of interest.

38 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was no urgent business.

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

Questions were submitted to the meeting by Paul Hooper, Graham Page and Janet Marton. The Chair confirmed that responses would be sent within 5 working days of the meeting. *(A copy of the questions and responses is attached as an appendix to these minutes).*

Graham Page made a public statement to the Sub-Committee. He informed members that he had resigned from his role as an independent member of the Sub-Committee for health reasons. He also explained that as he is also an independent member on the Charitable Trust Board, there could be a conflict of interest. He stated that he is very supportive of the work being carried out by the Sub-Committee and the improvements to Alice Park. However, he has some concerns regarding the way that health and safety, security and safeguarding issues are dealt with. He would be happy to support the work of the Sub-Committee going forward.

The Chair then wished Graham well for the future and thanked him for all the work he had undertaken as an independent member of the Sub-Committee.

40 **MINUTES OF THE MEETING OF 3 FEBRUARY 2021**

The minutes of the meeting held on 3 February 2021 were confirmed and signed as a correct record.

41 **CHAIR'S UPDATE**

The Chair gave an update on the following matters:

(1) Tennis Courts

Work to upgrade the tennis courts is ongoing. There has been liaison between officers from the Council's parks team and the workers on site. The old metal benches are being removed and will be replaced by wooden benches. The work is expected to be completed within the planned 12-week timeline.

(2) Skate Park

Security fencing will be positioned between the skate park and the sandpit area. Cllrs Appleyard and Wright are working hard to ensure that the work is completed as soon as possible. The Chief Operating Officer is aware of the current situation and is working to overcome the delays. It is hoped that the skate park will soon be open for use.

Cllr Wright has asked for a timeline for the work by the end of today and any further information will be circulated with the minutes.

(Note: The instruction has been placed with the contractors for the permanent fencing and the other minor works).

(3) Independent Member Vacancy

Following the resignation of Graham Page, the vacancy for an independent member of the Sub-Committee will be advertised shortly. There will also be opportunities for members of the local community to join the Sub-Committee as co-optees to work on specific projects. The key focus for this year will be the play area and the provision of an outdoor gym facility.

Bill Shaw suggested that the vacancy could be advertised on the Friends of Alice Park Facebook Group. The Sub-Committee agreed that this would be a good idea but stressed that the group should remain independent from the Sub-Committee itself.

(4) London Road Gate

Bill Shaw raised concerns regarding the gate leading from the park onto the London Road. This is heavy and difficult to open and should be on the maintenance list. Cllr Appleyard agreed to speak to the parks or property team regarding this matter.

(5) Fencing

The Chair informed the Sub-Committee that he has asked the Property Services Team to inspect the damaged fencing and to ensure that this is repaired as there are currently safety concerns.

42 **ALICE PARK TRUST SUB-COMMITTEE ANNUAL REPORT FOR THE YEAR ENDING 31 MARCH 2020**

The Sub-Committee considered a report which set out the Statement of Accounts and the Annual Report for the Alice Park Trust for the year ending 31 March 2020.

The Chair thanked the Finance Team for the work they had carried out to produce these documents.

It was RESOLVED unanimously:

- (1) To agree and sign the financial statements of the Alice Park Trust for the year ending 31 March 2020 and to submit these to the Charity Commission.
- (2) To agree and sign the annual report for the Alice Park Trust for the year ending 31 March 2020 to submit this to the Charity Commission.

The meeting ended at 2.30 pm

Chair

Date Confirmed and Signed

Prepared by Democratic Services

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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.
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.

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.

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

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Fencing of Skate Park in Alice Park

Introduction

At the meeting of 23 December under Item 27 in the minutes, I raised the issue of a fence between the skate park and the children's play area. Councillor Appleyard stated agreed that this could be reviewed at a future meeting. To date this has not been considered at a subsequent meeting and the requirement of Councilor Myers that provision should be made to consider this has not been met.

Further it is a condition of the proposed lease between the Trust and Bath and North East Somerset Council, the potential lessees that such a fence should be erected.

Current Position

1. Legal

It is incumbent on the Trustees as persons having control of any premises to comply with section 4 of the Health and Safety at Work Etc. Act 1974 to ensure that the premises, its access and any plant and substances used in it pose no risk to the health and safety to those NOT employees to those who use those premises.

This is expanded on by the Workplace (Health, Safety and Welfare) Regulations 1992 to protect persons using the premises from falling a distance likely to cause injury of being struck by falling objects.

2. Practical

It has been a long-established principle that holes in the ground fall into the category of being liable to cause injury and legislation and case law both criminal and civil have re-enforced the principle.

Key to complying with that, there are certain criteria with which all such barriers should comply. These are that:

- a. They be of sufficient height; at the moment a minimum of 1.1 metres,
- b. No opening should in the barrier should exceed 100mms,
- c. The construction should be able to withstand any impact imposed upon it.

Given the nature of the activity and its construction, could be added that the construction should be such that the barrier itself should not in itself be a source of injury as far as is reasonably practicable.

Also, to mitigate potential injury the gates to the skate park should open outwards, should be self-closing and self-locking. The profile of the barrier should be such that it doesn't allow entrapment between the barrier and the surrounding structure.

Such requirements are well known to professionals and those involved in their design, manufacture, and installation.

3. Progress

When enquiries were made of the representative of Canvas who were responsible for the civil engineering work, I was informed that the fencing of the skate park was not part of the contract.

Enquiries have been made of some council officers and as far as can be gathered there are no detailed plans or a budget for this work. Meanwhile, the area remains (insecurely) temporarily fenced and there have been issues arising from unauthorized used. (* See separate report)

4. Questions for the Trust.

- How has this situation been allowed to develop?
- Who in the Trust is responsible for following up on the issue?
- When can we expect detailed designs from the potential lessees to enable the Trustees to assure themselves that they can discharge their legal obligations?
- Have the lessees readily available funds to discharge their obligations?
and
- Can they give a timescale by which time the works can realistically be completed?

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.

Graham Page

Independent Member of the Charitable Trust Board

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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.

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.

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.

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