

Bath & North East Somerset Council		
MEETING/ DECISION MAKER:	Charitable Trust Board Committee – Alice Park Sub-Committee	
MEETING/ DECISION DATE:	6 December 2016	EXECUTIVE FORWARD PLAN REFERENCE:
TITLE:	Property at Alice Park	
WARD:	Lambridge	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Appendix One – Income & Expenditure Alice Park to 31 March 2016.		

1 THE ISSUE

- 1.1 To provide details around the sale of Cottage Number Two at Alice Park Trust and how the proceeds of this sale have been spent.

2 RECOMMENDATIONS

- 2.1 This report has been prepared for information purposes only and there are no recommendations at this time.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 There are two cottages at Alice Park. Cottage Number One remains an asset of Alice Park Trust; Cottage Number Two was sold to a private individual under the Housing right to buy scheme in September 2004.
- 3.2 As set out in para 5.7, the accounts of the Trust have been restated to recognise the receipt from the sale of the property. It is important for the Board to note that that Charity operates with a significant annual deficit and only remains solvent due to the grant in-kind received from the Council.”

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The Council is sole corporate trustee of the Alice Park Trust and the subcommittee’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 committee must consider whether any proposed use falls within the trust's objectives, 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 whilst minimising any conflict between the different uses to which the park is subject to under the terms of the trust deed.

5 THE REPORT

Back-ground

- 5.1 On 1 April 1996, BANES came into being as a Local Authority and have been subsequently supporting Alice Park Trust since this date.
- 5.2 All income and expenditure associated with the Trust has been recorded in the accounts for the Trust, (Appendix One – Income & Expenditure Alice Park to 31 March 2016).
- 5.3 At the formation of BANES, two cottages (Numbers One and Two) were held on Trust land and were maintained by BANES Council as part of their housing stock.
- 5.4 On 1st April 1999, Cottage Number One and Number Two at Alice Park were transferred from BANES Council to Somer Community Housing Trust (SCHT) under LSVT (Large Scale Voluntary Transfer). These were transferred for a sum of £8,107 each, paid to BANES Council.
- 5.5 Cottage Number One was rented for a period and then stood empty until 2 August 2005, when it was purchased back by BANES from SCHAT. The actual cost of the property was £11,692, costs paid by BANES Council, to include administrative and legal costs, was £13,537.
- 5.6 Cottage Number One then remained empty until 8 February 2008 when it was leased to Playbox nursery. This arrangement is on-going.
- 5.7 Cottage Number Two was rented for a period until 27 September 2004, when the property was sold under the right to buy scheme to a private individual for the sum of £90,000. This income was paid to BANES Council.

Decision Making

- 5.8 The sale of the housing stock to Somer Housing Association (now Curo) was unlikely to be pursuant to any statutory duty. The Local Government & Housing Act (1989) removed the requirement of principal Council's to hold housing stock. This provided an incentive to dispose of stock as money required for essential repairs could not be provided to a Council but could be provided to a Housing Association.
- 5.9 Advice provided by Counsel is that the Council were in breach of the Charities legislation (s.36 Charities Act 1993) when disposing of the cottages.
- 5.10 The disposal under RTB is legally effective and the Trust cannot undo that transaction. The trust can only regularise the position by accounting for the proceeds of sale together with interest
- 5.11 The Statement of Accounts were restated in 2013/14. This was in order to recognise the correct accounting treatment of the transactions. The revised accounts were approved by the Leader in his capacity as trustee at the time of the revisions being submitted.

6 RATIONALE

- 6.1 All costs and proceeds relating to the cottages at Alice Park have been reinvested into the Trust in line with the Trust deeds.

7 OTHER OPTIONS CONSIDERED

- 7.1 N/A – this report summarises the current position from historical decisions taken.

8 CONSULTATION

- 8.1 S151 and Monitoring Officer have had opportunity to review and input into this report.

9 RISK MANAGEMENT

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

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Background papers	<i>None</i>
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