

Bath & North East Somerset Council	
MEETING/ DECISION MAKER:	Charitable Trust Board
MEETING/ DECISION DATE:	11 July 2019
TITLE:	Proposal to review an alternative delivery of the objects of the Alice Park Trust
WARD:	Lambridge
AN OPEN PUBLIC ITEM	
<p>List of attachments to this report:</p> <p>Appendix A Terms of reference for the Charitable Trust Board</p> <p>Appendix B Proposal submitted</p>	

1 THE ISSUE

- 1.1 The Council has received a proposal (Appendix B) from a third party in relation to transferring responsibility for the Alice Park Trust from the Council (as sole corporate trustee) to an independent community led initiative.
- 1.2 This proposal should be considered against the Charitable Trust Board Terms of Reference (Appendix A); an extract of which is 'to periodically consider if Trust's assets could be consolidated and more efficiently/effectively used in conjunction with another Trust. Where appropriate it should consult on consolidation proposals with the Charity Commission and interested parties and make any recommendations for consolidation in its annual report to Council'.
- 1.3 The proposal to form a community led initiative, if completed would reduce the scale of the Council's liabilities, financial subsidy and the resources required to support day to day management of Alice Park and democratic, legal and financial officer technical assistance to the Alice Park Trust sub-committee.

2 RECOMMENDATION

- 2.1 To instruct officers to investigate the proposal and to report back to the Charitable Trust Board with conclusions and recommendations on the sustainability of and merits and risks of the proposal.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 The proposal sets out that there will be transition costs of up to £10k to facilitate the transfer into a Charitable Company Limited by Guarantee. If this could not be funded from the options highlighted in the proposal the Council would need to consider a one-off reserve funding request subject to appropriate approvals.
- 3.2 Under the current arrangements, support to the Alice Park Trust is required through providing operational services such as Council subsidised grounds maintenance; in addition to this, officer time is required from services including Finance, Legal and Democratic.

The submitted proposal would require ongoing grounds maintenance support from the Council. However as indicated in section 5.4 of the report it would remove the requirement on the Council for support services as the Charity will take full responsibility for managing its Financial and Legal responsibilities.

- 3.3 The proposal has indicated that under the proposed arrangements the Charitable Company would actively seek new income streams that may reduce the requirement on Council subsidy.
- 3.4 It is anticipated that this proposal will not have an adverse impact on the Councils revenue budget.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The Charitable Trust Board will need to comply with the obligations imposed upon it by its Terms of Reference. The terms of reference impose a requirement on the board to consider consolidation of its charities where possible. The Terms of Reference were drafted at a point in time when it was not envisaged that a community led proposal to take on the responsibility of the Council as trustee would arise. However, Officers consider that the current proposal is within the remit of the board to investigate and, if appropriate, to recommend to Council that it implements steps to effect a transfer of responsibility.

5 THE REPORT

- 5.1 The Council is sole trustee of the Alice Park Trust in Bath. The Charitable Trust Board ensures the clear separation of the Council's interest as sole trustee of the Alice Park Trust charity and the Council's interests as a Local Authority.
- 5.2 Discharging responsibility for the objects of the Trust from the Council to an independent Trust could have significant benefits to the Council. Primarily these being the removal of liabilities to the Council for decisions

made by the Trust which are currently indemnified by the Council as the Sole Corporate Trustee.

- 5.3 An independent Trust would select and appoint its own skilled and professional trustees on merit and operating as the 'controlling mind' for the park would be fully accountable for its own decisions. The decisions made, would be made by trustees who are independent from the Council. An independent Trust would appoint trustees who are demonstrably skilled/competent to make the range of technical decisions required.
- 5.4 The transfer of responsibilities and risks to a third party would remove the requirement for the Council to provide the high level of technical and managerial support to the Sub-Committee as individuals and at meetings, which would save the Council's resources.
- 5.5 The dynamic nature of a park creates a responsive need which requires a constant presence or reporting need but which is not provided by the current Trust arrangements. There is little on-site reference to the identity/role of the Trust and the historic and conspicuous nature of the council's provision of services at the site results in site issues being reported regularly to the council by default which impacts upon its resources.
- 5.6 There is a risk that asset liabilities may be overlooked if the Trust/Council roles are misunderstood corporately. It is possible that the Council may not discharge its Duty of Care liabilities if the site is not managed properly. These may become reputational risks.
- 5.7 An independent Trust will attract funds the Council are unlikely to access. Alice Park may better attract voluntary giving from users if the park is seen as being separate from the Council The Trustees will be innovative enough to raise incomes through use of assets in trading and grant applications which should be a means for B&NES to reduce its subsidy. A formula for the increased income and corresponding reduced B&NES subsidy must be a primary indicator of success.

6 RATIONALE

- 6.1 The Alice Park Trust sub-committee arrangements have been in place since 2016. During this time the Council investment, managerial costs and corporate liabilities have increased significantly. The Council's current financial position requires that the current operating arrangements should be reviewed to ensure value for money for the Council.
- 6.2 The Charitable Trust Board must equally ensure that any proposal to deliver the objects of the Trust independently of the Council are sustainable and can be delivered without increasing the liabilities to the Council.

7 OTHER OPTIONS CONSIDERED

- 7.1 To retain the current model.

8 CONSULTATION

8.1 Those consulted in preparing this report include the Section 151 Officer and Council Monitoring Officer.

9 RISK MANAGEMENT

9.1 A risk assessment related to the issue and recommendations would be undertaken during this investigation, in compliance with the Council's decision making risk management guidance.

10 CLIMATE CHANGE

10.1 N/A

Contact person	<i>Mandy Bishop – Divisional Director, Environmental Services</i> Email: Mandy_Bishop@bathnes.gov.uk Tel: 01225 394019
Background papers	<i>None</i>
Please contact the report author if you need to access this report in an alternative format	

Terms of reference - Charitable Trust Board

The purpose of the Charitable Trust Board is to facilitate the management of the charitable Trust for which the Council is the sole trustee; independently, in accordance with their governing documents and in the best interests of the charity.

In respect of the charities listed in Schedule 1 the Charitable Trust Board shall have the following powers delegated to it.

The Role of the Board is to exercise the powers delegated to it for the management of the trust, namely;

- to manage the charity in pursuit of the charitable purposes,
- to manage the finances of the charity and ensure its solvency,
- to ensure the charity acts within the governing documents,
- to ensure the charity deals with their regulatory and public accountability obligations, and
- to identify and manage potential conflicts of interest.

In respect of the charities listed in Schedule 2 the Charitable Trust Board shall investigate the governing documents of each charity and recommend to Council the inclusion of any Charity suitable for incorporation into Schedule 1 and until such time as the Council decides to delegate its functions in respect of such Trust to the Charitable Trust Board it shall advise the Council as trustee on;

- the strategic direction of those Trusts,
- the financial resources needed to operate those Trusts;

The Charitable Trust Board shall, in respect of all Trusts, ensure compliance with the Charity Commission's registration and reporting requirements and periodically consider if Trust's assets could be consolidated and more efficiently /effectively used in conjunction with another Trust. Where appropriate it should consult on consolidation proposals with the Charity Commission and interested parties and make any recommendations for consolidation in its annual report to Council.

Decisions about requests for works to be undertaken, or events to be approved that fall outside of the Charitable Trust Board cycle shall be delegated to the Chair of the Trust Board in consultation with the Lead Officer.

Urgent works required under health and safety legislation shall be delegated to the Lead Officer to action promptly.

The Board will comprise:

- Five councillors

(to include the Cabinet member responsible for Community Services and at least one councillor who is not a member of the controlling group but who's appointment is determined by the controlling group), and

- One independent person with suitable skills, experience or interests to be appointed by the Board from applicants who wish to be considered following advertisement of the role.

The Board will elect a Chair and Vice-Chair. Decisions will be by a majority of the councillors present. Quorum will be three councillors.

The Board shall have the power to create a sub-committee for each charity listed in Schedule 1 to ensure that each charity shall be separately administered. Each subcommittee shall consist of at least 3 councillors and co-opted non-voting members consisting of the ward councillor(s) for the area where any land subject to the Trust is situated and any other non-voting members who may be able to assist it in its work. The Trust Board and each sub-committee shall undertake its duties through meetings as required and will meet at least twice annually.

In any meeting, the affairs of each Trust will be considered separately and in relation to the purpose and governing document of each Trust.

Each sub-committee will report annually to the Trust Board after submitting any annual report to the Charity Commissioners and the Trust Board shall thereafter provide an annual report to Council on the financial standing of each Trust and update the Council on the work undertaken by each Trust in the preceding year.

Support for the Board and sub-committees as necessary will be provided through the relevant Council sections. Lead advisors will be identified for each charitable Trust in Schedule 1.

Schedule 1

Charitable Trusts for which the Council is sole trustee

The Alice Park
Free Fields (Rainbow Woods)

Schedule 2

Charitable Trusts for which the Council is responsible

Weston Recreation Ground

4, The Circus

Firs Field

Beechen Cliff

Newbridge Meadows (Queen Elizabeth the Second Fields)

Backstones

Innox Park

Post Office Museum

Former Radstock Infant School