

Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Alice Park Trust Sub Committee	
MEETING/ DECISION DATE:	4 September 2019	EXECUTIVE FORWARD PLAN REFERENCE:
TITLE:	Approval of Heads of Terms re the Skatepark Lease	
WARD:	Lambridge	
PUBLIC MEETING		
List of attachments to this report: Appendix A: The Heads of Terms Appendix B: Preliminary Budget Appendix C: Project Brief		

1 THE ISSUE

- 1.1 To commence the installation of the skatepark, the Council must enter into a lease with Alice Park Trust for the land required.
- 1.2 To allow the lease to be drafted the Sub-Committee are being asked to agree to the proposed Heads of Terms (Appendix A). Informal approval to avoid delay has previously been provided but formal approval is now being sought to the proposed Heads of Terms.

2 RECOMMENDATION

- 2.1 For the Sub-Committee to approve the proposed Heads of Terms in this report.
- 2.2 For the Sub-Committee, to work with assistance from the Council, to gain Charities Commission approval for the disposal of land via a lease, commensurate with its formal asset valuation by qualified surveyor and through their agreement to advertise the disposal via public notice upon the site.
- 2.3 That the Sub-Committee works with the Council to ensure the skatepark is delivered within the full budget available and facilitates this by utilization of its element of the budget (25k) to cover its own disposal fees and other contingencies as required until the project is fully concluded.
- 2.4 Once the lease is finalised the Trust will formally approve the lease with the Council subject to the Charities Commission approval.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 £97k capital has been fully approved by the Council for the installation of a skate park of which 25k was requested by the Trust for 'other park improvements' leaving only 72k remaining for the skatepark implementation. This amount is supplemented by a 30k contribution to the skatepark facility by the community creating an overall budget for the skatepark of 102k.
- 3.2 The loss of the 25k has left the budget insufficient as The Trusts solicitor, surveyor and disposal advertisement fees required to satisfy Charities Commission legislation were under-estimated.
- 3.3 The loss of the 25k has left the budget insufficient as a fence to compartmentalize the skatepark from the play area is advised and vehicular ground protection will be required during construction now that the new paths are installed adjacent to the skatepark location.
- 3.4 The Council has arranged for the Alice Park Trust sub-committee to be independently advised by Veale Wasbrough Vizards, Bristol.
- 3.5 The Council will arrange the skatepark to be constructed and provide inspection, maintenance, insurance as necessary for the duration of the lease.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The Council is sole corporate trustee of the Alice Park Trust. The Alice Park Trust's Sub-Committee's terms of reference are to undertake the operational management functions in respect of the Alice Park site and its resources, in accordance with 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 Sub-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.
- 4.4 One important consideration for the APT Sub-Committee to consider, when deciding upon the issue of expenditure generally but specifically in respect of the skateboard park is, that the income from the Endowment and arising from the Trust Property is currently insufficient to maintain the park without a subsidy from B&NES' and therefore a very clear legal basis is required in order to enable B&NES as trustee to permit any project to go ahead, if that would involve future expense.
- 4.5 The Trust disposing of land via a lease to the Council requires Charities Commission approval which ensures the decision is objectively made.

5 THE REPORT

- 5.1 The Council appointed skatepark designer/contractor Canvas, who consulted a user group/working party, to create a skatepark design to be implemented within the reduced budget (Appendix B) and design constraints of the Alice Park sub-committee (Appendix C). A design was created and has been provisionally signed off by the Trust.
- 5.2 The Council and the Trust must now agree the Heads of Terms of the Lease for it to be drawn up and confirmed by the Charities Commission in advance of construction.
- 5.3 The loss of the £25k has left the budget insufficient to cover the full and required disposal costs of the Trust consistent with Charities Commission legislation. In addition, it is likely that a fence and vehicular ground protection will be required.
- 5.4 Agreement is sought to utilize the £25k budget held by Alice Park Trust to fund its own disposal costs and as a contingency for other shortfalls (and to refrain from spending it on 'other park improvements' until the skatepark is concluded).
- 5.5 The lease will transfer responsibility to the Council for the skatepark footprint and its immediate surroundings (approx. 5m) up to but not including existing boundary fences/hedges/trees.
- 5.6 The skate park will be maintained and inspected by B&NES for the duration of the lease and within existing budgets; the insurance liability will be picked up under the Council's Insurance arrangements.
- 5.7 The Charities Commission approval may potentially delay the project. A winter construction would be difficult due to adverse weather which will add risks and costs that can't be afforded.
- 5.8 The contractor will advise on dates for implementation in consideration of the above.

6 RATIONALE

- 6.1 The skate park brief is now to the satisfaction of the Sub-committee members, it meets the objects of the Alice Park Trust and allowing for utilization of the 25k is still within the envelope of the available budget with this request being consistent with past reports (see Risk Management) 'The Trust should be prepared to contribute financially to any identifiable shortfall from its own resources/income streams'.

7 OTHER OPTIONS CONSIDERED

- 7.1 Installations elsewhere were ruled out due to proximity of the river or below ground substrate issues. On site options have been refined by the Sub-Committee in order to determine the location and specification now decided upon to build a skate park.

8 CONSULTATION

- 8.1 Preliminary Skatepark rationale was worked up by an on-site consultation exercise with Parks Dept Officers. Following awarding the design and build contract,

detailed designs were agreed by the contractor and the Working Group/Sub-Committee as part of the evaluation process.

8.2 Procured Contractors should have experience of, and be confident with, working with young people and the public as part of the design process and will present their designs to representatives of user groups and to Council Officers.

8.3 The Council's S 151 officer approval has been received to release the £97K funding.

8.4 The Council's legal team have had opportunity to comment on this report.

9 RISK MANAGEMENT

9.1 Should the costs be more than reasonably budgeted for then the Council will need to consider its position and may seek to reduce the extent of works within the current subsidy by re-prioritization. The Trust should be prepared to contribute financially to any identifiable shortfall from its own resources/income streams.

9.2 The Charities Commission authorisation may potentially delay the project. A winter construction is not advisable as that will compromise a concrete installation and may add further costs. We are taking advice from the contractor re advised timings.

9.3 Insurance – as the skate park will be maintained and inspected by B&NES the insurance liability will be picked up under the Council's Insurance arrangements and is within existing budgets.

9.4 Risks to the project's successful completion are;

- The Charities Commission not approving the disposal/lease of the land. This itself is unlikely as the provision of the skatepark is in line with the objects of The Trust and as the lease agrees to return the land to original condition at end of lease. There is potential for park users, resistant to a skatepark, to use the Charities Commission notification to oppose the lease.
- The above will likely cause the project to be implemented later than expected as winter must be avoided due to it compromising the concrete construction process and general ground works and access.
- Project cost exceeding the allocated budget; the Council has been clear that its contribution will be capped at 97K and for Alice Park Trust to reasonably contribute to costs in order to facilitate this project being delivered.
- Currently site constraints such as sub surface ground conditions; trial pits are planned to ascertain sub-terranean conditions.

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Background papers	<i>None</i>
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