

## Sell or lease property to someone connected to your charity - SKATE PARK

Use this form to apply for the Charity Commission's consent to sell or lease property to someone connected to your charity.

**Before you start** You should read our information on selling and leasing charity property: Disposals that need our authority: sales, leases, transfers or mortgages – detailed guidance Disposing of land to a connected person - detailed guidance

**What you will need to tell us** You will need to have the following to hand:

- name of the connected person or people and how they are connected with your charity
- full explanation about why selling or leasing to this person is in the best interests of your charity
- details of how the conflict of interest has been managed
- qualified surveyor's report in accordance with the regulations
- description of the property whether the property includes designated land (land designated for a particular purpose)
- details of any opposition to the proposal

### Apply to dispose of charity land to a connected person · ·

All fields marked \* must be answered

#### About this application

Your charity name\* ·

The Alice Park

Your registered charity number (if applicable) ·

304650

Name of the person we should contact about this disposal\* ·

Laura Chesham

Contact email address* ·	<a href="mailto:Ichesham@vww.co.uk">Ichesham@vww.co.uk</a>
Contact telephone number* ·	0117 314 5314
Charity Commission case reference number (if applicable)	N/A
<b>About the connected person</b>	
· Full name of connected person*	<p>Stage 1: Michael Hewitt (<b>Nominee</b>), an employee of Bath and North East Somerset Council (<b>BANES</b>)</p> <p>Stage 2: BANES</p> <p>It is proposed that a lease is first granted to the Nominee and then this lease will be assigned to BANES. This two-stage process is required because BANES (in its capacity as trustee of the charity) is not able to grant a lease directly to itself in its local authority capacity.</p>
<p>How is this person connected? * ·</p> <ul style="list-style-type: none"> <li>• A trustee of or for the charity</li> <li>• A donor of any land to the charity</li> <li>• A close relative of either of the above, for example, a child, parent, grandchild, grandparent, brother or sister (or husband, wife or civil partner of any of these)</li> <li>• An officer, agent or employee of the charity</li> <li>• An institution controlled by any of the above</li> <li>• A body corporate in which any of those above have a substantial</li> </ul>	<p>The Nominee is an employee of BANES.</p> <p>BANES is the sole corporate trustee of The Alice Park.</p>

interest	
Did the connected person have any involvement in the decision-making process to dispose of the land?	There is a sub-committee established for the charity which considers the business of the charity and takes decisions on BANES' behalf. Although the sub-committee is comprised of Councillors, BANES considers that conflicts of interest/duty are appropriately managed, and the sub-committee acts independently and solely and exclusively in the interests of the charity when taking decisions concerning the charity.
Did the connected person have any access to information in connection with other bids or offers for the land / property?	N/A
How did the trustees make the decision to dispose of the land to this person?	At a public meeting of the Alice Park Trust sub-committee dated 23 December 2019.  The Agenda and minutes of which can be found here <a href="https://democracy.bathnes.gov.uk/ieListDocuments.aspx?Cid=579&amp;Mid=5720&amp;Ver=4">https://democracy.bathnes.gov.uk/ieListDocuments.aspx?Cid=579&amp;Mid=5720&amp;Ver=4</a>
What options were considered?	No other options were considered by the charity. The terms of the proposed disposal are unique and are unlikely to be viable if a different third party were involved.
<b>Why the disposal is in the charity's best interests</b>	
<p>You should say when the trustees met to discuss the disposal and explain why they feel it is in the charity's best interests. For example, the connected person is offering market price or better. *</p> <p>Maximum 5,000 characters</p>	<p>The charity provides a public park and play area (for children under 14 years of age) in Bath in advancement of its charitable purposes. The park is open to the public throughout the year. There are various facilities available at the park, including tennis courts, a children's cycling track, table tennis and space for team sports to be played.</p> <p>There is a chalet situated at the park, which the charity leases to a third party for use as a café There is a cottage within the park that is leased to a third party to use as a</p>

Nursey and a public convenience leased to Healthmatic. The rental income is used in the upkeep of the park. The charity also receives income from the hire of tennis courts. The total income from this activity is approximately £1,500 per annum.

The charity would like to further develop the nature of the recreational facilities available at the park to increase its use by certain user groups, including children over the age of 14 and young adults. The charity has identified that there is need in the local area for a skate park.

However, as we have identified above, the charity has a limited income. BANES (in its capacity as local authority) supplements the charity's income to cover its costs. The charity therefore does not have any reserves with which to expand the charity's activities/facilities.

A proposal to develop the skate park was first presented to the sub-committee in August 2016 and received in principle approval on the 25 June 2018 subject to agreement on the final design. The sub-committee wishes to be able to provide the best facilities possible to the charity's beneficiaries. However, it just does not have the funding to be able to develop and maintain new facilities without support from third parties.

The sub-committee therefore considers it is in the best interests of the charity to enter into a lease of part of the park to BANES to allow BANES to develop and maintain a skate park. The charity considers that being able to offer a skate park at the park will widen the charity's class of beneficiaries and is therefore benefiting a larger section of the public. Although only a peppercorn rent is proposed under the lease (and therefore the charity's income will not increase as a result of the proposed arrangements), the charity considers that the grant of the lease clearly advances its charitable purposes for the public benefit.

The park itself comprises 8 acres of land. The proposed area for the development of the skate park is 0.22 acres and therefore will affect only a small part of the charity's land. Although this area will not be generally available to users of the park (other than as a skate park), the charity considers the benefit of setting this area aside as a

	skate park and being able to offer a different type of recreational facility will outweigh any disadvantages of the land not being available for more general use.
Is there a clause or provision in the charity's governing document that prohibits the disposal of land to a connected person?	No
<b>About your surveyor's report</b>	
Have the trustees received a surveyor's report?	Yes
What does the report say about marketing the property? We may request a copy of the report at a later date.	The report confirms that, due to the unique terms of the proposed disposition, including the investment by the tenant, the proposed disposition should not be advertised.
Have the trustees acted on the advice about marketing?	Yes
What does the report say about the value of the land to be disposed?	One peppercorn
Have the trustees acted on the advice about the value of the land?	Yes
What are the terms of the lease or sale the trustees are considering accepting?	<p>Term: 25 years</p> <p>Rent: one peppercorn</p> <p>Permitted use: skate park and ancillary recreational use</p> <p>Break clause: tenant only at years 15 and 20; 6 months prior written notice to the landlord required.</p> <p>Rent reviews: none</p> <p>Alienation: prohibited (except to allow the assignment of the lease to complete the</p>

	<p>second stage transfer referred to above)</p> <p>Repairing obligations: fully repairing; requirement for the tenant to keep the demised area in good repair</p> <p>Dilapidations: tenant to reinstate the demised area to grassland to the landlord's reasonable satisfaction</p> <p>Landlord and Tenant Act 1954 protection: none</p> <p>Alterations: external and internal structural and non-structural alterations permitted without consent</p> <p>Service charge: none</p> <p>Rates and utilities: tenant directly liable for all outgoings associated with the skate park facility (if any)</p>
<b>About the land</b>	
Is there a clause or provision in the charity's governing document that prohibits the disposal of land to a connected person?	No
Do the trustees have the power to dispose of the land?	Yes
Do the trustees own the legal interest in the property or land to be disposed?	Yes
<p>· Full postal address or brief description of the land*</p> <p>Maximum 5,000 characters</p>	Part of the land known as "The Alice Park" Gloucester Road, Larkhall, Bath, BA1 7BL
Is the land registered with HM Land Registry? *	[TBC]

If Yes, Land Registry or Registered lease title number	[TBC]
· If the land is not registered give details of the conveyance or lease by which it was acquired	Conveyance dated 19 May 1937
· <b>What the land is used for</b>	
If any part of the land is leased to another party, please give details of the lease  Maximum 2,000 characters	N/A
Is it designated land (that is land settled on specific charitable trusts held by the charity and required to be used for a particular purpose or purposes of the charity)? *	No
If No, Is the land used for other purposes of the charity? *	Yes
If Yes (Explain briefly what purposes the land is used for (you may need to refer to the deeds of the land or your charity's governing document) *  Or If No (Explain briefly how the land is used) *	The land is used as a public park and children's play area. Various recreational facilities are offered, including tennis courts, a children's cycling track, table tennis and space for team sports to be played.  There is a cottage situated within the park which is leased to a third party who provides a café.
Disposing of designated land  You must tell us in this form whether the designated land will be replaced - if not, you usually need to give public notice and we may need to contact you about changing your charity's purposes. Read our detailed	N/A

<p>guidance for more information.</p> <p>Explain briefly what specific purposes the land is required to be used for (you may need to refer to the deeds of the land or your charity's governing document). *</p> <p>Maximum 2,000 characters</p>	
<p>Are you replacing the designated land? *</p>	<p>N/A</p>
<p><b>About the disposal</b></p>	
<p>Select an option that best describes the disposal* ·</p> <ul style="list-style-type: none"> <li>• Freehold sale</li> <li>• Easement or grant of right of way</li> <li>• Lease for more than 7 years</li> <li>• Lease for 7 years or less with a fine or premium</li> <li>• Lease for 7 years or less with no fine or premium</li> <li>• Other (If 'Other' please specify*)</li> </ul> <p>About fines and premiums</p> <p>A fine or premium is a lump sum or other benefit, other than rent, paid to the charity on the granting of a lease.</p>	<p>Lease for more than 7 years</p>
<p>· If you are aware of any opposition to the disposal give details and explain the steps the trustees have taken to resolve these issues</p>	<p>Historically the community and indeed the sub-committee were split on the proposal of use of the park for a skatepark, but compromise resulted in a scaled down facility suitable for children up to the age of 14. There is more general acceptance of the use</p>

Maximum 5,000 characters	of the site for this purpose albeit there are still residents that object to its use as a skatepark.
<b>Declaration</b>	
You must confirm the following statements are correct:	
<ul style="list-style-type: none"> <li>All the facts and information supplied by or on behalf of this charity on this form are correct</li> </ul>	Yes
<ul style="list-style-type: none"> <li>The trustees are satisfied they have been properly appointed</li> </ul>	Yes
<ul style="list-style-type: none"> <li>The trustees have the power to dispose of the land</li> </ul>	Yes
<ul style="list-style-type: none"> <li>There is no clause/provision in the governing document of the charity prohibiting the disposal of the charity's land to a connected person</li> </ul>	Yes
<ul style="list-style-type: none"> <li>The charity owns the legal interest in the property described in section 4</li> </ul>	Yes
<ul style="list-style-type: none"> <li>The trustees have taken appropriate steps to manage the conflict of interest:</li> </ul>	Yes
<ul style="list-style-type: none"> <li>The connected person took no part in the decision-making process regarding disposal of the land</li> </ul>	Yes (the sub-committee is comprised of Councillors but they understand that their first obligation is to the Charity)
<ul style="list-style-type: none"> <li>The connected person has had no access to information in connection with other bids or offers for the land</li> </ul>	Yes

<ul style="list-style-type: none"> <li>The trustees have received a report from a qualified surveyor who has reported in accordance with the Charities (Qualified Surveyors' Reports) Regulations 1992</li> </ul>	Yes
<ul style="list-style-type: none"> <li>The trustees have met validly and decided that the disposal of the property is in the best interests of the charity</li> </ul>	Yes
<p>I confirm that all of the statements above are true and correct to the best of my knowledge, and that I am authorised to act on behalf of the trustees. *</p> <p>Conflicts of interest The person signing the form must not be the connected person in question. Read our guidance about conflicts of interest <a href="https://www.gov.uk/guidance/manage-a-conflict-of-interest-in-your-charity">https://www.gov.uk/guidance/manage-a-conflict-of-interest-in-your-charity</a></p>	
Name of signatory*	Marie Todd
Capacity (for example trustee, secretary or clerk to the trustees, legal adviser etc) *	Clerk to the Alice Park Trust sub-committee
<p><i>Note: Providing false information</i></p> <p><i>It is an offence under section 60(1)(b) of the Charities Act 2011 to knowingly or recklessly provide false or misleading information.</i></p>	