

## Bath & North East Somerset Council

MEETING/ DECISION MAKER:	<b>Charitable Trust Board</b>
MEETING/ DECISION DATE:	<b>29 January 2020</b>
TITLE:	<b>Alice Park Trust</b>
WARD:	Lambridge
<b>AN OPEN PUBLIC ITEM</b>	
<b>List of attachments to this report:</b> N/A	

### 1 THE ISSUE

1.1 At the meeting of the Charitable Trust Board (CTB) held on 11 July 2019, the Board considered a report detailing a proposal from a third party to transfer responsibility for the Alice Park Trust (as sole corporate trustee) to an independent community led initiative.

1.2 The CTB resolved to:

- review the options for governance and/or the terms of reference for the Alice Park Trust Sub-Committee to ensure that these are fit for purpose.
- to ask officers to investigate the proposal submitted by a third party and to report back to the CTB with conclusions and recommendations on the sustainability of and merits and risks of the proposal.
- to receive a report at the next CTB meeting giving a full review of both options and processes.

### 2 RECOMMENDATION

2.1 To note and consider the report

2.2 To agree the future delivery model for Alice Park

2.3 Request that Officers work with the local community to develop the existing volunteering arrangements in to a formal 'Friends of Alice Park' group. The aim

of which is to achieve greater community engagement and involvement, in line with the successful arrangements at other parks, eg Henrietta Park.

### 3 THE REPORT

3.1 Three options for future governance have been identified:

- Retain Sole Trusteeship
- Share the Trusteeship Jointly with Independent Trustees
- The Council withdraws from the Trusteeship in favour of the proposed 'Company Limited by Guarantee' (as submitted by the third party and discussed at the CTB on 11 July 19)

3.2 The advantages and disadvantages of each model are outlined in the table below:

Option	Advantages	Disadvantages
<p><b>Sole Trusteeship</b></p>	<p>Governance:</p> <ul style="list-style-type: none"> <li>• the Council remains solely liable for its actions and not the actions of others</li> <li>• This option maintains the status quo and is the lowest risk</li> </ul> <p>Finance:</p> <ul style="list-style-type: none"> <li>• the Park retains its current support from the Council (maintenance provided by the Parks Department), the Council continues to subsidise the Trust income to cover costs</li> <li>• The alignment to the Council creates the opportunity for further investment where appropriate through the Councils' Capital Programme</li> </ul>	<p>Governance:</p> <ul style="list-style-type: none"> <li>• the Council officers and members are unfamiliar with charitable legislation and it risks inadvertently acting in breach of Trust through lack of familiarity with that legislation</li> <li>• the power of the Council to delegate its sole corporate Trusteeship using Committees and sub-committees under the Local Government Act 1972 could compromise flexible decision making given that it is not possible to call a meeting of the sub-committee at short notice</li> <li>• It is possible to co-opt local and independent members; however, Local Government legislation does not permit those co-opted members to have voting rights.</li> </ul> <p>Finance:</p> <ul style="list-style-type: none"> <li>• the Alice Park Trust does not become financially independent from the Council with a reliance on the Park being maintained and supported as if it was a Council owned Park</li> <li>• The Cost of internal officer time in providing administrative etc support to the Park and APTSC</li> </ul>

Option	Advantages	Disadvantages
<b>Shared Trusteeship</b>	<p>Governance:</p> <ul style="list-style-type: none"> <li>the Council shares liability for the actions of the joint trustees and this provides a voice and vote for the individuals jointly appointed with it</li> </ul> <p>Finance:</p> <ul style="list-style-type: none"> <li>the financial benefits remain as per the Sole Trusteeship arrangements above</li> </ul>	<p>Governance &amp; Finance:</p> <ul style="list-style-type: none"> <li>although responsibility is shared the Council is always likely to be perceived as the main voice of the Trust and given its financial standing it will always be expected to finance the trust if in financial difficulty or in the event of any claim.</li> <li>This type of joint arrangement is not favoured by the Charity Commissioners</li> </ul>
<b>Company Limited by Guarantee</b>	<p>Governance:</p> <ul style="list-style-type: none"> <li>the Council absolves itself of any further liability save for any contractual commitments it agrees to assume e.g. Grounds Maintenance</li> <li>It removes the cost of administering the Trust via a sub-committee in accordance with Local Government Act requirements</li> <li>More agile decision making and responsive to the needs of the members of the community that are the intended beneficiaries of the Trust</li> <li>The ability of the Trust to access funding streams that the Council is unable or unlikely to be able to access because of its role as Sole Corporate Trustee</li> </ul> <p>Finance:</p> <ul style="list-style-type: none"> <li>Additional revenue income streams may be realised through sponsorship, donations and membership schemes</li> <li>Advisory and administrative support from newly formed trustees and / or corporate sponsors at no charge (pro</li> </ul>	<p>Governance:</p> <ul style="list-style-type: none"> <li>Based on the proposals the Council will have a diminished voice in the decisions taken by the Trust</li> <li>In the event that the Trust cannot finance itself over the long term the potential expectation that the Council would need to resume its' status as funder of last resort</li> </ul> <p>Finance:</p> <ul style="list-style-type: none"> <li>Loss of Council (not re-charged) support including, IT systems including financial ledger, Trust administration provided by Democratic services and legal advice and support may result in additional unfunded costs</li> <li>Transition costs including set up of revised governance, bank account, legal agreements with the Council for on-going support</li> <li>There will continue to be a reliance on the Council to subsidise the park through its revenue budgets for annual maintenance</li> <li>Risk around long-term sustainability of the arrangement, should key individuals within the community, eg move away</li> </ul>

Option	Advantages	Disadvantages
	bono)  <ul style="list-style-type: none"> <li>• Reduction in Council officer time following the transition into the new charitable status</li> </ul>	

### 3.3 Company Limited by Guarantee

The council has undertaken its' own financial assessment/projections regarding the third- party proposal to create a Company Limited by Guarantee.

3.4 Under the proposed new management arrangements annual costs will be covered from income raised. The proposal details estimated **surplus** for the next three financial years of £1,498, £5,592 and £6,092. The council's projections for the same period forecast annual budget **deficits** of £22,636, £22,923 and £23,709 per annum.

3.5 The key assumptions contained in the new management proposals are as follows:

- That the grounds, play and tree works will be continued by the Council with no charge to the Trust. In 20/21 this represents £22,274 of expenditure to the Council and would be re-charged. There is an argument that these services could be procured outside the Council. There would be a cost to deliver these services.
- The public convenience contract assumption is that the Trust can negotiate a reduction of over 50% on current contracted levels (potential again to use another supplier). This contract is currently structured to cover all Council conveniences. The Council has assumed that these costs will continue.
- The Council has no budget for other maintenance costs, any incurred are charged to the Trust. This arrangement would continue.
- The proposed increase in annual rent charges at the end of one of the current lease arrangements could increase under both the 'Sole Trusteeship' or 'Company Limited by Guarantee' arrangement. The Council's current budget assumes no growth; however, this could be reviewed.
- Tennis court hire income is currently shared with xxxx (redacted) on the basis he collects the income on our behalf. Budget figures in the proposal are ambitious and rely on the tennis court facilities being invested in and regularly maintained. In addition, there is a move to on-line booking of facilities through the current council digital arrangements.

## 4. CONCLUSION & RECOMMENDATION

Following more detailed consideration of the third-party proposal, it is considered that the 'Sole Trusteeship' model remains the most sustainable.

It is recommended that Officers work more closely with the local community to secure greater involvement in the park.

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<b>Background papers</b>	A proposal for the structure and management of the Alice Park Charity (April 19) – the paper considered at the CTB meeting held on 11/7/19
<b>Please contact the report author if you need to access this report in an alternative format</b>	