

Bath & North East Somerset Council

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| MEETING/ DECISION MAKER: | Alice Park Trust Sub-Committee Meeting |
| MEETING/ DECISION DATE: | 7 December 2020 |
| TITLE: | Sale of Cottage No.2 at Alice Park |
| WARD: | Lambridge |
| AN OPEN PUBLIC ITEM | |
| List of attachments to this report: N/A | |

1 THE ISSUE

- 1.1 To provide an update surrounding the sale of Cottage Number Two at Alice Park. This is an update on the report presented to the Sub-Committee on 6th December 2016.

2 RECOMMENDATIONS

- 2.1 To note the report which has been prepared for information purposes only and to provide a record for any future enquiries with regards to the sale of the cottage.

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 Earlier this year the Charity Commission raised questions on the Alice Park 2018/19 Accounts, one of which centred around the sale of the cottage in 2004.
- 3.3 The accounts of the Trust were restated from 2004/05 to recognise the receipt from the sale of the property and again in 2013/14 to account for compound interest that would have accrued over time. The proceeds from the sale have been used to fund expenditure incurred by the Trust since. It is important for the Board to note that that Charity operates with a significant annual deficit and only remains solvent due to Council subsidy.
- 3.4 It was clear from the questions raised by the Charity Commission that they were under the impression that the subsidy recorded in the accounts was to reimburse the Alice Park Trust for the sale of the cottage. The Commission have subsequently been corrected and have closed their enquiry after receipt of the council's explanation.

- 3.5 This report will detail the background surrounding this issue for transparency and as a record for any future questions arising on the matter.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The Council is sole corporate trustee of the Alice Park Trust and the 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 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

Background

- 5.1 On 1 April 1996, B&NES came into being as a Local Authority and has been subsequently supporting the 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 B&NES, two cottages (Numbers One and Two) were held on Trust land and were maintained by B&NES 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 B&NES 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 B&NES 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 B&NES from SCHAT. The actual cost of the property was £11,692, paid by B&NES Council, including administrative and legal costs, was £13,537.
- 5.6 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 £47,700. This income was paid to B&NES Council.
- 5.7 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.
- 5.8 Advice provided by Counsel was that the Council were in breach of the Charities legislation (s.36 Charities Act 1993) when disposing of the cottages.

- 5.9 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
- 5.10 To record the sale proceeds correctly in the accounts, the sale needed to be recorded at market value, rather than at the sale value. A valuation of £90,000 was arrived at by taking the sale price (£47,700) and adding the discounted value as stated on the Land registry document (£42,300). This was also consistent with the market valuation placed on property by Curo and would be in excess of the 50% discount for a sitting tenant should that calculation have been applied.
- 5.11 £90,000 receipts were retrospectively applied to the 2004/05 accounts, which left a surplus in the I&E of £53,600. This surplus was utilised to meet the annual running costs of the Park in 2005/06, reducing the required Council subsidy from £56,380 to £2,780.
- 5.12 A further exercise was carried out to calculate compound interest of the £90,000 receipt given delays in applying the value to the accounts. £8,517 income was applied to the 2016/17 accounts to reflect this.
- 5.13 All costs and proceeds relating to the cottages at Alice Park have been reinvested into the Trust in line with the Trust deeds, as detailed in each year's annual audited accounts.

6 CONSULTATION

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

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| Contact person | <i>Paul Webb – Finance Manager</i> paul.webb@bathnes.gov.uk |
| Background papers | <i>Property at Alice Park, Charitable Trust Board – Alice Park Sub-Committee, 6th December 2016</i> |
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