

**Strictly Private and Confidential**

**Complaint Customer Feedback reference: CP-46045**

**Bathampton Meadows**

**Stage 1 Complaints Report**

**Complaint made by: Mr Graham Pristo**

**Commissioning Manager:** Sophie Broadfield, Director of Sustainable  
Communities

**Investigating Officer:** Jon Evans Senior Associate, Bath & North East  
Somerset Council

**Report Completion:** 25th March 2022

# **Complaint regarding Bathampton Meadows and the action of the Council in relation to the Community Asset Transfer of it to the National Trust**

## **1. Introduction**

### **1.1. Outline purpose of report**

Mr Pisto submitted his complaint on the 1<sup>st</sup> March 2022.

He is aware via media of the Community Asset Transfer of Bathampton Meadows and the purchase of acreage associated with adjoining land as part of New Leaf Farm by the National Trust.

He is concerned by reports that there are links between the land previously owned by Deepair and the current Leader of the Council by virtue of his marriage to one of the directors.

Mr Pisto believes that Councillor Guy was consulted both as a ward member and as a Cabinet Member before the final decision was approved. He says that there has been no mention of any conflict of interest and is unhappy with this.

He also says that further questions are being asked about Councillor Guy's involvement (or not) in the deal negotiated by the Council with the National Trust. He thinks further that Councillor Guy has made contradictory statements in public on the matter.

Mr Pisto believes the result of this is a major negative impact on the reputation of Bath & North East Somerset Council, its Leader, its Cabinet, its officers, and councillors as a whole.

In light of this he wishes to formally complain about the way this issue has been handled and has asked for an independent investigation with results made public.

To facilitate this Mr Pisto has asked a number of detailed questions and these are covered fully in the report in order to give the factual response requested.

As this is a formal complaint it falls within the Council's Customer Feedback policy and is being dealt with as a Stage 1 response.

Mr Pisto has been kept aware of anticipated timescales for a response and has indicated he is happy with these.

## 1.2. Roles and responsibilities

The investigation has been commissioned by **Sophie Broadfield** – Director of Sustainable Communities.

The investigation has been undertaken by **Jon Evans** – Senior Associate

The customer feedback officer responsible for administering the complaint is **Alison Thomas** – Support Services Manager

## 2. Methodology

The complaint was investigated between the 9th and 22nd March 2022. This involved:

- Understanding of key dates associated with the transfer of Bathampton Meadows.
- Information and questions of key officers involved.
- Review of documents related to the transfer.
- Understanding of processes followed and their match with policy expectations.
- Research of material within the public domain.
- Review of documentation gathered from interested stakeholders.

It was felt that sufficient information was researched to provide answers to the questions asked by Mr Pisto in order to indicate where the Council might potentially be at fault. This considered the application of practices, processes and policies with a view to any maladministration in the Community Asset Transfer undertaken.

## 4. The Complaint

Mr Pisto has articulated his complaint in a number of questions he wishes the Council to answer. These are:

- What was the process by which a decision was made to transfer the land at no cost to the National Trust.

- Who was consulted on this, and when?
- At what point a decision was made to give the land away for no charge?
- Who was involved in shaping that decision, and when?
- What the feedback from the internal consultation with councillors before the decision in February 2021 was, and who gave what views?
- The reasoning behind allowing such a significant decision (giving away a public asset worth at least £460,000 by officer's own assessment) to be a single member decision, and who was party to this reasoning?
- Why information on the conflict of interest of the consultee, Cllr Guy, was not included in the decision report?

## **5. Review of the Complaint**

**For the purpose of clarity and understanding Mr Pristos questions have been answered sequentially:**

### **5.1 Question: What was the process by which a decision was made to transfer the land at no cost to the National Trust?**

Bathampton Meadows has long been a matter of general interest because of the exploration of means to develop an Eastern Park & Ride which had been ongoing for many years. Public opposition to this where it might affect Bathampton Meadows has been strong.

Because of the potential risk to Bathampton Meadows the Bathampton Meadows Alliance (BMA) was formed in 2015 to canvas for the meadows to be saved and to enlist additional public support.

In July 2017 following strong opposition the proposal to build an Eastern Park & Ride was dropped by the Councils previous Administration with a stated wish to protect the Meadows.

There were two notable developments in which are not strictly related but are relevant.

In 2017 the Council undertook a Water Space study (latterly the Bath River Line project). This focused on the banks of the River Avon either side and through Bath with a view to making improvements in amenity and environment. This was undertaken as a collaboration between B&NES, the Canal and Rivers Trust, the Environment Agency and Wessex Water. There was an aim to unite the projects

identified within the study and of course the East of Bath Riverside and what might happen with it was a key interest.

This work is ongoing and to ensure effective governance the Bath Riverline Steering Group was formed to provide steerage and approval to changes and improvements. To ensure a coordinated response to the whole riverline through Bath & North East Somerset this group also worked with the Waterspace Partnership with representation from partners like the Environment Agency and Wessex Water. The function of this group is to provide input and strategic overview.

As a further matter of relevance, there was the approval in February 2019 of a policy in relation to Community Asset Transfers itself driven by the Localism Act of 2011. This built on previous work and circumstances where this had been done inside the Council and elsewhere and the aim of it was to facilitate where community assets could provide better outcomes, offer better value and be utilised with greater freedoms than would otherwise be the case.

For note the policy is clear under what circumstances a transfer may be made and specifies both the necessary criteria and the decision making process in regard to a transfer at what is called 'less than best consideration' – meaning in effect below market value.

Prior to elections in May 2019 all political parties made promises with regard to saving the Meadows and when the Liberal Democrats took over the Administration this remained a commitment.

In taking forward the wishes of the new Administration amongst the activity to see what might be done and how, officers and relevant Members engaged with the National Trust (NT) to see if this might offer possibilities. The interest from the National Trust was positive and it was thought that a Community Asset Transfer in line with the Community Asset Transfer policy was the most likely way forward.

In October 2019 the then Leader of the Council Dine Romero requested officers to continue to explore this option and a formal expression of interest was received from the National Trust in December 2019.

This was reviewed by officers in January 2020 and an opinion reached referring to the Community Asset policy that the interest was such that a recommendation to move to stage 3 (the submission of a full business proposal) should be made.

This was considered by the Infrastructure Group Board and agreed as a decision by the Director of Economy and Growth in April 2020 for officers to pursue.

As the proposal was developed it was considered by the Property Board in June 2020 who have an advisory role in terms of the implementation of the Community Asset Transfer policy. They indicated support for the transfer at less than best consideration and that the eventual decision if required and meeting CAT policy should be made via a Single Member decision.

As is normal the Cabinet (of which Cllr Guy was a part in his role at that time of Cabinet Member for Children and Youth Services) was kept apprised of what was happening with regard to Bathampton Meadows and the Avon Riverside as a whole.

For note Cllr Guy sought and accepted advice that he had a pecuniary interest and did not participate in any Council decision making or have sight of papers as is usual where a conflict of interest exists.\*

The Development of the business proposal took some time and eventually was submitted in final form in November 2020. It was subject to a full due diligence exercise via an officer led Community Asset Transfer Assessment panel also completed in November 2020. This indicated that continuation with the Community Asset Transfer was appropriate.

Under the Community Asset Transfer policy transfer of land is allowable via a Single Member Decision and this method had been supported by the Property Board. Things thus progressed in this way.

Notice of the decision was published in December 2020, made by Cllr Samuel the Cabinet Member for Resources on the 1<sup>st</sup> March 2021. This instructed officers to proceed with the Community Asset Transfer. There is a right of 'call in' by Councillors to ask for scrutiny of any such decisions and in this case it ran till the 8<sup>th</sup> March 2021. In the absence of this the member decision stood.

The disposal was undertaken by the Councils Property Services and the conveyance was eventually completed during December 2021.

Looking forward in order to work together to secure the stated business case benefits (as this is a condition of the Community Asset Transfer) the National Trust is now a participant in the Bath Riverline Steering group in order to monitor delivery of improvements.

**In terms of an overall view the information gathered suggests that the processes followed in the Community Asset Transfer were satisfactory.**

## **5.2 Question: Who was consulted on this, and when?**

The future use of Bathampton Meadows of course given the potential for Eastern Park and Ride development was consulted on as part of this proposal. Even after this was dropped the future of the meadows remained a high profile issue of which the public were well aware.

The Bath Meadowside Alliance formed in 2015 established and garnered support that the future of Bathampton Meadows be secured. This support included Batheaston, Bathford and Bathampton Parish Councils and within social media. The BMA also identified high levels of public support at parish meetings open Area Forums and in social media.

In a Community Asset Transfer it is largely up to the applicant to consult adequately and to demonstrate this in its business proposals. The National Trust asked for and received a document of support from the BMA in February 2020. When reviewed by the Community Asset Transfer Assessment panel in November 2020 as with other aspect of the National Trust proposals it was thought to be adequate.

By way of additional affirmation of support for proposals the Single Member decision made in March 2021 also references support of the Avon Wildlife Trust, the Bathavon Area Forum and the existing cross party support (present since 2018). It also identified that the National Trust in due course would commit to future public consultation to ensure best use.

**The information available suggests that the consultation undertaken was in line with expectations.**

### **5.3 Question: At what point a decision was made to give the land away for no charge?**

The decision to dispose of the Bathampton Meadows in the way it was, was ultimately taken by virtue of the Single Member decision taken on the 1<sup>st</sup> March 2021.

Looking back in beginning to look for options, discussions with the National Trust in July 2019 identified that it might be a good option but that a Community Asset transfer was the most likely possibility.

The written mandate for ways to secure the future of the area and particularly to undertake further discussions with the National Trust go back to October 2019 following instruction from Cllr Dine Romero the Leader at that time.

During this period the pursual of a Community Asset Transfer was initiated via the expression of interest from the National Trust.

The Councils Property Board which gives steerage to all Council land acquisitions and disposals, in June 2020 gave approval in principle to transfer of the Meadows at less than best consideration (including the possibility of a CAT) and via a Single Member decision.

In justifying a Community Asset Transfer there are significant criteria which have to be met with a transfer of this nature including safeguarding of community interests, confidence in future development, and social, economic or environmental benefits.

It was felt that the only other option would be that the Council retained the land and that the National Trust interest would secure a better future for land.

These criteria were met in which enabled a recommendation to approve via the Single Member decision.

**The information available suggests the decision making process on the transfer without charge had probity and that the decision timing was appropriate.**

#### **5.4 Question: Who was involved in shaping that decision, and when?**

The delegated officers to work under instruction on the potential transfer following the then Leaders instruction in October 2019 were the Head of Property Services and the Locality Manager for People and Policy.

The main liaison into the Bath Riverline overall project was the Strategic Manager Green Infrastructure and Nature Recovery and as would be expected this project was also subject to communication of the broader riverside interest and proposals.

Specifically for Bathampton the delegated officers roles are relevant and appropriate to the need for knowledge of property matters and the Community Transfer Asset policy. These roles led on the assessment of the National Trust proposals ultimately via the Community Asset Transfer panel in September 2020.

The Property Board which indicated approval to the potential decision to transfer the land at less than full consideration in June 2020 is constituted by officers across professional disciplines relevant to the work of the board.

Cllr Samuel the Cabinet Member for Resources was responsible for the Single Member decision taken in March 2021 and as is normal in the process would have had to satisfy himself that the proposal was sound.

**The input into the processes where the proposal might have been reviewed and amended seem reasonable.**

#### **5.5 Question: What the feedback from the internal consultation with councillors before the decision in February 2021 was, and who gave what views?**

The due diligence exercise undertaken references the Bathampton Meadows Alliance as the main consultee in the decision process. It is largely up to the applicant to provide sufficient evidence of consultation and this was done.

Aside from this being a Community Asset Transfer as a change of land ownership this is not uncommon and officers in the Property Board oversee this.

Following the expression of interest from the National Trust in January 2020 letters were sent to Councillor Guy and Councillor Warren in their role as ward councillors advising of this and seeking to understand any views they might have. In February 2020 Councillor Warren responded indicating she was happy with it. It is not thought Councillor Guy responded.



For the benefit of understanding the progress of the proposals under policy they did not require internal consultation per se with Councillors so as a formal mechanism this was not undertaken with all.

Outside of this, as has been referenced and is normal the Cabinet which is the body with Executive Members involved was kept apprised. For note as stated prior Cllr Guy had accepted advice that he had a pecuniary interest and did not participate in any Council decision making or have sight of papers as is usual where a conflict of interest exists.\*

**No issues are discerned with the treatment of any internal consultation requirements which seem to have been treated reasonably.**

**5.6 Question: The reasoning behind allowing such a significant decision (giving away a public asset worth at least £460,000 by officer's own assessment) to be a single member decision, and who was party to this reasoning?**

The Council reasoning for the Community Asset Transfer of the Bathampton Meadows was published as part of the Single Member decision made on the 1<sup>st</sup> March 2021. The stated rationale as published was:

*'It is considered that the long term permanency of preservation provided by the National Trust coupled with the exceptional nature of the community and environmental benefits, achieved through this proposed disposal significantly outweigh the loss of the open market consideration and justify a freehold transfer of for the land.*

*These social and environmental values have been calculated by the National Trust at £104,708 per annum. They have applied a mix of natural capital valuation tools, which calculate the additional social and environmental value their ownership will provide. The Net Present Value over 30 years is estimated at £2,288,203. In addition to this the projected value of volunteer time has been calculated at £10,900 per annum. These figures have been independently assessed by environmental economic consultants Eftec who have verified the methodologies and figures.*

*This permanency of preservation along with the net present value calculations, which have been assessed and verified by Eftec, far exceed not only the restricted but also the unrestricted value of the asset, providing the justification for the transfer of the freehold interest.'*

In terms of how this decision may be made within appropriate governance a fundamental requirement of the Community Asset Transfer process led by officers is a business proposal which meets relevant criteria. This was delivered.

Relevant to the financial aspect of the complaint it was also necessary as part of the process to assess fiscal value in way which has probity. The DEFRA approved

model was used. The model looks beyond fiscal and assesses value in other terms like social amenity.

The full details are in the NT Business Plan which is in the public domain via [https://democracy.bathnes.gov.uk/documents/s64537/Appendix%20D%20-%20Bathampton%20Meadows%20Business%20Plan\\_NT%20FINAL.pdf](https://democracy.bathnes.gov.uk/documents/s64537/Appendix%20D%20-%20Bathampton%20Meadows%20Business%20Plan_NT%20FINAL.pdf) . It assesses the net worth of the Bathampton Meadows as they stood and as they are intended to be. For absolute clarity this assessed annual value as was, at £88,251 p.a and in the future at £192,959 p.a, a net annual gain of £104,708. Over 30 years the business case would be expected to yield £2,288,203.

Of note these figures were independently assessed by environmental consultants with expertise in 'natural capital' and found to be sound.

In terms of mechanism a Single Member decision was considered the appropriate vehicle within the Councils democratic process and any Councillor may call this in for scrutiny. This was endorsed in principle by the Councils Property Board in June 2020. The Councils Legal and Democratic team would also have ensured this was correct as part of the processing of the matter through the democratic process. They have the ability to veto if not satisfied.

**For clarity no issues are discerned with the requirements necessary to make a Single Member Decision in this case.**

#### **5.7 Question: Why information on the conflict of interest of the consultee, Cllr Guy, was not included in the decision report?**

The decision report asked for assent to the Community Asset Transfer for Bathampton Meadows alone. Councillor Guy was not involved in the work undertaken with the National Trust to establish if this was viable independent of any consideration of other land. The National Trust submission and the evaluation of it was carried out by officers charged with this work alone.

As is normal practice they drafted the report for Councillor Samuel who in turn would have agreed its content. Councillor Guy would not have been involved in this nor the eventual decision. Authors of reports of this type are asked to exercise judgement on any strictly relevant pecuniary interests and on this occasion did not feel there were any appropriate.

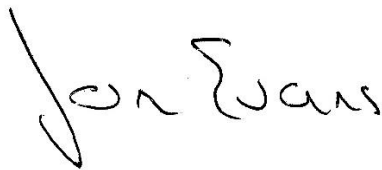
**The treatment of the report to enable the Single Member decision seems reasonable.**

## **5. Recommended outcome**

The information researched indicates that there was adherence to policy, procedure and process in the transfer of Bathampton Meadows. It is not recommended that the complaints should be upheld.

## **6. Conclusions**

Mr Pricos concerns are understood and the Council should welcome the challenge that he has made. It is hoped that in reading the report there will be reassurance of what has been done in relation to Bathampton Meadows and the probity of the Community Asset Transfer of it to the National Trust.

A handwritten signature in black ink, appearing to read 'Jon Evans'. The signature is written in a cursive, flowing style.

**Signed:**

**Date:** 25th March 2022

**Senior Associate.**

**Note of clarification. To ensure clarity and accuracy, following query and checking of terms where indicated \* there has been an amendment to wording (29.3.22).**