

Report to:	TRUSTS AND CHARITIES COMMITTEE
Report of: Date of Decision:	PARKS SERVICES MANAGER 22nd January 2020
SUBJECT:	GEORGE CADBURY FOR PUBLIC PARK – FRIENDS OF MANOR FARM PARK PROGRESS REPORT AND FUNDING
Wards affected:	Weoley & Selly Oak

1. Purpose of report:

To approve further expenditure from trust funds to facilitate the works at the Lodge and to note the progress report and actions submitted by the Friends.

2. Decision(s) recommended:

That the Committee notes the report and approves:

- 2.1 its continuing support of the actions proposed by the Friends of Manor Farm Park set out in appendix 1
- 2.2 the provision of additional funds of £18,260 to meet the full cost now assessed for the re-roofing of the Lodge noting that the funds will be drawn again from the insurance monies received following the destruction of the George Cadbury Barn
- 2.3 delegates to the Assistant Director of Property working with Acivico and Procurement to award the tender and undertake the works set out within appendix 2
- 2.4 authorises the City Solicitor to prepare, negotiate, execute, seal and complete all necessary legal documentation to give effect to the above decisions.

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3. Compliance Issues:

3.1 Consultations

The park is held on Trust for the provision of Public Open Space for healthy recreational purposes.

No formal requirement to consult on the decisions recommended arises beyond those set out in the Charities Act 2011 and any relevant Operational Guidance issued by the Charity Commission. However, the proposals are at the instigation of and fully supported by the Friends of Manor Farm Park and officers in the Street Scene and Parks Service.

3.2 Relevant legal powers, personnel, equalities, procurement, regeneration and other relevant implications?

The City Council acts as Sole Corporate Trustee for a number of Trusts and Charities and has delegated the discharge of administrative functions to the Trusts and Charities Committee with the Full Council sitting as 'Council as Trustee' being the authorising body for trust "key decisions". Charitable trust activity is regulated by the Charity Commission and governed by a Trust Deed as amended by any Scheme made by the Charity Commission. George Cadbury for Public Park is the registered charity no. 522859 covering the majority of the modern Manor Farm Park in Northfield.

The trust land was gifted to the Council in two parts the first in 1954 through the Will of George Cadbury with the remainder which included the Depot, Lodge and barns in 1955 being via a land exchange with the Cadbury family on the same terms as the gift via the Will. The Governing Document for the Trust is the Will of George Cadbury proved on 5th February 1923. The original trust deeds require that Birmingham City Council shall hold the land for the provision of public open space for the purposes of healthful recreation but the classification of the registered Charity including its purposes, beneficiaries and method of operation includes general charitable purposes, amateur sport and provide buildings, facilities. All land is 'specie' land being dedicated to open space use even though the Depot area is the house and barns which made up the former Manor Farm complex. The Trustee has a legal duty to preserve the assets of the Trust.

3.3 Finances

Decisions made by the charity trustees must, under the 'duty of prudence', be expedient and in the interests of the charity at all times. Further duties are embedded in the Trustee Act 2000. The Park is managed on behalf of the Trust by Birmingham City Council Park & Nature Conservation Service, who meet all expenses in making the park available to the public. There is no current income to the trust. The Trust holds a reserve of funds received from insurance monies paid out on the destruction of the George Cadbury Barn which it has previously agreed in principle to devote to the Options Appraisal/Scheme.

3.4 Public Sector Equality Duty

None. The statutory functions discharged by the Council as Trustee are subject to a separate and distinct statutory regime not subject to the Equalities Act 2010 provisions.

4. Relevant background/chronology of key events:

- 4.1 The Friends of Manor Farm Park continue to work with officers in the Parks Service to develop the Options Appraisal and take forward proposals for the barns at Manor Farm Park. In its meeting of 23rd January 2019, in addition to the sums agreed to assist the Friends to develop their business plan and for the development of the Options Appraisal Committee approved the provision of a sum estimated at the time to be £12,000 for the reroofing of the Lodge. Unfortunately, the cost of works was underestimated, and it is a more difficult scheme than originally proposed and will require the property to be fully scaffolded. Costs are now assessed to be £30,260 as set out in appendix 2. The additional funding being drawn from the insurance monies.
- 4.2 There are no other funds currently available to assist either proposal, nor can any of the Section 106 monies held for spend in the area be used but both will assist in the protection of trust assets and help build the Options Appraisal. Any proposed bids by the Friends Group are not sufficiently advanced to suppose that funding will be available from external sources.
- 4.3 At the meeting of the Committee on 14th December 2016 approval was given for the making of applications to the Charity Commission for a Scheme to provide additional powers to the Trust to enable the grant of a lease and other forms of disposal. Matters have not been progressed pending progress on the Options Appraisal but can and should now progress.
- 4.4 **Aims and Objectives of the Trust**
Each property in trust is held as a separate trust and decisions need to be in the best interests of that trust. The assets of the Trust should at all times assist the Trust to comply with the objects and purposes of the trust. The terms of the Trust are that the land is to be maintained and used as a public recreation ground or open space. The trust also has a duty to maintain the assets within the park and deal with them responsibly.
- 4.5 **Trustee Powers**
A trust's constitution is set out within the executed Trust Deed for each property. The proposed new Scheme is required as the existing documents do not provide any useful management powers normally associated with a modern charity.
- 4.6 **Trust Finances**
The majority of the trust asset is open parkland with the remainder being the depot area formed from the original farm house and barns. There is no regular income stream.

5. Evaluation of alternative option:

To do nothing is not an option as the Options Appraisal cannot advance and the Lodge property will continue to decline. Demolition is no longer favoured for the Lodge and was not supported by the Planning Officers. The Lodge could be disposed of, subject to further approvals, but the introduction of a privately owned property as part of this complex of properties prior to the development phase would not assist the facilitation of the Options Appraisal proposals.

6. Reasons for Decision(s):

- 6.1 To seek to safeguard the Trust's assets and secure continued flexibility for the Options Appraisal.

Signatures:

Chief Officer(s):

Chairman

Dated

List of Background Documents used to compile this Report:

1. Deed of Acquisition dated 25th March 1955
2. Report to Trusts & Charities Committee on 14th December 2016, 19th July 2017 and 23rd January 2019
3. Options Appraisal – The Cadbury Barn, Manor Farm Park March 2015 and update reports

List of Appendices accompanying this Report (if any):

1. Progress Report on the development of disused buildings in manor farm Park Northfield – January 2020
2. Acivico Cost Report dated 15th November 2019