

Birmingham City Council

Report to Cabinet

13th October 2020



Subject: Highbury Estate – Heritage Lottery Fund Bid Support and Accountable Body Request

Report of: Interim Chief Finance Officer

Relevant Cabinet Member: Councillor Ian Ward, Leader of the Council

Relevant O &S Chair(s): Councillor Sir Albert Bore - Resources

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s): Moseley and Kings Heath		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 007960/2020		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

1 Executive Summary

- 1.1 On 18 September 2018, Cabinet approved the “commitment to provide capital funding of £2.0m as match-funding towards future grant funding bids by Chamberlain Highbury Trust towards the full refurbishment of Highbury subject to the production of a satisfactory business case by the Corporate Director; Finance and Governance which reduces and eventually eliminates the ongoing revenue cost to the Council”.
- 1.2 Since that date the Trust has not been successful in its main grant bid to the National Heritage Lottery Fund (NHLF) and the council match funding has not been called upon.

- 1.3 The Trust has now been asked to submit a full application to the NHLF for £3m grant funding towards the estimated full £8m cost of works. This follows the successful submission of an Expression of Interest (EoI) earlier this year.
- 1.4 In order to de-risk this application the Chamberlain Highbury Trust (CHT) have asked the City to underwrite their fundraising of £1m, which the CHT needs to find above and beyond the City's previous £2m capital commitment.
- 1.5 Further the CHT have requested that the City act as accountable body for any grants funding received from the NHLF.

2 Recommendations

- 2.1 Commits to underwrite up to £1m of fundraising by the CHT to support their bid to the NHLF for £3m grant funding for Highbury Hall.
- 2.2 Agrees to act as Accountable Body for grant funding received from the NHLF in respect of capital works at Highbury Hall.
- 2.3 Notes that the balance of the £2m sum approved in September 2018 as match funding towards the Highbury Hall restoration and refurbishment works is still subject to the submission of a satisfactory business case to be approved by the Corporate Director; Finance and Governance, which reduces and eventually eliminates the ongoing revenue cost to the Council.
- 2.4 Approves the early drawdown of up to £150,000 from the £2m capital funding allocated by Cabinet on 18 September 2018, subject to successful NHLF funding approval, noting that, should the project not proceed to delivery stage then this capital sum becomes repayable to the council.
- 2.5 Authorises the City Solicitor to negotiate, execute and complete all relevant documentation to give effect to the above recommendations.

3 Background

- 3.1 The Highbury Estate comprises approximately 13.03 hectares (32.2 acres) of park land including 'Highbury' and Chamberlain House and three lodges. The estate was gifted by the trustees of the Right Honourable Joseph Chamberlain on 31st March 1932 and is held in trust as Registered Charity no 1039194 since 1994.
- 3.2 Highbury is a Grade II* Listed building. Birmingham City Council is the sole corporate trustee and ultimately responsible for the building and other assets on the Highbury Estate. The City Council's Trusts & Charities Committee (T & CC) which manages trust properties including the Highbury Trust is an internal arrangement and T&CC has only minor delegations with all major decisions including disposals being the responsibility of Full Council sitting as 'Council

as Trustee'. For many years the building has been operated as a wedding/conference centre by Civic Catering. Civic Catering comply on behalf of the Highbury Trust with the current requirement set by the Charity Commission for 12 days free public access to the building.

- 3.3 The Charity Commission in 2010 questioned the then governance arrangements on the basis that the building was being operated for the benefit of the City Council and required stronger separation for its Trust purposes. To effect this T&CC have developed and help put in place the Chamberlain Highbury Trust (CHT) with a Board of Trustees to operate and manage the premises and in particular bring forward proposals for a much needed full refurbishment of the premises. This framework has been ratified in reports to Council as Trustee. As managing trustees they will also be granted a long lease to occupy the premises. The City Council also sought to put in place a lease with Civic Catering and CHT to properly evidence their occupation to the Charity Commission, however this was not completed because of the liability for repairs. Although this lease is not yet complete a market rent is paid by Civic Catering and applied towards the cost of maintaining Highbury. Prior to the collection of this rent Highbury Trust had no registered income.
- 3.4 In recent years the income from Civic Catering has been insufficient, meaning that the building continues to deteriorate and the building was placed on the Historic England 'At Risk Register' in January 2018.
- 3.5 To address the increasing risk to this Listed building and to safeguard its historic interiors while CHT continue to submit grant funding bids to the HLF for the full refurbishment, the Leader together with the Corporate Director, Economy on 28 February 2018 authorised a grant of £0.50m to undertake essential early works to the roof, rainwater goods and to address asbestos issues in the building which is preventing access to some areas and causing consequential damage.
- 3.6 To procure the full refurbishment of Highbury is currently estimated at £8m which can be best achieved through CHT and enabling them to succeed in winning external bid processes, most likely with the NHLF. The proposal for the City Council underwrite an additional £1m of fundraising income is essential at this stage for the bid to have a strong likelihood of success and provides the mechanism by which the overall cost to the Council will be most effectively contained. The refurbishment of Highbury will remain essential even should the bid to be submitted in November 2020 not be successful.
- 3.7 Whilst the CHT were not successful in their 2018 bid for grant funding, they have had success in other areas:

- Following Historic England's decision to place the park on its Heritage at Risk Register, a £300,000 first phase project for the restoration work to the grounds of Highbury was drawn up with local community organisations. In January 2020 they secured a grant of £100,000 towards the cost from the Heritage Lottery. Historic England has provisionally earmarked another £100,000 for the work and a further £20,000 received from a local charitable trust has been allocated to the project. CHT is working closely with the Council's Landscape Practice Group as agents on this project.
- Receipt of £0.240m from Historic England to augment the £0.5m received from the Council in 2018 enabled the contractor to start work on essential repairs and maintenance at the hall (roof repairs and associated works including the replacement of the historic friezes) in March 2020. Work paused due to Covid but has recommenced.

3.8 The CHT has continued in positive discussions with the NLHF regarding the comprehensive project for restoring Highbury and its grounds at a current estimate of £8 million with a view to an application in 2020 for £3.3 million (40% project costs) of lottery funding. The new Lottery process requires the submission of an Expression of Interest (EoI) before making an application and the CHT submission was approved immediately, giving a 12 month window in which to submit the full application. Due to support to existing projects under Covid impact, the NLHF has not accepted new applications before October 2020. The EoI process has brought forward some crucial advice regarding de-risking the application to enhance its prospects in face of fierce competition.

3.9 Primarily the request as a result of the NHLF advice on de-risking the full application is for the City Council to underwrite the partnership funding total which CHT needs to find above and beyond the City's previous £2m capital commitment. At present, the CHT fundraising strategy requires £1m from Trusts and Foundations over a period of approximately 4 years. CHT are confident that this is achievable and will set out a detailed plan to the council on how this will be raised.

4 Options considered and Recommended Proposal

4.1 Rely on existing revenue budgets to maintain the premises – the building will continue to deteriorate as City Council revenue budgets are currently inadequate to fund the increasing maintenance requirements. Further serious water penetration and failure of services may require closure affecting

revenue income and resulting in damage to the City Council reputation as Sole Trustee for the Highbury Estate.

- 4.2 Allow the Grade II* listed premises to become vacant would exacerbate the maintenance issues, leave the property unguarded and at very high risk and would remove the sole opportunity for generating revenue to offset the majority of expenses. However, if successful in their HLF bid the premises would under the management of CHT be closed for the duration of the full refurbishment and when reopened would have new subtenants and lease structures, removing all budget pressures for the estate from the City Council. Once the works are complete then CHT will be responsible for the management and repair of the premises.
- 4.3 If CHT withdraw from Highbury and the Council are required to undertake the works directly the proposed scheme may have to be altered but the full cost of the refurbishment will fall entirely on the Council and there would still be a requirement to secure a similar managing trustees to fill the CHT role to address the governance issues.
- 4.4 The recommended option is to underwrite the fund raising of CHT up to £1m and confirm the council's strong support to a successful NHLF bid.

5 Consultation

- 5.1 The Chairman of Trusts and Charities Committee has been briefed on the proposals promoted by CHT and the works proposed to be undertaken if the bid is successful. Ward Members have not been formally consulted on this proposal but will be included in consultation on any reports progressing from Trusts & Charities Committee (T&CC) to meetings of 'Council as trustee'. Highbury Estate is held in trust and two of the Trustees (Councillor Brigid Jones, Deputy Leader, Bournbrook and Selly Park Ward and Councillor Phil Davis, Billesley Ward) are elected Members.
- 5.2 The Trustees of CHT have made representations for assistance from the City Council and are fully engaged in this proposal. No additional external consultation is envisaged though CHT have fully undertaken considerable public consultation on the refurbishment scheme and the proposals for the future management of Highbury.

6 Risk Management

- 6.1 The benefits to the Council include reduced financial risk in relation to the maintenance and repairs of the property held in Trust. As Trustee, BCC will be required to improve and maintain the condition of the building. The City will benefit from a completed scheme, the building will continue to be available as

an historic asset for public enjoyment and also as a setting for the council's commercial events catering arm.

7 Compliance Issues

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

- 7.1.1 The Highbury Estate is held in trust, owned and managed by Birmingham City Council and Highbury Estate is a Registered Charity no 1039194. The City Council has made use of Highbury since the original gifting in 1932. The duty to maintain the asset has rested with the Council as Sole Trustee ever since. The City Council has addressed the concerns raised by the Charity Commission on governance and under investment and has promoted the formation of Chamberlain Highbury Trust to be the managing trustees for the Highbury Estate.
- 7.1.2 Chamberlain Highbury Trust is Registered Charity no. 1169845. A long lease of 125 years to CHT, allowing the subletting of the premises, has been approved at Council as trustee on 13th March 2018 replacing the earlier approval of a 35 year lease. It was agreed that a grant of a long lease would demonstrate the intended longevity of the CHT in taking forward the management of the Highbury Estate, improve their standing with the funding bodies and better support the proposed NHLF bid. It will also improve the standard of accommodation (and therefore rental levels) for any sublettings that may take place after the refurbishment. The rent is to remain a peppercorn rent only. CHT will be responsible for all revenue costs for the premises from the start of the lease.
- 7.1.3 Contributing to the refurbishment of Highbury will safeguard the premises and support the City Council's Birmingham Heritage Strategy 2016 -2019 and the Birmingham Cultural Strategy 2016 – 2019.

7.2 Legal Implications

- 7.2.1 The power to acquire, dispose and manage assets in land and property is contained in sections 120 and 123 of the Local Government Act 1972.
- 7.2.2 Section 111 of the Local Government Act 1972 allows the Council to do anything (whether or not involving the borrowing, expenditure or lending of money or the acquisition or disposal of any of its property) which is calculated to facilitate or is conducive or incidental to the discharge of its functions.
- 7.2.3 The General Power of Competence under the Localism Act 2011, sections 1 to 8 also gives local authorities, "the power to do anything that individuals generally may do" as long as it acts lawfully.

7.3 Financial Implications

- 7.3.1 The provision of up to £1m underwrite for the NHLF grant bid will, if called upon, be funded from Corporate Capital Resources. The term of requirement is expected to be over a 4 year period which is the fundraising term for the project and will be drawdown as required by the capital works and repaid from donations and grant aid received as a result of the fundraising. Should these activities fall short of the £1m target then the capital fund will be required. Should the NHLF bid not be successful then this sum will not be required.
- 7.3.2 This underwrite is in addition to the £2m grant funding awarded by Cabinet in September 2018, which together with additional grant bids, volunteer time and secured funding will provide the 60% required match for the bid.
- 7.3.3 The duty to maintain the Highbury Estate rests with the City Council as Sole Trustee, but by providing this match funding commitment to CHT, the Council is demonstrating its commitment to the future sustainability of Highbury. This funding will be used as match funding towards the NHLF grant application by CHT for the full refurbishment. Should CHT be successful with their NHLF bid in the latest 2020 round, then they will enter into the long lease and management and repair responsibilities will pass to the council.
- 7.3.4 In accordance with the September 2018 approval which resulted in a failed bid to NHLF, should the 2020 bid prove successful then the Assistant Director, Development and Commercial in consultation with CHT and Civic Catering, will produce a business plan which demonstrates how the revenue cost to the Council can be reduced and removed completely following a successful grant application.
- 7.3.5 In the event that the current 2020 NHLF bid is unsuccessful, then further applications may be required and the works will be delayed. In the event that CHT is unable to successful drawdown sufficient grant in order to complete the full or majority of refurbishment works then further options will need to be considered and will be subject to a further Cabinet report.

7.4 Procurement Implications (if required)

- 7.4.1 In the event of a successful application, the City Council will look to enter into arrangements with CHT to act as accountable body and defray the full project cost on their behalf, which will include £2m of capital expenditure funded by the City Council. Acivico will provide a supervisory role to ensure that value for money is obtained in all procurements. The Birmingham Business Charter for

Social Value will form part of the contracts and expenditure within this project as appropriate.

7.5 Human Resources Implications (if any)

7.5.1 N/A

7.6 Public Sector Equality Duty

7.6.1 The principle benefit of supporting the essential works through the match funding requirements will be to ensure the premises remain open to the public in the long term. A copy of the Equality Act 2010 – Public Sector Duty statement was appended to the Cabinet report of 18 September 2018 in relation to the exact same project and NHLF bid and refurbishment works at Highbury Hall. An initial screening was undertaken which indicated that a full Equalities Assessment was not required as the proposals provide improved facilities for everyone and all opportunities for promoting equality have been taken. (Reference ID EQUA69).

9 Appendices

none

10 Background Documents

10.1 Cabinet report of 18 September 2018 - Highbury Estate - Matchfunding For Heritage Lottery Fund Bid For The Refurbishment Of Highbury - Ref: 005278/2018