

REPORT OF TRUSTS AND CHARITIES COMMITTEE**A MULTIPLE REPORT ON PROPERTY MATTERS FOR DECISION BY
COUNCIL AS TRUSTEE.**

1. PURPOSE/SUMMARY

To seek formal approval from Council as Trustee to the Motions proposed for each of the matters set out below which after consideration at earlier Trust & Charities Committee meetings are recommended to proceed.

2. BACKGROUND

Governance arrangements

The City Council is Sole Corporate Trustee for a number of charitable trusts. Whereas day-to-day management decisions are delegated to the Trusts & Charities Committee only Full Council sitting as "Council as Trustee" can sanction disposals or major changes on trust land, Disposals include but are not limited to the grant of leases, licences, easements and wayleaves.

Each charitable trust is governed by the deed under which it was established, and/or a Charity Commission Scheme where applicable. These documents set out the powers the Trustees have, as well as the objects or purposes for which the charitable trust was created.

Generally, a disposal of charitable land can only occur where the Trustees have either an express power of disposal within the Deed and/or Charity Commission Scheme, or an implied power under the Trusts of Land and Appointment of Trustees Act 1996. In some cases trust deeds do not extend to a power of disposal and to effect this will require an application to the Charity Commission for the grant of a scheme of new management powers. The Commission would only provide an Order to the Council as Trustee, if the Trustee can clearly demonstrate that the decision proposed are in the best interests of the Trust and that it could demonstrate to the Commission that it has managed any potential conflicts of interest by undertaking proper public consultation on the proposal.

It is a requirement of the Charities Act 2011 that any charitable trust must achieve best value in any disposal of land, although there are some exceptions to this when dealing with other charities. Principally properties agreed for disposal will be sold at auction as the most suitable route to ensure no procurement requirements are compromised. All properties sold at auction will be subject to a suitable reserve being set.

3. MATTERS TO BE DETERMINED

A. Calthorpe Park – disposal of former park keeper's lodge

Although opened as a public park managed by Birmingham City Council from as early as 1857 the freehold of the land was only transferred by Baron Calthorpe and the Hon. Walter Calthorpe on trust on 7th September 1894. The Trust is not currently a registered charity and

has no income. A park keeper's lodge at 164 Pershore Road was constructed as part of the original laying out of the Park.

The lodge has not been used as an employee's residence for some years and the Parks Service wish to declare it surplus to their requirements. It is unlikely any suitable use consistent with the Objects of the trust (being for recreational purposes) can be found and therefore the recommendation is to dispose of the property. The park is treated as 'specie' land.

At its meeting of 4th March 2015 the Trust and Charities Committee acknowledged that the lodge was surplus and agreed to recommend that the property be disposed of on terms to be agreed, compliant with all requirements set out in the Charities Act 2011 and at market value in order that the Trust is sufficiently compensated. All receipts will be ring-fenced to the Trust.

The land is held in trust and formal approval to the disposal and the actions required to effect this is now required.

B. Queens Park – disposal of former park keeper's lodge

Approximately half of the Park, 4.046 hectares, is held in trust being gifted to the City of Birmingham by Frederick Ryland on 22nd July 1897.

The park keeper's lodge is a detached house off Court Oak Road adjoining the main entrance to the Park. The lodge has not been used as an employee's residence for several years and the Parks Service wish to declare it surplus to their requirements. It is unlikely any suitable use consistent with the Objects of the trust (being for recreational purposes) can be found and therefore the recommendation is to dispose of the property. The park is treated as 'specie' land.

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The trust status includes the whole of the house but not the rear garden. The rear garden is included in the disposal subject to a portion of any receipt being shared with the City Council.

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C. Selly Oak Park – disposal of former park keepers lodge

Selly Oak Park is mostly held in trust and originally gifted to the City Council for recreational purposes by members of the Gibbins Family. It is a Registered Charity no.522877 since 1st October 1963 and known as Public Park and Pleasure Ground Birmingham Selly Oak Park.

The lodge has not been used as an employee's residence for some years and the Parks Service wish to declare it surplus to their requirements. It is unlikely any suitable use consistent with the Objects of the trust (being for public open space for healthful recreation) can be found and therefore the recommendation is to dispose of the property. The park is treated as 'specie' land.

At its meeting of 4th March 2015 the Trust and Charities Committee acknowledged that the lodge was surplus and agreed to recommend that the property be disposed of on terms to be agreed, compliant with all requirements set out in the Charities Act 2011 and at market value in order that the Trust is sufficiently compensated. All receipts will be ring-fenced to the Trust.

The land is held in trust and formal approval to the disposal and the actions required to effect this is now required.

D. Cropwood Estate – disposal of former caretakers' cottage

The Hunters Hill School have advised that the former Caretakers Cottage has been vacant since 2013 and surplus to their requirements. It is substantially unimproved and would require substantial refurbishment to allow it to be brought back into use.

The Cropwood Estate (registered Charity no. 1085296) has been used since the original gift for schools purposes. The main area of land comprising the Cropwood Estate was gifted to the City in several parcels by Barrow and Mrs Geraldine S Cadbury. The trust is governed by a scheme dated 12th November 1997 which provides approved powers for the Trust to dispose of land and property. This power can only be used once the necessary authorities are in place.

The proposal to dispose is necessary as the land can no longer effectively assist the delivery of the Objects from the Schools perspective and cannot easily be managed by officers in Education. The objects of the charity are very wide ranging and therefore could be met by other users but consultation with other Directorates has not identified any parties able to make use of this small cottage and a disposal would enable the property to be brought back into use by others quickly at no cost to the charity but delivering a capital receipt. Any capital receipt will accrue to trust funds and interest would be used to further the Objects.

At its meeting of 20th July 2016 the Trust and Charities Committee acknowledged that the lodge was surplus and agreed to recommend that the property be disposed of on terms to be agreed, compliant with all requirements set out in the Charities Act 2011 and at market value in order that the Trust is sufficiently compensated. All receipts will be ring-fenced to the Trust.

The land is held in trust and formal approval to the disposal and the actions required to effect this is now required.

E. Cannon Hill Park – Easement for new surface water drain for flood alleviation in Selly Oak

Cannon Hill Park was formed from the original core gift of 57 acres from Miss Louisa Anne Ryland on 18th April 1873 who also gave money for it to be laid out as a park and opened on 1st September 1873. The Park has been much extended by a number of other gifts and purchases to form the current Park of approximately 80.66 acres (32.65 hectares). The Park is considered to be held in trust but is not a registered charity

The Selly Oak area has been much affected by flooding with the last incident in June 2016. The Environmental Agency has consulted residents on a co-ordinated scheme of works to alleviate flooding in the wider area which includes the routing of a new large bore pipe under the service road for the Park along the rear boundary of the Birmingham Wildlife Park and Conservation Centre into the River Rea to relieve the Bourn Brook. The proposed pipe will pass through two of those acquisitions being 7 acres from Sir John Holder on 10th June 1896

and 5 acres from the Hon. Mrs F H Anstruther-Gough-Calthorpe on 8th July 1925 and both being land held in trust.

The service road is an unofficial pedestrian route into the Park. The work to install this large bore underground pipe will require the closure of the roadway. Alternative pedestrian and vehicular routes can be used. There will be no impact on the users of the main Park or the operation of the Wildlife Park.

The works no longer require a compound on the trust land but are routed across a small area of the Wildlife Park to avoid the adjoining concrete bridge supports. This does not affect any of the enclosures nor will it affect the animals.

At its meeting of 14th December 2016 the Trust and Charities Committee agreed to support the scheme and that the matter should be formally documented with the grant of a long term easement. It is requested that the works proceed urgently and this will suit Parks as the Autumn/Winter period is far less busy than other times of the year and outside of the events season. All appropriate local consultation will be completed including appropriate advertisements for the temporary loss of access to the open space during the contract, if required.

The land is held in trust and formal approval to the disposal and the actions required to effect this is now required.

F. George Cadbury for Public Park (known locally as Manor Farm Park) - Safeguarding the Cadbury Barn.

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 in 1954 and 1955. 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 registered Charity can also undertake general charitable purposes, amateur sport and provide buildings and facilities.

All the gifted land is 'specie' land being dedicated to open space use including the Depot area made up the former Manor Farm. Consent to dispose of designated or 'specie land' will require an application to the Charity Commission for approval for an Order and/or Scheme to allow for the change of use of the land. This will then give a general power of disposal and other appropriate modern powers to enable the more efficient operation of the Park. Disposals include the sale of the freehold but also the grant of leases, licences, wayleaves and easements.

The Cadbury Barn built in 1894 by George and Elizabeth Cadbury as a shelter and picnic place for children from the inner city areas is now in very poor condition. The Friends of Manor Farm Park and BCC Parks Service are desirous of its retention and reuse and the meeting of Trusts & Charities Committee on 13th February 2014 agreed to allow the formation of a full Options Appraisal of the Barn and adjoining depot area by Birmingham Conservation Trust ("BCT") and Bournville Village Trust Architects ("BVT").

The Options Appraisal has been completed and advises the release of the existing Victorian barns for conversion, principally for office/residential use and receipts used as matchfunding for grant applications for the refurbishment and reuse of the Cadbury Barn which may then also be leased out provided community uses continued. At the meeting of Trust & Charities Committee on 14th December 2016 it was agreed to recommend that the findings of the

Appraisal be allowed to progress with the Parks Service within the Strategic Directorate of Place declaring part of the depot surplus to their requirements and also to recommend to Council as Trustee that these proposals be approved and that officers seek all appropriate powers from the Charity Commission to allow this proposal to progress and to improve the management of the wider park.

The land is held in trust and formal approval to the disposal and the actions required to effect this is now required.

MOTIONS

That Full Council sitting as 'Council as Trustee':

A. Calthorpe Park – disposal of former park keepers lodge I

- i) Approves that part of the land held in trust at Calthorpe Park comprising the former Park Lodge and gardens can be disposed of on terms to be agreed;
- ii) and to submit to the Charity Commission an application for a Scheme/Order allowing the trust the necessary additional powers to undertake the disposal of 'specie' land

B. Queens Park – disposal of former park keeper's lodge

- i) Approves that part of the land held in trust at Calthorpe Park comprising the former Park Lodge and gardens can be disposed of on terms to be agreed;
- ii) and to submit to the Charity Commission an application for a Scheme/Order allowing the trust the necessary additional powers to undertake the disposal of 'specie' land

C. Selly Oak Park – disposal of former park keepers lodge

- i) Approves that part of the land held in trust at Calthorpe Park comprising the former Park Lodge and gardens can be disposed of on terms to be agreed;
- ii) and to submit to the Charity Commission an application for a Scheme/Order allowing the trust the necessary additional powers to undertake the disposal of 'specie' land

D. Cropwood Estate – disposal of former caretakers cottage

- i) Approves that part of the land held in trust at Cropwood comprising the former cottage and gardens can be disposed of on terms to be agreed;

E. Cannon Hill Park – Grant of Easement for underground pipe to Environment Agency

- i) agrees to the installation of a new large bore pipe under part of Cannon Hill Park adjacent to the Birmingham Wildlife & Conservation Park and that the installation be formally documented by the grant of an easement together with associated right of way over the access road known as Zoo Drive, on terms to be agreed.

F. George Cadbury for Public Park (Manor Farm Park) – progress options for the refurbishment and letting of the Cadbury Barn and partial redevelopment of the existing depot

- iii) Approves that if the Acting Strategic Director of Place first declares part of the current Depot surplus to requirements that part of the land held in trust at Manor Farm Park can be disposed of on terms to be agreed in support of action to safeguard the Cadbury Barn.
- iv) and to submit to the Charity Commission an application for a Scheme/Order allowing the trust the necessary additional powers to undertake the disposal of 'specie' land

And

- G. that the Director of Property be authorised to negotiate the terms of all agreements and that the City Solicitor be authorised to prepare, negotiate, execute, seal and complete all necessary documentation, including the making of applications to the Charity Commission for any purposes required to give effect to the above decisions and also to place any formal advertisements required under either s123 of the Local Government Act 1972 or the various statutes as may relate to the charitable status of the land.

Appendix

1. Reports and Plans presented to Trusts & Charities Committee

Chairman of the Trusts and Charities Committee

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Councillor Habib UL Rehman