

Report to:	TRUSTS AND CHARITIES COMMITTEE
Report of: Date of Decision:	Assistant Director of Property 13 November 2019
SUBJECT:	HIGHBURY – PROPOSED MATCHFUNDING IN SUPPPORT OF CHAMBERLAIN Highbury TRUST BID
Wards affected:	Moseley

1. Purpose of report:

To seek the Committee's approval to allocate monies from the unrestricted funds of the Highbury Estate as matchfunding in support of proposed bids by the Chamberlain Highbury Trust for the improvement of the gardens at Highbury

2. Decisions recommended:

That the Committee:

- 2.1 Notes the intention of the Chamberlain Highbury Trust seeking to improve the gardens at Highbury to bid for monies from external grant giving organisations and which will require Committee support to the bids and that the essential matchfunding required for the bid be provided from the Highbury Trust unrestricted funds
- 2.2 Notes that in addition to the request by Chamberlain Highbury Trust further works will be required by the Highbury Trust to enable the new driveway to be completed particularly the demolition of the disused caretakers lodge, 52 Yew Tree Road
- 2.3 Approves the making of the bids and agrees to set aside monies in support of the scheme proposed as set out in Appendix 1 subject to a further report to Committee on the outcome of any bid
- 2.4 delegates to the Assistant Director of Property authority to confirm as appropriate on behalf of the Highbury Trust support for the proposals and the provision of matchfunding of any successful bid and to apprise the Committee of the results of the applications
- 2.4 authorises the City Solicitor to prepare, negotiate, execute, seal and complete all necessary legal documentation to give effect to the above recommendations and that the recommendation of the Trusts and Charities Committee be advanced to the next available meeting of the Council as Trustee for approval

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3. Compliance:

3.1 Consultations:

No additional separate consultation is envisaged at this stage. Ward Members have not been specifically consulted as this is not usually undertaken for Trust matters and this matter is not considered controversial the improvements to the gardens at Highbury already being part of the approved scheme of works proposed at Highbury.

Planning and Listed Building Consents will be required which will result in public consultation for the works in addition to any consultation undertaken by Chamberlain Highbury Trust.

3.2 Are there any relevant legal powers, personnel, equalities, procurement, regeneration and other relevant implications?

The City Council acts as Sole Corporate Trustee for a number of charitable and non-charitable Trusts and has delegated day to day decision making to the Trusts and Charities Committee. Charitable trust activity is regulated by the Charity Commission and any proposals relating to the Estate will be governed by the charity's Trust document as amended by any Scheme approved by the Charity Commission. Trustees can also rely on the provisions of the Section 6(1) Trusts of Land and Appointment of Trustee Act 1996 which provides an implied statutory power for the trustees to manage the assets of the Trust as absolute owner. The objects of the charity as set out in paragraph 4.4 are necessarily limited but will enable the future management of the estate without hindrance. Actions proposed by the Trustees are required to be in the best interests of the trust and are intended to safeguard the trust estate for the future.

The Highbury Trust holds the freehold interest of the land in trust as Sole Trustee and is empowered to undertake actions to properly manage the assets of the Trust including effecting repairs/improvements. Chamberlain Highbury Trust have been appointed to act as managing trustees for the Highbury Estate and have been supported in their previous applications for funding of works at Highbury.

3.3 How will decisions be carried out within existing finances and resources?

The Committee has responsibility for ensuring the proper governance of the Trust in accordance with the objects and purposes of the trust and charity law and as Trustees to ensure that actions are undertaken within financial resources.

Highbury Trust's only resources are the accumulated rent from the letting to Civic Catering and annual award of monies from the Leader to the Trusts and Charities Committee to further its activities generally, but which has in recent years been principally allocated for repairs at Highbury. The unrestricted funds of the Highbury Estate are sufficient to cover the CHT request and the demolition works, if approved. The continuation of Chamberlain Highbury Trust as managing trustees in bidding for external funds to support works at Highbury is very desirable at this stage and they cannot continue without matchfunding support.

3.4 Main Risk Management and Equality Impact Assessment Issues (if any):

N/A. The statutory functions discharged by the Council as Trustee are subject to a separate and distinct statutory regime underpinned (principally) by the Charities Act 2011, Trustee Act 2000 and relevant Charity Commission guidance. These are non-executive functions and are therefore not subject to the Equalities Act 2010 provisions.

4. Relevant background/chronology of key events:

- 4.1 The Highbury Estate comprises approximately 13.03 hectares (32.2 acres) of park land including Highbury Hall and Chamberlain House and three lodges.
- 4.2 The Estate was gifted by the heirs of the Right Honourable Joseph Chamberlain on 31st March 1932 and is held in trust as Registered Charity no 1039194 since 1994. Chamberlain Highbury Trust registered charity no. 1169845 has been set in place to best resolve the governance issues and to manage the Estate and seek external grants to enable the refurbishment of Highbury.
- 4.3 Chamberlain Highbury Trust (CHT) is actively progressing its further bid to the National Lottery Heritage Fund (NLHF) for the refurbishment of Highbury but desires now to make an independent bid for funds for works within the trust park and gardens areas to effect essential repairs, improve the visitor experience, reinstate the driveway from Moor Green Lane and demonstrate continuing improvement of the trust assets while awaiting the outcome of its larger bid for works to 'Highbury'. There are no other resources for the essential matchfunding required for the bid and sufficient funds exist within the unrestricted funds at Highbury Trust to cover this and other likely requirements for funds at Highbury.
- 4.4 **Aims and Objectives of the Charity**
Each charitable asset is held as a separate trust and decisions need to be in the best interests of that trust. The terms of the gift simply provided that the Trustees should hold them "in the first instance for use as a hospital for the treatment of limbless and other soldiers, sailors or pensioners" and "if and when the Trustees should consider that they were no longer needed for those purposes the Trustees should hold the property for such public purposes as they with the consent of the Corporation of Birmingham might determine or might at the request of the Corporation transfer it to them for the general benefit of the Citizens of Birmingham". The Objects of the Charity remain as originally set "for the general benefit of the Citizens of Birmingham".
- 4.5 **Trustee Powers**
The charity's constitution is set out within the executed Trust Deed, principally the acquisition deeds or as amended by any Scheme agreed with the Charity Commission. All decisions will be mindful of the original intention set out in the governing documents however subject to compliance with Charity law and Part 7 Charities Act 2011 sufficient powers exist for the Trustees to make decisions on the future of the assets. The Trust has secured specific additional powers through a Charity Commission Scheme.
- 4.6 **Charity Finances**
The Trust has a strong revenue stream principally from the letting of Highbury to Civic Catering for the continuing use of the property as a wedding/conference centre. Further assistance is provided by Birmingham City Council Street Services (Parks) in maintaining the park landscape. However, the cost of on-going repairs continually outstrips the resources available and the continuation of CHT and their proposed activities on the trust land are beneficial to the Trust and welcomed and necessarily at this stage they require financial support. If successful in their bids for HLF and other monies, they would progress the refurbishment and ultimately take over the management of the Estate fully.

5. Evaluation of alternative option:

- 5.1 CHT resolve for the Highbury Trust the former governance issues at Highbury and represent the best opportunity to win new monies for the trust assets. There is currently no alternative to progressing matters via CHT and to properly support their bids financially in the meantime is an appropriate use of Trust funds where these secure improvements to the Estate.

6. Reasons for Decision(s):

6.1 To better safeguard the Highbury Estate assets long term it is appropriate to continue to support CHT in seeking additional funding from external sources.

Signatures

Chairman of the Trusts & Charities Committee

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Chief Officer
Assistant Director of Property (Interim)

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List of Background Documents used to compile this Report:

1. None.

List of Appendices accompanying this Report (if any):

1. Request for resources from Chamberlain Highbury Trust.

Date

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