

BIRMINGHAM CITY COUNCIL

TRUSTS AND CHARITIES COMMITTEE

MONDAY, 11 MARCH 2024 AT 11:30 HOURS
IN COMMITTEE ROOM 2, COUNCIL HOUSE, VICTORIA SQUARE,
BIRMINGHAM, B1 1BB

A G E N D A

1 NOTICE OF RECORDING/WEBCAST

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 DECLARATIONS OF INTERESTS

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting.

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

- 3 **APOLOGIES**
- To receive any apologies.
- 3 - 10** 4 **MINUTES**
- To confirm and sign the Minutes of the meeting held on 15 January 2024.
- 11 - 12** 5 **COMMISSIONER'S REVIEW AND COMMENTS ON THE AGENDA**
- To note the comments that have been received from the Commissioner on this agenda.
- 13 - 26** 6 **CROPWOOD ESTATE – FORMER HUNTERS HILL COLLEGE SITE**
- Report of Interim Head of Service, Education and Infrastructure and Assistant Director of Corporate Landlord.
- 27 - 34** 7 **HIGHBURY TRUST – AWARD OF FUNDS TO CHAMBERLAIN
HIGHBURY TRUST**
- Report of Assistant Director of Corporate Landlord.
- 8 **DATE AND TIME OF NEXT MEETING**
- To note the date of the next meeting is 23 April 2024 at 11.30am in Committee Room 2.
- 9 **OTHER URGENT BUSINESS**
- To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chair are matters of urgency.

BIRMINGHAM CITY COUNCIL

TRUST AND CHARITIES COMMITTEE 15 JANUARY 2024
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**MINUTES OF A MEETING OF THE TRUSTS AND CHARITIES COMMITTEE
HELD ON MONDAY 15 JANUARY 2024 AT 1130 HOURS IN COMMITTEE
ROOM 2, COUNCIL HOUSE, VICTORIA SQUARE, BIRMINGHAM**

PRESENT: - Councillor Marcus Bernasconi in the Chair.

Councillors David Pears, Phil Davis, Maureen Cornish and Basharat Mahmood.

ALSO, PRESENT: -

Paul Ruffle – Senior Travel Demand Officer
 Rajesh Parmar – Legal Services
 Alison Jarrett – Director of Group and Capital Finance
 Nigel Oliver – Operational Property Manager
 Sofia Mirza – Committee Services

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NOTICE OF RECORDING

- 1115 It was noted that the meeting would be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there were confidential or exempt items.

DECLARATIONS OF INTEREST

- 1116 None submitted.

APOLOGIES

- 1117 Councillor Zafar Iqbal and Kath Scott.

MINUTES

- 1118 The Minutes of the meeting of the Committee held on 13 November 2023, having been circulated, were confirmed by the Committee, and signed by the Chair.

COMMISSIONERS REVIEW AND COMMENTS ON THE AGENDA

Trust and Charities Committee – 15 January 2024

It was noted that there were no review and comments on the agenda, however, prior to the publication of the report under Item 8 on Highbury Trust there were emails exchanged between both the commissioners and officers before the final report was published.

REPORT NO. 6 – YOUNG ACTIVE TRAVEL TRUST GRANTS APPLICATIONS FOR JANUARY 2024

The Senior Travel Demand officer presented the report to members on behalf of the Assistant Director of Transport and Connectivity. The officer explained that it was his role to promote safe and sustainable travel to school, to see less congestion outside the school gates, and have less people coming to school in the car whilst promoting a sustainable means of travelling to school.

The school that wished to apply for funding of the grant must have registered to Mode shift stars, which is a national programme funded by the Department of Transport. The programme promotes sustainable travel to school. The school must have completed a school travel survey within 12 months. The Travel Survey asked two questions of the staff and the pupils: How do you currently travel to school and how would you prefer to travel to school? From the answers of the Travel Survey, the school must have started to write their school travel plan, which shows how they will make changes to the school journeys. Applications were invited from schools during the winter term between the 11th of September to 17th November 2023.

The applications were examined by the assessment panel on 21st November 2023. Members of the panel included Paul Ruffle colleagues from the Travel Demand Team and School Crossings Team. The applications were presented approved to the spending board for approval on 6th December and to the contracts team and the legal services team on 30th November before being presented to the Committee.

They have been presented and approved by the Transport Highways Group and the Transport Highways build on the 30th of November and the 8th of December.

There was one application from Kings Norton Boys School. They requested £1000 for a bike repair station that will benefit 720 pupils. They are trying to encourage more pupils to cycle to school. As of the last meeting on 13th November, the remaining balance of the fund was £35,836.35, if the application was approved, then the remaining balance would be £34,836.35.

Councillor Pears raised the question of how many applications in consultation are pending for the next meeting. The officer stated that there were currently 2 applications that will be brought to the next meeting in March.

1119

RESOLVED: -

The report and funding for the applications were agreed by members.

**REPORT NO. 7 – BIRMINGHAM MUNICIPAL CHARITY – DRAFT
PROMOTIONS STRATEGY REPORT**

A report was presented by the Director of Group and Capital Finance Alison Jarrett.

The Director asked members to note the contents of two appendices as they give the background of the charity, how it was formed with several charities coming together. The Birmingham Municipal Charity was established in 2011, it has made various donations and grants to recipients across Birmingham. In the last five years it has rarely gone above £10,000. In the last meeting members of this committee were concerned and wanted to understand how this could be increased and how could improvements be made. There are healthy balances within the fund, so a draft strategy has been proposed. The second appendix is the application form which will arise from any elements that are changed on the strategy.

At present, £25,000 is transferred into usable balances per annum, there is £25,000 available to make grants with. In previous years, there has been a subcommittee of this committee that has made all the approvals up to £5000 and then anything more than that must come to the full trust. The Director asked the committee if they would wish to reconsider whether this is reinstated.

Within appendix one there are some proposals for how we might improve the reach of the charity and invite more applications. If the full £25,000 is reached because we promote it and are successful, then there is the question of what will happen for the rest of the year and how the Committee wishes to advertise or whether it wishes to make so much available per quarter.

The draft strategy sets out proposals and options and the application form will follow on from what the committee decides it wants to change or improve the process.

Councillor Pears asked how much is available in unrestricted funds, if £25,000 is agreed a year and we get some good cases we may have latitude to agree them. The Director agreed that it was a good idea, however, requests are still needed across all of Birmingham. If this process is successful and there is an increase in applications coming in, we may end up payout out a large sum. Therefore, the future needs to be considered.

The last set of accounts were draft accounts, they were not split and restricted so as a result they will take longer to look at. Overall, there is over £760,000 the amount that we put into unrestricted is within the gift of the committee.

Councillor Cornish stated that it was essential for the charity to be promoted as widely as possible, which can be done through elected members. Funding needs to be realistic and manageable for the long term. It should also be promoted to elected members who are not aware of this charity. The Chair added further comments and stated there needs to be a website presence and perhaps reinstating a resource charge. It was further stated by Councillor Cornish that if we want to ensure the fund is well advertised, we must

Trust and Charities Committee – 15 January 2024

resource that work which will involve using some of the money that currently sits in the account.

The Director raised members attention to the fund awards section under Item 5, the amount of the annual allocation was £24,000. There is a consideration that each year should be a net of previous unused spend so if the full amount of £24,000 is not used it rolls over and therefore more money in the pot to be issued. As there was so much unspent money for the next 12 months the cap can be a lot higher. Alison further stated that the best way of ensuring fairness across the city when it comes to applying for the funding is along the lines of parliamentary constituency boundaries and then Ward Councillors can then promote the fund to organisations in the area.

Councillor Pears argued that Councillors for the constituency will almost have to vote on which applications they are going to support going forward, so there is the risk of putting in a layer of bureaucracy into the process which could delay the applicant being successful. The Director replied and stated that the idea was that it was up to individual councillors to work with organisations if they would like to put an application in rather than have everyone meet up to then agree which application for a particular constituency they would want to support.

Councillor Davis commented that some structure is necessary as the problem at present is that it seems to be a 'free for all' and that if you are on the committee and the municipal charity, you are in a good position to get some money for your ward. But there needs to be a system that raises awareness of the funding to colleagues. The Director replied and stated that even with an upper limit such as £10,00 per constituency for example, it may be still that we do not allocate the full amount in a financial year and find that we still have money available to carry forward. The Director asked the committee if they were happy for a further report to come to the March meeting outlining the commitment to officer time being resourced for this piece of work and for confirmation that we seek to dispense a figure around £10,000 per constituency in the financial year beginning April 2024. Furthermore, some consideration if there is an influx of applications once the new promotional strategy has been implemented it may be that we have a virtual sub-committee meeting. If that is within the standing orders of the committee that would allow us between our Trust and Charities meetings that are already in the diary, perhaps to occur on a quarterly basis as Councillor Pears suggested to approve any applications to the Birmingham Municipal Charity.

1120

RESOLVED: -

It was agreed by the Committee that they were happy to receive the report in the March meeting. Members agreed of the recommendations under Item 7 of the report. Members agreed if any applications are received before the end of the financial year and the proposals have not yet been agreed then they will fall under the old rules and not the new proposals.

REPORT NO. 8 – Highbury Trust Report – Update on Progress

Councillor Davis declared an interest for this item and stated that he has a dispensation to speak but not vote and would leave the room once voting commenced.

A report was provided by the Assistant Director of Corporate Landlord and was presented by the Operational Property Manager to the members.

The lottery has made an announcement with regards to the applications made by Chamberlain Highbury Trust which has been very positive. There has however been a small hiatus through November and December in progressing legal documents. Therefore, the report was there to address these matters with the committee and to establish that the documentation is important to progress the bigger issues for hybrid trust and that there has been a reminder that all finances for Trust matters will be contained within the Trust finances and therefore cost for external solicitors and other matters will be met from the Highbury Trust.

The first draft report came back from the Commissioners for comment reaffirming that any activity undertaken with regards to the Highbury Trust should be self-funded by what balance is available in the accounts. There have been interactions with Deborah Carter-Hughes and David Kidney of the Chamberlain Highbury Trust who gave a number of concerns with regards to the report going forward.

Councillor Pears raised the question of what would happen if receipts and dispersals were not received in a timely fashion. He further stated that six months was too long before we come back again to Council.

The Property Manager replied stating that officers are aware of the amount of time it has taken for the report to come back but they have been engaged with external solicitors who are engaging with the external solicitors for Chamberlain Highbury Trust. There are funds within the Highbury Trust account revenue funds which can be allocated to that and other matters at Highbury. Where there are disposals to be made, we may have to treat those as trust funds from which we can draw expenses in terms of legal costs of those and other disposals which is a normal process at the City Council.

The Director responded to a question regarding why up-to-date accounts were not available and stated that 2021 accounts were filed and audited and are online. In the year following that, there was a national issue over auditing of the Council's accounts and our Trust and Charities funds cannot have their audits completed until the Council audit has been completed. It was a national delay and then as members were made aware of more recently as the Council presented this to the Council meeting in September. The Council's own accounts have not been signed off for the last two years, they have now been signed off and there has been engagement with the auditors to complete the reviews of all the Trust and Charities that need it. Charities Commission have been kept informed of this and updated again this week on the current position.

Trust and Charities Committee – 15 January 2024

Regarding the Highbury Trust there is over £2,000,000 within there and it continues to receive interest. The Highbury Trust draw from it annually for their costs. There are funds within that with regards to disposals. If there is an asset that is to be dissolved it is standard Council practice to have the legal costs and surveyor costs as a charge for capital receipt.

The City Solicitor added further comments and stated that there are external solicitors working on this project and they are close to finalising the documentation. Therefore, funds need to be released for them to carry on the work. The City Solicitor asked for clarification on whether those funds were available at present. Furthermore, he stated that subject to finance being released a report may be able to be submitted so there is some indication as to the documents being finalised. Cash flow is often a problem for Trust and Charities in which Highbury Trust is an example of.

Councillor Davis stated that he made his position and view clear and did not want to say anything that would impact the negotiation between the Highbury Trust and the Council's representatives.

1121

RESOLVED: -

The Committee agreed to accept the recommendations in the report, the changes to management of the Highbury Estate agreed at the previous meetings and set out in Appendix one to continue to be progressed and update the committee, approve the external advisors legal fees, costs and disbursements in resolving those changes will now be met from the funds of the Highbury Estate, which will be enhanced in due course by the capital receipts obtained from the agreed property disposals, authorities that the Chief Legal Officer and City Solicitor engage with external advisers and prepare, negotiate, execute, seal and complete all necessary documentation and undertake any required consultation and advertisements or other notices to give effect to the above decisions.

DATE AND TIME OF NEXT MEETING

The committee noted the date of the next meeting is 11 March 2023 11:30AM in Committee Room 2.

OTHER URGENT BUSINESS

None submitted.

AUTHORITY TO CHAIR AND OFFICERS

1122

RESOLVED: -

That in an urgent situation between meetings the Chair, jointly with the relevant Chief Officer has authority to act on behalf of the Committee.

Trust and Charities Committee – 15 January 2024

The meeting ended 1209 hours.

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CHAIR

Birmingham City Council

Trusts and Charities Committee

11 March 2024



Commissioner's Review:

Commissioners have no observations on reports which deal with the funds held by the Council acting as corporate trustee. This applies also to actions that might be taken under any proposed urgency arrangements, provided they do not have any impact on funds held by the Council in its general or housing accounts.

Any proposed action which does involve general or housing funds are subject to the Best Value Directions and requires prior approval from Commissioners.

These reports only deal with trustee funds and neither commit nor imply that Council can or will contribute any other funding.

Birmingham City Council

Trusts and Charities Committee

11 March 2024



Subject: Cropwood Estate – Former Hunters Hill College Site

Report to: Trust and Charities Committee

Report of: Zahid Mahmood - Interim Head of Service, Education Infrastructure
David Harris – Assistant Director Corporate Landlord

Report author: Emma Bourne - Acting Property Manager Education Infrastructure

Does the report contain confidential or exempt information? ☐ Yes ☒ No

If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:

1 Executive Summary

- 1.1 To note that following the closure of the Hunters Hill College on 31st August 2021 Birmingham City Council's Education Service wishes to withdraw from the management of the site as soon as possible and to consider the implications for the Cropwood Estate Trust (registered charity no.1085296) of which the Council is sole trustee.

2 Recommendation(s)

That the Committee:

- 2.1 Notes that vacant possession of the site has now been achieved and the Education Service will withdraw from managing the site on 31st March 2024 and the Trust will manage the site via Corporate Landlord thereafter.
- 2.2 Acknowledges with no direct reuse proposed by any other Council service, then disposal of the asset on behalf of the Cropwood Estate Trust will need to be considered.
- 2.3 In compliance with statutory requirements of the Charities Acts, obtain the approval of the Assistant Director of Corporate Landlord and City Solicitor on behalf of the Trust and Charities Committee, for the procurement of independent external property and governance support and advice for the marketing and disposal of the

estate. Such advisors to report their findings and recommendations to the next appropriate Committee meeting.

- 2.4 Approves the use of the budget within the deposit account as identified in 6.1 for the ongoing maintenance and security of the vacated site up to the point of disposal.
- 2.5 Approves that the fee costs for the external advice in respect of expediting a disposal will be drawn from Trust funds as available.
- 2.6 Delegates to the Chair of the Committee the responsibility to review and agree those proposed fees in advance of the advice and marketing agents being instructed.

3 Background

- 3.1 The main area of land comprising the Cropwood Estate was gifted to the City by Mr Barrow Cadbury and Mrs Geraldine S Cadbury in three main transfers dated 1st June 1921, 28th February 1933 and 20th May 1938 and together comprise approximately 36.5 hectares. The land was gifted for educational, recreation and care uses (see 5.1) and the majority of the land has been utilised by Hunters Hill College, formerly a Special Education Needs School. Other areas of the estate are variously school playing fields, woodland and grazing land (previously sublet to a third party).
- 3.2 A map of the land held in trust is attached at Appendix 1. It is located adjacent to the village of Blackwell, Worcestershire and is outside of the City Council's boundary.
- 3.3 The assets of the Cropwood Estate Trust, Registered Charity no. 1085296, have previously been occupied and managed by the Council's Education Service with assistance from other officers in Finance, Property and Legal Services, where appropriate. Previous reports have been considered by the Committee from time to time where disposal of parts of the estate have been proposed. A previous report to seek external advice for the disposal of the remainder of the site was agreed at Committee on 2nd December 2020.
- 3.4 Despite the investment in excess of £670k over the preceding five years on repairs and maintenance (in addition to c.£180k invested from the occupying school's own budget over the preceding 2 years), the condition and suitability of the buildings at the site had reached the end of their life for educational purposes with some buildings either no longer required or not fit for education purposes.
- 3.5 In accordance with statutory requirements, guidance and best practice for the closure of schools, Birmingham City Council's Cabinet approved the proposal to close Hunters Hill College. Following consideration by the Education and Children's Social Care Overview and Scrutiny Committee, on 8th February 2021, Birmingham City Council determined to implement the proposal and permanently close Hunters Hill College effective from 31st August 2021. Following the decision to close the school, the Education Service withdrew all education services, secured and cleared the site of all education furniture and equipment etc. and has continued to maintain the site pending a decision in respect of its future.

- 3.6 The Committee is asked to note that where appropriate and sensible, buildings have been boarded up and made secure and partial decommissioning of utilities (electricity supply etc.) has been undertaken to various areas of the site for safety, security and financial reasons.
- 3.7 The total costs incurred in relation to the clearance, security and continuous maintenance of the site since the school closed is expected to be approximately £340k by 31st December 2023. This has been met in full from the Education Service's Surplus Properties Budget, how every ongoing expenditure is not considered sustainable from the Education Service's Surplus Properties Budget going forward. As such the Education Service propose to continue to manage and secure the site until 31st March 2024. At this date the site management and responsibility of the property will pass to the Council's Corporate Landlord and the future use of the site be considered by the Committee on behalf of the Trust. It is suggested that if a disposal of the estate is to be explored as the best course of action, then the future management activity be transferred from Children & Families to the Council's Corporate Landlord division acting for the Trust and Education Service will be relieved of the site.
- 3.8 Since closure of Hunters Hill College, the Education Service has progressed matters with support through Legal Services to obtain full vacant possession of the site and address the issues associated with former staff occupying parts of the living accommodation; these matters were resolved in February 2023. The ability to provide full vacant possession was a condition agreed with the previous Chair of the Committee ahead of progressing matters further.
- 3.9 At various points since the closure of the school third parties have shown an interest in acquiring the site for on-going educational use but matters did not proceed and there is no current interest in the main site. We understand there is some local interest in "The Stables," a building formerly also used by the school and which could be disposed of separately to the main site. The education service will continue to forward any further expressions of interest that may be received.

4 Options considered and Recommended Proposal

- 4.1 Do nothing. The education service have withdrawn all provision and services from the site and declared it is no longer fit for the purpose of education and as such the costs of continuing to manage and maintain the site are considered unsustainable.
- 4.2 As the Education Service and the Council more generally has limited resources to continue management of void properties and in the absence of any live interest from any other Council services, a transfer or disposal is considered the only remaining option. It is recommended that officers from, Corporate Landlord and Legal Services will jointly support the interim management of the site and commission the requisite surveys, marketing and independent external advice to enable trustees to make appropriate decisions on disposal of the estate in parts or as a whole.
- 4.3 It is recommended that consideration be given to the notional use of future receipts as a mechanism to fund the costs associated with progressing the necessary work. This will enable a disposal and address the financial pressures associated with holding the estate as a vacant site pending completion of any sale or transfer.

5 Legal Implications

- 5.1 Although the Estate has always been in education use the specific objects of the Cropwood Estate trust are wide ranging and are: *the furtherance of any charitable purpose for the benefit of the inhabitants of the City of Birmingham including all or any of the following purposes (a) the provision and support of educational facilities (b) the provision and support of facilities for recreational and other leisure time occupation with the object of improving the conditions of life for the said inhabitants (c) the relief of the aged, impotent and poor (d) the relief of sickness.*
- 5.2 The Trust is governed by a scheme dated 12th November 1997 (Appendix 2) which permits disposals and dictates how the property and any funds generated are to be used for the benefit of the citizens of Birmingham but pursuing that action for development or disposal will always be subject to future reports to Committee. The Trusts and Charities Board has the delegated day to day decision making and responsibility for ensuring the proper governance of the Trust in accordance with the objects of the Trust and charity law the Trusts and Charities Committee can make recommendations for other actions. However, decisions on matters such as disposal of trust assets will require the consent of Full Council as Trustee.
- 5.3 Education officers wish to facilitate the discharge of functions contained within Section 22 of the School Standards and Framework Act 1998 whereby the local authority has a duty to maintain its schools. The Local Authority has a statutory duty, by virtue of section 542(2) of the Education Act 1996, in respect of schools that it maintains, to ensure that the school premises conform to the prescribed standards. These are not matters for the Trust or Committee but collective decisions to ensure appropriate action is taken to safeguard the assets of the trust.
- 5.4 The Council has a statutory duty pursuant to the Occupiers Liability Act 1984 to take such care as is reasonable in all the circumstances of the case to see that any unlawful visitors do not suffer injury on the premises from a danger of which the Council are aware or have reasonable grounds to believe exists and against the risk of which the Council can reasonably be expected to offer any unlawful visitor some protection.
- 5.5 Under Section 117 of the Charities Act 2011 ("the Act"), no land held by or in trust for a charity may be conveyed, transferred, leased or otherwise disposed of without an order of the court or the Charity Commission.
- 5.6 By Section 119 of the Act the above restriction on dispositions is disapplied in the case of any disposition which is the sale of the freehold or a lease for a term of more than 7 years provided the sale or lease is not made to a "connected person" and the charity trustees, before entering into any contract for the sale, lease or other disposition, obtain and consider a report from a "designated adviser" instructed by the trustees and acting exclusively for the charity and decide that they are satisfied, having considered the adviser's report, that the terms on which the disposition is proposed to be made are the best that can reasonably be obtained for the charity. For these purposes a "connected person" is defined in Section 118 of the Act and a "designated adviser" is a fellow or professional associate of the Royal Institution of

Chartered Surveyors (or satisfied such other requirement or requirements as may be prescribed by regulations made by the minister) and is reasonably believed by the charity trustees to have ability in, and experience of, the valuation of land of the particular type, and the particular area in question.

- 5.7 The restriction on dispositions referred to in paragraph 5.5 above is also disapplied, under Section 120 of the Act, in the case of leases for a term of 7 years or less, provided that the charity trustees, before entering into any agreement for the lease, obtain and consider the advice on the proposed disposition of a person who is reasonably believed by the trustees to have the requisite ability and practical experience to provide them with competent advice on the proposed disposition, and decide that they are satisfied, having considered that person's advice, that the terms on which the disposition is proposed to be made are the best that can reasonably be obtained for the charity.

6 Financial Implications

- 6.1 The Cropwood Estate Trust accounts for 2022/23 show a balance of £201k in a deposit account which are unrestricted funds that can be used towards the maintenance. It is estimated that ongoing annual costs to maintain the present level of security and site maintenance will be in the region of £150k.
- 6.2 Any capital receipt or income realised from the site is, by statute and by the Scheme in place, ringfenced to the Trust's accounts and it is for the Committee to determine the use of any such receipt or income generated by Trust assets.
- 6.3 Quotes for fees incurred in procuring the appropriate advice and support will be obtained from appropriate external advisors and appropriate approvals sought before proceeding in line with current Spend Control processes that are in place. At present all spend is approved via Directorate SCB and the S151 Officer.
- 6.4 The terms of the Scheme in place allows for the disposal of property assets and if it chooses to do so the Cropwood Estate Trust would then continue as a monetary trust only and remain under Committee purview and management. However, if the sale of the estate proceeds in tranches this would require continued management of elements, with disposal of some areas being subject to planning consent and/or other restrictions preventing early release. This will necessitate the Trustees to carefully consider its position on the management and costs of the site and how this might be funded.
- 6.5 The current costs relating to the Hunters Hill site are putting additional pressures on the Education Service budget and this is not sustainable. To meet the statutory duties on the Council's maintained schools, Education needs to fully utilise its budgets for the maintenance of beneficial school properties.
8. Next Steps
- 8.1 Assistant Director of Corporate Landlord and City Solicitor on behalf of the Trust and Charities Committee, procures independent external property and governance support and advice for the marketing and disposal of the estate. Such advisors to

report their findings and recommendations to the next appropriate Committee meeting.

- 8.2 Any future report on disposal of the site to be presented to Full Council for decision.

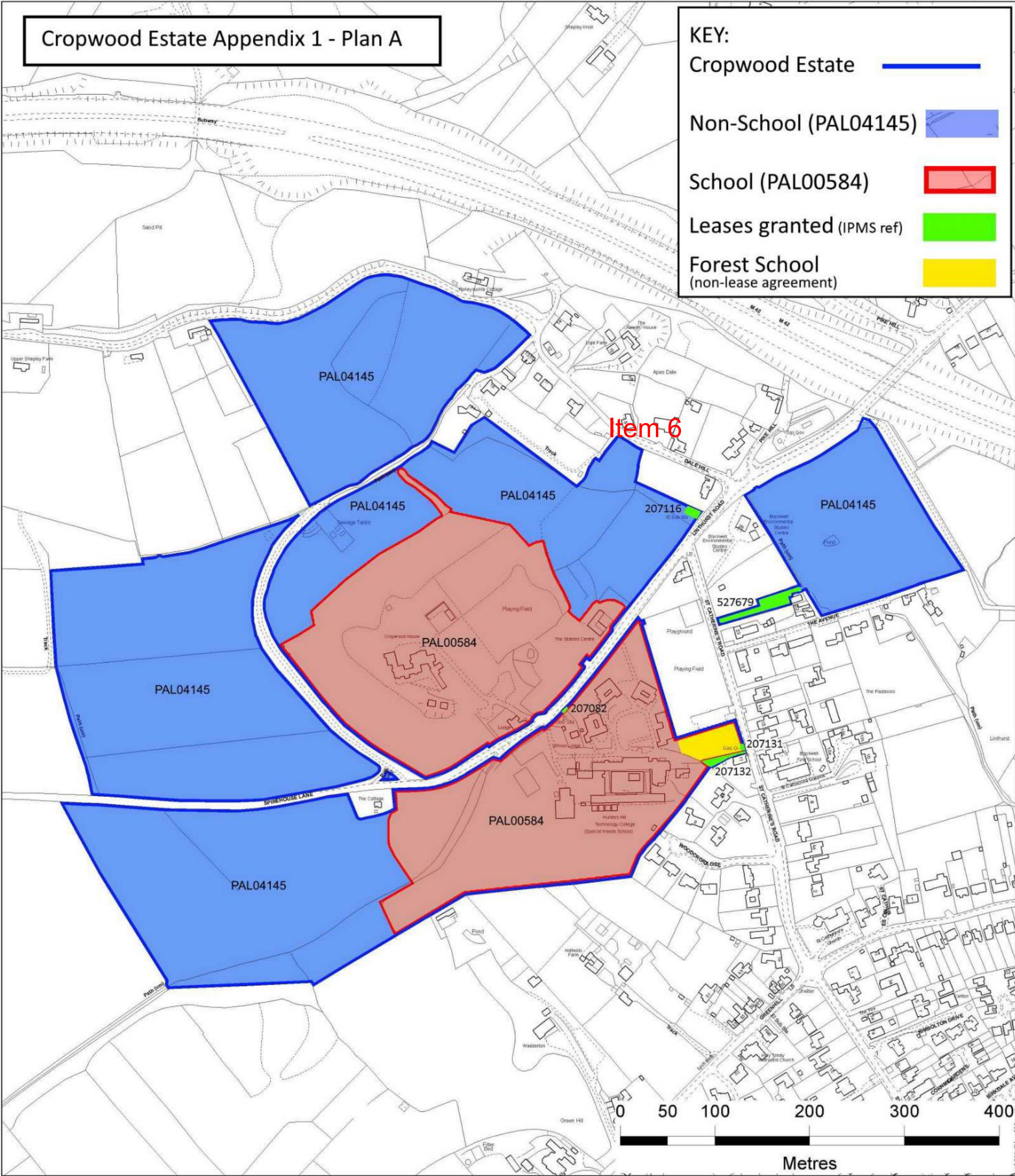
7 Public Sector Equality Duty

- 7.1 Education officers have complied with their public sector equality duty in the closure of the school but consider that the recommendations in this report do not present a change in services currently provided, and an equality analysis to progress the disposal of the property is not required.
- 7.2 The entirety of the Cropwood estate sits outside the City boundaries and has no direct City Council Member implications beyond their requirement as trustees.

8 Background Papers

9 Appendices

- 9.1 Appendix 1 - Cropwood Estate Plan – use and holdings.
- 9.2 Appendix 2 – Scheme dated 12th November 1997



AREA EDGED RED

35.18

HECTARES APPROX.

86.93

ACRES APPROX.

 Birmingham City Council		Kathryn James Assistant Director Property Inclusive Growth Directorate 10 Woodcock Street Birmingham, B7 4BG		
Cropwood Trust Hunters Hill School Bromsgrove		SCALE	DRAWN	DATE
		1:4,000 @A3	James Stanley	04/03/2020
		O.S.Ref SO9872NE		

Sealed 12th November 1997

N 197(S)
97

County - West Midlands
Place - Birmingham
Charity - Cropwood Estate

CS(Liv1)
3,088,651

Scheme

CHARITY COMMISSION

In the matter of the Charity known as the Cropwood Estate at Birmingham in the County of West Midlands comprised in conveyance and trust deed dated the 1st June 1921; and

In the matter of the Charities Act 1993.

THE CHARITY COMMISSIONERS FOR ENGLAND AND WALES HEREBY ORDER that the following Scheme be approved and established as the Scheme for the regulation of the above-mentioned Charity.

Scheme

1. Administration of Charity. (1) The above-mentioned Charity and the property thereof shall be administered and managed subject to and in accordance with the provisions of this Scheme by Birmingham City Council, the Trustee thereof.

(2) The name of the Charity shall be The Cropwood Estate or such other name as the Trustee from time to time by resolution may decide with the prior approval of the Charity Commissioners.

2. Investment of cash. All sums of cash now or at any time belonging to the Charity, other than sums of cash needed for immediate working purposes, shall be invested in trust for the Charity.

OBJECT

3. Object. The object of the Charity shall be the furtherance of any charitable purpose for the benefit of the inhabitants of the City of Birmingham including all or any of the following purposes:-

- (a) the provision and support of educational facilities;
- (b) the provision and support of facilities for recreation and other leisure time occupation, with the object of improving the conditions of life for the said inhabitants;

- (c) the relief of the aged, impotent and poor;
- (d) the relief of sickness.

(2) The land and buildings belonging to the Charity shall be held upon trust for the object of the Charity.

MINUTES AND ACCOUNTS

4. Minutes. The Trustee shall keep, in books maintained for the purpose, minutes of the proceedings of their meetings.

5. Accounts and annual report. The Trustee shall comply with its obligations under Part VI of the Charities Act 1993 with regard to:

- (1) the keeping of accounting records for the Charity;
- (2) the preparation of annual accounts for the Charity;
- (3) the preparation of an annual report;
- (4) where applicable, the auditing or independent examination of the statements of account of the Charity; and
- (5) where applicable, the transmission of the statements of account and the annual report to the Commissioners.

6. Annual return. The Trustee shall, where applicable, comply with its obligation under the Charities Act 1993 with regard to the preparation of an annual return and its transmission to the Commissioners.

MANAGEMENT OF PROPERTY

7. Management and letting of lands. (1) The Trustee shall let and otherwise manage all the land belonging to the Charity.

(2) The Trustee must comply with the restrictions on disposal imposed by section 36 of the Charities Act 1993, unless the disposal is excepted from these restrictions by section 36(9)(b) or (c) or section 36(10) of that Act.

8. Leases. The Trustee shall provide that on the grant by them of any lease the lessee shall execute a counterpart thereof. Every lease shall contain covenants on the part of the lessee for the payment of rent, and all other usual and proper covenants applicable to the property comprised therein and a proviso for re-entry on non-payment of the rent or non-performance of the covenants.

9. Repair and insurance. The Trustee shall keep in repair and insure to the full value thereof against fire and other usual risks all the buildings of the Charity not required to be kept in repair and insured by the lessees or tenants thereof and shall suitably insure in respect of public liability and employer's liability.

10. Sale. The Trustee may sell the whole or any part of the land belonging to Charity and may do and execute all proper acts and assurances for carrying any such sale into effect subject nevertheless to complying with the restrictions on disposition imposed by section 36 of the Charities Act 1993, unless the sale is excepted from such restrictions under section 36(9)(b) or (c) or section 36(10) of that Act.

11. Proceeds of sale. Unless the Commissioners otherwise direct the clear proceeds of any such sale as aforesaid shall be invested in trust for the Charity.

APPLICATION OF INCOME

12. Expenses of management. The Trustee shall first defray out of the income of the Charity the cost of maintaining the property of the Charity (including the repair and insurance of any buildings thereon) and all other charges and outgoings payable in respect thereof and all the proper costs, charges and expenses of and incidental to the administration and management of the Charity.

13. Application of income. Subject to payment of the expenses aforesaid the Trustee shall apply the income of the Charity if furtherance of the object of the Charity.

GENERAL PROVISIONS

14. Charity not to relieve public funds. The Trustee shall not apply income of the Charity directly in relief of rates, taxes or other public funds but may apply income in supplementing relief or assistance provided out of public funds.

15. Power of amendment. (1) Subject to the provisions of this clause, the Trustee may amend the provisions of this Scheme.

(2) Any amendment must be made under the authority of a resolution of the Trustee.

(3) The Trustee must not make any amendment which would:

- (a) vary this clause;
- (b) vary clause 3 of this Scheme (the objects clause);
- (c) confer a power to dissolve the Charity;
- (d) enable the Trustee to spend permanent endowment of the Charity.

(4) The Trustee must obtain the prior written approval of the Commissioners to any amendment which would vary the Trustee's power of investment.

(5) The Trustee must:

- (a) promptly send to the Commissioners a copy of any amendment made under this clause; and
- (b) keep a copy of any such amendment with this Scheme.

16. Questions under Scheme. Any question as to the construction of this Scheme or as to the regularity or the validity of any acts done or about to be done under this Scheme shall be determined by the Commissioners upon such application made to them for the purpose as they think sufficient.

Sealed by Order of the Commissioners this 12th day of November 1997.

L.S.

3088651.97 16.04.97 TR

Birmingham City Council

Executive Report Record of Approvals

2023/2024



Title of Report:	Cropwood Estate – Former Hunters Hill College Site
Version ref:	
Report Author:	Zahid Mahmood

To be completed in respect of all Cabinet and Cabinet Member Reports. Committee Services have been instructed to return any Report which does not have a fully completed Checklist attached. The purpose is for the author to indicate who has been consulted in the preparation and clearance of the report and when.

COVER SHEET REQUIREMENTS	
Was the report on the forward plan?	No
If a confidential or exempt appendix is used, was this notified 28 days in advance?	N/A
Will the report be on CMIS in time for send out?	No

PRE-APPROVALS	DATE CLEARED
Capital Board	N/A
CLT (either via Teams or by presentation at a meeting)	N/A
Corporate Clearance	N/A

FINAL APPROVALS

Names and dates to be inserted

Has the final report been approved by the Relevant Cabinet Member(s):

Approved by: Cllr Karen McCarthy
Date: 19 Feb 2024

Other Cabinet Member consultation:

Has the report been cleared with relevant Director?

Cleared by: Sue Harrison
Date: 9 Feb 2024

Has the report been cleared with relevant Finance Officer? (see below)

Cleared by: Clare Sandland
Date: 15 Dec 2023

Has the report been cleared with relevant Head of Law or delegate (Senior Solicitor)? (see below)

Cleared by: Anne Tyson
Date: 11 Jan 2024

Has the report been cleared with relevant Corporate Procurement Officer? (see below)

Cleared by: N/A
Date:

Has the report been cleared with relevant Property Services? (see below)

Cleared by: N/A
Date:

Has the report been cleared with Commissioner?

Cleared by: Commissioners via
Date: TBC

Relevant Finance Officers

Interim Business Partner – City Operations	Carl Tomlinson
Interim Business Partner – Place, Prosperity & Sustainability	Azhar Rafiq
Interim Business Partner – City Housing	Carl Tomlinson
Interim Business Partner – PBCS	Ravinder Dhaliwal
Interim Business Partner – Adults Social Care	Yusuf Shaibu
Business Partner – Finance, Council Management, Strategy, Equalities & Partnerships	Lee Bickerton
Business Partner - Treasury & Financial Accounting (Interim Head of Capital and Treasury)	Mohammed Sajid
Business Partner – Children, Young People, Families & Schools	Clare Sandland
Interim Finance Transformation Programme Manager	Paul Chinn

Relevant Directorate Legal Officers

Legal Business Partner - Adults	Charmaine Murray
Legal Business Partner - Commercial & Procurement	Connie Price
Legal Business Partner - Property, Planning & Regeneration	Sushil Thobhani
Legal Business Partner - City Housing	Sunita Gill
Legal Business Partner - Education (Education Law Team)	Helen Jones/ Janie Berry
Legal Business Partner - Employment (Employment Law Team)	Surina Aujla
Legal Business Partner - Civil Litigation and Personal Injury (Civil Litigation Team, Personal Injury Team)	Michael Day
Legal Business Partner - City Operations	Lisa Morgan
Legal Business Partner - Partnerships, Insight and Prevention (Assistant Chief Exec)	Janie Berry
Legal Business Partner - Public Health	Janie Berry

Relevant Procurement Officers – any can clear reports

Head of Procurement Team	Mike Smith
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Head of Category Place	Haydn Brown
Head of Category Corporate	Richard Tibbatts
Head of Commissioning Team	Mike Smith

Relevant Property Services Officers – any can clear reports

Assistant Director of Property	Kathryn James
Head of Operational Property Management	Philip Andrews

Birmingham City Council

Trusts and Charities Committee

11/03/2024



Subject: Highbury Trust – Award of Funds to Chamberlain Highbury Trust

Report of: Assistant Director of Corporate Landlord

Report author: Nigel Oliver Operational Property Manager

Does the report contain confidential or exempt information? ☐ Yes ☒ No

If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:

1 Executive Summary

- 1.1 To enable the Committee to consider the award from the unrestricted funds of the Highbury Estate of a further grant to Chamberlain Highbury Trust in support of their operations and the continuation of their bid to the National Lottery Heritage Fund (NLHF) for the refurbishment of Highbury.

2 Recommendation(s)

That the Committee:

- 2.1 Notes the report from Chamberlain Highbury Trust set out in Appendix 1 updating the Committee on its continuing activities on the estate, detailing how monies previously allocated have been properly spent and specifically to seek approval for funds for their future activities.
- 2.2 Award a grant to Chamberlain Highbury Trust of £38,274 from the unrestricted funds of the Highbury Estate for the operations to be undertaken by Chamberlain Highbury Trust as set out in their draft budget for 2024/25.
- 2.4 To instruct officers in Finance and Legal Services to take all necessary steps to facilitate the award of the grant to Chamberlain Highbury Trust and report back to a future Committee meeting, once the grant application project has been completed.

3 Background

- 3.1 The Highbury Estate comprises approximately 13.03 hectares (32.2 acres) of park land including Highbury hall and Chamberlain House and three lodges. It now accommodates part of Uffculme Special School in Chamberlain House and at 92 Queensbridge Road the Four Seasons Gardeners, an Adult Services enterprise.
- 3.2 The Estate was gifted by the heirs of the Right Honourable Joseph Chamberlain on 31st March 1932 and is held in trust. It is a Registered Charity no 1039194. 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.
- 3.3 Chamberlain Highbury Trust will continue to undertake operations to develop and enhance the Highbury Estate during 2024/25 for which it requires a further grant from the Highbury Trust account as has been approved in previous years and is still actively progressing the bid to the NLHF for capital funding. The continuation of Chamberlain Highbury Trust and their proposed activities on the Estate and bids to external funding sources are beneficial to the Highbury Trust and are to be welcomed. Necessarily at this stage they require continuing financial support but if successful in their bids for NHLF and other monies, they would progress the refurbishment of Highbury, take over the management of the Estate on a 125 year lease and over time end any need for the trust to provide directly support.

4 Options considered and Recommended Proposal

- 4.1 There is currently no viable alternative to progressing matters via Chamberlain Highbury Trust as their presence and activities continue to assist the Highbury Trust to resolve the former governance issues and represent the best opportunity to win new monies for the Estate. To properly support them financially in the meantime is an appropriate use of Trust funds.
- 4.2 To best safeguard the asset long term, it is appropriate to continue to support Chamberlain Highbury Trust in the financial year 2024/25. To do nothing is not an option.

5 Legal Implications

- 5.1 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. 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.

- 5.2 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 the making of awards to support the bids for a refurbishment of Highbury. Chamberlain Highbury Trust have been appointed to act as managing trustees for the Highbury Estate and have had grant awards to assist in funding their operations and to make bids to the NLHF in previous years.
- 5.3 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 at Highbury 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 are necessarily limited but sufficiently enable the future management of the estate *“for the general benefit of the Citizens of Birmingham*

6 Financial Implications

- 6.1 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. Formal accounts are required to be prepared for the Charity Commission returns where appropriate. The Highbury Trust has a revenue stream principally from the letting of Highbury to Civic Catering for the continuing use of the property as a wedding/conference centre but the cost of on-going repairs continually outstrips the resources available.
- 6.2 Previous bids by Chamberlain Highbury Trust to the NLHF for funds for the refurbishment of Highbury have been supported by the trustees. That Chamberlain Highbury Trust are continuing their operations on the Estate and advancing their bid to the NLHF for funds for the refurbishment of Highbury is in line with the longer term ambitions of the trustees to secure the restoration of Highbury.
- 6.3 This decision has no impact on the Council's general fund.

7 Public Sector Equality Duty

- 7.1 The statutory functions discharged by the trustees through the Council as Trustee and the Trusts & Charities Committee 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. Public consultation is not required and Member consultation is not usually undertaken for Trust matters at this

stage but the Leader, Leader of the Opposition Parties, local Members and others will be alerted to the report.

8 Background Papers

8.1 The conveyance dated 30/03/1932.

9 Appendices

9.1 Appendix 1 – Report from Chamberlain Highbury Trust dated 9th January 2024.



The Chamberlain Highbury Trust

CHAMBERLAIN Highbury TRUST (CHT)

Report to Trusts and Charities Committee (T&CC) dated 09 January 2024

1. Purpose

The purpose of this report is to:

- (a) Give a brief update on progress of the Highbury restoration project;
- (b) Report the likely outturn for 2023/24 compared to the budget; and
- © Seek funding from the Committee for CHT activity in 2024/25 not covered by other sources of funding.

2. Completion of the Development Phase

2.1 In 2023-24, CHT had access to up to £368K of Development Grant from the National Lottery Heritage Fund (NLHF) and up to £150K of grant funding from Birmingham City Council (BCC) and up to £40K from the Highbury Trust, in addition to up to £9K of CHT's own resources, in order to develop the plans for the Highbury restoration project up to RIBA Stage 3 ("the Development Phase"). A full professional team, led by specialist heritage architects Burrell, Foley Fischer developed the plans, CHT consulted its stakeholders and communities regularly during the development of these plans and, after two rounds of scope reduction and value engineering, CHT approved the RIBA Stage 3 plans in May 2023.

2.2 In reliance on the fully costed RIBA Stage 3 plans, in August 2023 CHT applied – jointly with BCC - to NLHF for a Delivery Grant towards the costs of the restoration works of just over £5M. The full cost over the 2-3 years' duration of the restoration works ("the Delivery Phase") was stated to be £12M and CHT stated that these costs would be met from the following sources:

NLHF	£5M
BCC/HIGHBURY TRUST	£5M
CHT's FUNDRAISING	£2M

In September 2023, BCC issued the first of two Section 114 Notices and the process that this has entailed has caused uncertainty as regards the ability of BCC to contribute its funding to the Highbury restoration project. If BCC's funding cannot be secured, the NLHF funding will be lost.

2.3 In March 2023, T&CC allocated CHT funding of £33,300 to cover CHT's non-Development Phase activities during 2023-24. In this report, CHT sets out how this funding was used and requests a further allocation from T&CC for its non-Delivery Phase activities in 2024-25.

3. **Approved Budget and Likely Outturn for 2023/24**

- 3.1 In March 2023, CHT presented to T&CC its budget for 2023/24 in respect of CHT's non-Development Phase activity. This forecast spending of £33,300 during 2023-24 and T&CC agreed to allocate this sum, all of which T&CC has paid to CHT during 2023-24.
- 3.2 The outturn is likely to be £34,293 although CHT will try to manage this down between now (Jan 2024) and the Year-end. Any deficit will be met from the Contingency. The details are included in Table 1 below:

Table 1: Performance against Budget 2023/24

2023-24 Budget heading	2023/24 Approved Budget	2023/24 Year to Date	2023/24 Full Year Projection	Comment
	£	£	£	
Trust Administrator	4800	3872	5872	Ave £480pm but distorted by a historic underpayment
Insurance & Audit	3000	3211	3211	Insurance premium inflation
Volunteer Coordinator	2000	2760	3260	Under-budgeted by CHT
Activity Planner & Related Costs	13500	7524	14524	Ave £1200pm
Rhododendron Project	2000	0	2000	Specialist propagation work in Cornwall
Fruit Tree Pergola	2500	0	2000	A garden plan that is out of scope of Lottery project
Other Costs	3500	2426	3426	Marketing, catering etc.
Contingency	2000	0	0	This will change if there is a deficit
TOTAL	33,300	19703	34293	Deficit will be met from Contingency

4. **Budget 2024/25**

- 4.1 As in past years, CHT seeks an allocation of funds from T&CC to cover CHT's costs of its activities unrelated to the Highbury restoration project (in the past two years this has been the non-Development Phase spending and for the next 2-3 years this will cover the non-Delivery Phase spending).
- 4.2 Details of the Budget for 2024/25, compared to the approved budget and likely outturn for 2023/24 are set out in the following table, Table 2:

Table 2: Proposed Budget 2024/25

2024-25	2023/24	2023/24	2024/25
Anticipated expenditure	Approved Budget	Likely Outturn	Budget
	£	£	£
Trust Administrator	4800	5872	5904
Insurance & Audit	3000	3211	3250
Volunteer Coordinator	2000	3260	3500
Activity Planner & Related Costs	13500	14524	15120
Young Leadership education and training	N/A	N/A	1000
Rhododendron Project	2000	2000	2000
Fruit Tree Pergola	2500	2000	2000
Other Costs	3500	3426	3500
Contingency	2000	0	2000
TOTAL	33,300	34293	38274

4.3 The following is a brief commentary on the main areas of the budget:

Trust Administrator

Average of £480pm Apr-Sep 2024, then £504pm Oct24-Mar25.

Volunteer Coordinator

Approximately 50 volunteers help CHT maintain the grounds, managed by a Volunteer Coordinator and Health and Safety Advisor. In 2023-24, most of the cost of managing the volunteer workforce was met from the Development Phase funding between April and August 2023. Potentially the Delivery Phase funding will provide funding for this activity at some point in 2024-25. This provision is to cover the period awaiting confirmation of the full Delivery Phase funding.

Activity Planner and Activity Related Costs

CHT's freelance Activity Planner has developed a wide range of activities in the mansion and grounds, part of the cost of which was charged to the Development Phase funding in 2023/24. The potential for Delivery Phase funding to cover this activity is the same as for the Volunteer Coordinator. Providing and encouraging public access to the estate through a vibrant and popular activities programme is important, both to satisfy the charitable objectives of CHT and Highbury Trust and also to develop and trial activities for when the restored estate is fully operational. This sum provides for the continuation and development of the activities programme.

Young Leadership education and training

Until now, our cost of running the young leadership programme, and our Youth Board, has been included in the Activities budget. However, CHT wants to establish a discreet budget heading for this work for two main reasons. First, so that we can begin to build a budget that will match our ambition for this programme to grow and become much more significant. Secondly, because we believe that this activity will be attractive to external funders, and we will need to show funders the budget for what we will ask them to fund in future.

Rhododendron Project and Fruit Tree Pergola

The Rhododendron Project involves expert propagation of horticulturally important and rare species of rhododendrons which will be part of the restored heritage gardens. The Fruit Tree Project preserves varieties of fruit trees originally planted by Chamberlain in a pergola formation. Both projects have been supported by T&CC previously and by external charitable trusts. These sums allow both to continue.

5. Proposals

- 5.1 T&CC is asked to:
- (a) Note CHT's progress on the Highbury restoration project; and
 - (b) Note the likely outturn for the financial year 2023/24.
- 5.2 T&CC is asked to approve an allocation of **£38,274** from the Highbury Trust to CHT for the financial year 2024/25.