

# Birmingham City Council

## Trust and Charities Committee

10<sup>th</sup> March 2022



**Subject: CANNON HILL PARK TRUST – GRANT OF LEASE FOR VEHICLE ELECTRIC CHARGE POINTS**

**Report of: Assistant Property Director**

**Report author: Nigel Oliver**

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 inform Committee of the proposed installation of electric vehicle charge points (EVCP) in the car parks within Cannon Hill Park held in trust and to seek approval to obtain revised management powers for the Park, including a power to grant leases covering the installation of the charge points and related cabling.

### 2. Recommendations

That Committee agrees

- 2.1 that new electric vehicle charge points be installed as set out in Appendix 1 and that a lease be granted to ESB Energy for each location to enable the construction and operation of the charge points and all related cabling and this be documented by a formal lease for 10 years on terms to be agreed by the Director of Property
- 2.2 authorises that applications be made to the Charity Commission to obtain either an Order or Scheme for the better management of the trust assets including a power of disposal
- 2.3 that the Director of Legal Services be authorised to prepare, negotiate, execute, seal and complete all necessary documentation to give effect to the above decisions and to place any formal advertisements required under the Local Government Act 1972 or various statutes as may relate to the charitable status of the land in the granting of these leases.
- 2.4 to recommend to the next available meeting of the Council as Trustee that the matters listed in 2.1, 2.2 and 2.3 be approved.

### **3. Background**

- 3.1 The Cabinet meeting on 9<sup>th</sup> November 2021 agreed to adopt the City-wide Electric Vehicle Charge Point (EVCP) Strategy (2021-2032) which includes the existing initial roll-out of 197 Electric Vehicle fast and rapid chargers (394 charge points) in strategic locations across the city centre and within local communities in the Birmingham area, followed by further deployment of charge points until 2032. A key focus of the strategy is on enabling the widest public access to the charge points. The locations include City Council parks including some in parks held in trust.
- 3.2 Previously Cabinet on 24<sup>th</sup> January 2018 approved in the report titled “EV Charge Point Network Development Programme – Full Business Case”, the procurement and appointment of the Delivery partner, ESB Energy to undertake the programme of installations under a ten year contract ending 2032.

### **4. Options considered and Recommended Proposal**

- 4.1 If the installation of Electric Vehicle Charge Points is considered generally desirable and for wider public benefit then it is appropriate to enable their installation in parks held in trust. However, while there is no necessity for trustees to comply either with the installations proposed or the City Council’s adopted strategy for delivery if electric car charge points are to be installed there is currently no alternative proposal available and although other installers will be available it is considered to be the most economic method currently available to enable these installations to proceed quickly even if no rent income is receivable. There will be an opportunity to review arrangements at the end of the proposed lease.

#### **4.2 History**

Cannon Hill Park was opened on 1<sup>st</sup> September 1873 but was soon extended by a number of other gifts and purchases to form the current Park of approximately 80.66 acres (32.65 hectares). Although acquired piecemeal Legal Services have determined that the whole of Cannon Hill Park should be treated as held in trust and any disposal will need to be dealt with formally as a trust issue.

The three locations for the EVCPs are on the

- Russell Road car park part of the original acquisition gift of 23.05 hectares from Miss Louisa Anne Ryland on 18<sup>th</sup> April 1873
- the Queen’s Ride car park acquired in two parts being 4.19 hectares from Sir John C Holder on 10<sup>th</sup> June 1896 and 1.28 hectares from Baron Calthorpe and the Hon. W G Calthorpe on 28<sup>th</sup> November 1898 and
- the Birmingham Wildlife Conservation Park car park being 4.72 hectares acquired from the Hon Mrs F H Anstruther-Gough-Calthorpe on 8<sup>th</sup> July 1925.

#### **4.3 Powers**

Each charitable asset is held as a separate trust and decisions need to be in the best interests of that trust and are intended to safeguard the trust estate for the future.

The delegations to the Trusts & Charities Committee allow them to make many decisions but disposals require approval from Council as Trustee. The requirements for dealing with disposals including the grant of a lease is set out in statute. In many cases trustees can rely on the power contained in the Trusts of Land and Appointment of Trustees Act 1996, commonly called the statutory power but otherwise will require an application to the Charity Commission for approval to a scheme allowing a general power of disposal and other appropriate powers to enable the more efficient operation of the Park.

The original trust deeds require that Birmingham City Council shall hold Cannon Hill Park “as public walks or pleasure gardens provided and maintained by them under s.64 of the Public Health Act 1875” but in addition to the general law applying to charitable trusts and the powers under the Trustees Act 2000, s83 - 85 of the West Midlands County Council Act 1980 specifically permits the grant of leases within Cannon Hill Park not exceeding two acres to any body incorporated or not whose objects are charitable and comprise or include the provision of an art or cultural centre but not otherwise.

The provision of EVCP's do not change or interrupt the use of the land as a public park but the proposed grant of the lease to the operator would constitute a 'disposal' for which there is no existing power. Accordingly, it is proposed to apply to the Charity Commission to seek such powers through a new Scheme or Order or as directed by the Charity Commission.

## **5. Appendices**

1. Plans for each cluster of EVCP