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| Report to: | TRUSTS AND CHARITIES COMMITTEE |
| Report of: Date of Decision: | PARKS SERVICES MANAGER 30th October 2020 |
| SUBJECT: | GEORGE CADBURY FOR PUBLIC PARK – FRIENDS OF MANOR FARM PARK PROGRESS REPORT |
| Wards affected: | Weoley & Selly Oak |

1. Purpose of report:

To note the progress report submitted by the Cadbury Barn Trust.

2. Decision(s) recommended:

That the Committee notes:

- 2.1 previous reports to Committee for proposals for the development of community facilities within the park have been brought in the name of the Friends of Manor Farm Park but future reports will be in the name of Cadbury Barn Trust a new Charitable interest Organisation reg.no. 1190666
- 2.2 the report set out in appendix 1

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| Lead Contact Officer(s): | Sue Amey for Place Directorate |
| Telephone No: E-mail address: | 0121 464 0407 Sue.amey@birmingham.gov.uk |
| Lead Contact Officer(s): | Nigel Oliver for the Trust |
| Telephone No: E-mail address: | 0121 303 3028 nigel.g.oliver@birmingham.co.uk |

3. Compliance Issues:

3.1 Consultations

No formal requirement to consult on the decisions recommended arises beyond those set out in the Charities Act 2011 and any relevant Operational Guidance issued by the Charity Commission.

3.2 Relevant legal powers, personnel, equalities, procurement, regeneration and other relevant implications?

The City Council acts as Sole Corporate Trustee for a number of Trusts and Charities and has delegated the discharge of administrative functions to the Trusts and Charities Committee with the Full Council sitting as 'Council as Trustee' being the authorising body for trust "key decisions". Charitable trust activity is regulated by the Charity Commission and governed by a Trust Deed as amended by any Scheme made by the Charity Commission. 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 the first in 1954 through the Will of George Cadbury with the remainder which included the Depot, Lodge and barns in 1955 being via a land exchange with the Cadbury family on the same terms as the gift via the Will. The Governing Document for the Trust is the Will of George Cadbury proved on 5th February 1923. 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 classification of the registered Charity including its purposes, beneficiaries and method of operation includes general charitable purposes, amateur sport and provide buildings, facilities. All land is 'specie' land being dedicated to open space use even though the Depot area is the house and barns which made up the former Manor Farm complex. The Trustee has a legal duty to preserve the assets of the Trust.

3.3 Finances

The Park is managed on behalf of the Trust by Birmingham City Council Park & Nature Conservation Service, who meet all expenses in making the park available to the public. There is no current income to the trust. The Trust holds a reserve of funds received from insurance monies paid out on the destruction of the George Cadbury Barn which it has previously agreed in principle to devote to the Options Appraisal/Scheme.

3.4 Public Sector Equality Duty

None. The statutory functions discharged by the Council as Trustee are subject to a separate and distinct statutory regime not subject to the Equalities Act 2010 provisions.

4. Relevant background/chronology of key events:

- 4.1 The Friends of Manor Farm Park continue to work with officers in the Parks Service to develop the Options Appraisal and take forward proposals for the barns at Manor Farm Park. Previous reports to Committee have acknowledged the desire for additional community and public facilities in the park and have allocated funds to undertake surveys to better inform the Committee and have undertaken repairs to the lodge roof.
- 4.2 At the meeting of the Committee on 14th December 2016 a recommendation was given for the making of applications to the Charity Commission for a Scheme to provide additional powers to the Trust to enable the grant of a lease and other forms of disposal. That was approved by Council as Trustee on 7th February 2017. Matters have not been progressed pending progress on the Options Appraisal/Business Case. A further report was brought to Committee on 22nd January 2020 where recommendations were to progress these matters.
- 4.4 **Aims and Objectives of the Trust**
The terms of the Trust are that the land is to be maintained and used as a public recreation ground or open space. The trust also has a duty to maintain the assets within the park and deal with them responsibly.
- 4.5 **Trustee Powers**
Each property in trust is held as a separate trust and decisions by the trustees need to be in the best interests of that trust only and fully in accordance with the powers of the trust. The assets of the Trust should at all times assist the Trust to comply with the objects and purposes of the trust. Decisions made by the charity trustees must, under the 'duty of prudence', be expedient and in the interests of the charity at all times. Further duties are embedded in the Trustee Act 2000. A trust's constitution is set out within the executed Trust Deed for each property. The seeking of the proposed new Scheme as approved previously is required as the existing documents do not provide any useful management powers normally associated with a modern charity. That the land is treated as 'specie land' requires that new powers can only be obtained by an application for a Scheme to the Charity Commission. Should the application for a new Scheme be successful it is anticipated that the trust would have powers to grant leases and make other disposals and enable alternative uses within the buildings etc.
- 4.6 **Trust Finances**
The majority of the trust asset is open parkland with the remainder being the depot area formed from the original farmhouse and barns. There is no regular income stream.

5. Evaluation of alternative option:

To do nothing is not an option as the powers currently available to the Trust are insufficient to enable change.

6. Reasons for Decision(s):

6.1 To seek to safeguard the Trust's assets and secure continued flexibility for the Options Appraisal.

Signatures:

Chief Officer(s):

Chairman

Dated

List of Background Documents used to compile this Report:

1. Deed of Acquisition dated 25th March 1955
2. Report to Trusts & Charities Committee on 14th December 2016, 19th July 2017 and 23rd January 2019, 22nd January 2020

List of Appendices accompanying this Report (if any):

1. Progress Report - Cadbury Barn Trust - update on the project to develop facilities at the entrance to Manor Farm Park