

Report to:	TRUSTS AND CHARITIES COMMITTEE
Report of: Date of Decision:	PARKS SERVICES MANAGER 23rd January 2019
SUBJECT:	GEORGE CADBURY FOR PUBLIC PARK (KNOWN LOCALLY AS "MANOR FARM PARK") – FUNDING
Wards affected:	Weoley & Selly Oak

1. Purpose of report:

To approve expenditure from trust funds to assist the developing Options Appraisal and re-roof the Lodge.

2. Decision(s) recommended:

That the Committee:

- 2.1 approves the use of trust funds up to £34,000 to support the works proposed to form the Feasibility Study to progress the Options Appraisal and re-roof the Lodge noting that the funds will be drawn from the insurance monies received following the destruction of the George Cadbury Barn and agree the appointment of Acivico Limited to undertake the works set out within this Report.

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3. Compliance Issues:

3.1 Consultations

The park is held on Trust for the provision of Public Open Space for healthy recreational purposes. 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. However the proposals are at the instigation of and fully supported by the Friends of Manor Farm Park and officers in the Parks & Nature Conservation service.

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

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. 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.

The insurance monies received after the destruction of the Cadbury Barn totalled £250,000.00 and apart from incidental expenses at the time remain on account. It is proposed to spend up to £34,000 on all elements.

Costs for all the investigations total £21,094.00

Costs for the reroofing of the Lodge are estimated by Acivico of £12,000.00

Contractors are not yet selected. Works will be supervised by Acivico Limited, a wholly owned Birmingham City Council company.

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 lead on the formation of the Options Appraisal and other matters approved at the meeting of the Committee on 14th December 2016 and 19th July 2017. The work previously developed was centred on the Cadbury Barn which was, as previously reported, destroyed in an arson attack making much of the previous information redundant once it was agreed by all parties that the Barn was not to be replaced. It is, however, still desired to create within the park the facilities it was hoped to provide through the refurbishment of the Barn.
- 4.2 The focus of attention is now on the conversion of existing brick built outbuildings used as part of the depot area. Presently there are no funds available to undertake the necessary investigations used to inform the development of the new Options Appraisal. Works therefore required are:
- Feasibility Study
Prepare a feasibility study to provide sufficient information to enable a business case to be prepared including a CCTV/drain survey, topographical survey, building condition survey, timber and damp survey, underground utility mapping survey, tree survey and concept design proposals. The completed exercise will provide budget estimates to enable the client to identify funding levels required to deliver the combined proposals. The feasibility will focus on the reconfiguration and refurbishment of the Lodge to convert to staff welfare facilities and the refurbishment and re-modelling of the outbuildings to convert to a café/community space with toilet facilities (two possible options to be investigated).
- Lodge Roof
The Lodge has been vacant for some years and is in poor condition and was being considered for demolition. However the Friends most recent proposals include for its retention and the Lodge being brought back into use and converted to staff welfare accommodation for the depot. This would in turn facilitate the inclusion of the current staff facilities within the Options Appraisal area and being converted to a café/community use. However following an arson incident on the Lodge the roof suffered significant damage. Consideration having been given to the level of investment required to carry out a temporary repair it is felt this is not a financially viable option and the roof should be replaced in full including all rain water goods. Early action will protect the internal fabric of the building from further damage from the weather.
- 4.3 There are no other funds currently available to assist either proposal, nor can any of the Section 106 monies held for spend in the area be used but both will assist in the protection of trust assets and help build the Options Appraisal. At the same time the proposed bids by the Friends Group are not sufficiently advanced and will not be until the Options Appraisal is more developed to suppose that funding will be available from external sources. Therefore to ensure that matters continue to progress it is proposed to utilise some of the existing insurance monies to fund this.
- 4.4 **Aims and Objectives of the Trust**
Each property in trust is held as a separate trust and decisions need to be in the best interests of that trust. The assets of the Trust should at all times assist the Trust to comply with the objects and purposes 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**
A trust's constitution is set out within the executed Trust Deed for each property. There has been no subsequent amendment by any Scheme agreed with the Charity Commission nor is one required to implement the proposals.
- 4.6 **Trust Finances**
The majority of the trust asset is open parkland with the remainder being the depot area formed from the original farm house and barns. There is no regular income stream.

5. Evaluation of alternative option:

To do nothing is not an option as the Options Appraisal cannot advance and the Lodge property will continue to decline. Demolition is no longer favoured for the Lodge and was not supported by the Planning Officers. The Lodge could be disposed of, subject to further approvals, but the introduction of a privately owned property as part of this complex of properties prior to the development phase would not assist the facilitation of the Options Appraisal proposals.

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 and 19th July 2017
3. Options Appraisal – The Cadbury Barn, Manor Farm Park March 2015

List of Appendices accompanying this Report (if any):

1. None