

<b>Report to:</b>	<b>TRUSTS AND CHARITIES COMMITTEE</b>
<b>Report of:</b> <b>Date of Decision:</b>	<b>Assistant Director of Property</b> <b>30<sup>th</sup> October 2020</b>
<b>SUBJECT:</b>	<b>HIGHBURY TRUST – AWARD OF FUNDS TO CHAMBERLAIN HIGHBURY TRUST (UPDATE)</b>
<b>Wards affected:</b>	<b>Moseley</b>

**1. Purpose of report:**

The Committee to note the report and accounts submitted by Chamberlain Highbury Trust.

**2. Decisions recommended:**

That the Committee

- 2.1 notes a report allocating funds of £42,000 to the Chamberlain Highbury Trust was approved at the committee on 18<sup>th</sup> March 2020 .
- 2.2 notes the report submitted by Chamberlain Highbury Trust to update the Committee on recent activity; to account for the allocations to the Chamberlain Highbury Trust from the Highbury Trust in 2019/20; and to report the up to date position on the allocations to the Chamberlain Highbury Trust from the Highbury Trust in 2020/21 as set out in Appendix 1.
- 2.3 notes the accounts of Chamberlain Highbury Trust for the financial year 2019/20 as set out in Appendix 2.
- 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 actual spend is known.

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### **3. Compliance:**

#### **3.1 Consultations:**

No additional separate consultation is required or envisaged at this stage.

#### **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.

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 in previous years.

#### **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 income resources are the annual rent from the letting to Civic Catering. This income has generally been sufficient to cover the request where approved.

The continuation of Chamberlain Highbury Trust is very desirable at this stage and appropriate financial support from the Highbury Trust is required to meet the duties required of them.

#### **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. It now accommodates part of Uffculme Special School in Chamberlain House and at 92 Queensbridge Road the Four Seasons Gardeners, an Adult Services enterprise.

4.2 The Estate was gifted by the heirs of the Right Honourable Joseph Chamberlain on 31<sup>st</sup> 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 for which Chamberlain Highbury Trust continues to develop its bid to the NLHF.

4.3 It has now submitted a report to update the Committee about their recent activity, to account for the allocations to the Chamberlain Highbury Trust from the Highbury Trust in 2019/20, and to make clear the spend to anticipated spend of the allocation to cover operating costs in 2020/21.

#### **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 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 remain as originally set “for the general benefit of the Citizens of Birmingham”. The Trust secured additional powers through the Charity Commission Scheme to effect disposals.

#### **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.

#### **4.6 Charity Finances**

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. The impact of Covid-19 restrictions will substantially reduce income projections for this year. The continuation of Chamberlain Highbury Trust and their proposed activities on the Estate are beneficial to the Trust and are to be welcomed and at this stage do require an annual allocation of funds. The CHT reports in Appendix 1 note that also due to Covid-19 restrictions there has been an underspend on their current year allocation.

#### **5. Evaluation of alternative option:**

5.1 There is currently no alternative to progressing matters via Chamberlain Highbury Trust as they 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. To do nothing is not an option.

**6. Reasons for Decision(s):**

6.1 This is a noting report only. No decision is required but to best safeguard the asset long term it is appropriate to continue to support Chamberlain Highbury Trust.

Date

**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. Appendix 1 Report of Chamberlain Highbury Trust.
2. Statutory Accounts of Chamberlain Highbury Trust for 2019/20