

Members are reminded that they must declare all relevant pecuniary and non-pecuniary interests relating to any items of business to be discussed at this meeting

BIRMINGHAM CITY COUNCIL

TRUSTS AND CHARITIES COMMITTEE

WEDNESDAY, 02 MARCH 2016 AT 10:30 HOURS
IN COMMITTEE ROOM 2, COUNCIL HOUSE, VICTORIA SQUARE,
BIRMINGHAM, B1 1BB

A G E N D A

1 **NOTICE OF RECORDING**

Chairman to advise meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 **APOLOGIES**

To receive any apologies.

3 **MINUTES**

To note Part 1 of Minutes of the last meeting of Committee on the 20 January 2016.

4 **MATTERS ARISING**

To discuss matters arising.

5 **DECLARATIONS OF INTERESTS**

Members are reminded that they must declare all relevant pecuniary interests and non-pecuniary interests relating to any items of business to be discussed at this meeting. If a pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

6 **APPOINTMENTS TO OUTSIDE ORGANISATIONS RELEVANT TO THE WORK OF THE TRUSTS AND CHARITIES COMMITTEE**

Verbal update from the Chairman (and officers where applicable)

3 - 8

7 **GRANT OF LEASE AT SAREHOLE MILL RECREATION GROUND**

8 **HIGHBURY TRUST**

Report of the Director Property Services - repairs schedule Chairman and/or officers - any other relevant matter - (Verbal Report)

9 **SCHEDULE OF OUTSTANDING MINUTES**

To consider outstanding minutes.

10 **OTHER URGENT BUSINESS**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

11 **AUTHORITY TO CHAIRMAN AND OFFICERS**

Chairman to move:-

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

12 **EXCLUSION OF THE PUBLIC**

That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-

Minutes - Exempt Paragraphs 3 and 4

P R I V A T E A G E N D A

1 **MINUTES**

To note Part 2 of Minutes of the last meeting of Committee on the 20 January 2016.

2 **MATTERS ARISING - PRIVATE**

To discuss matters arising.

3 **OTHER URGENT BUSINESS (EXEMPT INFORMATION)**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

BIRMINGHAM CITY COUNCIL

TRUSTS AND CHARITIES COMMITTEE 20 JANUARY 2016

PRESENT: Councillor Phil Davis in the Chair

Committee Members:
Councillor John Alden (JA)
Councillor Paul Tilsley (PT)
Councillor Ansar Ali Khan
Councillor Hendrinna Quinnen
Councillor Matthew Gregson

Officers:
Rajesh Parmar, (RP) Senior Solicitor, Legal & Democratic Services, Rahema Begum (RB),
Legal & Democratic Services, Mark Szurminski (MS), Senior Business Analyst, Corporate
Finance, Nigel G Oliver (NGO), Property Manager, BPS, Mohammed Majid, Senior
Business Analyst, Corporate Finance, Robert Churn, Head of Landscape and Development.

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NOTICE OF RECORDING & PRELIMINARY MATTERS

The Chairman advised the meeting that item 9 of the agenda is to be moved to the private agenda due to the personal information contained within the report.

The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

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APOLOGIES

Apologies for non-attendance were submitted on behalf of:

Councillor Tilsley

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MINUTES

The public minutes of the meeting of the last meeting of Committee on the 17 December 2015, were confirmed as an accurate record.

MS stated that there were some amends at paragraph 764 and would provide RB with these after the meeting.

The chairman provided an update on paragraph 765, in relation to the storage lagoon at home farm and that he had written to the Parish Council Chairman offering to meet him and was waiting to hear back

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MATTERS ARISING

None

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DECLARATIONS OF INTERESTS

The Chairman reminded Members that they must declare all relevant pecuniary interests and/or non-pecuniary interests relating to any items of business to be discussed at this meeting. If a pecuniary interest is declared a Member must leave the room or Chamber where the meeting is being held, unless a dispensation has been obtained from the Authority's Standards Committee. Any declarations or leaving of the room/chamber will be recorded in the minutes of the meeting.

The Chairman declared a non-financial interest in the Youthwise project, which had made an application to BMC at item 8. Councillor Ali Khan (Vice Chair) to chair the meeting for this item.

781

BIRMINGHAM CYCLE REVOLUTION - Highbury Park Path Improvements

Robert Churn, Head of Landscape and Development, presented the report, seeking the committees support for the Birmingham Cycle Revolution, affecting the Highbury Park Path improvements. Rob Churn provided details of the consultation and the responses to date.

The committee discussed the proposed plan at some length. The committee noted the need for the proposals to be discussed with the shadow Chamberlain Highbury Trust, to ensure nothing proposed restricted the Trust's future ability to integrate/restore the overall Highbury Estate in partnership with the Council.

RESOLVED:

Committee noted the report and welcomes, in principle, the Birmingham Cycle Revolution investment at Highbury, subject to satisfactory outcomes to the consultation with the Shadow Trust

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HARRIET LOUISA LOXTON TRUST - DEPOSITS HELD WITH BCC

Mohammed Majid, Senior Business analyst, presented the report. Seeking recommendation from the committee for the reallocation of £170k currently held within BCC into COIF Deposit fund.

Councillor Gregson queried if all of the sum could be transferred rather than just the £170k. Mohammed clarified that the whole balance could be transferred but if the account fell in to deficit then there would be a charge.

Councillor Pears queried whether the valuations were done yearly and if any information was available on the deposit rate. Mohammed clarified that the valuations are done every six months and the last one was in December 2015. Councillor Pears commented that the committee needs more information on the valuation but this doesn't affect the decision in principle.

Councillor Alden commented that it could be done under Chairman's action and dealt with that way. He also queried how much was being paid annually.

Councillor Quinnen commented that she was in favour of the financial transfer, but wanted to know what CCLA's view was. The Chairman advised that it has been arranged that CCLA will attend the committee meeting in April to provide Members with an annual Report on Trust Investments. Mohammed advised that the current interest being earned on trust investments in the Deposit Fund was 0.45%.

RESOLVED:

Committee agreed to the recommendations subject to more recent valuation.

783 **BIRMINGHAM MUNICIPAL CHARITY – AWARD OF GRANT - YOUTHWISE**

Cllr Ansar Ali Khan took the chair for this item.

RESOLVED:

Committee resolved to award £500 to Youthwise.

784 **BIRMINGHAM MUNICIPAL CHARITY – AWARD OF GRANT - JACQUELINE MILLS - SON'S MEDICAL SUPPORT**

Deferred to the private agenda.

RESOLVED:

Private meeting

785 **BIRMINGHAM MUNICIPAL CHARITY – AWARD OF GRANT BRAIN TUMOUR SUPPORT**

This was an application for a grant to support a charity assisting people recovering from brain tumours, including Birmingham residents. Cllrs Alden and Pears commented on the charity's financial costs and wages bill.

RESOLVED:

Committee approved £500 to Brain Tumour Support.

786 **REVENUE BUDGET MONITORING 2015/16 - QUARTER 2 (TO 30 SEPTEMBER 2015)**

MS presented the report and informed members that the report identifies the income and expenditure position for the Trusts and Charities as at Quarter 2 and up to 30 September 2015. The Chairman advised that he had asked for

this additional information in relation to the restricted and unrestricted balances.

RESOLVED:

The Report was noted by the Committee.

787 **ANNUAL REPORT & ACCOUNTS – 2012/13, 2013/14 AND 2014/15
ALDERSON TRUST (CUSTODIAN TRUST)**

MS presented the report and informed members that the report is for information only as it is a custodian trust and members were to note the annual report and accounts.

RESOLVED:

The Committee noted the report.

788 **ANNUAL REPORT & ACCOUNTS – 2014/15 ACCOUNTS CLARA
MARTINEAU TRUST (CUSTODIAN TRUST)**

Again, MS presented the report and informed members that the report is for information only as it is a custodian trust and members were to note the annual report and accounts.

RESOLVED:

The Committee noted the report.

789 **ANNUAL REPORT AND ACCOUNTS – CHARLES BAKER TRUST FOR
THE PERIOD 2014/15 (SOLE CORPORATE TRUST)**

MS presented the report and advised that it was a sole corporate trust and was seeking the committee's approval of the annual accounts for compliance with the Charity Commission.

The Chairman informed committee that he was seeking legal advice on the possibility of transferring the trust's assets to the Birmingham Municipal Trust.

Councillor Cruise queried what the age and condition of the property was. Nigel Oliver advised that it was two bungalows for the elderly built as part of a run of three within a general housing estate and managed by Housing on behalf of the trust. He had seen the property some eighteen months ago, it is in general good order, but does have some external mould growth due to shading.

Cllr Alden commented that there was some minor accounting recording clarifications, such as information in brackets constituting a negative (figure) and have some details of the person, i.e. a list of people. MS to ask the Directorate to provide this.

RESOLVED:

The Committee approved the report.

790 **ANNUAL REPORT AND ACCOUNTS – L A JONES FOR THE PERIOD 2014/15 (SOLE CORPORATE TRUST)**

MS presented the report and again informed members that the committee's approval is sought to approve the report in order to be compliant with the Charity Commission.

RESOLVED:

The Committee approved the report.

791 **SCHEDULE OF OUTSTANDING MINUTES**

Minute 395 - Sole and Custodian Trustee Trusts and Charities: Officers to report on a sixth monthly basis on the activities undertaken by Sole and Custodian Trusts and Charities.

Committee agreed that this was a rolling item and committee to be advised of progress as and when.

Cllr Gregson asked when the proposed Committee 'Annual Report' to Full Council was likely. The Chairman said he hoped to time this around tangible progress in creating a more accessible grant-aid scheme, linked to better use of the charitable funds available across the Sole Custodian Trusts and using the Birmingham Municipal Charity as the main vehicle for grant-giving. He was taking advice on these matters, but hoped an information report could go Council this year.

792 **OTHER URGENT BUSINESS**

Councillor Alden had privately purchased 2 copies of a booklet produced by the Council in 1927 detailing all the charities of Birmingham. He kindly lent Cllr Davis a copy, who said he welcomed any historic information about the development of City charities and the Council's work with them, which, of course, continues. He is to provide a copy of this page for officers to look in to.

793 **AUTHORITY TO CHAIRMAN AND OFFICERS**

Chairman to move:-

"That the Chairman is hereby authorised to act until the next meeting of the Committee except that, in respect of the exercise of the Council's non-Executive functions, the appropriate Chief Officers are hereby authorised to act in consultation with the Chairman and that the Director of Legal and Democratic Services is authorised to affix the Corporate Seal to any

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That in view of the nature of the business to be transacted which includes exempt information of the category indicated, the public be now excluded from the meeting.

Exempt information paragraph 3

Report to:	TRUSTS AND CHARITIES COMMITTEE	
Report of:	Assistant Director Culture & Visitor Economy	
Date of Decision:	2 March 2016	
SUBJECT:	GRANT OF LEASE AT SAREHOLE MILL RECREATION GROUND	
Wards affected:	Hall Green	

1. Purpose of report:

- 1.1 The renewal of the lease of Sarehole Mill, held in trust as part of Sarehole Mill Recreation Ground (registered charity no. 254995) to Birmingham Museums Trust (BMT) as part of the renewal of the contract to operate the Museums and Heritage Service as to be approved by Birmingham City Council at their Cabinet meeting on 22 March 2016.

2. Decision(s) recommended:

That the Committee:-

- 2.1 Notes the report to Cabinet and the proposed renewal of the contract and leases to Birmingham Museums Trust
- 2.2 Agrees that once Cabinet having approved the above that a recommendation be made to the next available meeting of the Full Council as trustee that the grant of the lease of Sarehole Mill to Birmingham Museums Trust be approved on terms to be agreed by the Director of Property, for up to a 25 year term in line with the proposals set out in the Cabinet Report.
- 2.3 To seek any further approval necessary of the Charity Commission or descendants of the original transferors of the land, or other bodies as appropriate and to agree to make any applications necessary for appropriate powers of disposal.
- 2.4 Authorises the City Solicitor to place any formal advertisements required under s123 2(a) of the Local Government Act 1972 for the loss of public open space (if any) or required under any of the various statutes as may relate to the charitable status of the land including any appropriate consultation stages and to appraise the Committee of the results of that consultation. .
- 2.5 Authorises the City Solicitor to prepare, negotiate, execute, seal and complete all necessary legal documentation for the operation of the land and buildings at Sarehole Mill Recreation Ground by Birmingham Museums Trust, including this lease, to give effect to the above decisions.

Lead Contact Officer(s):	Val Birchall - Assistant Director, Culture Commissioning
Telephone No:	0121 303 2919
E-mail address:	val.birchall@birmingham.gov.uk
Telephone No:	Nigel Oliver - Property Manager, Birmingham Property Services
E-mail address:	0121 303 3028 nigel.g.oliver@birmingham.gov.uk

3.	Consultation
3.1	<p>Consultation should include those that have an interest in the decisions recommended.</p> <p><u>Internal</u></p> <p>On 22nd March 2016 the report of Strategic Director of Major Projects on the 'Birmingham Museums Trust Contract 2016-21 and Lease Arrangements' will be presented for approval at Cabinet after much consultation and set out the principle for the Museum sites to continue to be operated by the BMT and for the leasing out of all current Museum buildings. Sarehole Mill is part of the Sarehole Mill Recreation Ground held in trust and it is appropriate to resolve that the continuation of this site being leased on the same main terms as the other community museums.</p>
3.2	<p><u>External</u></p> <p>No additional separate consultation is envisaged except where further consultation locally may be required to satisfy the requirements of the Charity Commission and the various Charities Acts.</p>
4.	Compliance Issues:
4.1	<p><u>Are the recommended decisions consistent with the Council's policies, plans and strategies?</u></p> <p>The objects/purposes of the Council's charitable trusts all have a commonality and principally are held for the benefit of the citizens of Birmingham. Actions proposed are required to be in the best interests of the trust and are intended to preserve the trust estate for the future while consistent with the Council's Policies, Plans and Strategies. Land at Sarehole Mill Recreation Ground is held for public open space.</p> <p>The Mill building is Grade 2 Listed and existed long before the park was created or the gift forming the trusteeship was given. It remains an integral part of the park and the locality. It is appropriate that the premises remain in active use and where the Trust cannot run these directly they need to be operated in partnership or leased out. BMT has been operating the Mill successfully since 2011 and with the renewal of the contract it is appropriate to consider the renewal of the lease subject to the relevant permissions from the Charity Commission. The renewal would assist in maintaining a high quality museum offer to the residents of Birmingham while hoping to maximise opportunities for income generation. The proposal will not result in material changes on site and will continue to comply with the objects of the charity.</p>
4.2	<p><u>Financial Implications</u> (Will decisions be carried out within existing finance and resources?)</p> <p>N/a. The operational costs for the Mill and pond will be covered by the BMT and continue to absolve the Sarehole Mill Recreation Ground Trust from financial involvement. The lease will be granted on terms that will reflect best value and satisfy matters for this under s36 of the Charities Act 1993 though in practice it is anticipated that the lease will be granted on a peppercorn rent reflecting the considerable costs of maintaining and operating the Mill as a visitor attraction. Funding support will still be given to BMT by the City Council Museums & Heritage Service.</p>
4.3	<p><u>Legal Implications</u></p> <p>Management and governance arrangements for Charitable Trusts are set out in the constitution under which they were established. Charity Trustees in making decisions must also comply with Charities Act 2011, Trustee Act 2000, other relevant legislation and guidance issued by the Charity Commission. The assets of a charity must be used in accordance with charitable law, failing which this will give rise to a breach of trust. Trustees have a duty to preserve the assets of the trust. Decisions made by the charity must be expedient in the interests of the charity at all times. The disposal of trust assets is an exceptional event and must be in line with appropriate professional advice.</p>

The City Council is Sole Corporate Trustee of a number of charitable trusts and has delegated day to day management decisions in respect of these trusts to the Trusts and Charities Committee with decisions on other matters being approved at meetings of the Council as Trustee. Proposals for the management of land in trust or of services thereon require robust procedures to safeguard the Trust and the public using the parkland and buildings to comply with charity law. Charitable activity is further regulated by the Charity Commission. Section 19 of the Local Government (Miscellaneous Provisions) Act 1976 allows the City Council powers to amend services and meets the Council's regulations and standing orders.

4.4 Public Sector Equality Duty (see separate guidance note)

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. However an Equality Impact Assessment has been undertaken for the Cabinet report. No decision on a new lease will take place until the 'Council as trustee' have considered the matter further.

5. Relevant background/chronology of key events:

- 5.1 The land was gifted to the City under the will of A. H. Foster proved at Birmingham on 3rd January 1929. An order of the Charity Commission was dated 25th April 1946 and a scheme of powers was resolved on 28 May 1970. The charitable objects require the land to be used principally as open space for botanical garden, park, recreation ground or other similar purposes for the benefit of the City of Birmingham as the Lord mayor Aldermen and Citizens may decide. The charitable objects fit into the Charity Commissions classifications for arts/culture/heritage/science and amateur sport. Sarehole Mill is one of the few working mills in Birmingham or the surrounding area and has continued to be linked to the Lord of the Rings stories by J. R. R. Tolkien.
- 5.2 On 11 July 2011 the report of the Strategic Director of Environment and Culture on the Birmingham Museums Project Business Plan to deliver the museums and heritage service was approved at Cabinet Committee Property. The BMT is also a registered charity (no. 1147014). The company is headed by Trustees with the sole member of the company is the Birmingham City Council. The substantial continued involvement of the City Council gives additional direction and control particularly at financial level but also means that it is a transaction with a connected party under the Charity Act 1993 and requires an order from the Charity Commission for final approval. It is anticipated that the Birmingham Museums Trust new company be granted a lease for 25 years at a peppercorn rent and contracted out of the security provisions of the Landlord and Tenant Act 1954 Part 2. The contract for the operation of the Museums Service is for five years only reflecting the length of term over which the Council can confirm funding for the service and accordingly options to break the lease will be included should for any reason the main contract be brought to an end by either party.
- 5.3 BMT will continue to operate this as an attraction open to the public on the same terms as existing being responsible for all day to day matters while the City Council will continue to be liable for major renovation costs while working together to secure external capital funding.
- 5.4 The granting of the leases and the Service Agreement with appropriate Key Performance Indicators will provide a suitable mechanism for the City Council to be assured of a well-Run Museums service in future years and that robust procedures to adequately Safeguard the Committee and the public using the adjoining park land, and to comply with charity law, remain in place.

5.5.a Aims and Objectives of the Charity

Each park is held as a separate trust and decisions need to be in the best interests of that trust. The land in the Sarehole Mill Recreation Ground is held as public open space.

5.8.b Trustee Powers

The charity's constitution is set out within the executed Trust Deed for each park principally the acquisition deeds or as amended by a scheme agreed with the Charity Commission. All decisions will be mindful of the original intention set out in the documents however subject to compliance with Charity law and Part 7 Charities Act 2011 sufficient powers normally exist for the Trustees to make decisions on the future of the assets including disposal in the Trustee of Land and Appointment of Trustees Act 1996. However disposals to a connected party require specific Charity Commission consent.

5.8.c. Charity Finances

Formal accounts are required to be prepared for the Charity Commission returns where appropriate although income is very low and far exceeded by general maintenance obligations for the parkland with all duties undertaken by BCC Parks Service.

6. Evaluation of alternative option(s):

- 6.1 Do nothing. This is not an appropriate option as the Mill and pond need to be in the management of an appropriately funded person and is considered most suitably to be used best as a facility open to the public as a working mill. The Council as Trustee must be able to demonstrate that measures for the effective management of land in its jurisdiction are in place and the formation of an appropriate lease will ensure compliance.
- 6.2 Release to the general market. This is possible but not likely desirable as the Mill is one of eight main museums in the city and retaining them all under single management is appropriate to ensure a co-ordinated and strategic approach to leisure facility provision in Birmingham.

7. Reasons for Decision(s):

- 7.1 To facilitate the on-going modernisation of the Museums & Heritage Services by permitting the grant of a lease to the BMT and to allow further necessary approvals to be put in place for this.

Signatures

Date

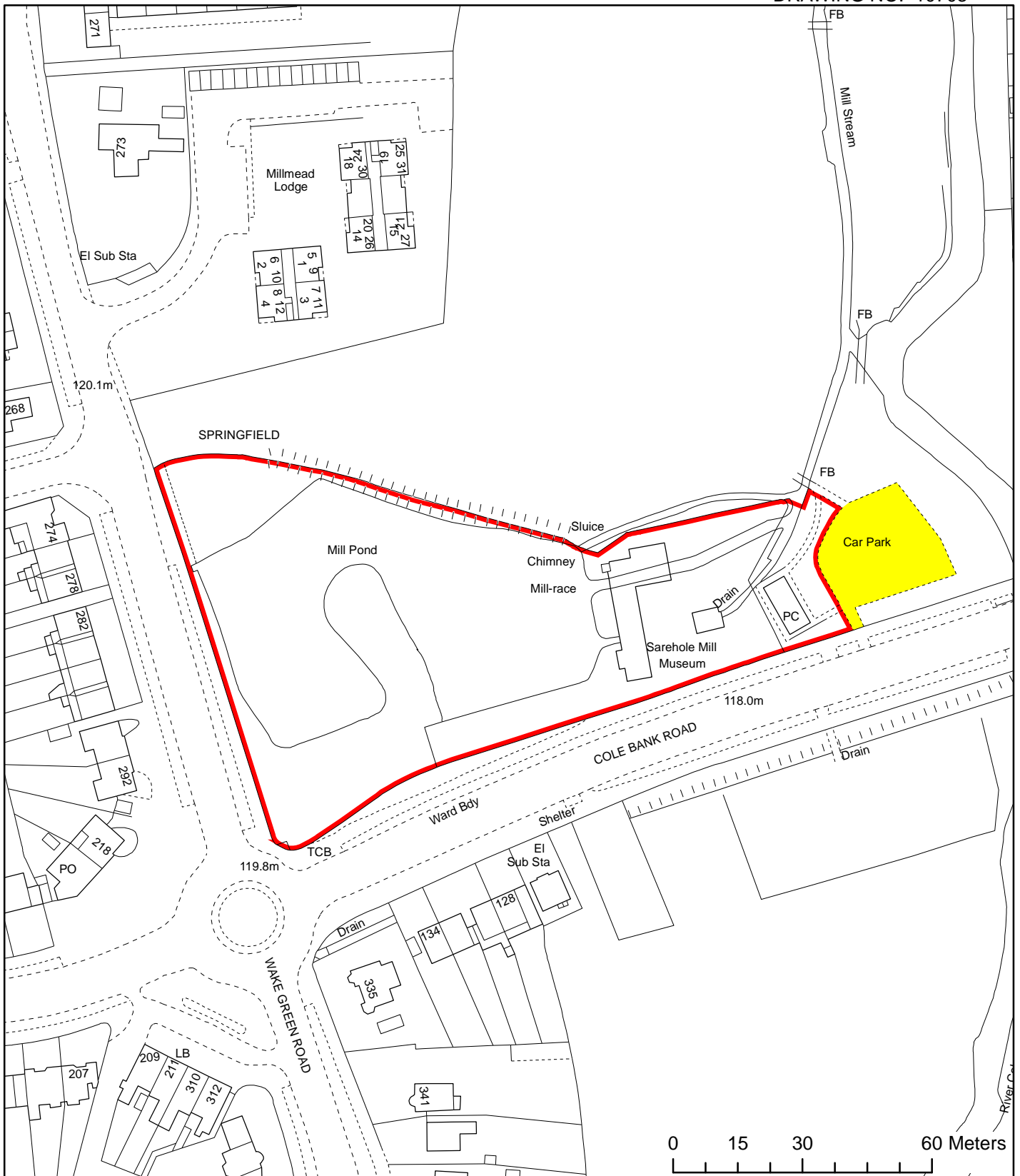
Chairman of the Trusts & Charities Committee

Chief Officer

Assistant Director Culture & Visitor Economy

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List of Background Documents used to compile this Report:	
1. Acquisition Deed dated 3 rd January 1929 with scheme of powers dated 28 May 1970	
2. Cabinet report dated 22 nd March 2016 Birmingham Museums Trust Contract 2016-21 and Lease Agreements	
List of Appendices accompanying this Report (if any):	
1. Plan showing the location and extent of the lease to be granted.	



AREA EDGED RED

0.8

HECTARES. APPROX.

1.99

ACRES. APPROX.



Sarehole Mill Museum
Cole Bank Road



Peter Jones
 Director of Property
 Birmingham Property Services
 1 Lancaster Circus
 PO Box 2470
 Birmingham, B1 1TR

SCALE

1:1,250

DRAWN

Mohammed Ilyas

DATE

20th October 2011

OS.Ref. SP0981NE

TRUSTS AND CHARITIES COMMITTEE
2 MARCH 2016
SCHEDULE OF OUTSTANDING MINUTES

<u>Date/ Minute No</u>	<u>Subject Matter/Response</u>	<u>Comment</u>
19/09/12 – 395	<u>Sole and Custodian Trustee Trusts and Charities</u> – officers to report on a sixth monthly basis on the activities undertaken by Sole and Custodian Trusts and Charities.	<p>Committee determined to retain this Minute on the 22 Julyl 2015</p> <p>Committee in light of the fact that officers would continue to Report to Committee on a six monthly basis on the activities undertaken by the Sole and Custodian Trusts & Charities.</p> <p>In addition Officers are to work towards drafting the next Annual Report to Full Council as Trustee, as determined by Committee on the 22 July 2015</p>

