

Report to:	TRUSTS AND CHARITIES COMMITTEE
Report of:	Integrated Service Head – Libraries
Date of Decision:	22 January 2020
SUBJECT:	BARTLEY GREEN LIBRARY – GRANT OF LEASE
Wards affected:	Bartley Green

1. Purpose of report:

- 1.1 To seek approval to obtain revised management powers for Bartley Green Library, held in trust, including a power of disposal which will enable the grant of leases, including a lease to the voluntary group proposing to operate the Library.

2. Decisions recommended:

That the Committee authorises

- 2.1 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 including the disposal by way of a lease for up to 30 years.
- 2.2 from an early date to be agreed, the grant of a tenancy of up to three years to the 'Bartley Green Library Hub', a local community organisation, who will assist in the operation of the Library
- 2.3 that the recommendation of the Trusts and Charities Committee be advanced to the next available meeting of the Council as Trustee for approval
- 2.4 delegates to the Assistant Director of Property authority to secure appropriate valuation and marketing advice in line with statutory requirements of the Charities Act 2011 for the disposal of the property and negotiate the terms of any disposal
- 2.5 authorises the City Solicitor to prepare, negotiate, execute, seal and complete all necessary legal documentation to grant the lease including the applications to the Charity Commission to give effect to the above recommendations and to apprise the Committee of the results of the applications and consultation.

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3. Compliance:

3.1 Consultations:

Officers in the Library Service have undertaken all consultation and included the continuation of service provision at this location in their Service review report entitled 'Community Library Service – consultation on tiered delivery model' dated 18 October 2016 and subsequently reported to Cabinet meeting dated 14 February 2017. This is designated a Tier 3: Supported Community Library – these would be run by a community provision supported by the Library Service or via a transferred facility. Ward Members have been fully involved in the proposal to manage the library via a community volunteer group and support the proposal. Further consultation regarding this report is not envisaged except where it may be required to satisfy the requirements of the Charity Commission in support of the applications to them.

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 with final decisions on a disposal of land or assets being made by Council as Trustee. Charitable trust activity is regulated by the Charity Commission and any proposals relating to the estate will be governed by the Trust documents, as amended by any Scheme approved by the Charity Commission. As trustee the City Council is responsible for ensuring the Trust is properly managed in all regards.

Bartley Green Library is held freehold. The land was provided for a designated use and is regarded as 'specie land' by the Charity Commission. The trust deed does not expressly provide any powers to deal with the property or manage the trust and the Trust will need to make applications to the Charity Commission for appropriate modern management powers including powers of disposal of property. The provisions of the Section 6(1) Trusts of Land and Appointment of Trustee Act 1996 which provides an implied statutory power of disposal will not assist in this instance. Disposal in this instance may include freehold sale and also the grant of leases or tenancies or the management of the holdings by other parties.

3.3 How will decisions be carried out within existing finances and resources?

Duty of prudence – Trustees must ensure that the charity is and will remain solvent. The trustees are responsible for ensuring appropriate cost controls are in place. A lease is a disposal and any disposals will be conducted in line with statutory processes set out in the Charities Act 2011 and revenue ring-fenced and invested appropriately for the Charity. Any disposal, if approved, will be processed by officers in Legal Services and Birmingham Property Services and the valuation report will be undertaken by a qualified valuer. All future running costs for the premises will continue to be covered by the incoming tenant to be selected removing any potential burden from the Trust.

3.4 Main Risk Management and Equality Impact Assessment Issues (if any):

Not applicable. 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 freehold interest of the land for Bartley Green Library was gifted to the Kings Norton and Northfield Urban District Council by Henry Adkins on 10th August 1904 and is recorded as a gift and is land held in trust. This is not a registered charity.
- 4.2 The transfer was subject to the requirement that within twelve months the Council should erect on the land a 'Reading Room' for the use of the residents of Bartley Green. The 'Reading Room' was opened in 1905 and known as Bartley Green Free Library. The Urban District Council was incorporated into the County Borough of Birmingham now Birmingham City Council in 1911.
- 4.3 The proposal to seek a Scheme or Order from the Charity Commission is necessary as the acquisition documents provide none of the powers required for the management of a modern trust nor any mechanism for change and currently there is no ability to provide an alternative use or users of the premises. It is a statutory requirement on the Trust to at all times seek to preserve and properly manage its assets. To do so also requires that all occupations be properly documented.
- 4.4 On the 19th June 1992 a Scheme was granted by the Charity Commission to enable the disposal of a portion of the land. No other powers were granted by that Scheme.
- 4.5 The report seeks approval to seek a scheme enabling leases of up to 30 years to be granted which will enable future flexibility particularly should larger bids for external grant monies need to be considered. At this stage the voluntary group initially seek only a three year lease.

4.6 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 of the trust. The specific objects of the trust are simply to 'use of the premises as a reading room / library. The occupation by the proposed group will enhance the opening hours and service provision at the Library.

4.7 Trustee Powers

A trust's constitution is set out within the executed Trust Deed for each property 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 exist or can be obtained for the Trustees to make decisions on the future of the assets including disposals except where an asset is regarded as 'specie' land.

4.8 Trust Finances

The sole asset of the trust is the library building and grounds. The trust has no revenue source or capital investments. The property to be leased is currently managed and maintained by Birmingham City Council Library Service but who are now seeking to enable to day to day operation of the library to be undertaken through a local voluntary community group and the grant of a lease or operational agreement will enable the group to apply for grants for the improvement of the property and enhance service delivery.

5. Evaluation of alternative option:

This report seeks approval to make applications to gain appropriate powers for improved future management and to enable a disposal of the property. The establishment of a local community group to assist with the library operations positively benefits the continuation of a library at this location and assists the objects of this trust. To do nothing is not an appropriate option as the future occupation of the asset requires to be properly regularised and this is most safely achieved by the grant of an appropriate lease.

6. Reasons for Decision(s):

6.1 To better safeguard the provision of services to the local community which services assist the trust to meet its objects around recreational and educational use of the asset.

Signatures:

Chief Officer(s):

Dated:

List of Background Documents used to compile this Report:

1. Deed of Acquisition dated 10th August 1904

List of Appendices accompanying this Report (if any):

1. None.