

# **BIRMINGHAM CITY COUNCIL**

## **COUNCIL AS TRUSTEE**

**TUESDAY, 13 MARCH 2018 AT 13:45 HOURS**  
**IN COUNCIL CHAMBER, COUNCIL HOUSE, VICTORIA SQUARE,**  
**BIRMINGHAM, B1 1BB**

## **A G E N D A**

### **1 NOTICE OF RECORDING**

Lord Mayor to advise that this meeting will be webcast for live or subsequent broadcast via the Council's Internet site ([www.civico.net/birmingham](http://www.civico.net/birmingham)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

### **2 DECLARATIONS OF INTERESTS**

Members are reminded that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable 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.

**5 - 8**

### **3 MINUTES**

To confirm and authorise the signing of the Minutes of the Meeting of the Council as Trustee held on 7 November 2017.

**9 - 102**

### **4 A MULTIPLE REPORT ON PROPERTY MATTERS FOR DISCUSSION BY COUNCIL AS TRUSTEE**

**(15 minutes allocated) (1345-1400)**

To consider report of the Trusts and Charities Committee.

**Councillor Habib Rehman to move the following Motion:**

That Full Council sitting as 'Council as Trustee':

A. Highbury – Grant of Long Lease to Chamberlain Highbury Trust

i) approves the grant of a lease of the Highbury Estate (excluding the land which is the subject of a separate lease to Birmingham City Council for its use by Uffculme Special School) to an independent charity, namely the

Chamberlain Highbury Trust as identified in the report to Trust and Charities Committee of 17<sup>th</sup> January 2018 on terms to be agreed and for a term up to 125 years.

B. Cropwood Estate - Hunters Hill College use of additional land

i) approves that the land identified as parcels A and B as identified in the report to Trust and Charities Committee of 17<sup>th</sup> January 2018 together with the woodland either side of Spirehouse Lane be added to the land already occupied by the College and let to the College on terms to be agreed or if required let to the Hunters Hill Charitable Trust.

C. Cannon Hill Park – installation of the Sousse and Bardo Memorial

i) approves the erection and dedication of the memorial on land identified in the report to Trust and Charities Committee of 17<sup>th</sup> January 2018 on terms to be agreed.

D. Birmingham Charities Limited

i) approves the disposal of any land held in trust approved by Council as Trustee to the charitable company, where this is required in order to effect any disposal back to the City Council in its statutory capacity as a “connected person” pursuant to Sections 117-s118 Charities Act 2011.

ii) To note that the formation of this charitable company supersedes any requirement to have established individual charitable companies for the relevant charitable trust seeking to dispose of assets back to the City Council as previously approved by the Council as Trustee at its meeting on 6<sup>th</sup> December 2016, specifically, the disposal of land at Grove Park held in trust as the ‘Public Park in Harborne’ registered charity no.501802 in respect of the Kenrick Centre;

iii) To note that the formation of this charitable company supersedes any requirement to have established individual charitable companies for the relevant charitable trust seeking to dispose of assets back to the City Council as previously approved by the Council as Trustee at its meeting on 4<sup>th</sup> March Full Council as Trustee 13032018 multi motion report Page 6 of 6 2014, specifically, the disposal of land at Highbury registered charity no. 1039194 in respect of Chamberlain House for its use by Uffculme Special School.

and

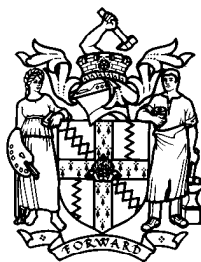
that the Assistant Director of Property (Interim) be authorised to secure appropriate valuation and marketing advice in line with statutory requirements of the Charities Act 2011 for the disposal of property and to negotiate and agree the terms of all agreements on behalf of the Trusts provided that appropriate restrictions are included in the disposal terms to properly safeguard the individual Trust

and

that the City Solicitor and Monitoring Officer be authorised to prepare, negotiate, execute, seal and complete all necessary documentation,

including the making of applications to the Charity Commission for any purposes required to give effect to the above decisions and also to place any formal advertisements required under either s123 of the Local Government Act 1972 or the various statutes as may relate to the charitable status of the land, manage any appropriate consultation stages and to appraise the Trusts and Charities Committee of the results of that consultation.





<b>COUNCIL AS TRUSTEE 7 NOVEMBER 2017</b>
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**MINUTES OF A MEETING OF THE  
COUNCIL AS TRUSTEE COMMITTEE  
HELD ON TUESDAY 7 NOVEMBER 2017  
AT 1345 HOURS IN THE COUNCIL CHAMBER,  
COUNCIL HOUSE, BIRMINGHAM**

**PRESENT:-** Lord Mayor (Councillor Anne Underwood) in the Chair.

**Councillors**

Uzma Ahmed	Mick Finnegan	Kieth Kinnecor
Mohammed Aikhlaq	Des Flood	Mary Locke
Deirdre Alden	Jayne Francis	Ewan Mackey
Robert Alden	Carole Griffiths	Majid Mahmood
Sue Anderson	Peter Griffiths	Karen McCarthy
Gurdial Singh Atwal	Paulette Hamilton	James McKay
Mohammed Azim	Andrew Hardie	Yvonne Mosquito
Susan Barnett	Roger Harmer	Brett O'Reilly
David Barrie	Kath Hartley	John O'Shea
Bob Beauchamp	Barry Henley	Eva Phillips
Kate Booth	Des Hughes	Robert Pocock
Sir Albert Bore	Mahmood Hussain	Habib Rehman
Barry Bowles	Shabrana Hussain	Fergus Robinson
Randal Brew	Timothy Huxtable	Gary Sambrook
Marje Bridle	Ziaul Islam	Rob Sealey
Mick Brown	Morriam Jan	Shafique Shah
Alex Buchanan	Kerry Jenkins	Mike Sharpe
Tristan Chatfield	Meirion Jenkins	Sybil Spence
Zaker Choudhry	Simon Jevon	Claire Spencer
Debbie Clancy	Julie Johnson	Stewart Stacey
Liz Clements	Brigid Jones	Martin Straker Welds
Lyn Collin	Carol Jones	Paul Tilsley
Maureen Cornish	Nagina Kauser	Lisa Trickett
John Cotton	Tony Kennedy	Ian Ward
Basharat Dad	Changeese Khan	Mike Ward
Diane Donaldson	Mariam Khan	Fiona Williams
Peter Douglas Osborn	Narinder Kaur Kooner	Ken Wood
Barbara Dring	Chaman Lal	Alex Yip
Neil Eustace	Mike Leddy	Waseem Zaffar

Mohammed Fazal

Bruce Lines

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**NOTICE OF RECORDING**

- 29 The Lord Mayor advised that the meeting would be webcast for live and subsequent broadcasting via the Council's internet site and that members of the Press/Public may record and take photographs except where they were confidential or exempt items.

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**MINUTES OF LAST MEETING**

- 30 **RESOLVED:-**

That the Minutes of the meeting of Council as Trustee held on 12 September 2017, having been printed and a copy sent to each Member of the Council as Trustee, be taken as read and confirmed and signed.

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**A MULTIPLE REPORT ON PROPERTY MATTERS FOR DECISION BY COUNCIL AS TRUSTEE**

The following report of the Trusts and Charities Committee was submitted:-

(See document No. 1)

Councillor Habib Rehman moved the motion which was seconded.

A debate ensued.

Councillor Habib Rehman replied to the debate.

The Lord Mayor indicated that that she would take each part of the Motion separately.

The Motion having been moved and seconded was put to the vote separately as follows

Part A - Highbury – Disposal of former lodge 98 Queensbridge Road by a show of hands was declared to be carried.

Part B - Moseley Road Community Centre (Friends Institute), 220 Moseley Road by a show of hands was declared to be carried.

Here upon a poll being demanded the voting, with names listed in seat number order, was as follows:-

(See document No 2)

The total results referred to in the interleave read:-

Yes – 62 (For Part B of the Motion);

## Council as Trustee – 7 November 2017

No – 24 (Against Part B of the Motion);

Abstain – 2 (Abstentions).

Part C - Elford Estate – disposal of land adjoining Paget House by a show of hands was declared to be carried.

Here upon a poll being demanded the voting, with names listed in seat number order, was as follows:-

(See document No 3)

NB The documents have been amended to show that Councillor Mahmood Hussain had voted yes and Councillor Martin Straker Welds had vote yes and not as shown in the documents.

The total results referred to in the interleave read:-

Yes – 61 (For Part C of the Motion);

No – 24 (Against Part C of the Motion);

Abstain – 2 (Abstentions).

It was therefore –

31

### **RESOLVED:-**

That Full Council sitting as 'Council as Trustee':

#### **A. Highbury – Disposal of former lodge 98 Queensbridge Road**

- i) notes that the property is currently vacant and although safeguarded by a guardian occupation, is principally unimproved and in need of capital improvements but no longer required as residential accommodation by the Chamberlain Highbury Trust; and
- ii) approves the proposal to negotiate a disposal of the freehold interest on terms to be agreed of the house and grounds set out in Appendix 1.

#### **B. Moseley Road Community Centre (Friends Institute), 220 Moseley Road**

- i) notes the report approved at Committee on 3<sup>rd</sup> July 2013 and the continuing desire to release the premises in the open market for community purposes or, if needs be, other uses and that this will ultimately require powers to enable the disposal of the premises by sale or by the grant of a formal lease or leases, but for which no existing power exists;
- ii) confirms that Expressions of Interest from the third sector with a view to transferring management or ownership of the building be sought in line with the terms approved by Committee on 3<sup>rd</sup> July 2013;

## Council as Trustee – 7 November 2017

- iii) authorises that separately applications be made to the Charity Commission to obtain a further revision to the existing Scheme for the better management of the trust assets including powers of disposal, winding up the Charity if appropriate and/or seeking to widen the charitable activities at the premises;
- iv) authorises, if necessary, the making of applications including a Deed of Release from the giftor's family seeking to remove or amend the restrictive covenants limiting the use of the premises that might hinder disposal or future use; and
- v) authorises the disposal of the premises by way of a sale or by a lease, for up to 35 years from an early date to be agreed, to an appropriate organisation or persons to be determined via the proposed marketing and selection procedures.

### C. Elford Estate – disposal of land adjoining Paget House

- i) notes that land identified on the plan in Appendix 1 is land not accessible to the general public and provides no community function for the Elford trust nor provides any opportunity for further development; and
- ii) approves the proposal to negotiate a disposal of the freehold interest on terms to be agreed of portions of this land to the owner of the adjoining Paget House.

and

that the Assistant Director of Property (Interim) be authorised to secure appropriate valuation and marketing advice in line with statutory requirements of the Charities Act 2011 for the disposal of property and to negotiate and agree the terms of all agreements on behalf of the Trusts provided that appropriate restrictions are included in the disposal terms to properly safeguard the individual Trust

and

that the City Solicitor and Monitoring Officer be authorised to prepare, negotiate, execute, seal and complete all necessary documentation, including the making of applications to the Charity Commission for any purposes required to give effect to the above decisions and also to place any formal advertisements required under either s123 of the Local Government Act 1972 or the various statutes as may relate to the charitable status of the land, manage any appropriate consultation stages and to appraise the Trusts and Charities Committee of the results of that consultation.

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The meeting ended at 1400 hours.

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CHAIRMAN



**REPORT OF TRUSTS AND CHARITIES COMMITTEE****A MULTIPLE REPORT ON PROPERTY MATTERS FOR DECISION BY  
COUNCIL AS TRUSTEE.**

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**1. PURPOSE/SUMMARY**

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To seek formal approval from Council as Trustee to the Motions proposed for each of the matters set out below which after consideration at earlier Trust and Charities Committee meetings are recommended to proceed.

To note also the formation of Birmingham Charities Limited ("BCL"), Companies House Registration number 10392574, as a charitable company (of which the Council is sole member) and which has been established to permit the disposal of assets by the Council's various charitable trusts as Sole Corporate Trustee and in its statutory capacity and as a "connected person" for the purposes of S117 -118 of the Charities Act 2011.

BCL is jointly a non-exempt charity and is regulated by the Charities Commission and Companies House.

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**2. BACKGROUND**

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**Governance arrangements**

The City Council is Sole Corporate Trustee for a number of charitable trusts. Whereas day-to-day management decisions are delegated to the Trusts and Charities Committee only Full Council sitting as "Council as Trustee" can sanction disposals or major changes on trust land. Disposals include sales, the grant of leases, licences, easements and wayleaves and other arrangements for the use of trust land and property.

Each charitable trust is governed by the deed under which it was established, and/or by a Charity Commission Scheme or Order where applicable. These documents will usually set out Trustees powers, as well as the objects or purposes for which the charitable trust was created.

Generally, a disposal of charitable land whether by sale or lease etc. can only occur where the Trustees have either an express power of disposal within the Deed and/or Charity Commission Scheme, or can rely on an implied power under the Trusts of Land and Appointment of Trustees Act 1996 (the "1996 Act"). In some cases trust deeds do not provide a power of disposal and it is not possible to rely on the provisions of the 1996 Act. In those circumstances, the Trustee will need to make application to the Charity Commission for the grant of a Scheme of new management powers or an Order for the specific action. The Commission would only provide a Scheme or Order, if the Trustee can clearly demonstrate that the decision proposed is expedient in the interests of the Trust.

It is a requirement of the Charities Act 2011 that any charitable trust must carefully consider the method of disposal and achieve best value, although there are some statutory exceptions

to this requirement when dealing with other charities. Where the Trusts and Charities Committee are recommending a sale of trust property, to ensure compliance with the Charities Act 2011, it is currently most likely that the disposal will proceed by way of auction subject to a suitable reserve being set but other methods will be considered. Properties leased out will generally be advertised to the open market to ensure best value, again in compliance with the Charities Act 2011.

### Birmingham Charities Limited

Any disposal between a charitable trust and Birmingham City Council will have to be sanctioned by the Charity Commission as a “connected person” disposal for the purposes of Part 7 Charities 2011.

However, the Charity Commission is aware of the legal principle established in case of *Rye v Rye* [1962] A C 496 that no one person can be both landlord and tenant of their own property. This also is the position adopted by the Land Registry who would have to be approached to register the Council’s leasehold interest in any land it seeks to acquire for use in its statutory capacity.

Paragraph 4.4 of Land Registry Practice Guide 25, updated on the 3 April 2017, states that:

*“The House of Lords decided that neither one person, nor a company, can create a lease in favour of the same person or company. Any attempt to do so is without legal effect (Rye v Rye [1962] A C 496). Therefore, we also cannot give any kind of registered title to such a lease.”*

All the Council’s charitable trusts (registered and non-registered with the Charity Commission) are unincorporated. This means that none of these charitable trusts have a sufficiently separate and distinct legal personality to grant a lease back to Birmingham City Council where the Council wishes to use or occupy trust land for its statutory purposes.

Where a charitable trust has agreed to enter into a lease (as landlord) or make a disposal of land held in trust back to the City Council and Part 7 Charities Act 2011 applies, the only way to effect this disposal or lease is through a charitable company which has the power to hold and acquire land on behalf of the Council as Corporate Trustee. Once the charitable company has legally acquired the interest in the land, a disposition in favour of the Council for its statutory purposes can be put in place on terms agreed with the relevant charitable trust and then be registered with the Land Registry.

Therefore, the charitable trust would first need to transfer the assets of the charity agreed to be disposed of, (either the freehold or more usually by long “headlease” to a wholly owned charitable company formed for that purpose. The terms of any such headlease to the Council charitable company must be sufficient to allow the Council itself to enter into a sub-lease for the interest it would seek to acquire from the relevant charitable trust.

Following guidance issued by the Charity Commission, Birmingham Charities Limited, charitable company Companies House Registration number 10392574 was incorporated on the 23 September 2016 in order to give effect to the matters set out above and it’s Articles of Association as set out within Appendix 2 of this Report.

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### **3. MATTERS TO BE DETERMINED**

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#### **A. Highbury – Grant of Long Lease to Chamberlain Highbury Trust (“CHT”)**

The Estate comprises approximately 13.03 hectares (32.2 acres) of park land including Highbury Hall, Chamberlain House and three lodges 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.

Chamberlain Highbury Trust (Registered Charity no. 1169845) has been formed to manage the estate in future and to seek funds to refurbish Highbury. Approval has already been given to grant a lease of the estate (excluding Chamberlain House already leased to Birmingham City Council for school purposes) at a peppercorn rent and for up to 35 years to the Chamberlain Highbury Trust.

CHT recently submitted a bid to the Heritage Lottery Fund (HLF) which was not successful. CHT will be submitting a refreshed bid in March 2018. Funds from HLF are limited and will continue to be limited in future years and in reviewing their proposed submission have identified that an improved business model for the CHT management of the Estate would be to have a longer lease and have requested that a 125 year lease be granted.

At its meeting on 17<sup>th</sup> January 2018 the Trusts and Charities Committee considered a report for the grant of the longer lease to CHT for the reasons set out and recommended that the decision proceed to approval by the Council as Trustee. The land is held in trust and formal approval to the disposal or transfer and the actions required to effect this is now required.

The Highbury Estate is held in trust and formal approval to the disposal and the actions required to effect this is now required.

#### **B. Cropwood Estate – Hunters Hill College use of additional land**

The Estate comprises 36.5 hectares of land at Cropwood originally gifted by Barrow Cadbury and Mrs Geraldine Cadbury, and approximately half of this has always been used for the College campus, whilst the remaining pasture land and woods was to be let on agricultural tenancies to provide an income to the Trust. The College has been operating a small agricultural unit to better support the school curriculum and are requiring to expand the amount of land directly required for animal husbandry and have requested the use of further additional land for the school.

At its meeting of 19<sup>th</sup> July 2017 the Trusts and Charity Committee acknowledged that the proposal by the College to take more land into direct occupation was not detrimental to the objects of the trust or the future management of the Estate and it was prepared to recommend that 7.01 hectares of land (parcels C and D shown in Appendix 1) be let to the College subject to the negotiation of suitable terms for its disposal. This was approved at Council as Trustee on 12<sup>th</sup> September 2017.

Subsequently the College has requested the remaining pasture (parcels A and B) and the adjoining woodland areas be allocated to them to further support the development of the agricultural unit and wider schools use. A visit to the College by the Trusts and Charities Committee was undertaken on 15<sup>th</sup> November 2017 and at its meeting of 17<sup>th</sup> January 2018 it acknowledged that the use of the remaining land by the College was appropriate and could be recommended. The College also requested that all land be let to them at a peppercorn rent (at less than best value) which the Committee were also prepared to recommend, the

loss of any income due to the Trust being more than off-set by the College accepting management responsibilities for the land, subject to the Trust being able to resolve the normal requirements of the Charities Act 2011 to obtain best value.

It is noted that the College have a Charity arm, the Hunters Hill Charitable Trust and it may be appropriate that the letting is to that Charity. The Trust already has all necessary powers to enable the disposal to proceed but may require further approvals from the Charity Commission.

The Cropwood Estate is a registered charity no. 1085296. The land is held in trust and formal approval to the disposal and the actions required to effect this is now required.

#### C. Cannon Hill Park – installation of the Sousse and Bardo Memorial

Trustees will recall the two terrorist incidents in Tunisia and the loss of lives there which this proposed memorial represents. The placement of this memorial in Cannon Hill Park has been requested after discussion between the Foreign and Commonwealth Office with officers at several local authorities including Birmingham City Council and in consultation with the victims and their relatives. Birmingham and Cannon Hill Park was requested as the preferred base due to the central location of Birmingham and the accessibility and quality of the park landscape. The site selected is an area suitable for quiet contemplation and for additional installations and the memorial is judged to be an attractive addition to the Park. The area will once installation is complete be fully open to the public as part of the park.

The cost of the design and construction works will be fully funded by the Foreign and Commonwealth Office who will organise and manage the contract for its installation and also provide to the BCC Parks Service a substantial dowry to off-set future maintenance. Any agreements or 'disposals' for the use of the land will be conducted in line with statutory processes set out in the Charities Act 2011 but it is not envisaged that any rent will be charged for the installation. The conduct of the site operations will be overseen by Parks officers.

Cannon Hill Park was formed from the original core gift of 57 acres from Miss Louisa Anne Ryland on 18<sup>th</sup> April 1873 who also gave money for it to be laid out as a park and opened on 1<sup>st</sup> September 1873 but was soon extended by a number of other gifts and purchases to form the current Park of approximately 80.66 acres (32.65 hectares). The substantive part of the original gifted land is listed by English Heritage in the Register of Parks and Gardens of Specific Historic Interest in England. The proposed memorial is located on the original core gift of land.

At its meeting on 17<sup>th</sup> January 2018 the Trusts and Charities Committee confirmed they were prepared to recommend the installation proceeded but also requested Parks officer make representations to the Foreign and Commonwealth Office for further improvement works to take place in the Park.

Cannon Hill Park is held in trust and formal approval to the proposal proceeding and the actions required to effect this is now required.

#### D. Birmingham Charities Limited

To note the formation of Birmingham Charities Limited, charitable company Companies House Registration number 10392574, incorporated on the 23 September 2016 to be used to effect disposals of land or properties held in trust by Birmingham City Council to Birmingham

City Council where Birmingham City Council desires to use such land or property for its statutory purposes and where such disposal is first approved at Council as Trustee as set out more fully in the Governance section above; and which will be used initially to complete the leases to be granted of land at both Grove Park for the Kenrick Centre and at Highbury for the Uffculme Special school at Chamberlain House as previously approved at Council as Trustee as set out in the Motions below.

## **MOTIONS**

That Full Council sitting as 'Council as Trustee':

- A. Highbury – Grant of Long Lease to Chamberlain Highbury Trust
  - i) approves the grant of a lease of the Highbury Estate (excluding the land which is the subject of a separate lease to Birmingham City Council for its use by Uffculme Special School) to an independent charity, namely the Chamberlain Highbury Trust as identified in the report to Trust and Charities Committee of 17<sup>th</sup> January 2018 on terms to be agreed and for a term up to 125 years.
  
- B. Cropwood Estate - Hunters Hill College use of additional land
  - i) approves that the land identified as parcels A and B as identified in the report to Trust and Charities Committee of 17<sup>th</sup> January 2018 together with the woodland either side of Spirehouse Lane be added to the land already occupied by the College and let to the College on terms to be agreed or if required let to the Hunters Hill Charitable Trust.
  
- C. Cannon Hill Park – installation of the Sousse and Bardo Memorial
  - i) approves the erection and dedication of the memorial on land identified in the report to Trust and Charities Committee of 17<sup>th</sup> January 2018 on terms to be agreed.
  
- D. Birmingham Charities Limited.
  - i) approves the disposal of any land held in trust approved by Council as Trustee to the charitable company, where this is required in order to effect any disposal back to the City Council in its statutory capacity as a “connected person” pursuant to Sections 117-s118 Charities Act 2011.
  - ii) To note that the formation of this charitable company supersedes any requirement to have established individual charitable companies for the relevant charitable trust seeking to dispose of assets back to the City Council as previously approved by the Council as Trustee at its meeting on 6<sup>th</sup> December 2016, specifically, the disposal of land at Grove Park held in trust as the ‘Public Park in Harborne’ registered charity no.501802 in respect of the Kenrick Centre;
  - iii) To note that the formation of this charitable company supersedes any requirement to have established individual charitable companies for the relevant charitable trust seeking to dispose of assets back to the City Council as previously approved by the Council as Trustee at its meeting on 4<sup>th</sup> March

2014, specifically, the disposal of land at Highbury registered charity no. 1039194 in respect of Chamberlain House for its use by Uffculme Special School.

and

that the Assistant Director of Property (Interim) be authorised to secure appropriate valuation and marketing advice in line with statutory requirements of the Charities Act 2011 for the disposal of property and to negotiate and agree the terms of all agreements on behalf of the Trusts provided that appropriate restrictions are included in the disposal terms to properly safeguard the individual Trust

and

that the City Solicitor and Monitoring Officer be authorised to prepare, negotiate, execute, seal and complete all necessary documentation, including the making of applications to the Charity Commission for any purposes required to give effect to the above decisions and also to place any formal advertisements required under either s123 of the Local Government Act 1972 or the various statutes as may relate to the charitable status of the land, manage any appropriate consultation stages and to appraise the Trusts and Charities Committee of the results of that consultation.

## **Appendix**

1. Various Reports presented to Trusts and Charities Committee on the dates referenced above.
2. Birmingham Charities Limited - Articles of Association

Chairman of the Trusts and Charities Committee

.....  
Councillor Habib UL Rehman

**BIRMINGHAM CITY COUNCIL – Council as Trustee**

**PUBLIC REPORT**

<b>Report to:</b>	<b>TRUSTS AND CHARITIES COMMITTEE</b>
<b>Report of:</b> <b>Date of Decision:</b>	<b>Assistant Director of Property (Interim)</b> <b>17<sup>th</sup> January 2018</b>
<b>SUBJECT:</b>	<b>HIGHBURY – GRANT OF LONG LEASE TO CHAMBERLAIN Highbury TRUST</b>
<b>Wards affected:</b>	<b>Moseley &amp; Kings Heath</b>

<b>1. Purpose of report:</b>
1.1 To seek approval to grant a long lease of up to 125 years of the Highbury Estate (excluding Chamberlain House leased to Birmingham City Council for Uffculme School) to the Chamberlain Highbury Trust.

<b>2. Decisions recommended:</b>
That the Committee
2.1 notes previously, approval has been given to grant the Chamberlain Highbury Trust (CHT) a 35 year lease of the Estate as defined above
2.2 recommends the grant of a lease of the Highbury Estate as defined above to Chamberlain Highbury Trust on terms to be agreed and for a term up to 125 years (but such term not to exceed that granted by the approved lease of Chamberlain House).
2.3 approves the terms of any disposal being negotiated and agreed by the Assistant Director of Property (Interim) acting as agent on behalf of the Trust provided that appropriate restrictions are included in the disposal terms to properly safeguard the Trust.
2.4 authorises the recommendations of the Trusts and Charities Committee be advanced to a future meeting of the Council as Trustee for approval, the report to which will be approved by this Committee first.
2.5 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.
2.6 authorises the City Solicitor to make any further applications necessary for appropriate powers or approvals from the Charity Commission or other party or body as appropriate to agree to the disposal and to then prepare, negotiate, execute, seal and complete all necessary legal documentation to give effect to the above decisions.

<b>Lead Contact Officers:</b>	Nigel Oliver
<b>Telephone No:</b> <b>E-mail address:</b>	0121 303 3028 nigel.g.oliver@birmingham.gov.uk

### **3. Compliance:**

#### **3.1 Consultations:**

No additional separate consultation is envisaged except where further consultation locally may be required to satisfy the requirements of the Charity Commission and the Charities Act 2011. The Chairman of the Trusts & Charities Committee and the Trustees of the Chamberlain Highbury Trust have met to consider this request before reporting to Committee.

#### **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.

Birmingham City Council holds the freehold interest of the land comprising the Highbury trust in trust as Sole Corporate Trustee. Actions proposed are required to be in the best interests of the trust and are intended to preserve the trust estate for the future. To effect a disposal the Trustees of the Charity could rely on the provisions of the Section 6(1) Trusts of Land and Appointment of Trustee Act 1996 which provides an implied statutory power of disposal or seek a scheme or Order from the Charity Commission to enable a specific disposal or a general power of disposals provided such disposals are conducted in line with statutory processes set out in the Charities Acts.

#### **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. The Trustees must act with prudence and must ensure that the charity is and will remain solvent and that appropriate governance arrangements are in place to achieve this. Any disposal of the land, by sale or lease, if approved, will be undertaken by officers in Legal Services and Birmingham Property Services and the valuation of the asset undertaken in compliance with the Charities Act 2011. However, no decision is made until the 'Council as Trustee' has determined it is expedient in the interests of the charity to act. The intention of granting the lease remains as before to implement the preferred option of the Birmingham Conservation Trust Options Appraisal as previously reported to and adopted by the Trusts & Charities Committee and which will secure a refurbishment of Highbury.

#### **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 Estate comprises approximately 13.03 hectares (32.2 acres) of park land including Highbury Hall and Chamberlain House and three lodges. The estate was gifted by the trustees 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. Approved disposals have taken place previously.
- 4.2 The lease will include the whole of the estate except Chamberlain House already proposed to be let under a separate long lease to Birmingham City Council for schools use and occupied by Uffculme School. The grant of the 125 year lease to Chamberlain Highbury Trust will mirror the main terms of the lease granted on Chamberlain House including the end date which will adjust the headline term downwards by several years.
- 4.3 A previous report to the Trusts & Charities Committee granted a 35 year term at a peppercorn rent which was deemed sufficient to comply with any reasonable requirements imposed by potential funders such as the Heritage Lottery Fund and it does remain sufficient but the grant of the longer lease term is to further support the proposals but also to demonstrate the intended longevity of the CHT in taking forward the management of the Estate. The longer letting will remain compliant with the objects and purposes of the Highbury Trust set out below. The rent is likely to remain a peppercorn rent only.
- 4.4 The lease terms already approved required the CHT to actively seek funding for the refurbishment of Highbury and a bid for funds was recently submitted to the HLF. The new lease terms will contain the same main terms as previously negotiated with CHT together with robust safeguards for the Highbury Trust as landlord. The CHT intend to submit a further bid to the HLF in March 2018.
- 4.5 **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 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".
- 4.6 **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.
- 4.7 **Charity Finances**  
Formal accounts are required to be prepared for the Charity Commission returns where appropriate. The Trust has a strong revenue stream principally from the letting of Highbury to Acivico for the continuing use of the property as a wedding/conference centre although this will transfer to CHT once the lease is completed.

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

- 5.1 Chamberlain Highbury Trust has demonstrated that they wish to continue to pursue the project and have requested the longer lease to improve their standing with the funding bodies and clarify that Highbury has a long term future in their management. It will also improve the basis for any sublettings that may take place after the refurbishment. Support for the longer 125 year lease requested is appropriate.

<b>6. Reasons for Decision(s):</b>	
6.1	To best safeguard the asset long term it is appropriate to release it into the long term management through an appropriately qualified tenant. Should CHT withdraw at any stage Highbury Trust will need to consider a new selection process to secure a tenant able to undertake the proposed refurbishment.
<b>Signatures</b>	
Chairman of the Trusts & Charities Committee .....	.....
Chief Officer Director of Property .....	.....
<b>List of Background Documents used to compile this Report:</b>	
1. None.	
<b>List of Appendices accompanying this Report (if any):</b>	
1. None	

**Date**

**BIRMINGHAM CITY COUNCIL – COUNCIL AS TRUSTEE**

**PUBLIC REPORT**

<b>Report to:</b>	<b>TRUSTS AND CHARITIES COMMITTEE</b>
<b>Report of:</b> <b>Date of Decision:</b>	<b>Assistant Director of Property (Interim)</b> <b>17<sup>th</sup> January 2018</b>
<b>SUBJECT:</b>	<b>CROPWOOD ESTATE – HUNTERS HILL TECHNICAL COLLEGE USE OF LAND</b>
<b>Wards affected:</b>	<b>Outside of the City Boundaries</b>

<b>1. Purpose of report:</b>
1.1 To seek approval to allocate all remaining pasture and woodland within the Cropwood Estate to the Hunters Hill College for agricultural use further enhancing the educational curriculum.

<b>2. Decisions recommended:</b>
<p>That the Committee</p> <ul style="list-style-type: none"> <li>notes that a report approved at Committee on 19<sup>th</sup> July 2017 allocated parcels C and D shown in Appendix 1 and measuring 7.01 hectares to the College's use and the College now request the remaining pasture and adjoining woodland areas be allocated to them to further support the development of the agricultural unit.</li> <li>and also the College request this land be let to them at a peppercorn rent (at less than best value)</li> </ul> <p>and the Committee recommends that</p> <p>2.1 the land identified as parcels A and B in Appendix 1 together with the woodland either side of Spirehouse Lane be let to the College on terms to be agreed or if required to the Hunters Hill Charitable Trust</p> <p>2.2 the recommendation of the Trusts and Charities Committee to be advanced to the next available meeting of the Council as Trustee for approval</p> <p>2.3 approval be given to negotiation and settlement of the terms of any disposal being delegated to the Assistant Director of Property (Interim) who will work with external agents to secure appropriate advice to comply with requirements of the Charities Act 2011 as necessary</p> <p>2.4 authorises the City Solicitor to make any further applications necessary for appropriate powers or approvals from the Charity Commission or other party or body as appropriate to agree to the disposal and then to prepare, negotiate, seal, execute and complete all legal documentation to give effect to the above recommendations.</p>

<b>Lead Contact Officers:</b>	Nigel Oliver, Birmingham Property Services
<b>Telephone No:</b> <b>E-mail address:</b>	0121 303 3028 nigel.g.oliver@birmingham.gov.uk

### **3. Compliance:**

#### **3.1 Consultations:**

##### Internal

Officers in Education are willing to support the Colleges request. The land is outside of the City boundaries and no Member involvement beyond the Committee is required.

##### External

No additional separate consultation is envisaged except where further consultation locally may be required to satisfy the requirements of the Charity Commission and the charities Act 2011.

#### **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 Trust document as amended by any Scheme approved by the Charity Commission.

Birmingham City Council holds the freehold interest of the land now known as the Cropwood Estate in trust as Sole Corporate Trustee and is responsible for ensuring the Trust is managed in accordance with the governing document and in accordance with charity law and relevant Charity Commission guidance.

The Trustees of the Charity could rely on the provisions of the Section 6(1) Trusts of Land and Appointment of Trustee Act 1996 which provides an implied statutory power of disposal. However, the Charity Commission Scheme dated 12<sup>th</sup> November 1997, establishing the regulation of the Charity also provides appropriate powers for the disposal of assets by sale or for lease. It permits lettings and disposals but requires that all disposals be conducted in line with statutory processes set out in the Charities Acts and that the proceeds of any sale be invested in trust for the Charity. Lettings at less than best value are not permitted although other arrangements can be agreed with other charitable organisations subject to suitable authorisation.

#### **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 of the trust and charity law. The Trustees must act with prudence and must ensure that the charity is and will remain solvent and that appropriate cost controls are in place. All future running costs for the premises will be covered by any tenant or while the property remains vacant the Education Service. Any disposals will be conducted in line with statutory processes set out in the Charities Act 2011 and any revenue ring-fenced and invested for the specific Charity. Any disposal, if approved, will be processed by the retained agricultural agents Bruton Knowles overseen by officers in Legal Services and Birmingham Property Services.

The Cropwood trust is empowered to undertake disposals of land and property on the Estate either freehold or leasehold subject to the appropriate investment of the capital receipt. Disposals of parts of the estate have already been made in 1994 1998 and 2017.

#### **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 main area of land comprising the Cropwood Estate was gifted to the City either jointly or separately by Barrow Cadbury and Mrs Geraldine S Cadbury in three main transfers dated 1<sup>st</sup> June 1921, 28<sup>th</sup> February 1933 and 20<sup>th</sup> May 1938 and is approximately 36.5 hectares. The trust is governed by a scheme dated 12<sup>th</sup> November 1997 and is registered Charity no. 1085296.
- 4.2 The Cropwood Estate has been used since the original gift for schools purposes. The Hunters Hill School now known as Hunters Hill College have use of most of the land for schools purposes and the report dated 19<sup>th</sup> July 2017 allocated a further 7.01 hectares of pastureland to the College. The remaining pasture, fields A & B, measuring 4.73 hectares plus woodland of approximately equivalent area are also intended to be included now.
- 4.3 The College which has 120 students aged between 11 and 16 who have been identified as having moderate learning, emotional and behavioural difficulties provides a curriculum which includes in addition to the core school subjects a range of practical skills classes such as bricklaying, motor vehicle maintenance and farm studies. Since the report to Committee dated 19<sup>th</sup> July 2017 the College have reconsidered their needs and requested the remaining land to better support the agricultural unit providing educational opportunities to the pupils. The additional pasture land will be used for hay cropping reducing the need to buy this in. The inclusion of the woodland would widen the opportunity for activities while ensuring the land is under formal management. While the pasture land has previously been let on formal agricultural tenancies to provide an income to the Trust with the College managing the majority of the land the need for that income is reduced. Appropriate restrictive covenants will be put in place to safeguard the land from inappropriate uses and ensure the estate continues to be managed in line with the objects and purposes laid down.
- 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 of the trust. The specific objects of the Cropwood Estate trust are wide ranging and are: the furtherance of any charitable purpose for the benefit of the inhabitants of the City of Birmingham including all or any of the following purposes (a) the provision and support of educational facilities (b) the provision and support of facilities for recreational and other leisure time occupation with the object of improving the conditions of life for the said inhabitants (c) the relief of the aged, impotent and poor (d) the relief of sickness.
- 4.5 **Trustee Powers**  
A trust's constitution is set out within the executed Trust Deed for each property principally the acquisition deeds as amended by a scheme agreed with the Charity Commission. All decisions will be mindful of the original intention of the documents however routes exist for their amendment through Part 7 Charities Act 2011 or an Order or Scheme from the Charity Commission. The College is Local Authority managed and disposals may be classified as a 'connected' party disposal which would require specific Charity Commission consent but this will be reviewed. If required the letting can be to the Hunters Hill Charitable Trust (reg.no. 1091007) as a charity to charity letting and also thereby satisfy statutory requirements also set out in Part 7 of the Charities act 2011 and allow a letting at less than market value.
- 4.6 **Trust Finances**  
The meadows areas have been set aside for independent agricultural tenancies to create a revenue source for the better management of the Trust. Lettings at less than best value will deplete income to the trust but use by the College for educational purposes is still the fundamental reason for the establishment of the Cropwood Estate Trust and compliant with the objects and purposes of the trust.

**5. Evaluation of alternative option:**

To do nothing is not an appropriate option. The land should not sit idle and the only options should either be:

- let in the open market
- let to the College at market rent
- let to the College for nil or reduced rent

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

- 6.1 To better safeguard the Trust's assets while remaining in compliance with the trust Objects. The use of the land by the College is fully compliant with the Trusts Objects.

**Signatures:**

Chief Officer(s): .....

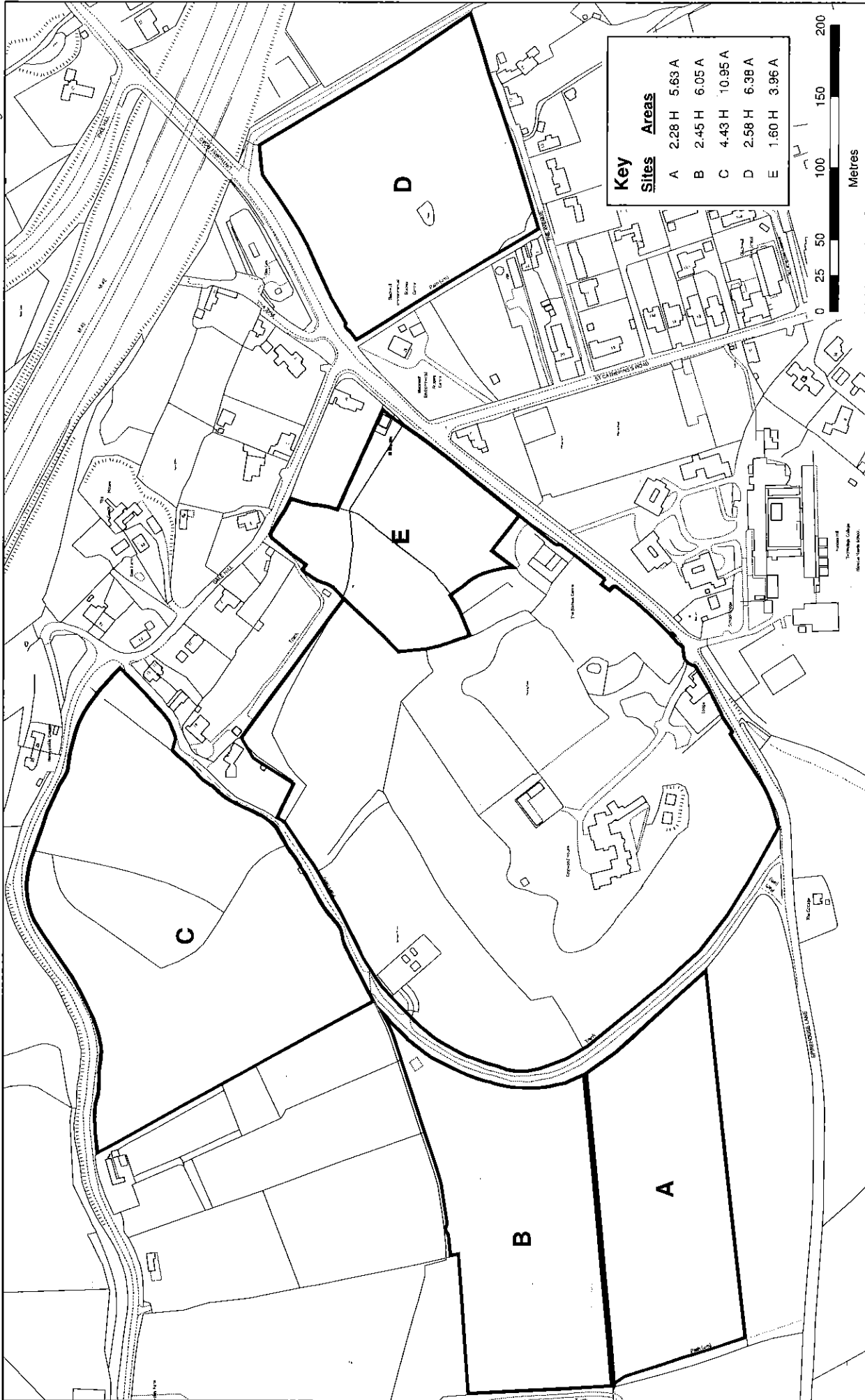
Dated: .....

**List of Background Documents used to compile this Report:**

1. Scheme dated 12<sup>th</sup> November 1997
2. Report to Trusts & Charities Committee 19<sup>th</sup> July 2017

**List of Appendices accompanying this Report (if any):**

1. Plan of the Estate available to let.



**Cropwood Estate Meadow Land**

Waheed Nazir  
Corporate Director, Economy  
1 Lancaster Circus  
Birmingham, B2 2GL

**Birmingham City Council**

Scale 1:2,500 @ A3  
Drawn Bharat Patel  
Date 11/07/2017

© Crown Copyright and database right 2017. Ordnance Survey 100021236.  
This map is not intended to be used as a substitute for a professional survey.  
Aerial Photography is present. Reproduced by permission of Ordnance Survey. Aerial  
Copyright License No. AT228.

Aerial Photography is present. Copyright Blunsky

**BIRMINGHAM CITY COUNCIL – COUNCIL AS TRUSTEE**

**PUBLIC REPORT**

<b>Report to:</b>	<b>TRUSTS AND CHARITIES COMMITTEE</b>
<b>Report of:</b> <b>Date of Decision:</b>	<b>Corporate Director, Place</b> <b>17<sup>th</sup> January 2018</b>
<b>SUBJECT:</b>	<b>CANNON HILL PARK – INSTALLATION OF THE SOUSSE AND BARDO MEMORIAL</b>
<b>Wards affected:</b>	<b>Moseley and Kings Heath</b>

<b>1. Purpose of report:</b>
1.1 To seek approval to the installation of a memorial honouring the victims of the attacks in Tunisia at Sousse and at the Bardo Museum.

<b>2. Decisions recommended:</b>
<p>That the Committee</p> <ul style="list-style-type: none"> <li>notes that an application for planning permission has been submitted by the Foreign and Commonwealth Office for the memorial as shown in Appendix 1 to be sited on land in Cannon Hill Park held in trust as shown in Appendix 2.</li> </ul> <p>and the Committee recommends that</p> <p>2.1 the erection and dedication of the memorial on land identified in Appendix 2 be enabled to proceed</p> <p>2.2 the recommendation of the Trusts and Charities Committee to be advanced to the next available meeting of the Council as Trustee for approval, if required</p> <p>2.3 approval be given to negotiation and settlement of the terms for the occupation of land or of any disposal necessitated by the installation being delegated to the Assistant Director of Property (Interim) who will secure appropriate advice to comply with requirements of the Charities Act 2011 as necessary</p> <p>2.4 authorises the City Solicitor to place any formal advertisements required under s123 of the Local Government Act 1972 for the loss of public open space (if any) temporarily or permanently or as 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.</p> <p>2.5 authorises the City Solicitor to make any further applications necessary for appropriate powers or approvals from the Charity Commission or other party or body as appropriate to agree to the disposal or use of the land and then to prepare, negotiate, seal, execute and complete all legal documentation to give effect to the above recommendations.</p>

<b>Lead Contact Officers:</b>	Darren Share, Head of Parks
<b>Telephone No:</b> <b>E-mail address:</b>	0121 675 0648 Darren.Share@birmingham.gov.uk



### **3. Compliance:**

#### **3.1 Consultations:**

##### Internal

Cannon Hill Park is held in trust and it is appropriate that the matter be considered via the Trusts & Charities Committee once officers in the Parks Service have considered all practical issues. The Corporate Director, Place and the Ward Councillors for Moseley & Kings Heath are supportive of the proposals going forward. The District Parks Manager is supportive and is consulting with the 'Friends of the Park'.

##### External

No additional separate consultation is envisaged except where further consultation locally may be required to satisfy the requirements of the Charity Commission and the Charities Act 2011.

#### **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 Trust document as amended by any Scheme approved by the Charity Commission.

Birmingham City Council holds the freehold interest of the land comprising Cannon Hill Park in trust as Sole Corporate Trustee and is responsible for ensuring the Trust is managed in accordance with the governing document and in accordance with charity law and relevant Charity Commission guidance. Day-to-day management is delegated to the Parks Service via the Corporate Director for Place.

The Trustees of the Charity could rely on the provisions of the Section 6(1) Trusts of Land and Appointment of Trustee Act 1996 which provides an implied statutory power of disposal and other matters. The original trust deeds require that Birmingham City Council shall hold Cannon Hill Park as public walks or pleasure gardens provided and maintained by them under s.64 of the Public Health Act 1875 but in addition to the general law applying to charitable trusts and the powers under the Trustees Act 2000, section 83 - 85 of the West Midlands County Council Act 1980 specifically permits the grant of leases within Cannon Hill Park not exceeding two acres to any body incorporated or not whose objects are charitable and comprise or include the provision of an art or cultural centre but not otherwise. Lettings at less than best value are not permitted although other arrangements can be agreed with other charitable organisations subject to suitable authorisation. Nonetheless the above the installation of memorials on park land whether in trust or not is a suitable use for the land.

#### **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 of the trust and charity law. The Trustees must act with prudence and must ensure that the charity is and will remain solvent and that appropriate cost controls are in place. Financial arrangements for this installation are set out in section 4.6.

#### **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 Cannon Hill Park was formed from the original core gift of 57 acres from Miss Louisa Anne Ryland on 18<sup>th</sup> April 1873 who also gave money for it to be laid out as a park and opened on 1<sup>st</sup> September 1873 but was soon extended by a number of other gifts and purchases to form the current Park of approximately 80.66 acres (32.65 hectares). The substantive part of the original gifted land is listed by English Heritage in the Register of Parks and Gardens of Specific Historic Interest in England. The proposed memorial is located on the original core gift of land.

4.2 The provision of any lighting and water to the memorial area will require additional underground pipes and wires but these will feed from existing services in the area and be minimal in their disruption. The work to install the memorial will require to be managed carefully by the Parks operatives. There should be little impact on the public areas of the Park generally.

4.3 The works may require a small compound to be formed in the Park. Proposals for this are being discussed and will be subject to a licence to be negotiated. It is requested that the works proceed urgently once planning consent is available. All appropriate local consultation will be completed including appropriate advertisements for the temporary loss of access to the open space during the contract. Once constructed the memorial will be open to the public and expected to be used as an area for contemplative reflection and there will be no permanent loss of public open space.

**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 of the trust. The specific objects of the trust are that Birmingham City Council shall hold Cannon Hill Park as public walks or pleasure gardens open to the public.

**4.5 Trustee Powers**

A trust's constitution is set out within the executed Trust Deed for each property principally the acquisition deeds as amended by a scheme agreed with the Charity Commission, if any. All decisions will be mindful of the original intention of the documents however routes exist for their amendment through Part 7 Charities Act 2011 or an Order or Scheme from the Charity Commission.

**4.6 Trust Finances**

The trust delegates the management of the park to the Birmingham City Council Parks and Nature Conservation Service who cover all costs and also collect any income generated which is used to partly offset the running costs incurred at the Park. The proposed memorial installation is essentially a cost neutral proposal as far as the trust is currently concerned. The cost of the design and construction works will be fully funded by external capital through the Foreign and Commonwealth Office who will also provide to the BCC Parks Service a dowry to off-set future maintenance. Any agreements or 'disposals' for the use of the land will be conducted in line with statutory processes set out in the Charities Act 2011 and will be overseen by officers in Legal Services and Birmingham Property Services but it is not envisaged that any rent will be charged for the installation.

**5. Evaluation of alternative option:**

The memorial site has been selected after discussion with officers at several local Authorities and in consultation with the victims and their relatives. The site selected is suitable for additional installations and the memorial is an attractive addition to the Park.

**6. Reason for Decision(s)**

6.1 The use of the land for the memorial is consistent with and fully compliant with the Trusts Objects.

**Signatures:**

Chief Officer(s): .....

Dated: .....

**List of Background Documents used to compile this Report:**

1. Acquisition conveyance dated 18<sup>th</sup> April 1873
2. West Midlands County Council Act 1980

**List of Appendices accompanying this Report (if any):**

1. Planning Application 2017/10913/PA
2. Plan 16579 showing location of the memorial.



Birmingham  
City Council

Planning and Regeneration  
PO Box 28  
Birmingham B1 1TU  
Telephone 0121 464 3669

Email: [planning.registration@birmingham.gov.uk](mailto:planning.registration@birmingham.gov.uk)  
Web: [www.birmingham.gov.uk/planning](http://www.birmingham.gov.uk/planning)



Application for Planning Permission.  
Town and Country Planning Act 1990

Publication of applications on planning authority websites.

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website.  
If you require any further clarification, please contact the Authority's planning department.

1. Applicant Name, Address and Contact Details

Title:		First Name:	Philippa	Surname:	Greenwood
Company name:	Foreign & Commonwealth Office				
Street address:	Philippa Greenwood- Room WH4.26				
	Foreign & Commonwealth Office				
	King Charles Street				
Town/City:	London				
Country:	United Kingdom				
Postcode:	SW1A 2AH				
Are you an agent acting on behalf of the applicant?				<input checked="" type="radio"/> Yes	<input type="radio"/> No

2. Agent Name, Address and Contact Details

Title:	Mr	First Name:	George	Surname:	King
Company name:	George King Architects				
Street address:	George King Architects				
	20-22 Wenlock Road				
	Hackney				
Town/City:	LONDON				
Country:					
Postcode:	N1 7GU				
Telephone number:				020700847321	
Mobile number:					
Fax number:					
Email address:				<a href="mailto:studio@georgekingarchitects.com">studio@georgekingarchitects.com</a>	

3. Description of the Proposal

Please describe the proposed development including any change of use:

Construction of a Memorial to the Victims of the 2015 Sousse and Bardo Terrorist Attacks within Cannon Hill Park, Birmingham incorporating a permanent sculpture and hard and soft landscaping works to the surrounding area. The purpose of the Memorial is to provide a permanent tribute to those who lost their lives in the atrocious attacks in Sousse and Bardo and to offer a place of remembrance, commemoration and reflection for all those affected. The design for the memorial was chosen following a design competition run by the Foreign & Commonwealth Office with input from a panel of experts including representatives from Birmingham City Council Parks Department.

Has the building, work or change of use already started? ☒ Yes ☐ No

#### 4. Site Address Details

Full postal address of the site (including full postcode where available)

Description:

House:  Suffix:

House name:

Street address:

Town/City:

Postcode:

Description of location or a grid reference  
(must be completed if postcode is not known):

Easting:

Northing:

#### 5. Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application? ☐ Yes ☒ No

If Yes, please complete the following information about the advice you were given (this will help the authority to deal with this application more efficiently):

Officer name:

Title:  First name:  Surname:

Reference:

Date (DD/MM/YYYY):  (Must be pre-application submission)

Details of the pre-application advice received:

"I consider the design, location, scale and materials of the proposed sculpture would likely be acceptable.

The City's Conservation Officer has raised no objection to the proposed development in principle. However, he has recommended that a Heritage Appraisal will need to be submitted as part of any planning application, which assesses the impact of the proposed development on the significance of the Grade II\* Listed Registered Historic Park and Garden. I would also advise you to submit a separate pre-application enquiry to Historic England to ensure that they are on board with the proposal prior to your submission of a planning application.

The City's Tree Officer has reviewed the proposed topo plan. Please see attached a rough sketch where he has drawn where he considers there may be some potential issues with ground levels within the root protection areas (RPA) of the surrounding trees. He has assumed that the lines around the trees are correct RPA's i.e. 12 times DBH that would define an RPA? He advises that they look about right (particularly for the deciduous trees) but this should be checked. If these are not correct RPAs then a new tree survey to BS5837 would need to be carried out to inform any planning application. On the attached drawing the red hatching is an estimate of the likely excavation impact so far as the trees are concerned. It bulges out to the south west because it appears from the cross section that ground levels are lowered in this area to, I guess, even out the direction of the general slope around the memorial. However, there also appear to be bunds so he is not sure of this interpretation or the reason for the apparent excavation. He has assumed excavation for the kerbs towards the North West 'entrance'. The blue hatched areas are his impression of the positive grading within the RPAs.

The City's Tree Officer has explained that the combined effects of grading - positive and negative - should be less than 20% of the proper RPAs of the surrounding trees. The trees are all open grown and, with careful methods, an incursion of 20% will be achievable without tree removal. Presuming there is a solution for the 'bulge' to the South West and with some tweaking of the finished levels (whole memorial and locally in the surrounding area) it appears to him that the proposal is achievable. The City's Tree Officer advises that it will be necessary to upgrade the topo plan (Drawing 0003) with true RPAs or, preferably, undertake a BS5837 survey for those trees nearest the proposal. The benefit of a full survey, apart from properly defining the constraints, will be to also evaluate the condition of the trees.

The City's Ecologist advises that an Ecological Appraisal would not be required to support the proposed development".

#### 6. Pedestrian and Vehicle Access, Roads and Rights of Way

Is a new or altered vehicle access proposed to or from the public highway? ☐ Yes ☒ No

Is a new or altered pedestrian access proposed to or from the public highway? ☐ Yes ☒ No

## 6. Pedestrian and Vehicle Access, Roads and Rights of Way

Are there any new public roads to be provided within the site?

☒ Yes ☐ No

Are there any new public rights of way to be provided within or adjacent to the site?

☒ Yes ☐ No

Do the proposals require any diversions/extinguishments and/or creation of rights of way?

☒ Yes ☐ No

## 7. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste?

☒ Yes ☐ No

Have arrangements been made for the separate storage and collection of recyclable waste?

☒ Yes ☐ No

## 8. Authority Employee/Member

With respect to the Authority, I am:

- (a) a member of staff
- (b) an elected member
- (c) related to a member of staff
- (d) related to an elected member

Do any of these statements apply to you?

☒ Yes ☐ No

## 9. Materials

Please state what materials (including type, colour and name) are to be used externally (if applicable):

OTHER - description:

Type of other material: Sculpture, hard and soft landscaping

Description of *existing* materials and finishes:

Description of *proposed* materials and finishes:

Sculpture- Stainless steel

Hard Landscaping- Granite

Soft Landscaping- Grass turf and wildflower turf

Are you supplying additional information on submitted plan(s)/drawing(s)/design and access statement?

☒ Yes ☐ No

If Yes, please state references for the plan(s)/drawing(s)/design and access statement:

115-GKA-00-00-DR-A-0001 EXISTING LOCATION PLAN

115-GKA-00-00-DR-A-0002 EXISTING SITE PLAN

115-GKA-00-00-DR-A-0003 PROPOSED SITE PLAN

115-GKA-00-00-DR-A-0010 PROPOSED SITE SECTION DIAGRAM 1

115-GKA-00-00-DR-A-0011 PROPOSED SITE SECTION DIAGRAM 2

115-GKA-00-00-DR-A-0012 PROPOSED SITE SECTION DIAGRAM 3

115-GKA-00-00-DR-A-0013 PROPOSED SITE SECTION DIAGRAM 4

115-GKA-00-00-DR-A-0100 GROUND FLOOR PLAN

115-GKA-00-00-DR-A-0200 PROPOSED SECTIONS

115-GKA-00-00-SK-A-0001 INFINITE WAVE DIMENSIONS

115-GKA-00-00-SK-A-0004 PLANNING DESIGN CHANGE PLAN

115-GKA-00-00-SK-A-0005 PLANNING DESIGN CHANGE SECTION

SOUSSE AND BARDO MEMORIAL- Planning Application Design Report

#### 10. Vehicle Parking

No Vehicle Parking details were submitted for this application

#### 11. Foul Sewage

Please state how foul sewage is to be disposed of:

Mains sewer ☐ Package treatment plant ☐ Unknown ☒

Septic tank ☐ Cess pit ☐ Other ☒

Other:

n/a

Are you proposing to connect to the existing drainage system? ☒ Yes ☐ No ☐ Unknown

If Yes, please include the details of the existing system on the application drawings and state references for the plan(s)/drawing(s):

115-GKA-00-00-DR-A-0003 PROPOSED SITE PLAN

115-GKA-00-00-DR-A-0100 GROUND FLOOR PLAN

#### 12. Assessment of Flood Risk

Is the site within an area at risk of flooding? (Refer to the Environment Agency's Flood Map showing flood zones 2 and 3 and consult Environment Agency standing advice and your local planning authority requirements for information as necessary.)

☐ Yes ☒ No

If Yes, you will need to submit an appropriate flood risk assessment to consider the risk to the proposed site.

Is your proposal within 20 metres of a watercourse (e.g. river, stream or beck)?

☐ Yes ☒ No

Will the proposal increase the flood risk elsewhere?

☐ Yes ☒ No

How will surface water be disposed of?

☐ Sustainable drainage system

☒ Main sewer

☐ Pond/lake

☐ Soakaway

☐ Existing watercourse

#### 13. Biodiversity and Geological Conservation

To assist in answering the following questions refer to the guidance notes for further information on when there is a reasonable likelihood that any important biodiversity or geological conservation features may be present or nearby and whether they are likely to be affected by your proposals.

Having referred to the guidance notes, is there a reasonable likelihood of the following being affected adversely or conserved and enhanced within the application site, OR on land adjacent to or near the application site:

a) Protected and priority species

☐ Yes, on the development site

☐ Yes, on land adjacent to or near the proposed development

☒ No

b) Designated sites, important habitats or other biodiversity features

☐ Yes, on the development site

☐ Yes, on land adjacent to or near the proposed development

☒ No

c) Features of geological conservation importance

☐ Yes, on the development site

☐ Yes, on land adjacent to or near the proposed development

☒ No

#### 14. Existing Use

Please describe the current use of the site:

The proposed site is located East/South/East of the boating lake. The layout is an oval shape approximately 25m by 15m with a bank around the southeast corner. A path offers access to the site which is located in a small glen of trees which offer some natural screening of the area. The result is tranquility and privacy, with views of the lake. The memorial has been designed to fit within the natural clearing and follows the topography of the land to enable it to be constructed without damaging any trees.

Is the site currently vacant?

☐ Yes ☐ No

Does the proposal involve any of the following?

If yes, you will need to submit an appropriate contamination assessment with your application.

Land which is known to be contaminated?

☐ Yes ☐ No

Land where contamination is suspected for all or part of the site?

☐ Yes ☐ No

A proposed use that would be particularly vulnerable to the presence of contamination?

☐ Yes ☐ No

#### 15. Trees and Hedges

Are there trees or hedges on the proposed development site?

☐ Yes ☐ No

And/or: Are there trees or hedges on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character?

☐ Yes ☐ No

If Yes to either or both of the above, you may need to provide a full Tree Survey, at the discretion of your local planning authority. If a Tree Survey is required, this and the accompanying plan should be submitted alongside your application. Your local planning authority should make clear on its website what the survey should contain, in accordance with the current 'BS5837: Trees in relation to design, demolition and construction - Recommendations'.

#### 16. Trade Effluent

Does the proposal involve the need to dispose of trade effluents or waste?

☐ Yes ☐ No

#### 17. Residential Units

Does your proposal include the gain or loss of residential units?

☐ Yes ☐ No

Market Housing - Proposed					
	Number of bedrooms				
	1	2	3	4+	Unknown
Bedsits/Studios					
Cluster Flats					
Flats/Maisonettes					
Houses					
Live-Work Units					
Sheltered Housing					
Unknown					

Proposed Market Housing Total

Market Housing - Existing					
	Number of bedrooms				
	1	2	3	4+	Unknown
Bedsits/Studios					
Cluster Flats					
Flats/Maisonettes					
Houses					
Live-Work Units					
Sheltered Housing					
Unknown					

Existing Market Housing Total

Social Rented Housing - Proposed					
	Number of bedrooms				
	1	2	3	4+	Unknown
Bedsits/Studios					
Cluster Flats					
Flats/Maisonettes					
Houses					
Live-Work Units					
Sheltered Housing					

Social Rented Housing - Existing					
	Number of bedrooms				
	1	2	3	4+	Unknown
Bedsits/Studios					
Cluster Flats					
Flats/Maisonettes					
Houses					
Live-Work Units					
Sheltered Housing					



## 17. Residential Units

### Social Rented Housing - Proposed

	Number of bedrooms				
	1	2	3	4+	Unknown
Unknown					

Proposed Social Housing Total

### Intermediate Housing - Proposed

	Number of bedrooms				
	1	2	3	4+	Unknown
Bedsits/Studios					
Cluster Flats					
Flats/Maisonettes					
Houses					
Live-Work Units					
Sheltered Housing					
Unknown					

Proposed Intermediate Housing Total

### Key Worker Housing - Proposed

	Number of bedrooms				
	1	2	3	4+	Unknown
Bedsits/Studios					
Cluster Flats					
Flats/Maisonettes					
Houses					
Live-Work Units					
Sheltered Housing					
Unknown					

Proposed Key Worker Housing Total

### Social Rented Housing - Existing

	Number of bedrooms				
	1	2	3	4+	Unknown
Unknown					

Existing Social Housing Total

### Intermediate Housing - Existing

	Number of bedrooms				
	1	2	3	4+	Unknown
Bedsits/Studios					
Cluster Flats					
Flats/Maisonettes					
Houses					
Live-Work Units					
Sheltered Housing					
Unknown					

Existing Intermediate Housing Total

### Key Worker Housing - Existing

	Number of bedrooms				
	1	2	3	4+	Unknown
Bedsits/Studios					
Cluster Flats					
Flats/Maisonettes					
Houses					
Live-Work Units					
Sheltered Housing					
Unknown					

Existing Key Worker Housing Total

## 18. All Types of Development: Non-residential Floorspace

Does your proposal involve the loss, gain or change of use of non-residential floorspace?

☐ Yes ☐ No

## 19. Employment

No Employment details were submitted for this application

## 20. Hours of Opening

No Hours of Opening details were submitted for this application

## 21. Site Area

What is the site area?

928.59

sq.metres

## 22. Industrial or Commercial Processes and Machinery

Please describe the activities and processes which would be carried out on the site and the end products including plant, ventilation or air conditioning. Please include the type of machinery which may be installed on site:

No Industrial or Commercial Processes and Machinery

Is the proposal for a waste management development?

☐ Yes ☒ No

If this is a landfill application you will need to provide further information before your application can be determined. Your waste planning authority should make clear what information it requires on its website.

## 23. Hazardous Substances

Is any hazardous waste involved in the proposal?

☐ Yes ☒ No

A. Toxic substances

Amount held on site

Tonne(s)

B. Highly reactive/explosive substances

Amount held on site

Tonne(s)

C. Flammable substances (unless specifically named in parts A and B)

Amount held on site

Tonne(s)

## 24. Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land?

☐ Yes ☒ No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact? (Please select only one)

☒ The agent ☐ The applicant ☐ Other person

## 25. Certificates (Certificate A)

### Certificate of Ownership - Certificate A

Town and Country Planning (Development Management Procedure) (England) Order 2015 Certificate under Article 14

I certify/The applicant certifies that on the day 21 days before the date of this application nobody except myself/the applicant was the owner (owner is a person with a freehold interest or leasehold interest with at least 7 years left to run) of any part of the land to which the application relates, and that none of the land to which the application relates is, or is part of, an agricultural holding ("agricultural holding" has the meaning given by reference to the definition of "agricultural tenant" in section 65(8) of the Act).

Title:  First name:  Philippa Surname:  Greenwood

Person role:  APPLICANT

Declaration date:  22/12/2017

☒ Declaration made

## 26. Declaration

I/we hereby apply for planning permission/consent as described in this form and the accompanying plans/drawings and additional information. I/we confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them.

☒ Date  22/12/2017



REVISION REGISTER			
NO.	DATE	REVISION	BY
1	2017-10-23	1:1250 @ A3	GKA
2	2017-10-23	1:1250 @ A3	GKA
3	2017-10-23	1:1250 @ A3	GKA
4	2017-10-23	1:1250 @ A3	GKA
5	2017-10-23	1:1250 @ A3	GKA
6	2017-10-23	1:1250 @ A3	GKA
7	2017-10-23	1:1250 @ A3	GKA
8	2017-10-23	1:1250 @ A3	GKA
9	2017-10-23	1:1250 @ A3	GKA
10	2017-10-23	1:1250 @ A3	GKA

NOTE

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DESIGNER

GEORGEKINGARCHITECTS

CLIENT  
FOREIGN & COMMONWEALTH  
OFFICE

PROJECT  
SOUSSE & BARDO MEMORIAL

TITLE  
LOCATION PLAN

SCALE  
1:1250 @ A3

DRAWN / CHECKED  
GKA / GKA

DATE  
23/10/2017

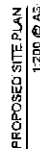
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115-GKA-00-00-DR-A-000

STATUS  
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FOR INFORMATION

REV  
P3  
PRELIMINARY









REVISION REGISTER		REV	DATE	BY	CHKD
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**NOTE**

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DESIGNER

GEORGE KING ARCHITECTS

המחברת היא מנכ"לית, מנהלת פיתוח ארגוני, מנהלת פיתוח אנושי ומנהלת פיתוח תוכן.

CLIENT  
FOREIGN & COMMONWEALTH  
OFFICE

PROJECT  
SUSSE & BARD MEMORIAL

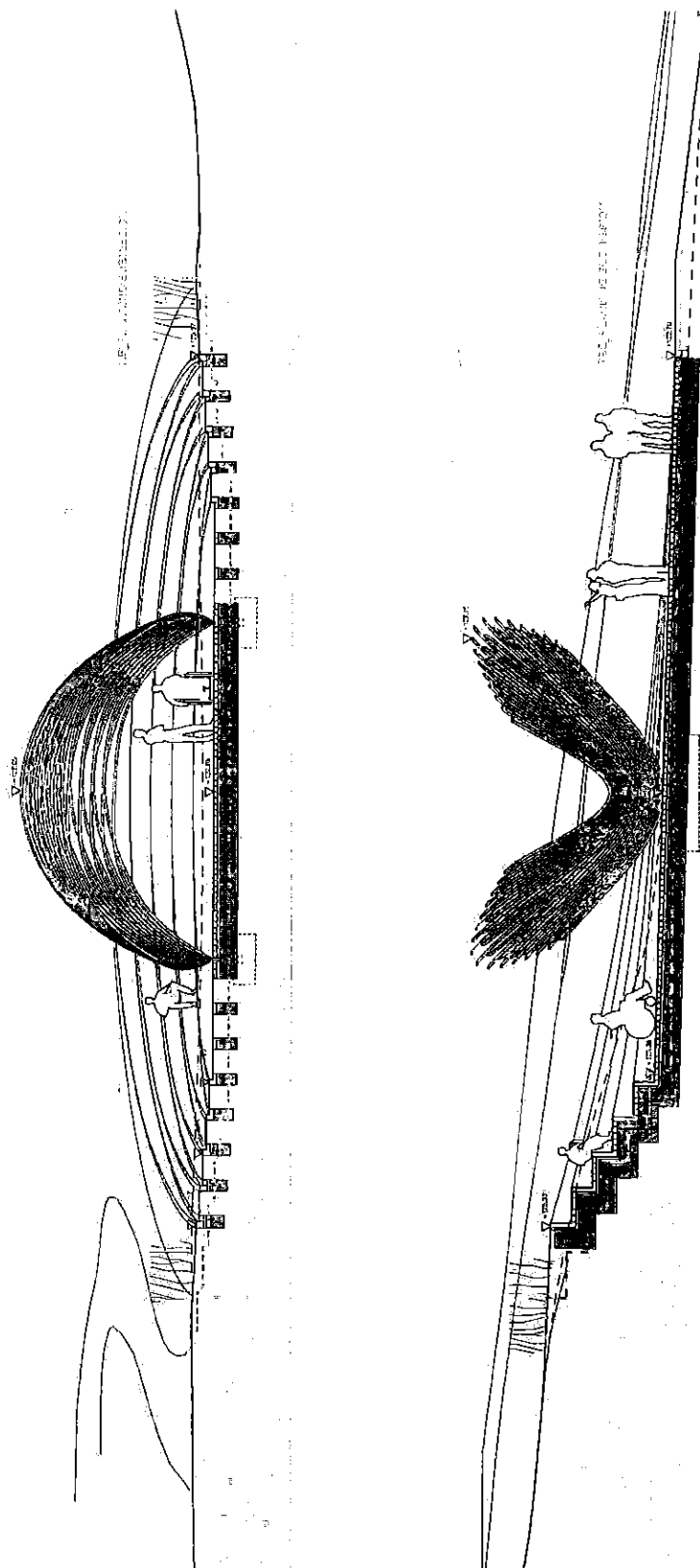
**TITLE**  
**PLANNING SUBMISSION**  
**DESIGN CHANGE**  
**SUMMARY SECTION**

SCALE  
1/100 @ A5DRAWN / CHECKED  
GKA / GKA

DATE 25/10/2017

DRAWING NO.  
1115-GKA-00-00-SK-A-0005

STATUS	SUITABILITY FOR INFORMATION
SS2	
REV	DESCRIPTION PRELIMINARY
P2	



[illegible]

**NOTE**

DESIGNER  
GEORGE KING ARCHITECTS  
NEW YORK, LONG ISLAND CITY, NY  
TEL: 718/760-1000 FAX: 718/760-1001  
WWW.GEORGEKINGARCHITECTS.COM

CLIENT  
FOREIGN & COMMONWEALTH  
OFFICE

PROJECT  
SOUSSE & BARDU MEMORIAL

TITLE  
PROPOSED  
SITE SECTION DIAGRAMS  
SHEET 1  
SCALE  
1/100 @ A3  
DRAWN / CHECKED  
GKA / GKA

DATE  
24/11/2017

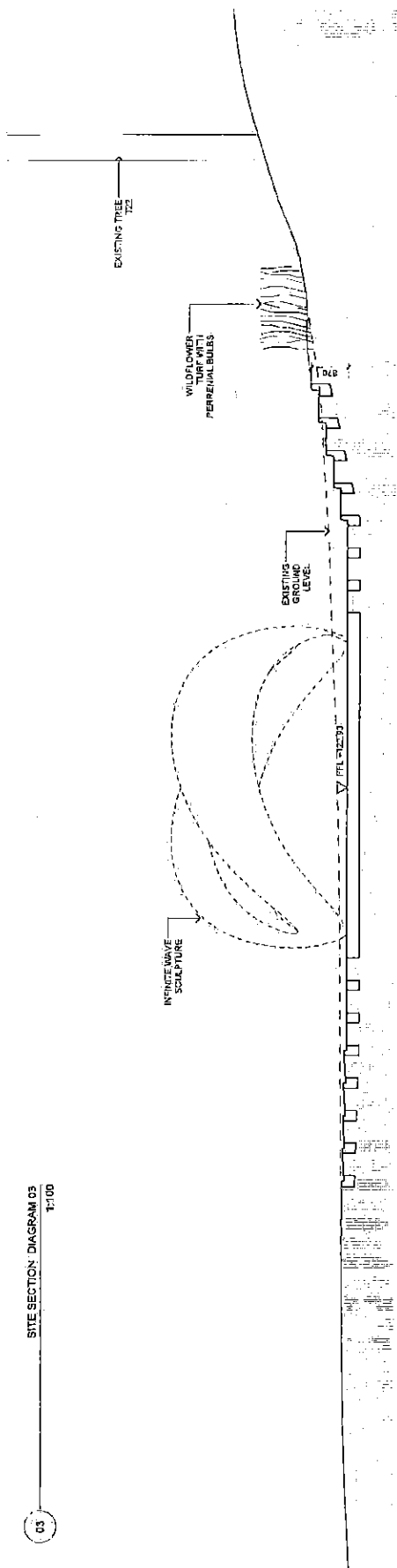
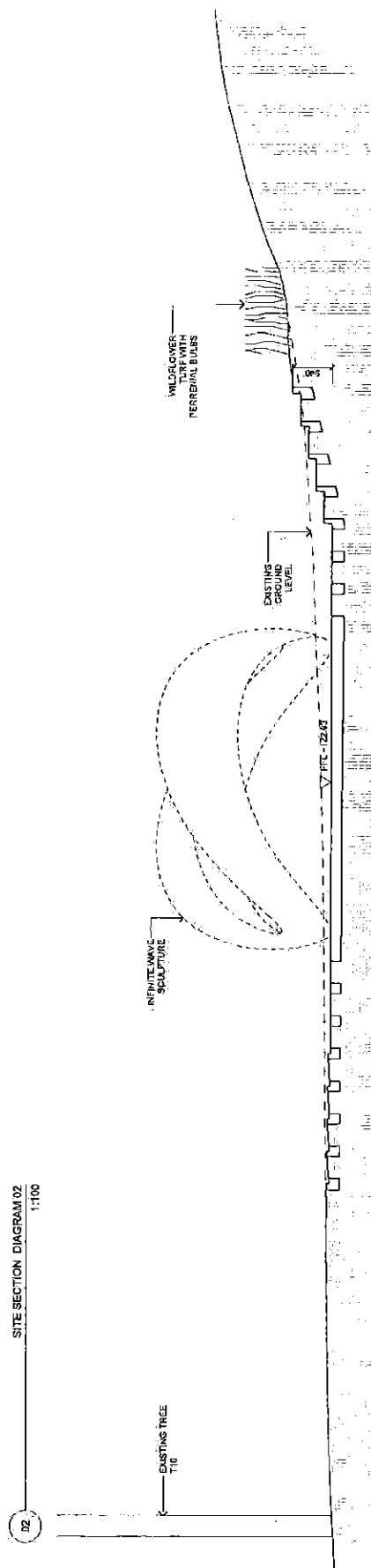
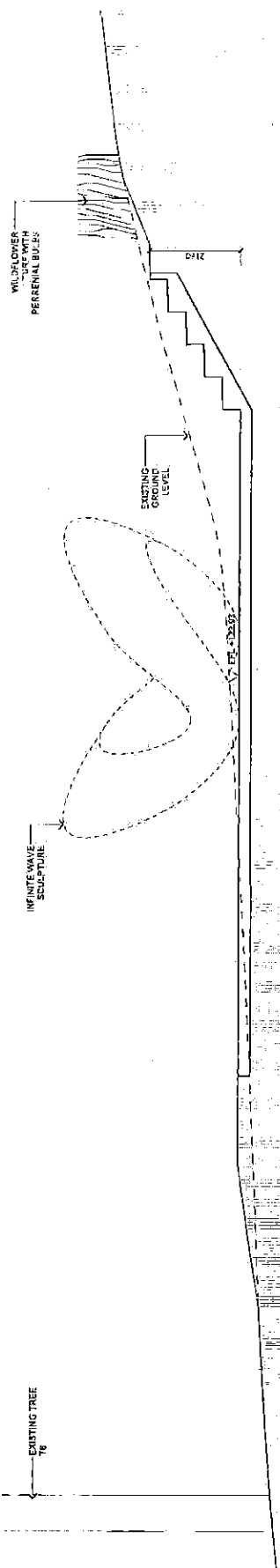
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STATUS  
S2

SUITABILITY  
FOR INFORMATION

DESCRIPTION  
PRELIMINARY

REV  
P2



10

SITE SECTION DIAGRAM 07

1:100

0 1 2 3m

1:100 @ A2

11

SITE SECTION DIAGRAM 08

1:100

EXISTING TREE

12

SITE SECTION DIAGRAM 09

1:100

EXISTING TREE

115-GKA-00-00-DR-A-0013

DATE 24/11/2017

DRAWING NO. 115-GKA-00-00-DR-A-0013

STATUS S2

REVISION P2

DESCRIPTION PRELIMINARY

DESIGNER GEORGEKINGARCHITECTS

CLIENT FOREIGN & COMMONWEALTH OFFICE

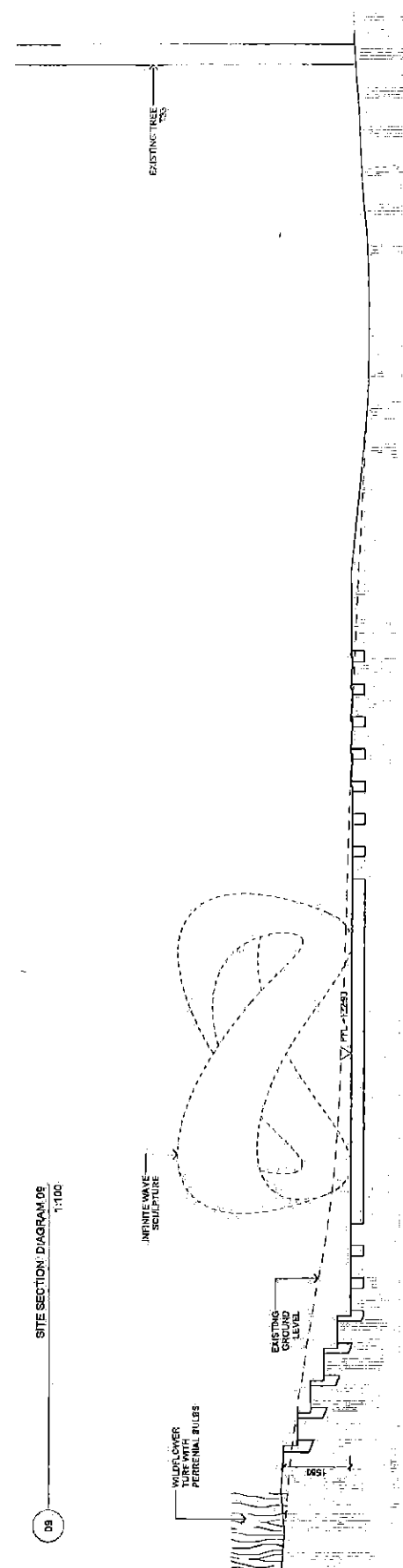
PROJECT SOUSSE & BARDO MEMORIAL

TITLE PROPOSED SITE SECTION DIAGRAMS SHEET 4

SCALE 1/100 @ A3

DRAWN / CHECKED GKA / GKA





**SOUSSE AND BARDO MEMORIAL**  
Planning Application Design Report  
December 2017

Volume 1

**GEORGEKINGARCHITECTS**



**Project Title**

Sousse and Bardo Memorial

**Document Reference Number**

115-GKA-00-00-RP-A-0004

**Agent**

George King Architects

**Applicant**Foreign & Commonwealth Office-  
(Philippa Greenwood- Project Lead)**Site Address**Cannon Hill Park, Russell Road, Moseley,  
Birmingham, B13 8RD**Prepared For**Andrew Conroy,  
Principal Planning Officer  
Planning and Regeneration  
Birmingham City Council**Details of Proposed Works**

Construction of a Memorial to the Victims of the 2015 Sousse and Bardo Terrorist Attacks within Cannon Hill Park, Birmingham incorporating a permanent sculpture and hard and soft landscaping works to the surrounding area. The purpose of the Memorial is to provide a permanent tribute to those who lost their lives in the atrocious attacks in Sousse and Bardo and to offer a place of remembrance, commemoration and reflection for all those affected. The design for the memorial was chosen following a design competition run by the Foreign & Commonwealth Office with input from a panel of experts including representatives from Birmingham City Council Parks Department.

**Details of Current Use**

The proposed site is located East/South/East of the boating lake. The layout is an oval shape approximately 25m by 15m with a bank around the southeast corner. A path offers access to the site which is located in a small glen of trees which offer some natural screening of the area. The result is tranquility and privacy with views of the lake. The memorial has been designed to fit within the natural clearing and follows the topography of the land to enable it be constructed without damaging any trees.

**Site Background**

Cannon Hill Park is one of Birmingham's best known parks and is located next to Edgbaston Cricket Ground. There are two existing memorials in the Park; a 1906 granite and bronze memorial by Albert Toft dedicated to those who died in the Second Boer War, and a memorial by William Haywood commemorating the Scouts who fell in both World Wars unveiled on 27 July 1924.

Volume 1	Volume 2
01 SUMMARY	03 PLANNING
02 DESIGN OVERVIEW	03.01 Pre-planning submission
02.01 Introduction	03.02 Pre-planning response
02.02 Background	
02.03 Site	04 SURVEYS
02.04 Design Concept	04.01 Arboricultural Survey
02.05 Sculpture	04.02 Root Analysis Iterations
02.06 Landscape Design	
02.07 Structure	05 DESIGN DEVELOPMENT
02.08 Construction	05.01 Plan Comparison to Pre-Application Scheme
02.09 Planting	05.02 Section Comparison to Pre-Application Scheme
02.10 Accessibility	
02.11 Crowd Control / Visitor Flow	
02.12 Sustainability / Materials	
02.13 Durability	
02.14 Climbing Prevention	
02.15 Maintenance	
02.16 Health And Safety	
02.17 Drainage	

## 02 DESIGN

### 02.01 Introduction

This report has been prepared by George King Architects Ltd under the appointment of The Foreign and Commonwealth Office in support of an application for full planning permission.

The report describes the proposed creation of a permanent memorial to the 2015 Sousse & Bardo Terror Attacks to be located in Cannon Hill Park, Birmingham.

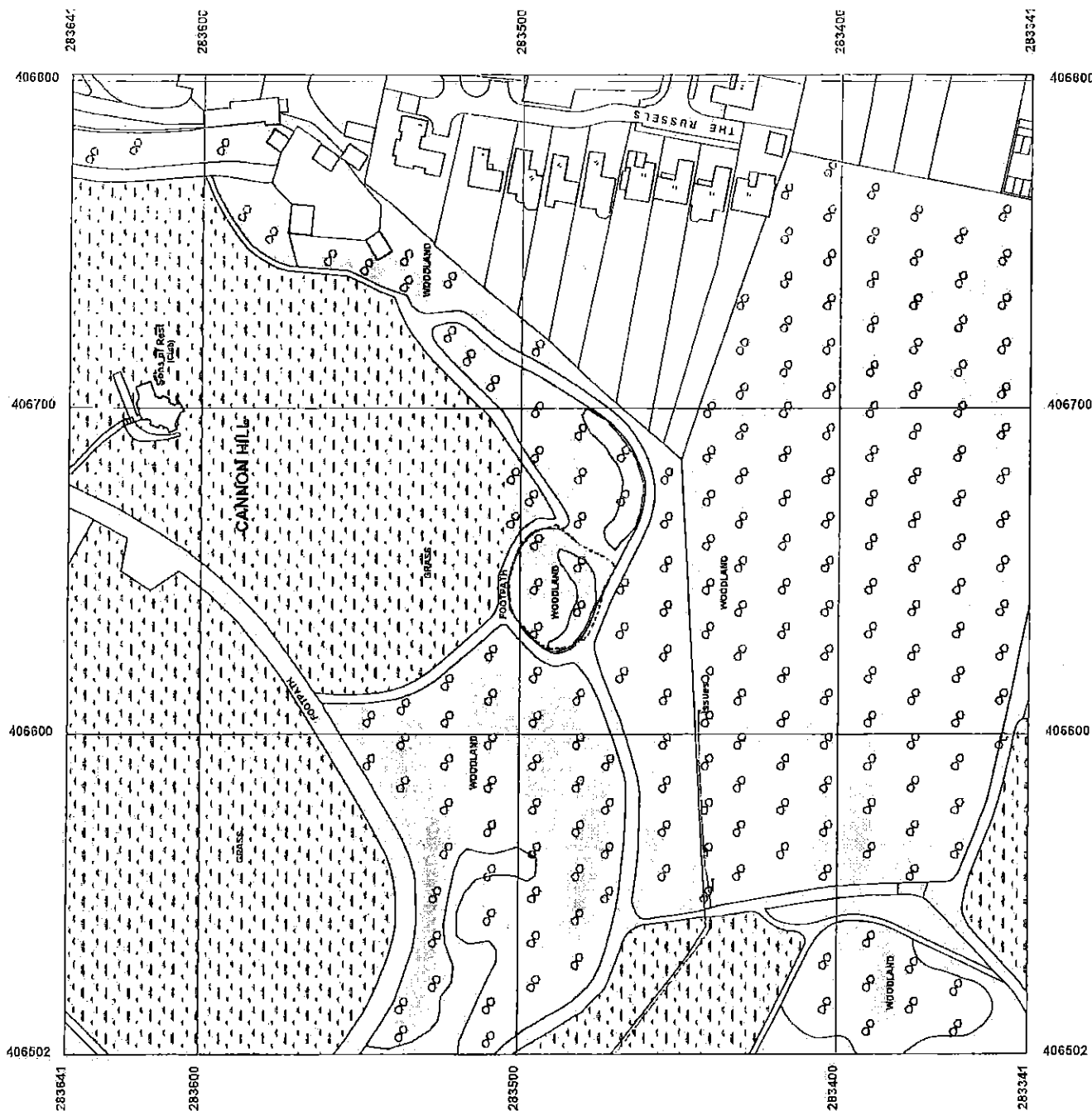
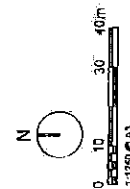
## 02 DESIGN

### 02.02 Background

On 18 March 2015, three militants attacked the Bardo National Museum in the Tunisian capital city of Tunis. What was initially a hostage situation resulted in twenty-two deaths, including one British National. On 26th June 2015, in the resort of Port El Kantaoui, a few kilometres north of the city of Sousse, Tunisia, a terrorist attacked tourists on the beach. He continued his attack into the Imperial Mahaba Hotel and onto the streets, where he was shot dead by Tunisian security forces. Thirty-eight people were killed, including thirty British nationals. The Sousse attack was the worst incident of terrorism involving British nationals since the 7/7 attacks in London. Over five hundred households and up to two thousand British Nationals were affected.

Shortly after the Sousse attack, a Ministerial Committee was established to coordinate the Government's response and provision of support to bereaved families and victims. The creation of a permanent memorial commemorating the British victims of these two terrorist attacks was proposed. The 2015 Sousse and Bardo Memorial.

The Foreign & Commonwealth Office (FCO) was tasked to lead the process of commissioning and installing a memorial to the victims of these terrible attacks. A design competition was held in 2017 to find an appropriate design. The competition involved a jury of experts and consultation with the affected families. In October 2017 the design described in this report was chosen as the preferred design.



## 02 DESIGN

### 02.03 Site

In 2016, a consultation was held with the British families affected by the two attacks to allow them to have a say on the preferred location for the Memorial. With the affected families spread across the length and breadth of the United Kingdom, Cannon Hill Park in Birmingham was chosen as the site which came closest to meeting the views expressed by the families on location and accessibility.

Cannon Hill Park is one of Birmingham's best known parks and is located next to Edgbaston Cricket Ground. The Park is large and popular, with plenty of activities on offer to the public, including a small zoo, an art gallery and a mini fairground. Despite these features, there are plenty of peaceful and secluded areas. The proposed site is located East/South/East of the boating lake. The layout is an oval shape approximately 25m by 15m with a bank

around the southeast corner. A path offers access to the site which is located in a small glen of trees which offer some natural screening of the area. The result is tranquility and privacy, with views of the lake.

There are two existing memorials in the Park, a 1906 granite and bronze memorial by Albert Toft dedicated to those who died in the Second

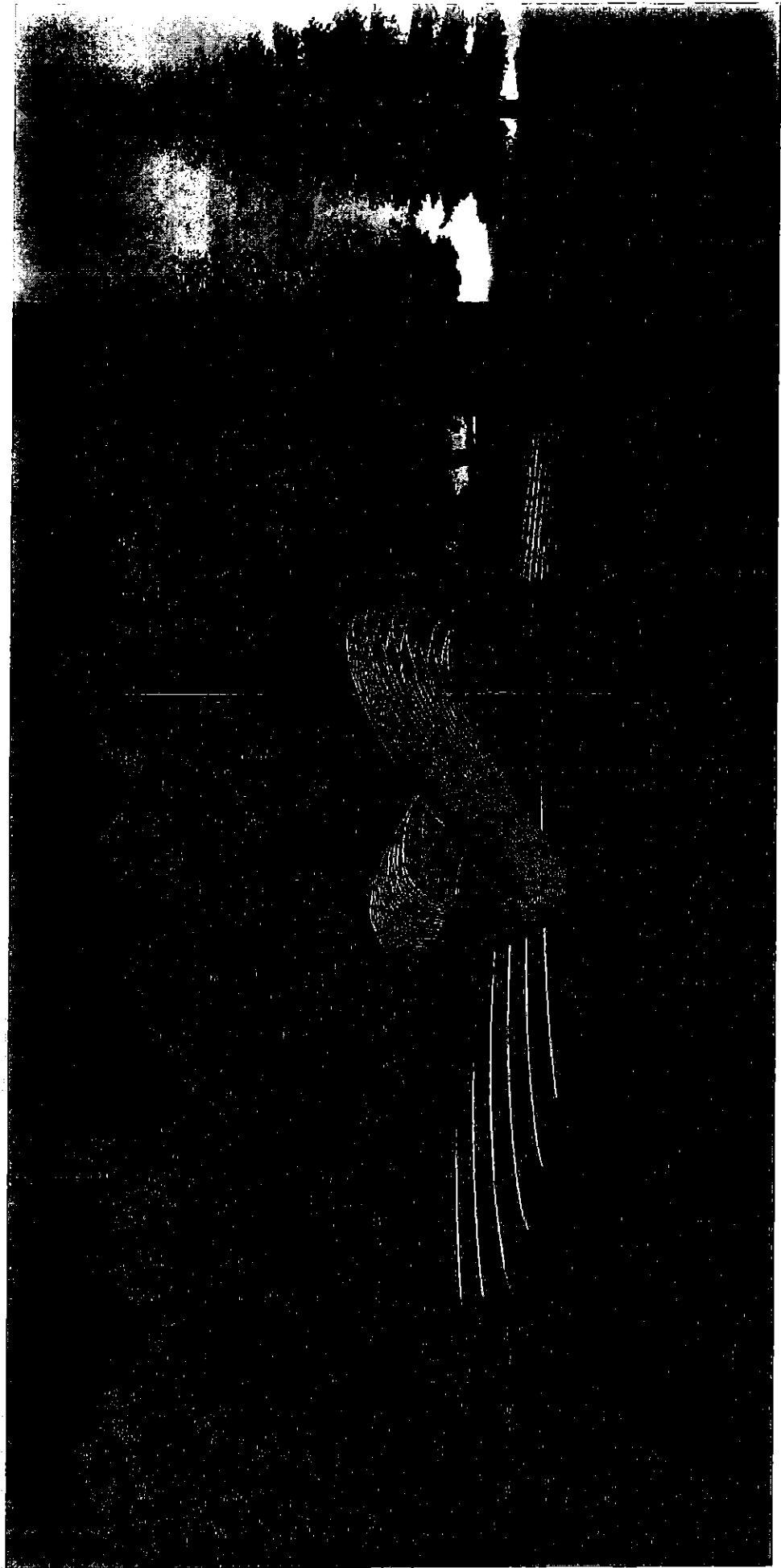
Boer War, and a memorial by William Haywood commemorating the Scouts who fell in both World Wars unveiled on 27 July 1924.



## 02.04. Design Concept

The proposed design for the Sousse and Bardo memorial is inspired by the fluid geometry of flowing water, frozen in place, as if time has stood still at the moment of the attack. This has been chosen not only because of the proximity of the events in 2015 to the sea but also as it represents a symbol of the cycle of life.

Water can be calm or destructive. Peaceful or energetic. It is transient and ephemeral, constantly shifting in form and shape. Our sculpture will freeze the water in a single moment to represent how for the victims of the attacks and their families time stood still on that day. By doing so we reveal the beauty and intricacy of water that is rarely seen, the subtle ripples and waves, the streams of miniature mountains and valleys along its surface.





## 02 DESIGN

### 02.05 Sculpture

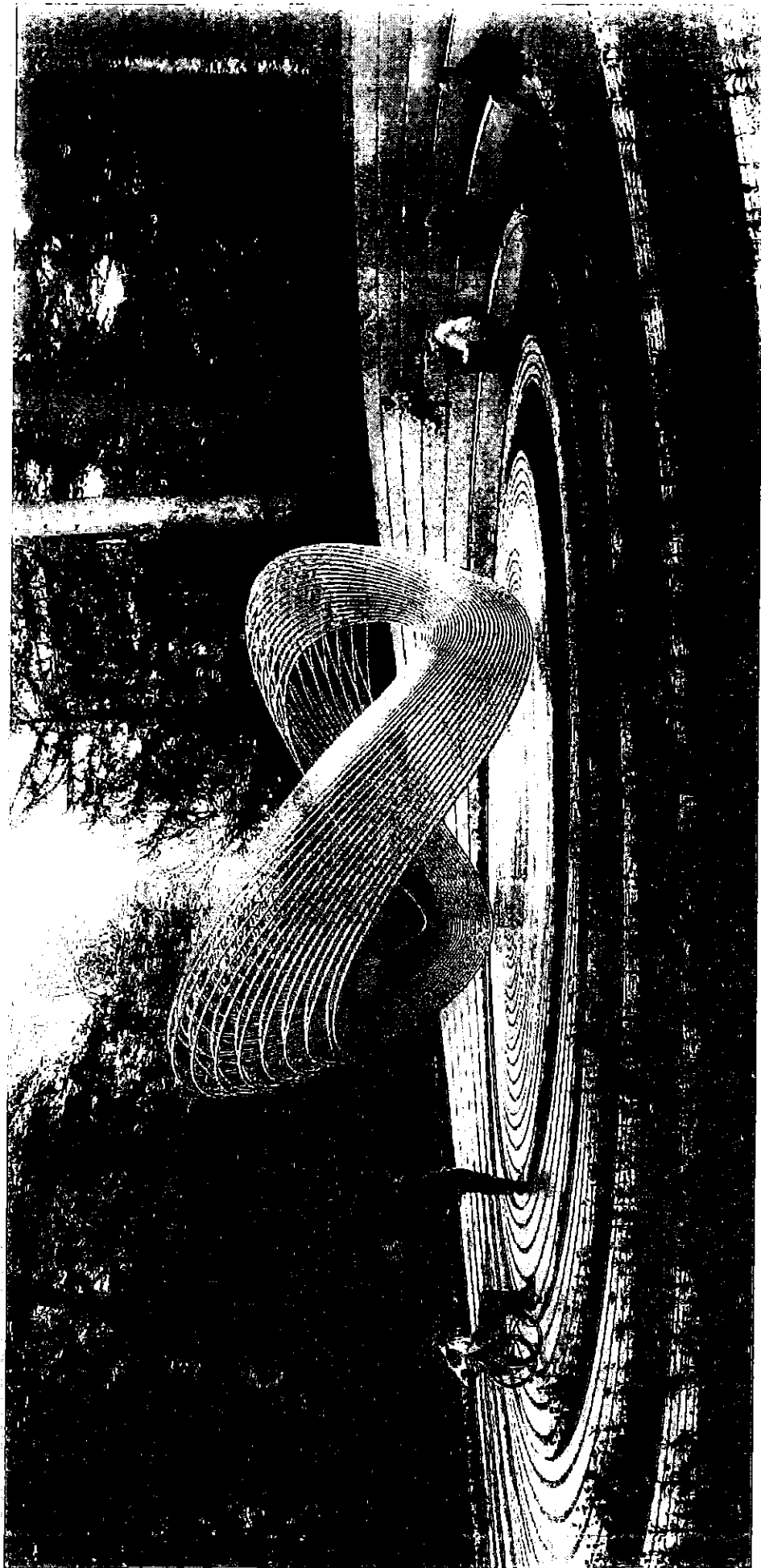
Water, when frozen in time and examined closely is not formed from a single surface but instead consists of many individual streams, with their own ridges, ripples and paths but flowing together in a common direction. The centre piece of our memorial contains a sculpture titled "Infinite Wave" which recreates a single wave formed from 31 individual streams, one for each British national who lost their lives in the attacks. Each stream is

formed from a graceful twisting and turning stainless steel tube. This material has been chosen for its reflective qualities which adds to the water like appearance of the form, creating a dynamic sculpture that reflects the trees, sunlight and natural landscape surrounding it.

Each one of the streams is unique and has its own path but they all flow together to create a

single form. The streams diverge in places, they twist and turn but always return. As visitors to the sculpture inspect the graceful, calm geometry of the sculpture they can trace the path of each stream, an act which reveals that the threads are not discrete individual elements but instead flow into each other. What at first appearance appears to be 31 individual threads are all in fact part of a single much longer continuous thread, eventually

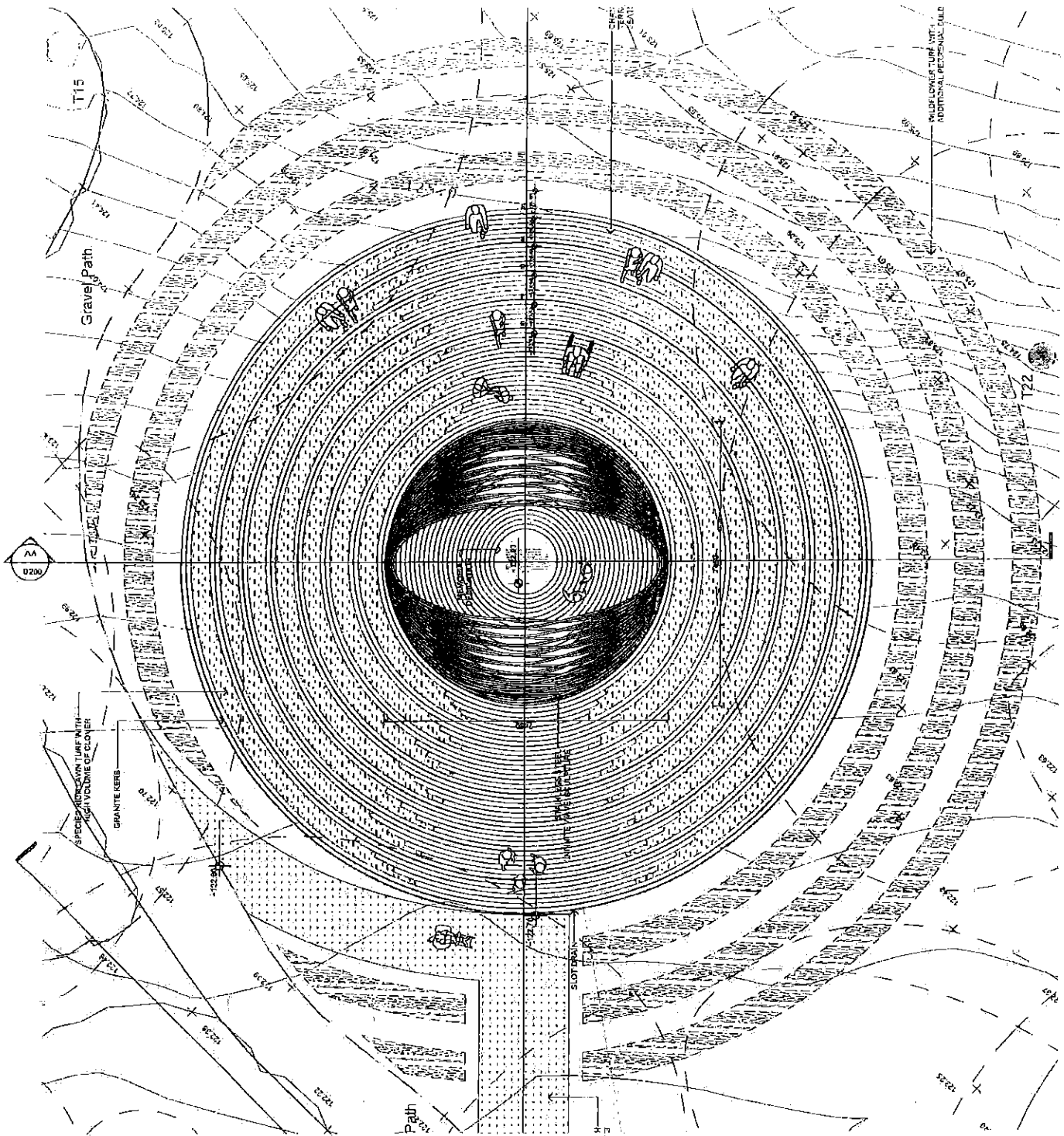
looping back in on itself and beginning again. The form of the overall wave has been carefully designed to be appreciated from many angles. In plan it is a pure circular form, a symbol of continuity. When approached from the front the sculpture forms a simple arch which welcomes visitors inside. When viewed diagonally the form shifts to create the mathematical symbol of infinity,  $\infty$ . As visitors move further around to view the sculpture from the side the form shifts again to create a pair of wings, a symbol of peace and hope.



## 02 DESIGN

## 02.06 Landscape Design

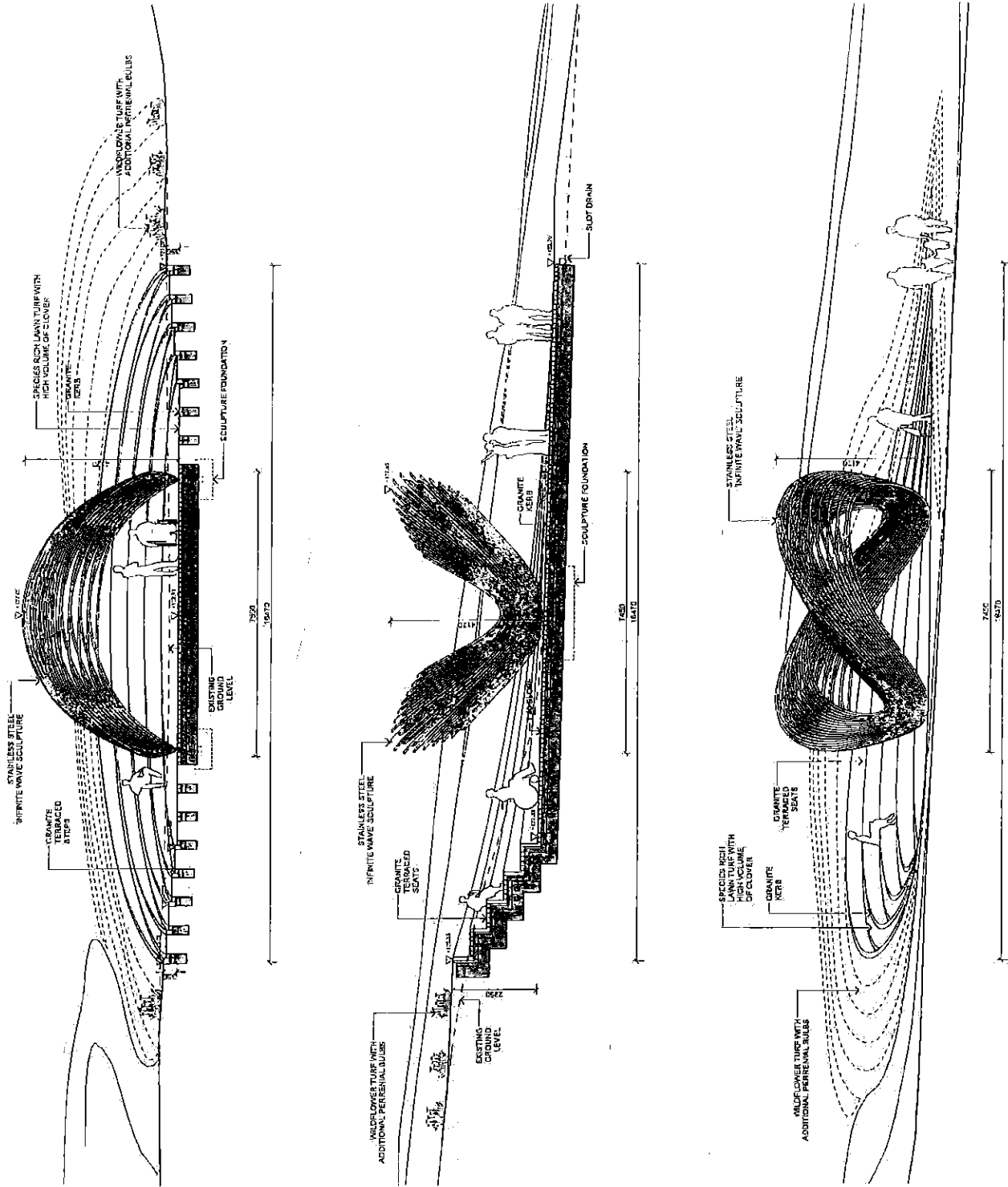
The landscape surrounding the sculpture continues the theme of water. It is conceived as a series of ripples that flow in concentric circles from the centre of the sculpture. The ripples represent the impact that the events in 2015 had beyond those that lost their lives. They represent the survivors, the families of the victims, the local communities, the national heartache and the global loss. They reflect how the impact of such tragic events is felt by an enormous number of people in many different locations.



## 02 DESIGN

### 02.07 Structure

The geometry of the sculpture has been designed to create a delicate but structurally strong form. It is formed from 42mm diameter stainless tubes which will be CNC bent to the correct radius. In the areas where the geometry touches the ground, the tubes converge allowing them to be welded together to create a single rigid steel wall. The pipes diverge at the place of least stress towards the top of the arches. In these areas they will be braced with stainless steel rods. The structure is supported by two steel base plates which are welded to the structure where the pipes converge below ground level. These base plates will then be bolted to two concrete slabs which will be poured in-situ.



## 02 DESIGN

### 02.08 Construction

The main sculpture will be prefabricated entirely off site in two halves to allow for easy transportation. Whilst this work is taking place hard and soft landscaping works can continue on site in parallel, including the pouring of the foundation slabs required for the sculpture. The sculpture will then be delivered to site and bolted to the foundation slabs. The two halves will be joined together using a socket joint at the end of each tube. A concealed flush fixing at the top of the tube will firmly locate the tubes together with only a hairline joint which will be barely visible as it is located at the highest point of the sculpture.



## 02 DESIGN

### 02.09 Planting

Our strategy for planting is to protect and enhance. This means that firstly we have carefully designed the scheme in a way that prevents damage to the existing trees that surround the site allowing them to continue to thrive. Our design responds to the natural clearing created within these trees.

Secondly our aim is to enhance the site with a selection of plants that are suitable for these surroundings. In addition to the grass used within the 'green seats' we have specified shade tolerant wild flower turf which has been developed to thrive in shaded areas beneath trees with minimal maintenance. It is made up of 41 different species of wildflowers and grasses, with a minimum of 75% wildflowers to produce a bio-diverse habitat supporting birds, mammals, bees, butterflies and other invertebrate species. This will be enhanced with a selection of perennial bulbs such as daffodils which have been selected to bloom in March and June on the anniversary of the attacks.

### 02.10 Accessibility

The landscape has been designed with accessibility for everyone as a primary objective. To achieve this the site has largely be levelled with a shallow gradient for drainage over the majority of the site which will allow access for wheelchair users, ambulant disabled and elderly users. At the rear of the site the landscaping follows the natural topography of the ground which will be terraced to create a seating amphitheatre. Space is provided at the front of this amphitheatre for wheelchair users.

The landscape is formed from a combination of planting and hard landscaping materials such as granite. We have ensured that a clear path of granite is available through the centre of the scheme, allowing wheelchair users to access the sculpture and the amphitheatre beyond. The granite is etched with a circular pattern that creates a tactile surface to reduce the likelihood of slips.

### 02.11 Crowd Control / Visitor Flow

The landscape has been designed to be largely open with generous flat surfaces for gathering and an amphitheatre for seating to allow a large number of visitors simultaneously. This open design is extended to the sculpture itself where visitors can gather within or look at from outside. The circular form of the landscape also has a wide opening onto the existing adjacent path which eliminates the possibilities of pinch points which would inhibit crowd flow.

### 02.12 Sustainability / Materials

Sustainability is at the heart of every project that we work on. For this project, our approach begins with the careful selection of materials from sustainable sources that are chosen for their durability and longevity. This memorial will exist for generations and so we have chosen materials such as granite and stainless steel that will stand the test of time, will not need replacing during its lifespan and that will require very limited maintenance.

The careful integration of planting is also important. We have chosen shade tolerant wild-flower turf which produces a bio-diverse habitat supporting birds, mammals, bees, butterflies and other invertebrate species. The sustainable approach in landscaping also includes our strategy of using the natural topography of the site to create our seating amphitheatre without the need to complete large amount of earth works and without disturbing the existing trees and plants surrounding the site.

## MATERIAL PALETTE



Shade Tolerant Wildflower Turf



Green Seats



Granite



Stainless Steel Sculpture



Engraved Granite Plaque



Etched Granite Ripples

## 02.13 Durability

Our approach to durability and resistance to vandalism comes firstly from the selection of materials. Granite and stainless steel have been chosen as two predominate materials, both of which are extremely hard, tough and durable. Both of the materials are resistant to being spray painted or otherwise marked and can be easily and effectively cleaned if required.

## 02.14 Climbing Prevention

We have been careful to design a public sculpture and landscape that strikes a balance between being tactile, warm and welcoming whilst also discouraging children from climbing on areas that could be considered sensitive. Our approach to this begins with the sculpture itself, the geometry of which is designed so that at places where it touches the ground it forms a solid vertical wall that is too high for people to climb on. We have also designed the sculpture to eliminate any horizontal surfaces that might be tempting for people to sit on, whilst providing large areas of terraced seating nearby which will be a more obvious and respectful place for people to sit and for children to play among the wildflowers and grass.

## 02.15 Maintenance

As described above, our selection of high quality, durable granite and stainless steel means that maintenance to the sculpture and hard landscaping will be kept to an absolute minimum. Likewise maintenance of the planting areas will also be minimised. The shade tolerant wildflower turf is drought resistant and has been chosen as a hardy and durable species that will thrive in shady areas with minimal attention. The grass for the green seat areas within the amphitheatre will require cutting once a week in the summer and infrequently in the winter and this can be done with equipment already in use at the park.

## 02.16 Health And Safety

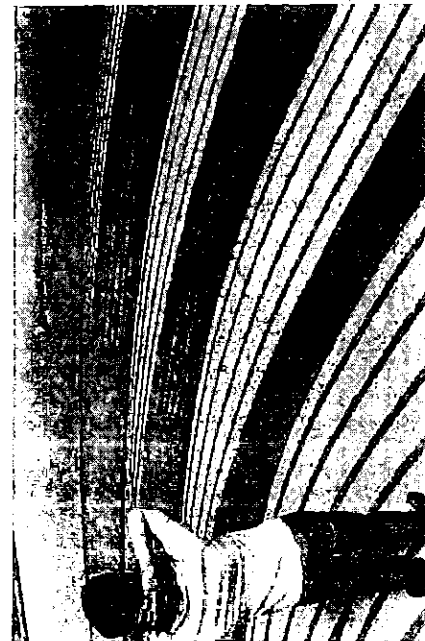
Our health and safety strategy includes the use of a textured surface granite paving slabs with ridges to create an anti-slip surface. The landscape has been designed to be flat to remove the risk of trips. The gently sloped terrace design contains no large drops to remove the risk of falling. The sculpture contains no sharp corners or points that might cause harm and the edges of all the kerbs will be rounded.

## DEDICATION ENGRAVING OPTIONS



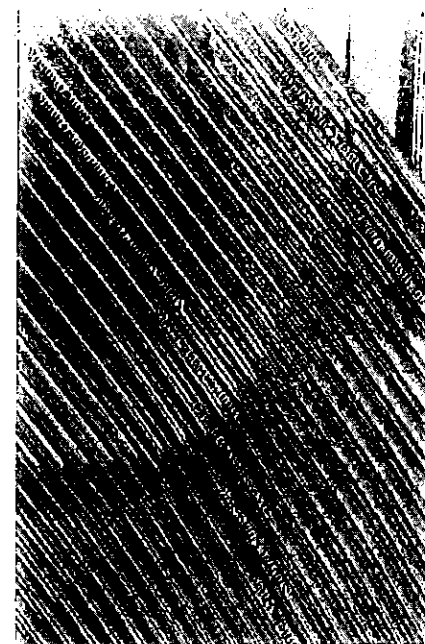
Dedication Option 1

Names and dedication engraved into central granite plaque



Dedication Option 2

Names and dedication engraved into granite amphitheatre steps



Dedication Option 3

Names engraved onto stainless steel sculpture

## 02 DESIGN

### 02.17 Drainage

Drainage of the site is provided by slot drains at around the edge of the flat hard landscaped area. This area will have a minimum gradient of 1 in 40 to allow surface water to drain towards the slot drain. This strategy is complemented by large areas of soft landscaping.



SOUSSE AND BARDO MEMORIAL - PLANNING APPLICATION DESIGN REPORT

GEORGE KING ARCHITECTS

**SOUSSE AND BARDO MEMORIAL**  
Planning Application Design Report  
December 2017

Volume 2

**GEORGEKINGARCHITECTS**





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### 03.02 Pre-Planning Response

The project was submitted to pre-planning on the 2nd of November 2017. The submission included:

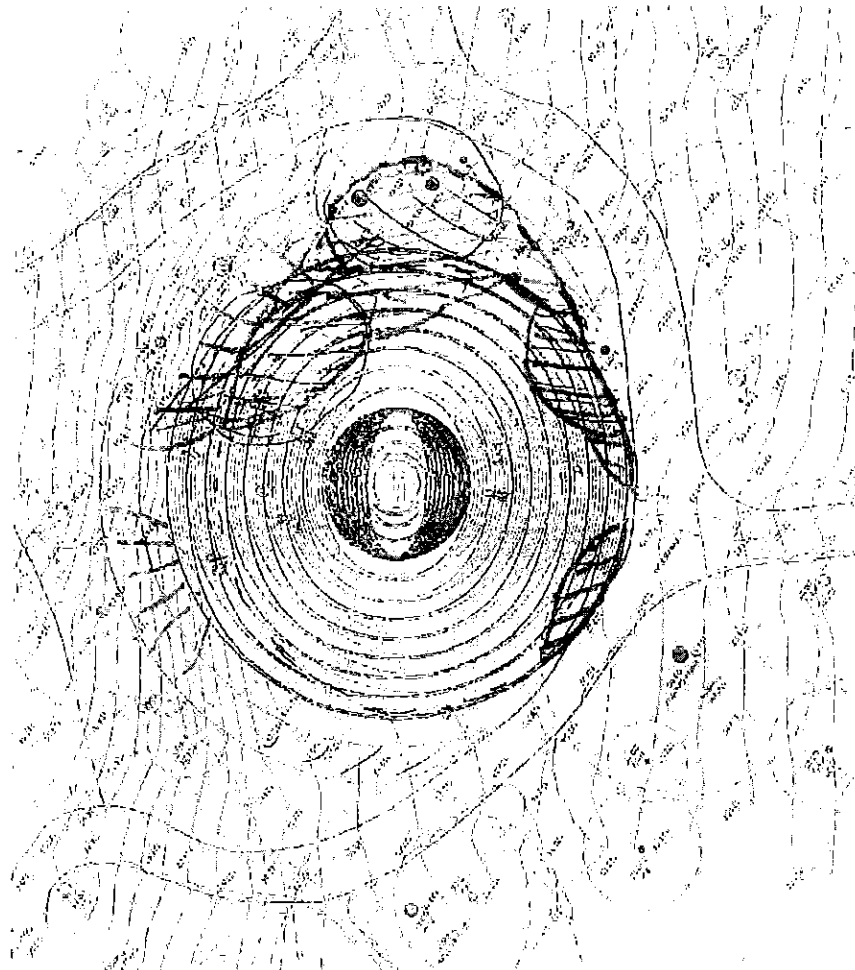
A response to our Pre-planning Submission was received on 29th November 2017.

Pre-application Report

- Pre-application Report
- Full set of architectural drawings

As previously discussed the response (shown opposite) indicated the need for a full tree survey to BS5837 and for careful design to minimise damage to existing trees. This has now taken place.

The response also noted the need for a heritage appraisal which has also taken place.



### Tree Officer Sketch

**GKA Studio**

**From:** .. Andrew Conway <Andrew.Conway@btinternet.com>

Sent: 29 November 2017 20:22

**To:** studio@georgekingarchitects.com  
23 NOVEMBER 2011 20:22

**Subject:** [studies@yourengineeringinfect.com](mailto:studies@yourengineeringinfect.com)  
Pre-Application Enquiry Response 2017/09611/PA - Cannon Hill Park

Scan-to-Me from 10.65.4.130 2017-11-24 11:38:72.pdf

Dear Mr. King,

Thank you for the above pre-application enquiry for the proposed construction of a memorial sculpture within Cannon Hill Park. I have reviewed Drawing Nos. 0001 Rev "a", 0002 Rev F1, 0003 Rev P1, 0100 Rev P1, 0200 Rev P1, 0307-0347-1-2D, and the Pre-Planning Application Report Oct 2017. I have liaised with our Conservation Officer, Ross Brazier, Tree Officer, Richard Wood and Ecologist, Nicole Farin.

consider the design, location, scale and materials of the proposed sculpture would likely be acceptable.

The City's Conservation Officer has raised no objection to the proposed development in principle. However, he has recommended that a Heritage Appraisal will need to be submitted as part of any planning application, which reassesses the impact of the proposed development on the significance of the Grade II\* Listed Registered Historic Park and Garden. I would also advise you to submit a separate pre-application enquiry to Historic England to ensure that they are on board with the proposal prior to your submission of a planning application.

The City's Tree Officer has reviewed this proposed topsoil plan. Please see attached a rough sketch where he has indicated where he considers there may be some potential issues with ground levels within the root protection areas (RPAs) of the surrounding trees. He has assumed that the lines around the trees are correct; RPAs i.e.  $\pm 2$  times DKH that would define an RPA? He advises that they look about right (particularly for the deciduous trees) but this should be checked. If these are not correct RPAs then a new tree survey to BS5537 would need to be carried out to inform any planning application. On the attached drawing the red hatching is an estimate of the likely excavation that might impact so far as the trees are concerned. It bulges out to the south west because it appears from the cross section that ground levels are lowered in this area to, I guess, even out the direction of the general slope around the memorial. However, there also appear to be bunds so he is not sure of this interpretation or the reason for the apparent excavation. He has assumed excavation for the kerbs towards the North West entrance'. The blue hatched areas are his impression of the positive grading within the RPAs.

The city's Tree Officer has explained that the combined effects of grading, -positive and negative, -should be less than 20% of the proper RPA's of the surrounding trees. The trees are all open grown and, with careful methods, an incision of 20% will be achievable without tree removal. Presuming there is a solution for the 'bulge' to the South West and with some tweaking of the finished levels (whole memorial and locally in the surrounding area) it appears to him that the proposal is achievable.

The City's Tree Officer advises that it will be necessary to upgrade the topo plan (Drawing 0003) with true APAs or, preferably, undertake a 85587 survey for those trees nearest the proposal. The benefit of a full survey, apart from properly defining the constraints, will be to also evaluate the condition of the trees. He explains that he imagines that it is your intention to retain all of the trees around the site, but if constraints do not allow this then the retention categories of the trees will inform this way forward.

The City's Ecologist advises that an Ecological Appraisal would not be required to support the proposed development, but that a light spillage plan should be provided to accompany any planning application to demonstrate that upward light spillage from the proposed LED lights would not adversely affect bats. Would the LED lighting operate on a timer basis? If so, please provide details.

I hope the above is of assistance to you in making your planning submission.

Please note that these are informal comments only and would not prejudice the outcome of any future planning decision.

**Regards:**

Andy Conroy  
Principal Planning Officer  
Planning and Regeneration

### Pre-planning Response

## 04 SURVEYS

### 04.01 Arboricultural Survey

Appointed: Tracy Clark Tree Consultancy  
<https://www.tracyclarke.co.uk/>

A full tree survey and assessment of the site was undertaken to BS5837 by Tracy Clark Tree Consultancy on 6th December 2017.

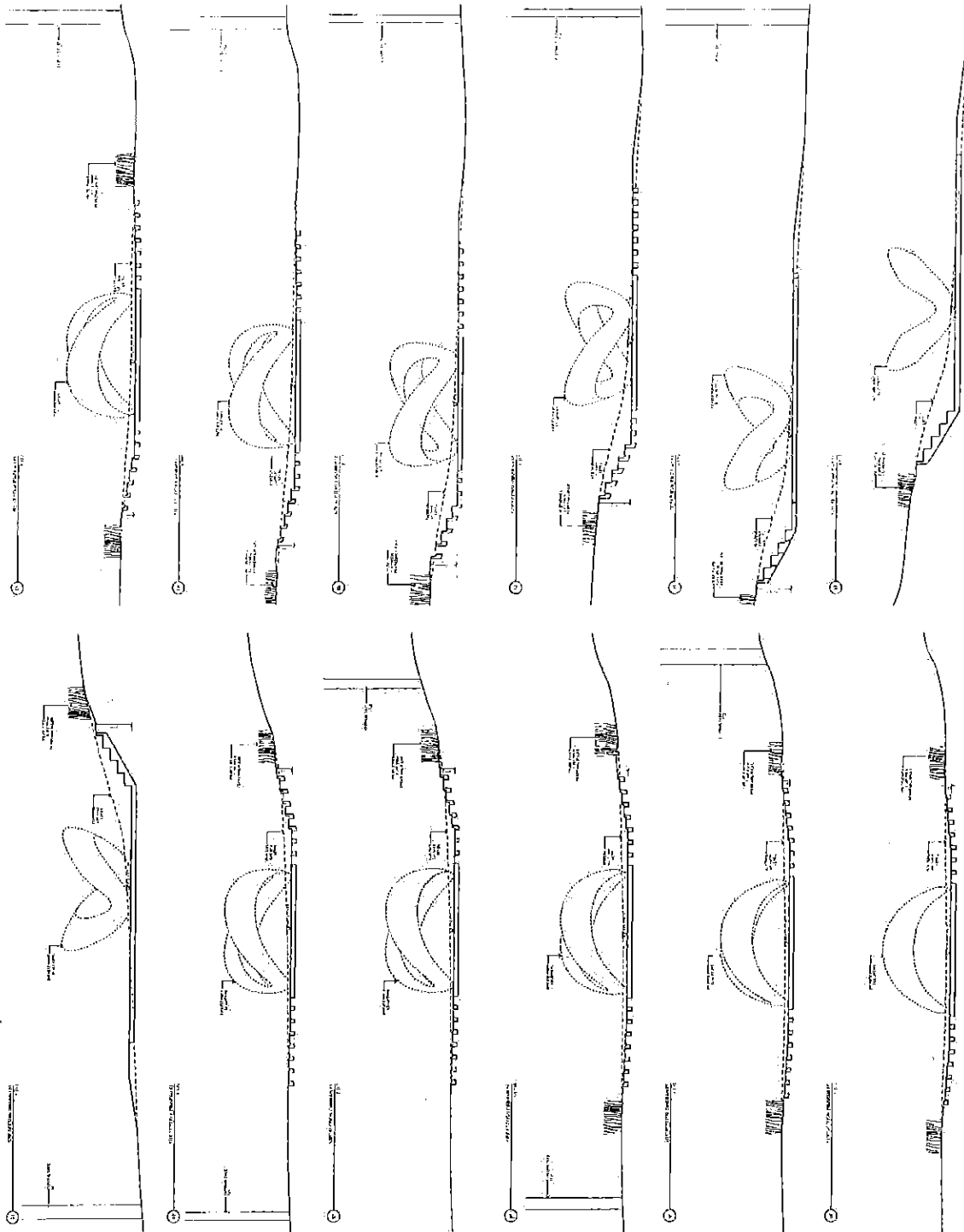
Their full report is included in the planning submission.

Following the survey it became clear that the scheme as submitted for pre-planning resulted in the encroachment of the hard landscaping into a number of the surrounding trees' Root Protection Area. This would result in a number of the trees needing to be removed and would therefore jeopardise planning permission being granted.

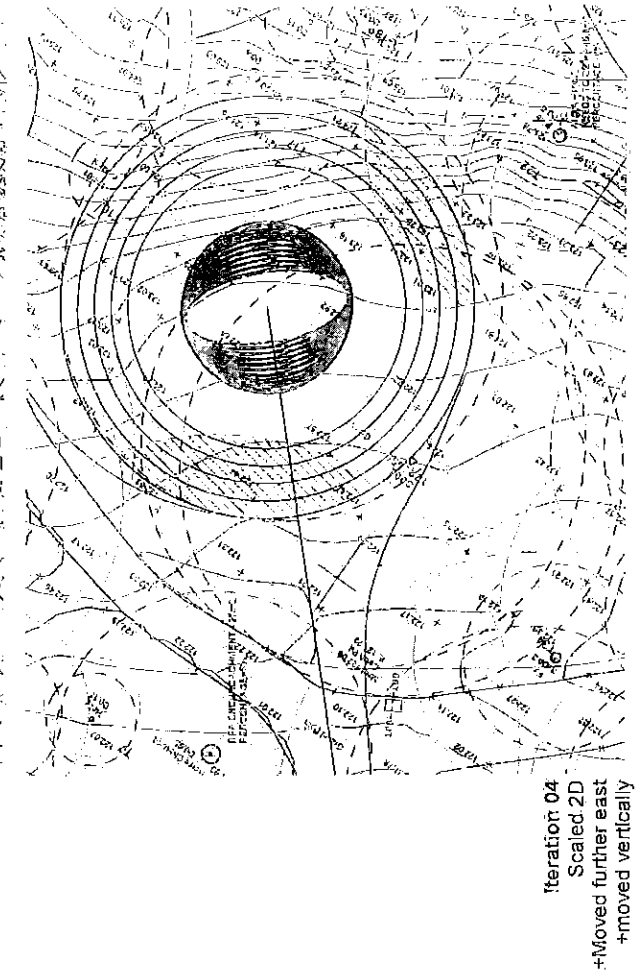
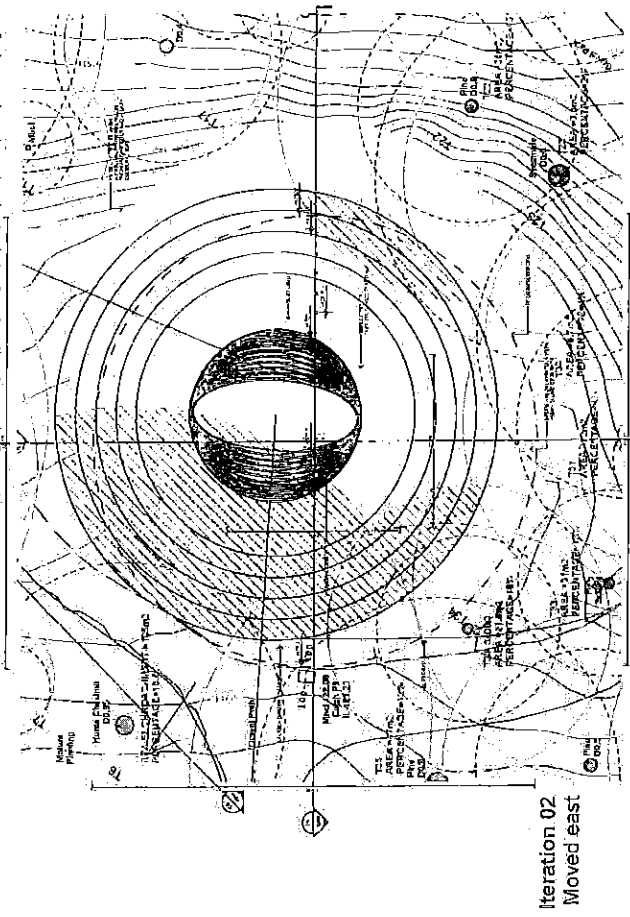
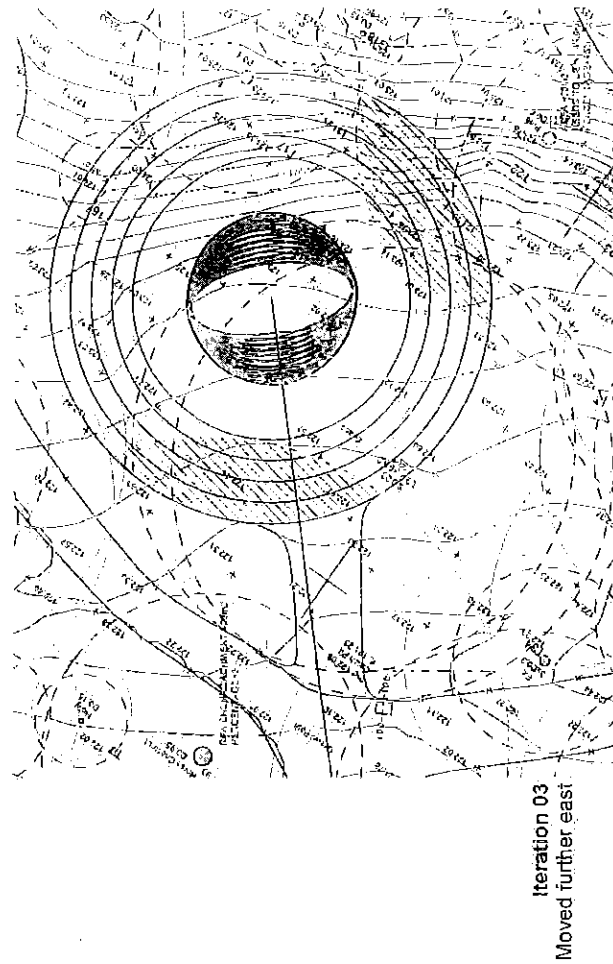
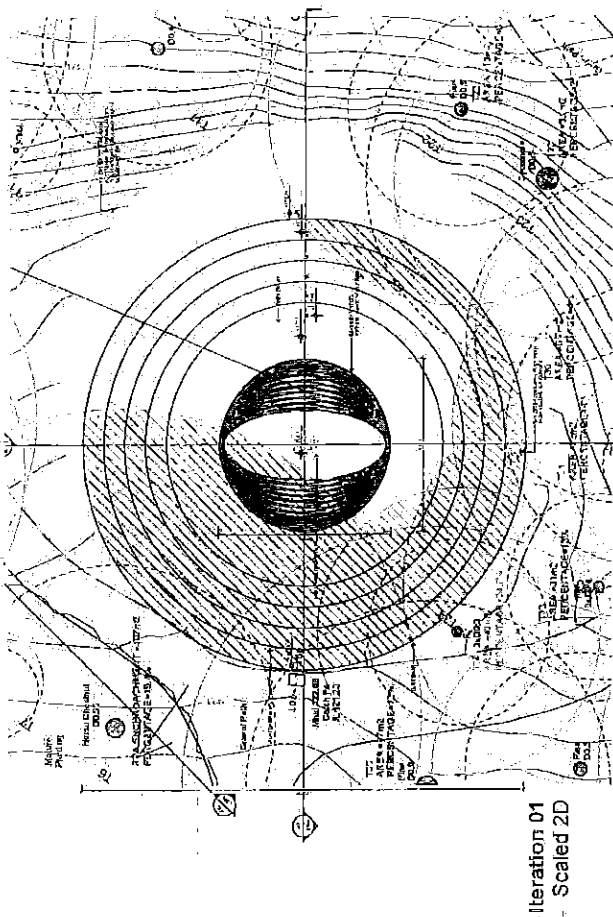
An extensive design iteration process involving George King Architects, Fira and Tracy Clark Tree Consultancy followed in order to find a solution in terms of the scale and location of the memorial which would protect all of the significant trees on site whilst maintaining the functionality of the memorial. This process included a detailed analysis of the ground levels by taking sections through each significant tree.

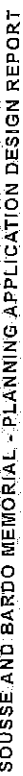
The following pages outline this process which resulted in the following changes:

- Footprint of the hard landscaped area reduced from 390m<sup>2</sup> to 260m<sup>2</sup>
- The location of the memorial moved east by 7.5m
- The memorial raised by 300mm in order to reduce the amount of excavation required.



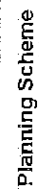
04.02 Root Analysis Iterations





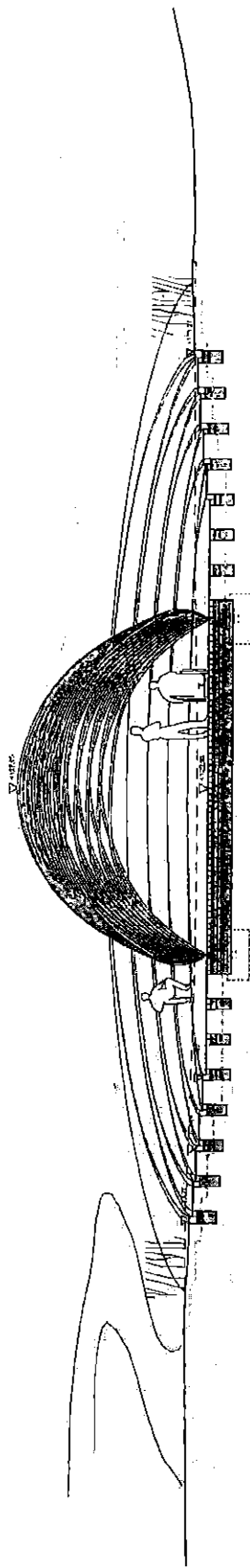
### 05.01 Plan Comparison to Pre-Application Scheme

The following pages demonstrate the change in scale of the scheme since the Pre-Planning Application scheme. This work has been completed in response to the results of the Tree Survey in order to protect existing trees.

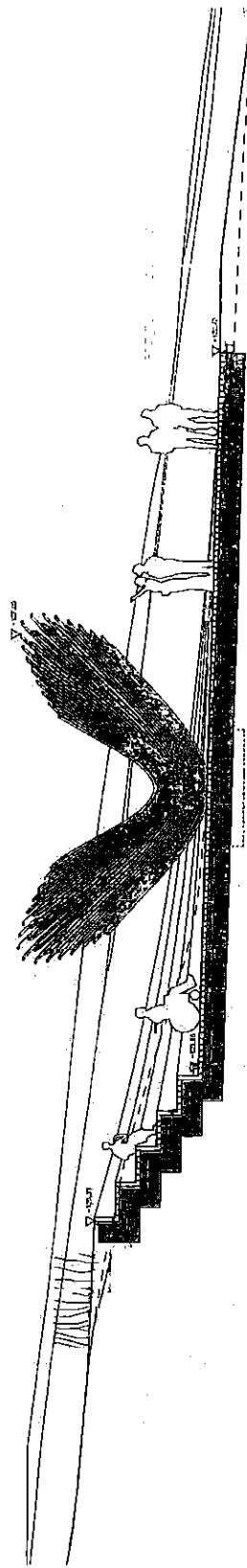


## 05 DESIGN DEVELOPMENT

### 05.02 Section Comparison to Pre-Application Scheme



Planning / Pre-planning Section Analysis



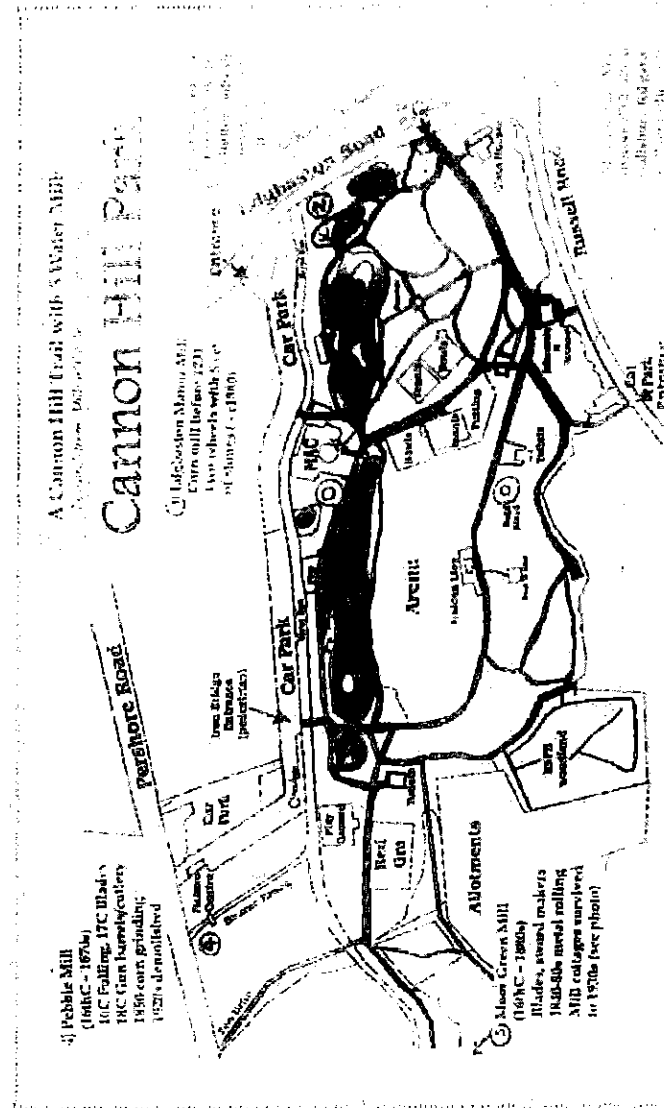
Planning / Pre-planning Section Analysis

## Introduction

This heritage statement (also known as a heritage impact assessment) responds to a development proposal by The Foreign and Commonwealth Office and George King Architects to construct a memorial sculpture within the Grade II\* Registered Park and Garden at Cannon Hill Park. The statement includes a brief summary of the site's historical development and a description of its current character, state of preservation and significance and then assesses the likely impact of the proposed development on the significances identified.

## Summary Historical Development of the Park

The River Rea which flows through the area now known as Cannon Hill Park was used from the middle ages as a source of water power for agricultural and early industrial Mills. The graphic below illustrates a heritage trail of five water mills in and adjacent to the present day park.



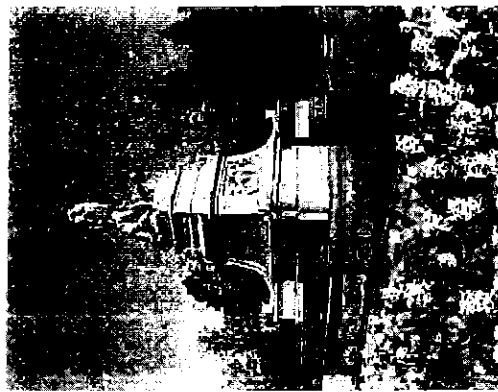


Cannon Hill House (1830-1840) was built by Miss Louisa Ann Ryland on a knoll of high ground overlooking the low lying meadows in the Rea valley. In 1873 Miss Ryland presented 57 acres (c.24 Hectares) to Birmingham Corporation and funded the draining and laying out of a public park.

The park was designed and laid out by John Gibson, a leading designer with a national reputation and experience. The park was opened to the public in September 1873 and it contained a carriage drive, two lakes, a bathing pool, refreshment pavilion, lodge and glasshouses. A further 7 acres (c.3 Ha.) was donated by Sir John Holder in 1897, and 5 acres (c.2 Ha.) were acquired in 1898 to enable the straightening of the River Rea.

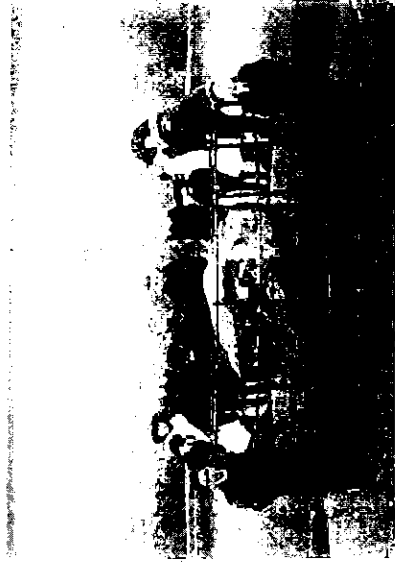
Cannon Hill House was acquired by the Corporation in 1907 and the adjacent ground was developed as a horticultural nursery. The house is now Grade II Listed and it is let for commercial use.

The park was chosen in 1906 to be the site for Albert Toft's memorial to the dead of the Boer War. The memorial illustrated below is now Grade II Listed.



The Scouts Memorial Obelisk for some 250 young men who enlisted in the First World War and fell in battle was completed in 1924. This structure is also Grade II Listed.

An unusual heritage feature of the park is the Ice Age Boulders or erratics which were found and displayed during the laying out of the park (see illustration below)



The Grade II Listed Red Carriage Bridge does not appear on the first Plan of the Park in 1873, but was added when the Lakes were extended as well as the Main Drive through to the Queens Ride and Pershore Road entrance. It was built by John Bowen and Sons.

Other listed structures in the Park include the Grade II listed late 19<sup>th</sup> century octagonal bandstand. 80 metres south- west of the bandstand is the Grade II listed Golden Lion Tudor House which was taken down from Deritend and re-built in the Park in 1911. The building was originally adapted as a cricket pavilion.

The half- timbered single-storey Sons of Rest building was constructed in 1937 as a community building for retired local men. This un-listed building is around 100 metres north of the proposed memorial site.

#### **Site Selection- Options appraisal**

The Foreign and Commonwealth Office went through an extensive process to find a suitable location in the UK for the Tunisia Memorial. Two cities; York and Birmingham were shortlisted as being suitable on the basis of accessibility by public transport from London and each having a number of parks and green spaces which could accommodate the Memorial. Birmingham appeared to have a better combination of available parks for the initiative. The following table was presented to the Minister responsible for the Memorial and it illustrates how the choice of Cannon Hill Park emerged as a front runner:

# **BIRMINGHAM:**

**Pros:** Lots of options of green space (14% of Birmingham is made up of 591 parks and the city is a frequent gold winner of Britain in Bloom (last time was 2015). Enthusiastic council who have been engaged from the start. Good range of hotels and places to eat and excellent country-wide transport links. Excellent public transport network in city.

**Cons:** Although the train station has been renovated and is very modern, some of the areas in its immediate vicinity appear a little rundown and it so does not have a wow factor first impression. Suitable green spaces are not walking distance from train station. Some of the Parks are small community parks where they may not understand or welcome a memorial for people from outside the area.

Location Name:	Type of location			Other Criteria requested by family						Other information	
	<u>Rural/</u> <u>Green</u> <u>(City park</u> <u>/</u> <u>woodland</u> <u>)</u>	<u>Seclude</u> <u>d/</u> <u>Tranquil</u>	<u>Public</u> <u>Place of</u> <u>Prominen</u> <u>ce</u>	Primary criteria			Secondary criteria				
				<u>Car P</u> <u>Parking</u> <u>/ road</u> <u>links</u>	<u>Disabilit</u> <u>y access</u>	<u>Good</u> <u>public</u> <u>transport</u> <u>t links</u>	<u>On-site</u> <u>ameniti</u> <u>es</u>	<u>Nearby</u> <u>accomm</u> <u>o-</u> <u>datation</u>	<u>Other</u> <u>places</u> <u>of</u> <u>interes</u> <u>t</u>		<u>Nearb</u> <u>y</u> <u>airport</u>
Rookery Park	✓	To a degree	No	On-site	✓	✓	X	✓	X	Appro x. 8 miles from New Street Statio	Graffiti issues. Proposed site in front of derelict house. Although due to be pulled down this will not happen before memorial
Carr's Lane	x	x	X	X	✓	✓	X	✓	✓		Noisy, and busy. Council keen on this site as could improve area with memorial but



Having chosen Cannon Hill Park as the front runner, the following detailed criteria were applied in order to find a suitable location in the Grade II\* Registered Park and Garden:

Must have:

- Not too close to the commercial areas of the park (crazy golf, pedalos, etc.)
- Reasonable access to both water and electricity sources
- Less than 10 minutes' walk from the car park (given some of the victims are seriously injured)
- Less than 10 minutes' walk from amenities (see point above)
- Not too close to the other memorials and structures in the park so as not to detract from them
- Secluded location to provide families with a tranquil area for reflection
- View of the lake if practical

The chosen location fits the above criteria and the following sections describe the area in some detail and examine the potential impact on the Registered Park and Garden.

#### Current Landscape Character of the proposed memorial site



The above photograph illustrates the quiet, secluded setting of the proposed Soussé and Bardo memorial in the south eastern corner of Cannon Hill Park. The site is enclosed by mature trees on a gently mounded landform which creates a natural bowl with views out west towards the southern lake.

The setting is a mix of mature conifers and broadleaved trees with a mainly evergreen shrubby understorey in mown grassland. Although there is a network of made up tarmac paths in the vicinity allowing easy access, the site is less intensively used than other parts of John Gibson's designed parkland.

#### Heritage Significances of Cannon Hill Park

The original Park design was by John Gibson, an eminent designer of the time (1873) who had a successful track record including several of London's major parks. The Gibson design is essentially unchanged although it has been enhanced and extended to become one of the Principal Parks of Birmingham City Council. The laying out of the Park as a philanthropic gift from the Ryland Estates to the City of Birmingham at a time when the need for such Parks was acute in the expanding City has ensured that it has remained a highly valued asset to the present day.

The wide variety of late 19<sup>th</sup> century and 20<sup>th</sup> century Structures and heritage features in the Park considerably add to its interest and amenity value. A number of the features and Memorials are individually listed to conserve their importance, whilst others have evolved as part of the ongoing development and enhancement of the parkland scene.

Tree and shrub planting throughout the Park was initiated at the time of the original laying out of Gibson's design, whilst later additions have maintained the parkland tree character in contrast with the open mown grassland.

Carriage Drives arranged in sweeping curves are complemented by lesser routes and circuits with the whole path network being designed to facilitate relatively level access throughout the Park for all abilities.

Cannon Hill Park has been awarded the prestigious Green Flag Award for excellence in greenspace management and maintenance. The award also recognises the importance and value of community involvement in the management of the Park as represented by the Friends of Cannon Hill Park.

### **Design Context of the Sousse and Bardo Memorial proposal (summarised from pre application proposal by George King Architects October 2017).**

*In 2016, a consultation was held with the British families affected by the two attacks to allow them to have a say on the preferred location for the Memorial. With the affected families spread across the length and breadth of the United Kingdom, Cannon Hill Park in Birmingham was chosen as the site which came closest to meeting the views expressed by the families on location and accessibility.*

*Cannon Hill Park is one of Birmingham's best known parks and is located next to Edgbaston Cricket Ground. The Park is large and popular, with plenty of activities on offer to the public, including a zoo, an art gallery and a mini fairground. Despite these features, there are plenty of peaceful and secluded areas. The proposed site is located East/South/East of the boating lake. The layout is an oval shape approximately 25m by 15m with a bank around the southeast corner. A path offers access to the site which is enclosed by trees which offer some natural screening of the area. The result is tranquility and privacy, with views of the lake.*

*Design Principles: The proposed design for the Sousse and Bardo memorial represents a symbol of the cycle of life. The landscape surrounding the sculpture continues the theme of water. It is conceived as a series of ripples that flow in concentric circles from the centre of the sculpture. The ripples represent the impact that the events in 2015 had beyond those that lost their lives. They represent the survivors, the families of the victims, the local communities, the national heartache and the global loss. They reflect how the impact of such tragic events is felt by an enormous number of people in many different locations. The ripples themselves will be formed from granite into which is engraved a circular pattern. The geometry of the ripples gently rises towards the rear of the site, following the natural topography of the earth bank, to create a seating amphitheatre. This creates a place for visitors to sit, think and contemplate while viewing the sculpture as it gracefully arches, framing the view of the park and the lake beyond, creating a visual connection back to the water. Between the ripples soft landscaping is introduced to blend the memorial into the park setting and create a haven for wildlife.*

### **Expected benefits of the Memorial**

Regular visitors to Cannon Hill Park are used to seeing the various designed Memorials and heritage features arranged around the Park and the heritage is locally valued as well as being in some cases designated. The installation of a new Memorial in the form of the attractively designed wave sculpture will enhance an area of the park away from the main attractions. The presence of the Memorial should engender a sense of quiet reflection in the parkland setting to complement the existing setting.

New audiences will be attracted to the Park to experience the installation, and in particular the families, friends and relatives of the bereaved will wish to make the journey to see the Memorial. The City Council may wish to mark the Memorial and the anniversary of the tragedy in Tunisia and this could add a further dimension to other Park events into the future. The quiet setting of the proposal is appropriate to its meaning now and into the future.

### **Minimising impact of the Memorial on existing trees**

The Memorial has been carefully designed to fit within a natural 'bowl' formed by trees and grassland; however the footprint of the wave and ripples extends under part of the root protection zone of surrounding trees. A qualified arboriculturalist Tracy Clarke has been advising the design team on the likely impact of the minor earthworks on the trees. The advice from Tracy and the City Council tree officer has been that as long as the earthworks do not extend beyond 20% of the RPA of individual trees then this is acceptable. A design solution has been achieved within these parameters.

### **Conclusions and Recommendations**

The Sousse and Bardo Memorial proposal has been developed with great sensitivity and thought not only in its physical expression in the Park but for its meaning and solace for the victim's friends and relatives.

Whilst the historic integrity of Cannon Hill Park is largely intact and the layout can be traced back to the John Gibson design; the Public Park is a living entity and it can accommodate well designed appropriate modern interventions to meet the needs of the new audience and users.

The physical impact of the construction process should be minimised and the future management and maintenance of the Memorial should be written into the Park Management and Maintenance Plan. The Green Flag Award judges should also be made aware of the Memorial at their next visit.

Howard Price BA MA CMLI Chartered Landscape Architect.

Ashmead Price December 2017





AREA EDGED RED

915

SQ. METRES APPROX.

1094

SQ. YARDS APPROX.



**Birmingham**  
City Council

**Sousse & Bardot Memorial  
Cannon Hill Park**



Waheed Nazir  
Corporate Director, Economy  
1 Lancaster Circus  
Birmingham  
B2 2GL

SCALE

DRAWN

DATE

1:2,500

Jon Wilson

08/01/2018

O.S. Sheet No. SP0683SE



# FILE COPY



## CERTIFICATE OF INCORPORATION OF A PRIVATE COMPANY LIMITED BY GUARANTEE

Company Number **10392574**

The Registrar of Companies for England and Wales, hereby certifies that

**BIRMINGHAM CHARITIES LIMITED**

is this day incorporated under the Companies Act 2006 as a private company, that the company is limited by guarantee, and the situation of its registered office is in England and Wales

Given at Companies House, Cardiff, on **23rd September 2016**



\* N10392574I \*



Companies House



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



**Application to register a company**



*Received for filing in Electronic Format on the:* **23/09/2016**

*X5G5ZGNM*

*Company Name in  
full:*

**BIRMINGHAM CHARITIES LIMITED**

*Company Type:*

**Private company limited by guarantee**

*Situation of  
Registered Office:*

**England and Wales**

*Proposed Registered  
Office Address:*

**C/O LEGAL SERVICES DEPARTMENT 10 WOODCOCK STREET  
BIRMINGHAM  
ENGLAND B7 4BL**

*Sic Codes:*

**88990**

*Company Director* 1

*The subscribers confirm that the person named has consented to act as a director.*

## ***Persons with Significant Control (PSC)***

---

---

### **Statement of no PSC**

---

**The company knows or has reason to believe that there will be no registerable Person with Significant Control or Relevant Legal Entity (RLE) in relation to the company**

---

## *Statement of Guarantee*

---

I confirm that if the company is wound up while I am a member, or within one year after I cease to be a member, I will contribute to the assets of the company by such amount as may be required for:

- payments of debts and liabilities of the company contracted before I cease to be a member;
- payments of costs, charges and expenses of winding up, and;
- adjustment of the rights of the contributors among ourselves, not exceeding the specified amount below.

*Name:* **BIRMINGHAM CITY COUNCIL**

*Address* **C/O LEGAL SERVICES 10 WOODCOCK STREET  
BIRMINGHAM  
UNITED KINGDOM  
B7 4BL**

*Amount Guaranteed* **1.000000**

## ***Statement of Compliance***

---

*I confirm the requirements of the Companies Act 2006 as to registration have been complied with.*

---

## ***Authorisation***

*Authoriser Designation:*    **subscriber**

*Authenticated*    **YES**

---



**COMPANIES ACT 2006**  
**COMPANY LIMITED BY GUARANTEE**  
**MEMORANDUM OF ASSOCIATION OF**  
  
**Birmingham Charities Limited**

Each subscriber to this Memorandum of Association wishes to form a company under the Companies Act 2006 and agrees to become a member of the company.

<b>Name of each subscriber</b>
Birmingham City Council

Dated: 23 September 2016

COMPANY LIMITED BY GUARANTEE

ARTICLES OF ASSOCIATION OF

**Birmingham Charities Limited**

**1. NAME**

The name of the Company is **Birmingham Charities Limited** (and in this document it is called the **Charity**)

**2. INTERPRETATION**

In these Articles:

"Address" means a postal address or, for the purposes of electronic communication, a fax number, an e-mail or postal address or a telephone number for receiving text messages in each case registered with the Charity

"AGM" means an annual general meeting of the Charity

"the Articles" means these articles of association

"Chairman" means the chairman of the Trustees

"the Charity" means the company intended to be regulated by these Articles

"charity trustee" has the meaning prescribed by section 177 of the Charities Act 2011

"clear days" in relation to a period of notice means a period excluding:

1. The day when notice is given or deemed to be given; and
2. The day for which it is given or on which it is to take effect

"the Commission" means the Charity Commission for England and Wales

"Companies Acts" means the Companies Acts (as defined in section 2 of the Companies Act 2006) insofar as they apply to the Charity

"Connected Person" means:

1. any spouse, civil partner, parent, child, brother, sister, grandparent or grandchild of a Trustee; or
2. any other person in a relationship with a Trustee which may reasonably be regarded as equivalent to such a relationship; or
3. any person carrying on business in partnership with the Trustee or with any person falling within 1. or 2. above; or

4. an institution which is controlled –

4.1 by the Trustee or any Connected Person falling within paragraph 1., 2. or 3. above; or

4.2 by two or more persons falling within sub-paragraph(i), when taken together; or

4.3 any company or firm of which a Trustee or any Connected Person falling within paragraph 1., 2. or 3. above is a paid director, partner or employee, or shareholder holding more than 1% of the capital.

"the Directors" means the directors of the Charity. The directors are charity trustees as defined by section 177 of the Charities Act 2011

"document" includes, unless otherwise specified, any document sent or supplied in electronic form

"EGM" means an extraordinary general meeting of the Charity

"electronic form" has the meaning given in section 1168 of the Companies Act 2006

"financial expert" means an individual, company or firm who is an authorised person or an exempted person within the meaning of the Financial Services and Markets Act 2000

"material benefit" means a benefit which may not be financial but has a monetary value

"member" and "membership" refer to membership of the Charity

"Memorandum" means the Charity's Memorandum of Association

"officers" includes the trustees and secretary (if any)

"the seal" means the common seal of the Charity, if it has one

"month" means calendar month

"the Objects" means the Objects of the Charity as defined in clause 5 of the Articles

"Secretary" means any person appointed to perform the duties of the secretary of the Charity

"Trustee" means a Director of the Charity and "Trustees" means all of the Directors.

"the United Kingdom" means Great Britain and Northern Ireland

"written" or "in writing" refers to a legible document on paper including a fax message

"year" means calendar year

2.2 Words importing one gender shall include all genders, and the singular includes the plural and vice versa

2.3 Unless the context otherwise requires words or expressions contained in the Articles have the same meaning as in the Companies Acts but excluding any statutory modification not in force when these articles become binding on the Charity

2.4 Apart from the exception mentioned in the previous paragraph a reference to an Act of Parliament includes any statutory modification or re-enactment of it for the time being in force.

### 3. LIMITED LIABILITY

The liability of the members is limited to a sum not exceeding £1.00[one pound sterling], being the amount that each member undertakes to contribute to the assets of the charity in the event of its being wound up while he or she is a member or within one year after he or she ceases to be a member, for:

- (1) payment of the charity's debts and liabilities incurred before he or she ceases to be a member;
- (2) payment of the costs, charges and expenses of winding up; and
- (3) adjustment of the rights of the contributories among themselves.

### 4. GUARANTEE

Every member promises, if the Charity is dissolved while he or she is a Member or within twelve months after he or she ceases to be a Member, to contribute such sum (not exceeding £10) as may be demanded of him or her towards the payment of the debts and liabilities of the Charity incurred before he or she ceases to be a member, and of the costs charges and expenses of winding up, and the adjustment of the rights of the contributories amongst themselves.

### 5. OBJECTS

The objects of the Charity ('Objects') are specifically restricted to the following:

- 5.1 The Objects and purposes of the Charity are to fund general charitable activity, for the benefit, and on behalf of, the citizens of Birmingham.
- 5.2 To promote the objects and purposes of any charity where Birmingham City Council is Sole Corporate Trustee ("relevant charity")
- 5.3 **Subject to a resolution of any relevant charity**, to hold the legal title to any land, buildings, and any other relevant assets which are held in trust by any relevant charity.
- 5.4 To further such other exclusively charitable purposes according to the law of England and Wales as the trustees in their absolute discretion from time to time determine.

### 6. POWERS

The Charity has the power to do anything which is calculated to further its Objects or is conducive or incidental to doing so. In particular, the Charity has power:

- 6.1 to repair, renovate, restore, rebuild and generally promote the preservation of any buildings or land
- 6.2 to buy or otherwise acquire furniture and other equipment for use in connection with any such buildings or land; and to sell, lease or otherwise dispose of any such furniture or equipment
- 6.3 to make such arrangements as are necessary to enable the public to view and enjoy any buildings or land (whether free or at a charge)
- 6.4 to make planning applications, applications for consent under by-laws or building regulations and other like applications
- 6.5 to promote or carry out research

- 6.6 to provide advice
- 6.7 to publish or distribute information and by publishing books or pamphlets or in other appropriate manner to make known to the public the existence of buildings of particular beauty or historical, architectural or constructional interest or the features of especial interest of such buildings
- 6.8 to co-operate with other charities, voluntary bodies and statutory authorities and to exchange information and advice with them
- 6.9 to support, administer, act as trustee of or set up other charities formed for any of the charitable purposes included in the Objects
- 6.10 to acquire, merge with or to enter into any partnership or joint venture arrangement with any other charity formed for any of the Objects
- 6.11 to acquire or hire property of any kind
- 6.12 to sell, lease or otherwise dispose of property of any kind (but only in accordance with the restrictions imposed by sections 117 and 122 of the Charities Act 2011), such letting or disposal to be subject to such covenants, conditions and restrictions as are reasonably necessary to ensure the preservation of any buildings or land
- 6.13 to raise funds and trade in the course of carrying out the Objects and carry on any other trade which is not expected to give rise to taxable profits and to incorporate subsidiary trading companies to carry on any trade
- 6.14 to borrow money and to charge the whole or any part of the property belonging to the Charity as security for repayment of the money borrowed or as security for a grant or the discharge of an obligation. The Charity must comply as appropriate with sections 124 - 126 of the Charities Act 2011, if it wishes to mortgage land
- 6.15 to make grants or loans of money and to give guarantees
- 6.16 to set aside funds for special purposes or as reserves against future expenditure but only in accordance with a written policy about reserves
- 6.17 to deposit or invest funds in any manner (but to invest only after obtaining advice from a financial expert and having regard to the suitability of investments and the need for diversification)
- 6.18 to delegate the management of investments to a financial expert, but only on terms that:
  - 6.18.1 the investment policy is set down in writing for the financial expert by the Trustees
  - 6.18.2 every transaction is reported promptly to the Trustees
  - 6.18.3 the performance of the investments is reviewed regularly with the Trustees
  - 6.18.4 the Trustees are entitled to cancel the delegation arrangement at any time
  - 6.18.5 the investment policy and the delegation arrangement are reviewed at least once a year
  - 6.18.6 all payments due to the financial expert are on a scale or at a level which is agreed in advance and are notified promptly to the Trustees on receipt
  - 6.18.7 the financial expert must not do anything outside the powers of the Trustees

- 6.19 to arrange for investments or other property of the Charity to be held in the name of a nominee (being a corporate body registered or having an established place of business in England and Wales) under the control of the Trustees or of a financial expert acting under their instructions and to pay any reasonable fee required
- 6.20 to insure the property of the Charity against any foreseeable risk and take out other insurance policies to protect the Charity when required
- 6.21 to provide indemnity insurance for the Trustees in accordance with, and subject to the conditions in, section 109 of the Charities Act 2011
- 6.22 subject to Article 7, to employ paid or unpaid agents, staff or advisers as are necessary for carrying out the work of the Charity. The Charity may employ or remunerate a Trustee only to the extent it is permitted to do so by Article 7 and provided it complies with the conditions in that article.
- 6.23 to enter into contracts to provide services to or on behalf of other bodies
- 6.24 to establish and support or aid subsidiary companies and subscribe, lend or guarantee money or other property in furtherance of the Objects.
- 6.25 to pay out of the funds of the Charity the costs of forming and registering the Charity both as a company and a charity.
- 6.26 to do anything else within the law which promotes or helps to promote the Objects

## 7. BENEFITS TO MEMBERS AND TRUSTEES

- 7.1 The property and funds of the Charity must be used only for promoting the Objects and do not belong to the **members** of the Charity but:
  - 7.1.1 members who are not Trustees may be employed by or enter into contracts with the Charity and receive reasonable payment for goods or services supplied
  - 7.1.2 members (including Trustees) may be paid interest at a reasonable rate on money lent to the Charity
  - 7.1.3 members (including Trustees) may be paid a reasonable rent or hiring fee for property let or hired to the Charity
  - 7.1.4 individual members and Trustees who are beneficiaries may receive charitable benefits in that capacity
- 7.2 No Trustee or Connected Person may:
  - 7.2a buy any goods or services from the Charity on terms preferential to those applicable to members of the public;
  - 7.2b sell goods, services or any interest in land to the Charity;
  - 7.2c be employed by, or receive any remuneration from, the Charity; or
  - 7.2d receive any payment of money or other material benefit (whether directly or indirectly) from the Charity; except
    - 7.2.1 as mentioned in clauses 6.21, 7.1.2, 7.1.3 or 7.1.3?

- 7.2.2 reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in running the Charity
  - 7.2.3 an indemnity in respect of any liabilities properly incurred in running the Charity (including the costs of a successful defence to criminal proceedings)
- 7.2.4 any benefit from the charity in the capacity of a beneficiary of the charity provided that a majority of the trustees do not benefit in this way
  - 7.2.5 payment to any company in which a Trustee or Connected Person has no more than a one per cent shareholding
  - 7.2.6 in exceptional cases, other payments or benefits (but only with the written approval of the **Commission** in advance)
- 7.3 A Trustee may not be an employee of the Charity, but a Trustee or a Connected Person may enter into a contract with the Charity to supply goods or services in return for a payment or other material benefit but only if
  - 7.3.1 the goods or services are actually required by the Charity
  - 7.3.2 the nature and level of the remuneration is no more than is reasonable in relation to the value of the goods or services and is set in accordance with the procedure in clause 7.5
  - 7.3.3 the amount or maximum amount of the payment for the goods is set out in an agreement in writing between:
    - 7.3.3a the Charity or its Trustees (as the case may be); and
    - 7.3.3b the Trustee or Connected Person supplying the goods ("the Supplier") under which the Supplier is to supply the goods in question to or on behalf of the Charity.
  - 7.3.4 the other Trustees are satisfied that it is in the best interests of the Charity to contract with the Supplier rather than with someone who is not a Trustee or Connected Person. In reaching that decision the Trustees must balance the advantage of contracting with a Trustee or Connected Person against the disadvantages of doing so
  - 7.3.5 the reason for their decision is recorded by the Trustees in the minute book.
  - 7.3.6 no more than one half of the Trustees are subject to such a contract in any financial year
  - 7.3.7 the supplier is absent from the part of any meeting at which there is a discussion of the proposal to enter into a contract or arrangement with him or it with regard to the supply of goods to the charity
  - 7.3.8 the supplier does not vote on any such matter and is not to be counted when calculating the quorum of trustees present at the meeting
- 7.4 In sub-clauses 2 and 3 of this Article 7 "Charity" shall include any company in which the Charity:
  - 7.4.1 holds more than 50% of the shares; or
  - 7.4.2 controls more than 50% of the voting rights attached to the shares; or
  - 7.4.3 has the right to appoint one or more directors to the board of the company.

7.5 Whenever a Trustee has a personal interest in a matter to be discussed at a meeting of the Trustees or a committee the Trustee concerned must:

7.5.1 declare an interest at or before discussion begins on the matter

7.5.2 withdraw from the meeting for that item unless expressly invited to remain in order to provide information

7.5.3 not be counted in the quorum for that part of the meeting

7.5.4 withdraw during the vote and have no vote on the matter

7.6 This clause may not be amended without the prior written consent of the **Commission**

## 8. MEMBERSHIP

8.1 The Charity must maintain a register of names and addresses of the members

8.2 Membership of the Charity is open to any individual interested in promoting the Objects who:

8.2.1 applies to the Charity in the form required by the Trustees;

8.2.2 is approved by the Trustees; and

8.2.3 signs the Register of members or consents in writing to become a member

8.3 Where the members refuse an application for membership:

8.3.1 the members must inform the applicant in writing of the reasons for the refusal within twenty-one days of the decision

8.3.2 consider any written representations the applicant may make about the decision

8.3.3 the members' decision following any written representations must be notified in writing but shall be final.

8.4 The Trustees may establish different classes of membership and prescribe their respective rights and obligations and shall record the rights and obligations in the register of members. The Trustees may not directly or indirectly alter the rights and obligations attached to a class of membership unless:

8.4.1 three-quarters of the members of that class consent in writing to the variation: or

8.4.2 a special resolution is passed at a separate general meeting of the members of that class agreeing to the variation.

8.5 The Trustees may set the amounts of any subscriptions

8.6 Membership is terminated if the member concerned:

8.6.1 gives written notice of resignation to the Charity, unless, after the resignation, there would be less than two members;



8.6.2 dies or, if it is an organisation ceases to exist;

8.6.3 is six months in arrears in paying the relevant subscription (if any) if the Trustee so resolves (but in such a case the member may be reinstated on payment of the amount due); or

8.6.4 is removed from membership by resolution of the Trustees on the ground that in their reasonable opinion the member's continued membership is harmful to the Charity.

8.7 Membership of the Charity is not transferable

## 9. GENERAL MEETINGS

9.1 The Charity must hold its first AGM within eighteen months after the date of its incorporation

9.2 An AGM must be held in each subsequent year and not more than fifteen months may elapse between successive AGMs.

9.3 At an AGM the members:

9.3.1 receive the accounts of the Charity for the previous financial year;

9.3.2 receive the Trustees' report on the Charity's activities since the previous AGM;

9.3.3 accept the retirement of those Trustees who wish to retire or who are retiring by rotation;

9.3.4 elect persons to be Trustees to fill the vacancies arising

9.3.5 may confer on any individual (with his or her consent) the honorary title of Patron, President or Vice-President of the Charity and

9.3.6 discuss any issues of policy or deal with any other business put before them.

9.4 A general meeting may be called at any time by the Trustees and must be called within 21 days on a written request from at least 2 of the members entitled to vote

9.5 Any meeting relating to the variation of the rights of any class of members shall be subject to the provisions in these Articles about general meetings.

## 10. NOTICE OF GENERAL MEETINGS

10.1 The minimum periods of notice required to hold a general meeting is fourteen clear days.

10.2 A general meeting may be called by shorter notice if it is so agreed by a majority in number of members having a right to attend and vote at the meeting, being a majority who together hold not less than 90% of the total voting rights

10.3 The notice must specify the date time and place of the meeting and the general nature of the business to be transacted. If the meeting is to be an AGM, the notice must say so. The notice must also contain a statement setting out the rights of members to appoint a proxy under section 324 of the Companies Act 2006 and Articles 11.15 and 11.16.

10.4 The notice must be given to all the members and to the Trustees and auditors.

10.5 The proceedings at a meeting shall not be invalidated because a person who was entitled to receive notice of the meeting did not receive it because of an accidental omission by the Charity.

**11. PROCEEDINGS AT GENERAL MEETINGS**

**11.1** No business shall be transacted at any general meeting unless a quorum is present.

**11.2** A quorum is:

**11.2.1** 3 members present in person or by proxy and entitled to vote upon the business to be conducted at the meeting; or

**11.2.2** 3 of the total voting membership at any time

whichever is the greater.

**11.3** If:

**11.3.1** a quorum is not present within half an hour from the time appointed for the meeting; or

**11.3.2** during a meeting a quorum ceases to be present:

the meeting shall be adjourned to such time and place as the Trustees shall determine.

**11.4** The Trustees must reconvene the meeting and must give at least seven clear days' notice of the reconvened meeting stating the date, time and place of the meeting.

**11.5** If no quorum is present at the reconvened meeting within fifteen minutes of the time specified for the start of the meeting the members present in person or by proxy at that time shall constitute the quorum for that meeting.

**11.6** General meetings shall be chaired by the person who has been appointed to chair meetings of the Trustees.

**11.7** If there is no such person or he or she is not present within fifteen minutes of the time appointed for the meeting a Trustee nominated by the Trustees shall chair the meeting.

**11.8** If there is only one Trustee present and willing to act, he or she shall chair the meeting.

**11.9** If no Trustee is present and willing to chair the meeting within fifteen minutes after the time appointed for holding it, the members present in person or by proxy and entitled to vote must choose one of their number to chair the meeting.

**11.10** The members present in person or by proxy at a meeting may resolve by ordinary resolution that the meeting shall be adjourned.

**11.11** The person chairing the meeting must decide the date, time and place at which the meeting is to be reconvened unless those details are specified in the resolution.

**11.12** No business shall be conducted at a reconvened meeting unless it could properly have been conducted at the meeting had the adjournment not taken place.

**11.13** If a meeting is adjourned by a resolution of the members for more than seven days, at least seven clear days' notice shall be given of the reconvened meeting stating the time, date and place of the meeting.

**11.14.1** Any vote at a meeting shall be decided by a show of hands unless before, or on the declaration of the result of, the show of hands a poll is demanded:

**11.14.1a** by the person chairing the meeting; or

**11.14.1b** by at least two members present in person or by proxy and having the right to vote at the meeting; or

**11.14.1c** by a member or members present in person or by proxy representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting.

**11.14.2a** The declaration by the person who is chairing the meeting of the result of a vote shall be conclusive unless a poll is demanded.

**11.14.2b** the result of the vote must be recorded in the minutes of the Charity but the number or proportion of the votes cast need not be recorded.

**11.14.3a** A demand for a poll may be withdrawn before the poll is taken, but only with the consent of the person who is chairing the meeting.

**11.14.3b** If the demand for a poll is withdrawn the demand shall not invalidate the result of a show of hands declared before the demand was made.

**11.14.4a** A poll must be taken as the person who is chairing the meeting directs, who may appoint scrutineers (who need not be members) and who may fix a time and place for declaring the results of that poll.

**11.14.4b** The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

**11.14.5a** A poll demanded on the election of a person to chair a meeting or on a question of adjournment must be taken immediately

**11.14.5b** A poll demanded on any other question must be taken either immediately or at such time and place as the person who is chairing the meeting directs.

**11.14.5c** The poll must be taken within thirty days after it is demanded.

**11.14.5d** If the poll is not taken immediately at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.

**11.14.5e** If a poll is demanded the meeting may continue to deal with any other business that may be conducted at the meeting.

## **11.15 Content of Proxy Notices**

**11.15.1** Proxies may only validly be appointed by a notice in writing (a "proxy notice") either in the following form:

"Birmingham Charities Limited

Name of member appointing the proxy:

Address:

I/We hereby appoint [name of proxy] of [address of proxy] as my/our proxy to vote in my/our name(s) and on my/our behalf at the meeting of the Charity to be held on [date], and at any adjournment thereof.

This form is to be used in respect of the resolutions mentioned below as follows:

Resolution 1   \*for   \*against   \*abstain   \*as the proxy thinks fit

Resolution 2   \*for   \*against   \*abstain   \*as the proxy thinks fit

All other resolutions properly put to the meeting   \*for   \*against   \*abstain   \*as the proxy thinks fit

\* Strike out whichever is not desired.

Unless otherwise instructed, the proxy may vote as he or she thinks fit or abstain from voting.

Signed: .....

Dated: ..... " "

or in any other form which the Trustees may approve.

Every proxy notice must:

**11.15.1a** state the name and address of the member appointing the proxy;

**11.15.1b** identify the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;

**11.15.1c** be signed by or on behalf of the member appointing the proxy, or be authenticated in such manner as the Trustees may determine; and

**11.15.1d** be delivered to the Charity in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.

**11.15.2** The Charity may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.

**11.15.3** Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.

**11.15.4** Unless a proxy indicates otherwise, it must be treated as:

**11.15.4a** allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and

**11.15.4b** appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

#### **11.16 Delivery of Proxy Notices**

**11.16.1** A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Charity by or on behalf of that person.

**11.16.2** An appointment under a proxy notice may be revoked by delivering to the Charity a notice in writing given by or on behalf of the person to whom or on whose behalf the proxy notice was given.

**11.16.3** A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.

**11.16.4** If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

## **12. WRITTEN RESOLUTIONS**

**12.1** A resolution in writing agreed by a simple majority (or in the case of a special resolution by a majority of not less than 75% ) of the members who would have been entitled to vote upon it had it been proposed at a general meeting shall be effective provided that:

**12.1.1** a copy of the proposed resolution has been sent to every eligible member;

**12.1.2** a simple majority (or in the case of a special resolution by a majority of not less than 75%) of the members has signified its agreement to the resolution;

**12.1.3** it is contained in an authenticated document which has been received at the registered office within 28 days beginning with the circulation date.

**12.2** A resolution in writing may comprise several copies to which one or more members have signified their agreement.

## **13. VOTES OF MEMBERS**

**13.1** Subject to Article 8.4, every member shall have one vote

**13.2** Any objection to the qualification of any voter must be raised at the meeting at which the vote is tendered and the decision of the person who is chairing the meeting shall be final.

**13.3** Any organisation that is a member of the charity may nominate any person to act as its representative at any meeting of the charity.

**13.4** The organisation must give written notice to the charity of the name of its representative. The nominee shall not be entitled to represent the organisation at any meeting unless the notice has been received by the charity. The nominee may continue to represent the organisation until written notice to the contrary is received by the charity.

**13.5** Any notice given to the charity will be conclusive evidence that the nominee is entitled to represent the organisation or that his or her authority has not been revoked. The Charity shall not be required to consider whether the nominee has been properly appointed to the organisation.

## **14. THE TRUSTEES**

**14.1** The Trustees have control of the Charity and its property and funds.

**14.2** The Trustees when complete consist of at least 3 and not more than 5 individuals, all of whom must be members

**14.3** The individuals who signed the form IN01 as vouching consent to act as directors are the first Trustees of the Charity.

**14.4** For the avoidance of doubt, no individual may be appointed a Trustee unless he or she is willing to act as a charity trustee of the Charity.

**14.5** Any natural person aged 18 years or older who is willing to act as a Trustee, and who is not disqualified from acting as a Trustee, may be appointed as a Trustee by ordinary resolution of the members.

- 14.6 Trustees shall be appointed for a first term of up to three years and, if willing, may be appointed for a second consecutive term of up to three years after which time they should retire.
- 14.7 In exceptional circumstances, on a majority vote of the other Trustees, a Trustee may serve a third term of three years after which time he or she must retire.
- 14.8 A Trustee's term of office automatically terminates if he or she:
- 14.8.1 ceases to be a Director by virtue of any provision in the Companies Acts or is prohibited by law from being a Director
  - 14.8.2 is disqualified by virtue of sections 178 and 179 of the Charities Act 2011 (or any statutory re-enactment or modification of that provision) from acting as a charity trustee
  - 14.8.3 is in the reasonable belief of the Trustees suffering from mental disorder and incapable of acting and they resolve that he or she be removed from office
  - 14.8.4 is absent from three consecutive meetings of the Trustees and the Trustees resolve that he or she should vacate office
  - 14.8.5 ceases to be a member (but such a person may be reinstated by resolution passed by all the other Trustees on resuming membership of the Charity before the next AGM)
  - 14.8.6 resigns by written notice to the Trustees (but only if at least two Trustees will remain in office)
  - 14.8.7 is removed by resolution passed by a simple majority of the members present and voting at a general meeting after the meeting has invited the views of the Trustee concerned and considered the matter in the light of any such views
- 14.9 The Trustees may at any time co-opt any person duly qualified to be appointed as a Trustee to fill a vacancy in their number or as an additional Trustee, but a co-opted Trustee holds office only until the next AGM .
- 14.10 A technical defect in the appointment of a Trustee of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.
- 14.11 The Trustees must not be paid any remuneration unless it is authorised in accordance with Article 7.

## 15. PROCEEDINGS OF TRUSTEES

- 15.1 Trustees may regulate their proceedings as they see fit, subject to the provisions of the articles
- 15.2 The Trustees must hold at least one meeting each year.
- 15.3 A quorum at a meeting of the Trustees is three Trustees. A Trustee shall not be counted in the quorum present when any decision is made about a matter upon which that Trustee is not entitled to vote.
- 15.4 If the number of Trustees is less than the number fixed as the quorum the continuing Trustees or Trustee may act only for the purpose of filling vacancies or of calling a general meeting.
- 15.5 A meeting of the Trustees may be held either in person or by suitable electronic means agreed by the Trustees in which all participants may communicate with all the other participants.

- 15.6 No decision may be made by a meeting of the Trustees unless a quorum is present at the time the decision is purported to be made. "Present" includes being present by suitable electronic means agreed by the Trustees in which a participant or participants may communicate with all the other participants.
- 15.7 The Chairman or Vice Chairman (or if either is unable or unwilling to do so) some other Trustee chosen by the Trustees present presides at each meeting.
- 15.8 The Chairman, Vice Chairman or appointed trustee shall have no functions or powers except those conferred by these articles or delegated to him or her by the trustees
- 15.9 Every issue may be determined by a simple majority of the votes cast at a meeting.
- 15.10.1 A resolution in writing or in electronic form agreed by a simple majority of all the Trustees entitled to receive notice of a meeting of the Trustees or of a committee of Trustees and to vote upon the resolution shall be as valid and effectual as if it had been passed at a meeting of the Trustees or (as the case may be) a committee of Trustees duly convened and held provided that:
- 15.10.1aa copy of the resolution is sent or submitted to all the Trustees eligible to vote; and
- 15.10.1ba simple majority of the Trustees has signified its agreement to the resolution in an authenticated document or documents which are received at the registered office within the period of 28 days beginning with the circulation date.
- 15.10.2 The resolution in writing may comprise several documents containing the text of the resolution in like form to each of which one or more of the Trustees has signified their agreement.
- 15.11 Except for the chairman of the meeting, who has a second or casting vote, every Trustee has one vote on each issue.
- 15.12 A procedural defect of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.
- 15.13 A Trustee may not appoint an alternate trustee or anyone to act on his or her behalf at meetings of the Trustees.
- 15.14.1 Subject to Article 15.12.2 all acts done by a meeting of Trustees or of a committee of Trustees shall be valid notwithstanding the participation in any vote of a Trustee:
- 15.14.1a who was disqualified from holding office;
- 15.14.1b who had previously retired or who had been obliged by these Articles to vacate office;
- 15.14.1c who was not entitled to vote on the matter whether by reason of conflict of interest or otherwise;
- If without:
- 15.14.1d the vote of that Trustee; and
- 15.14.1e the Trustee being counted in the quorum;
- the decision has been made by a majority of the Trustees at a quorate meeting.
- 15.14.2 Article 15.12.1 does not permit a Trustee or a Connected Person to keep any benefit that may be conferred upon him or her by a resolution of the Trustees or a committee of Trustees if but for



Article 15.12.1 the resolution would have been void or if the Trustee has not complied with Article 17.

## **16. POWERS OF TRUSTEES**

The Trustees have the following powers in the administration of the Charity:

- 16.1** to appoint (and remove) any individual (who may be a Trustee) to act as Secretary to the Charity.
- 16.2** to appoint a Chairman, Treasurer and other honorary officers from among their number
- 16.3.1** to delegate any of their functions to committees consisting of two or more individuals appointed by them but the terms of any delegation must be recorded in the minute book.
- 16.3.2** The Trustees may impose conditions when delegating, including the conditions that:
  - 16.3.2a** the relevant powers are to be exercised exclusively by the committee to whom they delegate;
  - 16.3.2b** no expenditure may be incurred on behalf of the Charity except in accordance with a budget previously agreed with the Trustees.
- 16.3.3** The Trustees may revoke or alter a delegation.
- 16.3.4** All acts and proceedings of any committees must be fully and promptly reported to the Trustees.
- 16.4** to make Standing Orders consistent with the Companies Acts, these Articles and any special resolution to govern proceedings at general meetings
- 16.5** to make Rules consistent with the Companies Acts, these Articles and any special resolution to govern proceedings at their meetings and at meetings of committees
- 16.6** to make Regulations consistent with the Companies Acts, these Articles and any special resolution to govern the administration of the Charity and the use of its seal (if any)
- 16.7** to establish procedures to assist the resolution of disputes within the Charity
- 16.8** to exercise any powers of the Charity which are not reserved to a general meeting.
- 16.9** No alteration of the Articles or any special resolution shall have retrospective effect to invalidate any prior act of the Trustees.
- 16.10** Any meeting at which a quorum is present at the time the relevant decision is made may exercise all the powers exercisable by the Trustees.

## **17. DECLARATION OF TRUSTEES' INTERESTS**

A Trustee must declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the Charity or in any transaction or arrangement entered into by the Charity which has not previously been declared. A Trustee must absent himself or herself from any discussions of the Trustees in which it is possible that a conflict will arise between his or her duty to act solely in the interests of the Charity and any personal interest (including but not limited to any personal financial interest), unless a majority of the other Trustees present determine that it is in best interests of the Charity that the conflicted Trustee remain present. The reason for inviting the conflicted Trustee to remain present shall be recorded in the minutes.

## **18. CONFLICTS OF INTERESTS**

**18.1** If a conflict of interests arises for a Trustee because of a duty of loyalty owed to another organisation or person and the conflict is not authorised by virtue of any other provision in these Articles the unconflicted Trustees may authorise such a conflict of interests where the following conditions apply:

**18.1.1** the conflicted Trustee is absent from the part of the meeting at which there is discussion of any arrangement or transaction affecting that other organisation or person;

**18.1.2** the conflicted Trustee does not vote on any such matter and is not to be counted when considering whether a quorum of Trustees is present at the meeting; and

**18.1.3** the unconflicted Trustees consider it is in the interests of the Charity to authorise the conflict of interests in the circumstances applying.

**18.2** In this Article a conflict of interests arising because of a duty of loyalty owed to another organisation or person only refers to such a conflict which does not involve a direct or indirect benefit of any nature to a Trustee or to a Connected Person.

## **19. SEAL**

**19.1** If the charity has a seal it must only be used by the authority of the trustees or of a committee of trustees authorised by the trustees. The trustees may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by the trustee and by the secretary (if any) or by a second trustee

## **20. MINUTES**

The Trustees must keep minutes of all:

**20.1** appointments of officers made by the Trustees;

**20.2** proceedings of meetings of the Charity;

**20.3** meetings of the Trustees and committees of the Trustees including:

**20.3.1** the names of Trustees present at the meeting;

**20.3.2** the decisions made at the meetings; and

**20.3.3** where appropriate the reasons for the decisions.

## **21. ACCOUNTS**

**21.1** The Trustees must prepare for each financial year accounts as required by the Companies Acts. The accounts must be prepared to show a true and fair view and follow the accounting standards issued or adopted by the Accounting Standards Board or its successors and adhere to the recommendations of any applicable Statements of Recommended Practice.

**21.2** The Trustees must keep accounting records as required by the Companies Acts.

**22. ANNUAL REPORT AND RETURN AND REGISTER OF CHARITIES**

**22.1** The Trustees must comply with the requirements of the Charities Act 2011 with regard to the:

**21.1.1a** transmission of statements of account of the Charity;

**21.1.1b** preparation of an Annual Report and its transmission to the Commission;

**21.1.1c** preparation of an Annual Return and its transmission to the Commission.

**22.2** The Trustees must notify the Commission promptly of any changes to the charity's entry on the Central Register of Charities.

**23. MEANS OF COMMUNICATION TO BE USED**

**23.1.1** Subject to the Articles anything sent or supplied by or to the Charity under the Articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the Charity.

**23.1.2** Subject to the Articles any notice or document to be sent or supplied to a Trustee in connection with the taking of decisions by Trustees may also be sent or supplied by the means by which that Trustee has asked to be sent or supplied with such notices for the time being.

## 24. NOTICES

24.1 Any notice to be given to or by any person pursuant to the Articles:

23.1.1 must be in writing; or

23.1.2 must be given in electronic form.

24.2.1 The Charity may give notice to any member either:

23.2.1a personally; or

23.2.1b by sending it by post in a prepaid envelope addressed to the member at his or her address;  
or

23.2.1c by leaving it at the address of the member; or

23.2.1d by giving it in electronic form to the member's address

23.2.1e by placing the notice on a website and providing the person with a notification in writing or in electronic form of the presence of the website. The notification must state that it concerns a notice of a company meeting and must specify the place and date and time of the meeting.

24.2.2 A member who does not register an address with the Charity or who registers only a postal address that is not within the United Kingdom shall not be entitled to receive any notice from the Charity.

24.3 A member present in person at any meeting of the Charity shall be deemed to have received notice of the meeting and of the purposes for which it was called.

24.4 Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given.

24.5 Proof that an electronic form of notice was given shall be conclusive where the Charity can demonstrate that it was properly addressed and sent in accordance with section 1147 of the Companies Act 2006.

24.6 In accordance with section 1147 of the Companies Act 2006 notice shall be deemed to be given:

23.6.1 48 hours after the envelope containing it was posted; or

23.6.2 in the case of an electronic form of communication 48 hours after it was sent.

## 25. INDEMNITY

25.1 The Charity shall indemnify any Trustee against any liability incurred by him or her in that capacity, to the extent permitted by sections 232 to 234 of the Companies Act 2006.

25.2 In this article a "Trustee" means any Trustee or former Trustee of the Charity.

## 26. RULES

26.1 The trustees may from time to time make such reasonable and proper rules or bye laws as they may deem necessary or expedient for the proper conduct and management of the charity.

- 26.2 The bye laws may regulate the following matters subject to the express provisions of these articles but are otherwise not restricted to them
- 26.2.1 the conduct of members of the charity in relation to one another, and to the charity's employees or volunteers,
  - 26.2.2 the procedure at general meetings and meetings of the trustees in so far as such procedure is not regulated by the Companies Act or by the articles
  - 26.2.3 generally, all such matters as are commonly the subject matter of company rules
- 26.3 The charity in general meetings has the power to alter, add to or repeal the rules and bye laws
- 26.4 The trustees must adopt such means as they think sufficient to bring the rules and bye laws to the notice of members of the charity
- 26.5 The rules or bye laws shall be binding on all members of the charity. No rule or bye law shall be inconsistent with, or shall affect or repeal anything contained in the articles.
27. DISPUTES
- 27.1 If any dispute arises between members of the company about the validity or propriety of anything done by the members of the charity under these articles, and the dispute cannot be resolved by agreement, the parties to the dispute must first try and in good faith settle the dispute either by reference to the Charity Commission as the regulatory body or by mediation before resorting to litigation
28. DISSOLUTION
- 28.1 The members of the Charity may at any time before and in expectation of its dissolution resolve that any nett assets of the Charity after all its debts and liabilities have been paid, or provision has been made for them, shall on or before the dissolution of the Charity be applied or transferred in any of the following ways:
- 28.1.1 directly for the Objects; or
  - 28.1.2 by transfer to any charity or charities for purposes similar to the Objects; or
  - 28.1.3 to any charity or charities for use for particular purposes that may fall within the Objects.
- 28.2 Subject to any such resolution of the members of the Charity the Trustees of the Charity may at any time before and in expectation of its dissolution resolve that any nett assets of the Charity after all its debts have been paid or provision made for them shall on or before dissolution of the Charity be applied or transferred:
- 28.2.1 directly for the Objects; or
  - 28.2.2 by transfer to any charity or charities for purposes similar to the Objects; or
  - 28.2.3 to any charity or charities for use for particular purposes that may fall within the Objects.
- 28.3 In no circumstances shall the nett assets of the Charity be paid to or distributed among the members of the Charity and if no resolution in accordance with Articles 25.1 or 25.2 is passed by the members

or the Trustees the nett assets of the Charity shall be applied for charitable purposes as directed by the Court or the Commission.