

Report to:	TRUSTS AND CHARITIES COMMITTEE
Report of:	SERVICE DIRECTOR - SPORTS, EVENTS, OPEN SPACES AND WELL-BEING
Date of Decision:	20 March 2019
SUBJECT:	INTRODUCTION OF CAR PARKING CHARGES IN MAJOR PARKS - VICTORIA COMMON
Wards affected:	NORTHFIELD

1. Purpose of report:

To seek approval to the introduction of car parking charges at Victoria Common as part of the overall strategy to introduce charges across parks in the City and to facilitate a programme of on-going improvement works and to safeguard facilities in the Park for park users.

2. Decisions recommended:

That the Committee:

- 2.1 notes that approval was given to a report introducing charges for car parking at Cannon Hill Park in trust on 1st March 2017 and that the Business Case appended thereto 'Introduction of Charges for Car Parking in Major City Parks - The Place Directorate' included proposals for the rolling out of charges elsewhere including Victoria Common
- 2.2 approves the introduction of car parking charges at Victoria Common in line with the Business Plan (in so far as it affects the park held in trust) subject to
 - revenue funds generated from car parking income will fund an ongoing programme of facilities maintenance at, and support the wider management of, Victoria Common
 - any further consultation and approvals required to implement the scheme
- 2.3 approves Birmingham City Council undertaking the proposed works to improve the security, layout and facilities provided in the park with Phases 1 & 2 as set out in Appendix 1
- 2.4 delegates to the Assistant Director of Property (Interim) authority to negotiate and agree any agreements required to facilitate the proposals provided that appropriate restrictions are included in the terms to properly safeguard the Trust
- 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 and to then prepare, negotiate, execute, seal and complete all necessary legal documentation to give effect to the above recommendations
- 2.7 approves the Highways Team to introduce a Traffic Regulation Order to enable the introduction of parking charges at Victoria Common.

Lead Contact Officers:	Matthew Hageney - Parks & Nature Conservation Service
Telephone No:	07500 882961
E-mail address:	Matt.Hageney@birmingham.gov.uk

3. Compliance:

3.1 Consultations:

Internal

The Park is managed on a day to day basis by Neighbourhoods Directorate and officers in Birmingham City Council Parks Service fully support the proposals developed to improve the park. Ward Members for the area (and surrounding areas) specifically , Northfield, Kings Norton South, Kings Norton North, Longbridge & West Heath, Rubery & Rednal, Frankley & Great Park, Allens Cross, Weoley & Selly Oak were consulted in November 2018 and again in February 2019

The Cabinet Member for Homes and Neighbourhoods fully supports the proposals.

External

The proposals for the introduction of car parking charges were shared with the Birmingham Open Spaces Forum (Friends of the Park) in individual meetings and they support the proposals to improve control of the car parking in the vicinity.

Consultation has taken place with the Trustees of the Birmingham Friends Halls (Society of Friends) who own the carriageway to the park, as improvement works to the carriageway are proposed as part of the scheme to resolve the long-standing road safety issue of inconsiderate parking along the carriageway which forces pedestrians into the path of oncoming traffic. We have received written approval from the Society of Friends for the production of a pedestrian walkway with bollards to prevent inconsiderate parking and to resolve the health and safety/road safety issue.

Consultation will take place with local stakeholders i.e. businesses and organisations in the vicinity of the park in March. Consultation will include the residents on Church Road who have garages off the carriageway into the park and access over it, to address any concerns they may have. A public consultation will follow once stakeholders have been consulted.

Informal discussions have taken place with the Victoria Common Friends Group in Summer 2018 when car parking charges was formally agreed by Cabinet. A stakeholder note was relayed to the group in February 2019 and the District Parks Manager attended a Friends Group meeting that month. The Friends do not have an issue with charging given the nature of parking currently (i.e. by local businesses etc). The Friends made the following suggestions:

- Consultation around potential for traffic restrictions on local roads to include Heath Road South (currently problematic due to hospital displacement and conflict at peak times for school pick up and drop off)
- Would prefer first hour of parking to be free (e.g. charging from 8am) but a reduced rate is acceptable i.e. 50p for first hour, £2 for 4 hours, £3 for 4 hours plus
- Any signage should include the following statement, "Income from this car park is spent on maintaining Victoria Common" as visitors will then be more accepting of the scheme
- An all-day rate should be in place to capture staff of local businesses and to guarantee income levels.

Public consultation will run for 4 weeks and begin once stakeholder consultation has been completed. It will consist of questionnaires, face-to-face clipboard exercise, BeHeard survey, and email mailbox. It will ask for residents'/consultees' views on the proposals as well as suggestions for traffic restrictions on surrounding roads. The project team will widen the radius for potential traffic restrictions following feedback from the Committee and Victoria Common Friends Group. Snapshot visits will take place to establish the impact that school parking has on the area and the potential impact of displacement as a result of the scheme.

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. The Trust holds the freehold interest of the parkland in trust as Sole 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. 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. There is no scheme in place for this area of trust land nor does the governing document provide any direct powers for the future management of the trust land. The terms of the Trust as set by the acquisition deeds are that the land is to be used for the purposes of a public park for the recreation of persons in the City of Birmingham and the general public together for the purposes of a playground or pleasure ground. However trustees are able to rely on the provisions of the Trusts of Land and Appointment of Trustee Act 1996 for sufficient powers to allow the proposed works to proceed.

Birmingham City Council has procured a citywide contract with NSL for parking enforcement. The Parks Service successfully use NSL for enforcement at Cannon Hill Park and propose to continue this arrangement as charges are rolled out to other sites including Victoria Common. Income from Penalty Charge Notices is retained by BCC; BCC pay for the cost of the deployment of their officers. To be clear, Parks will receive the income from the car park charges and the net income from any Penalty Charge Notices will be retained by us as this helps to offset the cost of enforcement.

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. Principal revenue costs for the trust Estate are covered by the Birmingham City Council Parks Service. All income from Victoria Common will go back into a Victoria Common budget (account) to be used for Victoria Common only.

Funding for the scheme will come from the revenue budget for the site and be refunded from the income generated from parking fees, subject to Committee approving this report. Details of scheme cost and projected income are in Appendix I.

As the carriageway is not Trust land and is an ongoing road safety issue for park visitors, improvement works (in the form of a pedestrian walkway) will form part of Phase 1 works – we have received approval to proceed from the landowners (Society of Friends). These works are regarded as essential health and safety improvements and business as usual for the Parks Service.

Phase 2 works for the car park will begin following consultation and improve the car park surface to a suitable standard to enable charging – with the inclusion of disabled bays, surface levelling/potholing etc.

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. Any additional report which Birmingham City Council officers may be required to process will likely need an Equality Impact Assessment.

Following feedback from the Committee and Victoria Common Friends Group, we aim to protect regular park users by offering a reduced rate for the first hour. The proposed rates will be:

- 50p for first hour
- £2 for 2-4 hours
- £3 for 4 hours+

Chargeable rates will be captured as part of the public consultation.

The park opens at 7am each day. In order to enable regular park visitors retain access to walk dogs/exercise we propose a charging period of 8am – 6pm. The chargeable period will be captured as part of the public consultation.

4. Relevant background/chronology of key events:

- 4.1 Victoria Common is registered charity no. 1073595. The Common was first opened as a private park of by George Cadbury in 1897. That land was gifted to the local authority in 1905. The public open space at Victoria Common now extends to approximately 8.8 hectares but the trust element comprises approximately 7.45 hectares formed from four gifts of land. While there are several pedestrian access points into the Common the sole vehicular access is by a right of way from Church Road. While a permissive right was allowed in the very first acquisition over this route it was only on 17th December 1951 that a formal right of way was granted by the Trustees of the Birmingham Friends Halls (Society of Friends) who had also gifted 4.5 hectares of land to the park in 1914 and who still maintain a Friends Meeting House adjacent to the Park.
- 4.2 The parcel of land containing the car parking area was gifted by Mrs E. M. Cadbury and others on 12th March 1930. The car park area was formed sometime in the 1950's and has remain unchanged since.
- 4.3 Approval was given to a report introducing charges for car parking at Cannon Hill Park in trust on 1st March 2017 and that the Business Case appended thereto 'Introduction of Charges for Car Parking in Major City Parks - The Place Directorate' included proposals for the rolling out of charges elsewhere including Victoria Common. This report seeks approval to progress those proposals at Victoria Common to foster improvements at the park, to overcome existing parking issues and to form a long term revenue stream.
- 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 terms of the Trust are that the land is to be maintained and used as a public recreation ground or open space. There are additional covenants against sale of alcohol and for the provision of fences etc.
- 4.5 **Trustee Powers**
A trust's constitution is set out within the executed Trust Deed for each property which for these purposes is the various acquisition deeds referred to in section 4.1 and 4.2. There has been no subsequent amendment by any Scheme agreed with the Charity Commission nor is one required to implement the car parking proposals though it is appropriate to seek authority to obtain a Scheme should the need arise.
- 4.6 **Trust Finances**
The land is open parkland with no other assets (except the car park and one of the few remaining Sons of Rest establishments), nor revenue stream. The trust is not able to fund the proposed works and the proposal by Birmingham City Council provides the opportunity to secure improvements and resolve ongoing issues.

5. Evaluation of alternative option:

To do nothing is not an option. The car park is very well used but the majority of the users are shoppers and nearby office workers attending the adjoining Open Reach (BT) offices seeking to avoid charges levied elsewhere in the vicinity and to the exclusion of the genuine park or nearby Library user. Parking frequently spills out to restrict the already narrow entrance road and has reached the point that the effective management of the Common is now being compromised. The trustees consent to works on the Trust land does not have to be given in this instance if they choose otherwise but the introduction of charges and controls and improvements are all dependent on each other and it is considered appropriate to allow the proposals to proceed.

6. Reasons for Decision(s):

6.1 To secure improvements to the park, control fly parking in the area blocking the access and to ensure compliance with the Trust's Objectives and that facilities remain primarily available for park users.

Signatures:

Chief Officer(s):

Dated:

List of Background Documents used to compile this Report:

1. Deed of Conveyance 12th March 1930
2. Report introducing charges for car parking at Cannon Hill Park in trust on 1st March 2017 and that the Business Case appended thereto 'Introduction of Charges for Car Parking in Major City Parks - The Place Directorate'

List of Appendices accompanying this Report :

1. Plan showing proposed improvement scheme, project costs and operational costs
2. Update on the introduction of car parking charges to Cannon Hill Park and Victoria Park 27th February 2019