

# **BIRMINGHAM CITY COUNCIL**

## **TRUSTS AND CHARITIES COMMITTEE**

**WEDNESDAY, 13 NOVEMBER 2019 AT 10:30 HOURS**  
**IN COMMITTEE ROOM 2, COUNCIL HOUSE, VICTORIA SQUARE,**  
**BIRMINGHAM, B1 1BB**

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

**1     NOTICE OF RECORDING/WEBCAST**

The Chairman to advise/meeting to note 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.

**3     APOLOGIES**

To receive any apologies.

**5 - 10**

**4     MINUTES - PUBLIC**

To note Part 1 of the Minutes of the last meeting of the Trusts and Charities Committee held on 18 September 2019.

**5     MATTERS ARISING**

To discuss matters arising.

**11 - 16**

**6     REVENUE BUDGET MONITORING 2019/20 - QUARTER 2 (TO 30 SEPTEMBER 2019)**

Report of the Chief Financial Officer.

- 17 - 26**
- 7 **HIGHBURY - PROPOSED MATCHFUNDING IN SUPPORT OF CHAMBERLAIN HIGHBURY TRUST BID**
- Report of Assistant Director of Property
- 27 - 30**
- 8 **CALTHORPE PARK - LEASE OF PLAY CENTRE FOR GENERAL COMMUNITY PURPOSES**
- Report of Assistant Director - Neighbourhoods
- 31 - 34**
- 9 **BILBERRY HILL CENTRE - POWERS FOR DISPOSAL**
- Report of Assistant Director - Skills and Employability
- 10 **DATE AND TIME OF NEXT MEETING**
- The next meeting is scheduled to take place on Wednesday, 22 January 2020 at 10:30 hours in Committee Room 2, Council House.
- 11 **OTHER URGENT BUSINESS**
- To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.
- 12 **AUTHORITY TO CHAIRMAN AND OFFICERS**
- Chairman to move:-
- 'In an urgent situation between meetings, the Chairman jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.
- 13 **EXCLUSION OF THE PUBLIC**
- That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-
- Exempt Paragraph 3

## **PRIVATE AGENDA**

- 14 **MINUTES - PRIVATE**
- Information relating to any consultations or negotiations, or contemplated consultations or negotiations in connection with any labour relations matters arising between the Authority or a Minister...

15 **MATTERS ARISING - PRIVATE**

To discuss matters arising.

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

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



# BIRMINGHAM CITY COUNCIL

<b>TRUSTS AND CHARITIES COMMITTEE 18 SEPTEMBER 2019</b>
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**MINUTES OF A MEETING OF THE  
TRUSTS AND CHARITIES COMMITTEE  
HELD ON WEDNESDAY 18 SEPTEMBER 2019  
AT 1030 HOURS IN Highbury Hall, 4 Yew Tree Road, Moseley,  
BIRMINGHAM B13 8QG**

**PRESENT:-** Councillor Akhlaq Ahmed in the Chair;

Councillors Nicky Brennan, Gurdial Singh Atwal, Shabrana Hussain and

**ALSO PRESENT:-**

Nigel Oliver	– Birmingham Property Services
Graham Arrand	– Senior Business Analyst, Finance
Peter Coles	– Finance Manager
Mandi Slater	– Senior Travel Demand Management Officer
Paul Ruffle	– Senior Transportation Behaviour Officer
Rajesh Parmar	– Legal Services
Les Sparks	– Chair of Chamberlain Highbury Trust (CHT)
Alison Millward	– Vice Chair (CHT)
Mike Williams	– Treasurer (CHT)
Cllr Phil Davis	– Trustee (CHT)
Marie Reynolds	– Committee Services

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**APOLOGIES**

- 1044 Apologies were submitted on behalf of Councillors Gurdial Singh Atwal, Mohammed Idrees and Mike Sharpe for their inability to attend the meeting.

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**DECLARATIONS OF INTEREST**

- 1045 The Chairman reminded Members 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 was declared a Member must not speak or take part in that agenda item. Any declarations would be recorded in the Minutes of the meeting.

No declarations were made.

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**MINUTES**

1046 **RESOLVED:-**

That part 1 of the Minutes of the last meeting of the Trusts and Charities Committee held on 17 July 2019 be noted and to include the following insertions:

Councillors Adrian Delaney and David Pears had submitted their apologies for non-attendance at the meeting.

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**MATTERS ARISING FROM THE MINUTES**

1047 There were no matters arising from the Minutes.

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At this juncture, the Chairman agreed to change the running order of the agenda in order to accommodate the trustees of Chamberlain Highbury Trust.

**CHAMBERLAIN HIGHBURY PROGRESS REPORT**

The following report of the Assistant Director of Property (Interim) be submitted:-

(See document No. 1)

Les Sparks, Chairman of Chamberlain Highbury Trust (CHT), provided a comprehensive breakdown of the report.

He highlighted that sections 3 and 4 of the report detailed the background of Chamberlain Highbury Trust (CHT) and section 5 illustrated the actions that had taken place since the last meeting; which included the appointment of a Project Development Manager and an Activities Organiser, and the work and community activities that would be undertaken at Highbury, in order to establish evidence of successful outcomes to meet the requirements of the National Lottery Heritage Fund.

He referred to section 6 of the report and specifically highlighted the urgent programme of ground works that had been identified and the fact that Heritage England had now included it on their risk list, and that it could now be the subject of applications to both the National Lottery Heritage Fund (NLHF) and Heritage England (HE).

It was noted that the NLHF runs an award scheme for smaller grants up to £100,000 that could be determined within an 8 week timetable. Applications to both the NLHF and HE would have to be made jointly by the CHT and the City Council and a financial contribution from the applicants would also be required. The cost of the project was expected to be in the order of £300,000.

Alison Millward, Vice Chair (CHT), provided an overview of the ground work that was required to take place and the need for this to take place within a specified seasonal time-frame, adding that the costing did not include the clearance of the caretaker's house albeit beneficial if this was cleared. She highlighted the

importance of the work taking place in order that more people could easily access and enjoy the grounds as well as the Hall and the support received by both NLHF and HE in the project.

Following a discussion with members of the Committee, the trustees and officers, relating to the areas of funding and financial support from BCC, it was suggested that various options needed to be considered and that a detailed scope of work be provided to BCC with the appropriate information as soon as possible, as all were mindful that time was of the essence.

The Chairman, Trust and Charities Committee, was in agreement with regard to the above and made known his support of the proposition pending further detail.

Alison agreed to provide the appropriate information as soon as possible.

It was -

1048 **RESOLVED:-**

The Trust and Charities Committee:

- (i) noted the report and supported the Trust in developing a project of early works in the grounds of Highbury Estate.
- (ii) that a detailed scope of work be provided to BCC with the appropriate information in order that an informed decision could be taken as soon as possible to avoid any time delay.

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**REVENUE BUDGET MONITORING 2019/20 – QUARTER 1 (TO 30 JUNE 2019)  
AND ANNUAL RETURNS TO THE CHARITY COMMISSION**

The following report of the Chief Finance Officer was submitted:-

(See document No. 2)

Graham Arrand, Senior Business Analyst, Finance, provided a comprehensive breakdown of the report.

It was -

1049 **RESOLVED:-**

The Trust and Charities Committee:

- (i) noted the latest income and expenditure position of Trusts and Charities as at 30 June 2019
- (ii) noted the submission of the Annual Returns to the Charity Commission.

**YOUNG ACTIVE TRAVEL TRUST GRANTS**

The following report of the Assistant Director, Transport and Connectivity was submitted:-

(See document No. 3)

Mandi Slater, Senior Travel Demand Management Officer and Paul Ruffle, Senior Transportation Behaviour Officer attended the meeting. Mandi Slater confirmed that either she or Paul would be presenting at future meetings.

Mandi Slater presented the report and specifically referred to 4.1 of the report detailing the merits of the initiative in improving children's health.

She reported that the initiative was open to all schools across the city and approximately 280 schools had signed up to the initiative with 26 schools now being accredited and producing a travel plan.

She subsequently detailed the 4 applications that were to be considered at the meeting:-

Billesley Primary School – Scooter Club, Lunch time and after school  
Cofton Primary School – Bike shelter for KSI – encourage more pupils to cycle  
Cotteridge Primary School – Safer Travel Plan  
Moor Hall Primary School – Road Safety Signs and Junior PCSOs

The Committee expressed their support for the initiative, however, highlighted the importance of more schools participating and the ways in which this could be publicised with the assistance of Members.

The Chairman while fully endorsing the initiative requested that when work had taken place with regard to implementing the initiative, that the Committee received regular feedback of the progress.

He suggested the importance of Members' visiting their respective schools in the ward that had taken part in the project, as not only was it a positive outcome in promoting health and safety, but also could contribute towards other schools in the area taking up the initiative.

Mandi agreed that regular feedback to the Committee would be provided and visits could be arranged.

The Chairman concluded by thanking Mandi and Paul for attending the meeting and presenting.

It was -

1050

**RESOLVED:-**

The Trust and Charities Committee:



## **Trusts and Charities Committee – 18 September 2019**

- (i) approved the applications for funding from the schools listed at point 4.6 below, totalling £3,861.00, and
- (ii) noted the remaining balances available to the Young Active Travel in Birmingham Charitable Trust for future disbursement.

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### **ANNUAL REPORTS AND ACCOUNTS FOR THE HARRIET LOUISA LOXTON FOR THE PERIOD 2016/17 AND 2017/18**

The following report of the Chief Finance Officer was submitted:-

(See Document No. 4)

Graham Arrand, Senior Business Analyst, Finance, presented the report and advised Members that

It was -

1051 **RESOLVED:-**

The Trust and Charities Committee:

- (i) approved the Annual Report and Accounts for 2016/17 and 2017/18.
- (ii) authorised officers in Corporate Finance to submit all appropriate and necessary documentation to the Charity Commission in respect of recommendation 2.1.

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### **DATE OF NEXT MEETING**

1052 The next meeting is scheduled to take place on Wednesday, 13 November 2019 at 1030 hours in Committee Room 2.

It was noted that Councillor David Pears submitted an early apology as he was unable to attend the next meeting

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### **OTHER URGENT BUSINESS**

#### **TRAINING**

1053 Councillors Adrian Delaney, Shabrana Hussain and David Pears submitted their apologies as they were unable to attend training that had been scheduled in October 2019 by Legal Services due to prior commitments.

The Chair suggested and it was agreed by Rajesh Parmar, Legal Services to explore the possibility of a training session being re-scheduled to follow after a future Trust and Charities Committee meeting.

**AUTHORITY TO CHAIRMAN AND OFFICERS**

1054 **RESOLVED:-**

The Chairman moved that:-

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

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**EXCLUSION OF THE PUBLIC**

1055 **RESOLVED:-**

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

Minutes of the last meeting – Exempt paragraph 3

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# Birmingham City Council – Council as Trustee

## PUBLIC REPORT

<b>Report to:</b>	<b>Trust and Charities Committee</b>	<i>Exempt information paragraph number – if private report:</i>
<b>Report of:</b>	<b>CHIEF FINANCIAL OFFICER</b>	
<b>Date of Decision:</b>	<b>13 November 2019</b>	
<b>SUBJECT:</b>	<b>REVENUE BUDGET MONITORING 2019/20 – QUARTER 2 (TO 30 SEPTEMBER 2019)</b>	
<b>Key Decision: —Yes— / No</b>	<b>Relevant Forward Plan Ref: No</b>	
<b>If not in the Forward Plan: (please "X" box)</b>	<b>Chief Executive approved</b>	<input type="checkbox"/>
	<b>O&amp;S Chairman approved</b>	<input type="checkbox"/>
<b>Relevant Cabinet Member(s):</b>	<b>N/A</b>	
<b>Relevant O&amp;S Chairman:</b>	<b>N/A</b>	
<b>Wards affected:</b>	<b>All</b>	

<b>1. Purpose of report:</b>
1.1 The appendices within this report notes at Appendix1 the Income and Expenditure position for the Trusts and Charities as at Quarter 1 (1 <sup>st</sup> April 2019 to 30 September 2019).

<b>2. Decision(s) recommended:</b>
2.1 To note the latest income and expenditure position of Trusts and Charities as at 30 September 2019.

<b>Lead Contact Officer(s):</b>	Graham Arrand
<b>Telephone No:</b>	0121 464 3003
<b>E-mail address:</b>	Graham.Arrand@birmingham.gov.uk

<b>3. Consultation</b>	
	Consultation should include those that have an interest in the decisions recommended
3.1 <u>Internal</u>	
	The Chairman of the Committee has been consulted in the preparation of this report and agrees in principle with its contents.
3.2 <u>External</u>	
	N/A
<b>4. Compliance Issues:</b>	
4.1 <u>Are the recommended decisions consistent with the Council's policies, plans and strategies?</u>	
	Yes- as part of the role of the Trust and Charities Committee.
4.2 <u>Financial Implications</u> <u>(Will decisions be carried out within existing finance and Resources?)</u>	
	<p>There are no financial implications arising from this report.</p> <p>The financial information provided relates to balances brought forward from 2018/19 and in year movements (2019/20) in expenditure and income. The opening balance as at the 1 April 2019 was £29.997m. Income up to the first quarter was £0.121m, expenditure £0.109m At the end of the quarter 2 (up to 30 September 2019) the closing balance stood at £30.009m.</p>
	An analysis of income and expenditure for each Trust Fund is shown in Appendix 1.
4.3 <u>Legal Implications</u>	
	<p>Management and governance arrangements for Charitable Trusts are set out in the constitution under which they were established. Charity Trustees must also comply with Charities Act 2011, Trustee Act 2000 and other relevant legislation and guidance issued by the Charity Commission. The assets of a charity must be used in accordance with charitable law, failing this will give rise to a breach of trust. Legal sanction can follow from either the beneficiaries of the charitable trust and/or Charity Commission. Decisions made by the charity must be appropriate to the interests of the charity at all times. The Committee has empowered officers within the Council to discharge certain functions on its behalf as Council as Trustee.</p>
4.4 <u>Public Sector Equality Duty (see separate guidance note)</u>	
	None. 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

**5. Relevant background/chronology of key events:**

- 5.1 Historically, assets including cash have been bequeathed or gifted to the City Council on trust for a group of beneficiaries. These funds must be maintained in trust both legally and financially and be distinct from City Council's own resources. Each trust has its own objectives or purposes and it is the responsibility of the Trusts and Charities Committee to exercise management decisions of these charitable trusts in accordance with charity law, and Charity Commission guidance.
- 5.2 Each Trust registered with the Charity Commission is required to annually submit an Annual Report and Accounts, ten months after the end of the financial year, except where gross annual income is less than £25,000. Below this threshold, external scrutiny is only needed if this is set out in the Charity's governing document. The accounts of such Trusts are required to have been independently examined if gross income is between £25,000 and £500,000, and if the income exceeds £500,000 a full audit is required. An audit will also be required if total assets (before liabilities) exceed £3.26m, and the charity's gross income is more than £250,000.
- 5.3 This is the second report in the quarterly series for 2019/20. The information provided in Appendix 1 identifies income and expenditure for the period ending 30 September 2019.

**6. Evaluation of alternative option(s):**

- 6.1 Alternative options are not appropriate for this report.

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

- 7.1 To ensure the Committee is aware of the current financial position for Trusts and Charities.

<b>Signatures</b>	<b><u>Date</u></b>
Chief Finance Officer	
Chairman	

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

1. Information provided by Directorates.

**List of Appendices accompanying this Report :**

Appendix 1 - Quarter 2 Financial Position 2019/20 Trust Funds.



**Quarter 2 - 2019/20 Income and Expenditure and Trust Funds Balances - to 30 September 2019**

Scheme	Charity Commission Number	Directorate	(A) Opening Balance 1.4.2019	(B) Income	(C) Expend	(E) Closing Balance 30.09.2020
<b>Sole Corporate Trustee</b>						
Harriet Louisa Loxton Trust	702446	<u>Adult&amp; Social Care</u>	1,904,256	-	0	1,904,256
Cropwood Estate	1085296	<u>Education&amp; Skills</u>	14,872,510	0	0	14,872,510
Lily Adia Jones Charity	218608	Neighbourhoods	80,930	2,264	579	82,615
Charles Baker Trust	512927	Neighbourhoods	261,366	4,361	997	264,730
The Elford Estate Charity	1000692	Neighbourhoods	4,155,504	17,309	4,513	4,168,300
Highbury Trust	1039194	<u>Finance &amp;Governance</u>	2,036,493	222	33,000	2,003,715
Birmingham Municipal Charity	1146182	<u>Finance &amp;Governance</u>	717,360	11,230	201	728,389
Centre for the Child	1039237	<u>Education&amp; Skills</u>	30,951	0	503	30,448
Young Active Travel- Birmingham Charitable Trust	1172536	Neighbourhoods	94,500	0	0	94,500
<b>Sub-Total Sole Corporate Trustee</b>			<b>24,153,870</b>	<b>35,386</b>	<b>39,793</b>	<b>24,149,464</b>
<b>Custodian Trustee</b>						
Clara Martineau Charity	1040051	<u>Education&amp; Skills</u>	4,353,213	0	1,780	4,351,433
Birmingham Bodenham Trust	528902	<u>Education&amp; Skills</u>	725,313	18,532		743,845
Alderson Disabled ex servicemen's Homes trust	216803	Neighbourhoods	499,545	56,928	56,928	499,545
Moseley Road Friends Institute	516602	Neighbourhoods	218,600	9,675	10,388	217,887
Sir Whitworth Wallis Trust	529062	Finance &Governance	44,489	369	15	44,843
Charity of John Billingsley the Elder	220435	Finance &Governance	2,142	3		2,145
<b>Sub-Total Custodian Trustee</b>			<b>5,843,303</b>	<b>85,507</b>	<b>69,111</b>	<b>5,859,699</b>
<b>Total</b>			<b>29,997,174</b>	<b>120,893</b>	<b>108,904</b>	<b>30,009,163</b>





<b>Report to:</b>	<b>TRUSTS AND CHARITIES COMMITTEE</b>
<b>Report of:</b> <b>Date of Decision:</b>	<b>Assistant Director of Property</b> <b>13 November 2019</b>
<b>SUBJECT:</b>	<b>HIGHBURY – PROPOSED MATCHFUNDING IN SUPPPORT OF CHAMBERLAIN HIGHBURY TRUST BID</b>
<b>Wards affected:</b>	<b>Moseley</b>

**1. Purpose of report:**

To seek the Committee's approval to allocate monies from the unrestricted funds of the Highbury Estate as matchfunding in support of proposed bids by the Chamberlain Highbury Trust for the improvement of the gardens at Highbury

**2. Decisions recommended:**

That the Committee:

- 2.1 Notes the intention of the Chamberlain Highbury Trust seeking to improve the gardens at Highbury to bid for monies from external grant giving organisations and which will require Committee support to the bids and that the essential matchfunding required for the bid be provided from the Highbury Trust unrestricted funds
- 2.2 Notes that in addition to the request by Chamberlain Highbury Trust further works will be required by the Highbury Trust to enable the new driveway to be completed particularly the demolition of the disused caretakers lodge, 52 Yew Tree Road
- 2.3 Approves the making of the bids and agrees to set aside monies in support of the scheme proposed as set out in Appendix 1 subject to a further report to Committee on the outcome of any bid
- 2.4 delegates to the Assistant Director of Property authority to confirm as appropriate on behalf of the Highbury Trust support for the proposals and the provision of matchfunding of any successful bid and to apprise the Committee of the results of the applications
- 2.4 authorises the City Solicitor to prepare, negotiate, execute, seal and complete all necessary legal documentation to give effect to the above recommendations and that the recommendation of the Trusts and Charities Committee be advanced to the next available meeting of the Council as Trustee for approval

<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 at this stage. Ward Members have not been specifically consulted as this is not usually undertaken for Trust matters and this matter is not considered controversial the improvements to the gardens at Highbury already being part of the approved scheme of works proposed at Highbury.

Planning and Listed Building Consents will be required which will result in public consultation for the works in addition to any consultation undertaken by Chamberlain Highbury Trust.

#### **3.2 Are there any relevant legal powers, personnel, equalities, procurement, regeneration and other relevant implications?**

The City Council acts as Sole Corporate Trustee for a number of charitable and non-charitable Trusts and has delegated day to day decision making to the Trusts and Charities Committee. Charitable trust activity is regulated by the Charity Commission and any proposals relating to the Estate will be governed by the charity's Trust document as amended by any Scheme approved by the Charity Commission. Trustees can also rely on the provisions of the Section 6(1) Trusts of Land and Appointment of Trustee Act 1996 which provides an implied statutory power for the trustees to manage the assets of the Trust as absolute owner. The objects of the charity as set out in paragraph 4.4 are necessarily limited but will enable the future management of the estate without hindrance. Actions proposed by the Trustees are required to be in the best interests of the trust and are intended to safeguard the trust estate for the future.

The Highbury Trust holds the freehold interest of the land in trust as Sole Trustee and is empowered to undertake actions to properly manage the assets of the Trust including effecting repairs/improvements. Chamberlain Highbury Trust have been appointed to act as managing trustees for the Highbury Estate and have been supported in their previous applications for funding of works at Highbury.

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

The Committee has responsibility for ensuring the proper governance of the Trust in accordance with the objects and purposes of the trust and charity law and as Trustees to ensure that actions are undertaken within financial resources.

Highbury Trust's only resources are the accumulated rent from the letting to Civic Catering and annual award of monies from the Leader to the Trusts and Charities Committee to further its activities generally, but which has in recent years been principally allocated for repairs at Highbury. The unrestricted funds of the Highbury Estate are sufficient to cover the CHT request and the demolition works, if approved. The continuation of Chamberlain Highbury Trust as managing trustees in bidding for external funds to support works at Highbury is very desirable at this stage and they cannot continue without matchfunding support.

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

N/A. The statutory functions discharged by the Council as Trustee are subject to a separate and distinct statutory regime underpinned (principally) by the Charities Act 2011, Trustee Act 2000 and relevant Charity Commission guidance. These are non-executive functions and are therefore not subject to the Equalities Act 2010 provisions.

#### **4. Relevant background/chronology of key events:**

- 4.1 The Highbury Estate comprises approximately 13.03 hectares (32.2 acres) of park land including Highbury Hall and Chamberlain House and three lodges.
- 4.2 The Estate was gifted by the heirs of the Right Honourable Joseph Chamberlain on 31<sup>st</sup> March 1932 and is held in trust as Registered Charity no 1039194 since 1994. Chamberlain Highbury Trust registered charity no. 1169845 has been set in place to best resolve the governance issues and to manage the Estate and seek external grants to enable the refurbishment of Highbury.
- 4.3 Chamberlain Highbury Trust (CHT) is actively progressing its further bid to the National Lottery Heritage Fund (NLHF) for the refurbishment of Highbury but desires now to make an independent bid for funds for works within the trust park and gardens areas to effect essential repairs, improve the visitor experience, reinstate the driveway from Moor Green Lane and demonstrate continuing improvement of the trust assets while awaiting the outcome of its larger bid for works to 'Highbury'. There are no other resources for the essential matchfunding required for the bid and sufficient funds exist within the unrestricted funds at Highbury Trust to cover this and other likely requirements for funds at Highbury.
- 4.4 **Aims and Objectives of the Charity**  
Each charitable asset is held as a separate trust and decisions need to be in the best interests of that trust. The terms of the gift simply provided that the Trustees should hold them "in the first instance for use as a hospital for the treatment of limbless and other soldiers, sailors or pensioners" and "if and when the Trustees should consider that they were no longer needed for those purposes the Trustees should hold the property for such public purposes as they with the consent of the Corporation of Birmingham might determine or might at the request of the Corporation transfer it to them for the general benefit of the Citizens of Birmingham". The Objects of the Charity remain as originally set "for the general benefit of the Citizens of Birmingham".
- 4.5 **Trustee Powers**  
The charity's constitution is set out within the executed Trust Deed, principally the acquisition deeds or as amended by any Scheme agreed with the Charity Commission. All decisions will be mindful of the original intention set out in the governing documents however subject to compliance with Charity law and Part 7 Charities Act 2011 sufficient powers exist for the Trustees to make decisions on the future of the assets. The Trust has secured specific additional powers through a Charity Commission Scheme.
- 4.6 **Charity Finances**  
The Trust has a strong revenue stream principally from the letting of Highbury to Civic Catering for the continuing use of the property as a wedding/conference centre. Further assistance is provided by Birmingham City Council Street Services (Parks) in maintaining the park landscape. However, the cost of on-going repairs continually outstrips the resources available and the continuation of CHT and their proposed activities on the trust land are beneficial to the Trust and welcomed and necessarily at this stage they require financial support. If successful in their bids for HLF and other monies, they would progress the refurbishment and ultimately take over the management of the Estate fully.

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

- 5.1 CHT resolve for the Highbury Trust the former governance issues at Highbury and represent the best opportunity to win new monies for the trust assets. There is currently no alternative to progressing matters via CHT and to properly support their bids financially in the meantime is an appropriate use of Trust funds where these secure improvements to the Estate.

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

6.1 To better safeguard the Highbury Estate assets long term it is appropriate to continue to support CHT in seeking additional funding from external sources.

Date

**Signatures**

Chairman of the Trusts & Charities Committee

.....

Chief Officer  
Assistant Director of Property (Interim)

.....

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

1. None.

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

1. Request for resources from Chamberlain Highbury Trust.

**Chamberlain Highbury Trust****Garden Project**

At its meeting on 18 September the Committee was briefed about the development of an urgent programme of works, costing in the order of £300,000, in the historic grounds at Highbury that could be the subject of applications for grant aid to both the National Lottery Heritage Fund (NLHF) and Historic England (HE), both of which would have to be made jointly by the Chamberlain Highbury Trust (CHT) and the City Council and a financial contribution from both applicants would be required.

Highbury represents a rare example of a Grade 2\* listed mansion and Grade 2 Grounds commissioned by Joseph Chamberlain. Both the house and grounds are now on the HE At Risk Register. The proposed programme of works focuses on the thirty acres of gardens designed by Edward Milner in 1879 to compliment the naturalistic detailing of the mansion, which are currently the responsibility of the Highbury Trust.

The gardens currently receive over 100,000 visits annually, mainly by people from the surrounding areas of Kings Heath, Moseley and Stirchley. Nearly a third of the local community is aged 18-30 and rent flats, meaning Highbury gives them access to vital greenspace. Consultation with local people, groups and schools demonstrates demand for forest schools, woodland play, therapeutic gardening for vulnerable adults, garden restoration and nature conservation. Volunteers want to be active and get involved with project, the final costings of which are predicated on significant volunteer input.

Whilst many of the garden's original features and planting are not lost but await recovery, much of the vegetation is seriously overgrown, meaning parts of the gardens are no longer easily accessible, particularly for people with disabilities. Parts are also susceptible to flooding and drainage problems leading to public safety issues on paths, most of which now require urgent repair or replacement. This project provides the opportunity to address these important issues but also to begin to restore the historic landscape and recreate the views between the mansion and its surroundings, improving the settings for outdoor and other events.

The following table sets out the details and final costs of the proposed scheme:

	£
<b>Yew Tree Road/Moor Green Lane Entrance</b>	
Restore timber gates, and gate piers, install new bollards, replace tarmac bell mouth, welcome and orientation signing	14560
<b>Yew Tree Road Boundary</b>	
Clear vegetation and unwanted trees (volunteer input), remove timber fence, new planting	42200
<b>Driveway from Entrance to Mansion</b>	
New Path (to vehicular standard), clear vegetation (volunteer input), fell unwanted trees, new planting and sowing	66350
<b>Footpath Network-East of House</b>	
Reinstate existing paths and install new paths, clear vegetation and associated works	54650



<b>Main Pond Footpath</b>	
Install drainage strip, rod existing pipework, relocate benches, new silt traps	19880
<b>Restore Rhododendron Garden</b>	
Clear vegetation and brambles, remove unwanted trees, strim coppiced shrubs (volunteer input), plant rhododendrons, ornamental plants, restore lawns and associated works	79400
<b>Woodland to South East of House</b>	
Remove unwanted trees	19200
<b>Other minor items</b>	3760
<b>Total Cost</b>	<b>300000</b>

NB-Excludes the cost of demolishing the Caretakers House which would be required to reopen the driveway from the Moor Green Lane/Yew Tree Road entrance at an estimated cost of £25-30,000.

The cost of the work would be financed as follows:

	£
Grant from NLHF	100000
CHT funding already secured	20000
Other CHT Funding including HE Grant*	100000
Contribution from BCC	80000
<b>Total</b>	<b>300000</b>
* to be confirmed	

The Committee is asked to:

- Approve the submission of joint bids from BCC and CHT to NLHF and Historic England
- Subject to approval of funding from NLHF and HE, authorise that the works be carried out on Highbury Trust land
- Approve match funding from the City Council Highbury Trust Funds of £80000







## HIGHBURY HALL REVISED NLHF COSTINGS 09.09.19

### 1a Yew Tree Road/Moor Green Lane entrance

	No.	Unit	Rate	Total
Selective clear fell / crown lift – see item 2a				
New gate railings	9	m	80	720.00
Make good timber gates (2 veh; 1 ped)	3	No.	item	1,440.00
Clean gate piers 2 x (4 x 0.675 x 2.5)	14	m2	37	518.00
Tar spray & chip over existing tarmac bellmouth	67	m2	35	2,345.00
Granite sett trim between gate piers	3.2	m2	150	480.00
General welcome & orientation sign	1	No.		1200.00
Remove metal barrier	1	No.		370.00
Remove softwood bollards	3	No.		150.00
New removeable hardwood bollards	3	No.	415	1245.00
New fixed hardwood bollards	3	No.	80	240.00
'Restore' gate pier light fittings with orb metalwork (no glass)	2	No.		<u>1,000.00</u>
				<b>£9,708.00</b>

### 2a Yew Tree Road boundary

Remove timber fence (just to ground level)	198	m	6	1,188.00
Volunteers clear / prune shrub vegetation; contractors stump grind	2,980	m2	4	11,920.00
Raise tree crowns	10	No.	100	1,000.00
Fell trees; stump grind	10	No.	500	5,000.00
Prep ground, 100mm topsoil, turf (20% of cleared area)	600	m2	4	2,400.00
Prep ground, sow wildflower seeds (80% of cleared area)	2,380	m2	0.60	1,428.00
New rhododendron / ornamental planting incl. bark mulch		item		<u>5,200.00</u>
				<b>£28,136.00</b>

### 3a Driveway from Yew Tree Road/Moor Green Lane entrance to Highbury

#### Middle section (3am)

Volunteers clear vegetation for new path; contractors stump grind	291	m2	4	1,164.00
Fell trees; stump grind	5	No.	500	2,500.00
Reprofile mounding		item		400.00
New 2.75m tar spray & chip path (but to vehicular standard)	182	m2	88	15,972.00
New pcc kerbs to path	140	m	26	3,640.00



3A cont.

*Southern section (3as)*

Volunteers clear vegetation for new path; contractors stump grind	3150	m2	4	12,600.00
Fell trees; stump grind	10	No.	500	5,000.00
Raise tree crowns	5	No.	100	500.00
Reduce privet hedge height to just 1.2m agl	34	m	10	340.00
Prep ground, 100mm topsoil, 1m wide turf on south side of path	66	m2	4	264.00
Prep ground, sow wildflower seed	3084	m2	0.60	<u>1,850.00</u>
				<b>£44,230.00</b>

**3b Footpath network to the east of the house**

New 2.4m wide ramped CEDEC / Breedon gravel path*	144	m2	50	7,200.00
New timber path edging	120	m	7	840.00
Reinstate existing 2.4m paths with CEDEC / Breedon gravel	1126	m2	14	15,764.00
Reinstate existing path with timber edging	938	m	7	6,566.00
New 2.4m curved CEDEC / Breedon gravel path link section	20	m2	50	1000.00
New curved timber path edging	16	m	7	112.00
New 1.8 wide CEDEC / Breedon gravel path	54	m2	50	2,700.00
New path timber edging	110	m	7	770.00
Clear vegetation on new path routes	260	m2	5	1,300.00
Clear remnant chainlink fence & posts	7.2	m	25	<u>180.00</u>
				<b>£36,432.00</b>

**3c Main pond footpath**

New 0.55m wide Tegula sett drainage strip / channel (288m)	159	m2	60	9,540.00
Incl. for rodding existing pipework; tarmac reinstatement		item		1,500.00
Incl. for new & existing connections to pipework / silt traps	3	No.	250	750.00
Relocate benches	3	No.		450.00
Relocate litter bin	1	No.		150.00
Re-turf adjacent to new drainage strip	288	m2	3	<u>864.00</u>
				<b>£13,254.00</b>

## 5f Rhododendron Garden

Clean pulpit	1	No.		1,500.00
Restore rockwork (spray weeds, new soil)	1	No.		1,000.00
Volunteers clear vegetation; contractors stump grind (n.w.)	1,700	m2	4	6,800.00
Volunteers strim previously coppiced shrubs / brambles (s.e.)	3,020	m2	2	6,040.00
Spray out previously cleared shrubs / brambles (s.e.)	3,020	m2	0.08	242.00
Prep ground, 100mm topsoil, new turf (n. of pulpit)	509	m2	4	2,036.00
Replant rhododendron / ornamentals (supply only)	1,373	m2	13	17,849.00
Incl. for 75mm bark mulch	103	m3	40	4,120.00
Grass seed remainder of n.w., s, & s.e areas	3,347	m2	0.50	1,674.00
Incl for 100mm topsoil	335	m3	5	1,675.00
Fell trees; stump grind	20	No.	500	<u>10,000.00</u>
				<b>£52,936.00</b>

## 6d Woodland to south east of house

Fell trees; stump grind	25	No.	500	12,500.00
Raise tree crowns	3	No.	100	<u>300.00</u>
				<b>£12,800.00</b>

## Thunderbox composting toilet

Supply and install to HOCCIC area	1	No.		<b>£2,500.00</b>
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### Section costs :-

1a £9,708.00

2a £28,136.00

3a £44,320.00

3b £36,432.00

3c £13,254.00

5f £52,936.00

6d £12,800.00

Toilet £2,500.00

**Total £199,996.00 plus 60% on costs £119,998 TOTAL COST £319,994**

**But if 50% on costs £99,998 REVISED TOTAL COST £299,994**

\*CEDEC / Breedon gravel deliveries by artic only. Significant increase in cost if by smaller lorries.



<b>Report to:</b>	<b>TRUSTS AND CHARITIES COMMITTEE</b>
<b>Report of:</b> <b>Date of Decision:</b>	<b>Assistant Director - Neighbourhoods</b> <b>13 November 2019</b>
<b>SUBJECT:</b>	<b>CALTHORPE PARK – LEASE OF PLAY CENTRE FOR GENERAL COMMUNITY PURPOSES</b>
<b>Wards affected:</b>	<b>Balsall Heath West</b>

**1. Purpose of report:**

- 1.1 To seek approval to obtain revised management powers for Calthorpe Park, held in trust, including a power of disposal which will enable the grant a lease of the existing Play Centre.

**2. Decisions recommended:**

That the Committee

- 2.1 notes The Active Wellbeing Society, being the community benefit society (also known as a mutual) set up to deliver the council outcomes of the Wellbeing Service currently manages the former Calthorpe Park Play Centre on Edwards Road but as part of their Service Review no longer wish to directly operate the property. It is proposed that to maintain community service provision in the area the premises be advertised as available to let. This change will require the occupation of the premises on the trust's land to be regularised by the grant of a formal lease.
- 2.2 authorises that applications be made to the Charity Commission to obtain either an Order or Scheme for the better management of the trust assets including a power of disposal and if appropriate an Order to permit a disposal to a 'connected person'
- 2.3 authorises the disposal by way of a lease for up to 25 years from an early date to be agreed, of the land currently allocated to the Service being granted to a suitable community organisation and that the recommendation of the Trusts and Charities Committee be advanced to the next available meeting of the Council as Trustee for approval
- 2.4 delegates to the Assistant Director of Property authority to secure appropriate valuation and marketing advice in line with statutory requirements of the Charities Act 2011 for the disposal of the property and negotiate the terms of any disposal
- 2.5 authorises the City Solicitor to prepare, negotiate, execute, seal and complete all necessary legal documentation to grant the lease including the applications to the Charity Commission to give effect to the above recommendations and to apprise the Committee of the results of the applications and consultation.

<b>Lead Contact Officers:</b>	Nigel Oliver , Property Manager
<b>Telephone No:</b> <b>E-mail address:</b>	0121 464 3028 nigel.g.oliver@birmingham.gov.uk

### **3. Compliance:**

#### **3.1 Consultations:**

Officers in the Active Wellbeing Service have undertaken all consultation and included the continuation of service provision at this location in their Service review report “A Sustainable Solution for the Future of the Wellbeing Service Outcomes” still to be reported to a future Cabinet meeting. Ward Members have been consulted and have no direct issues on future marketing.

Further consultation regarding this report is not envisaged except where it may be required to satisfy the requirements of the Charity Commission in support of the applications to them but further consultation is anticipated on advertisement.

Street Services (Parks) manage Calthorpe Park and the changing rooms and are aware that this report seeks no changes to that arrangement.

#### **3.2 Are there any relevant legal powers, personnel, equalities, procurement, regeneration and other relevant implications?**

The City Council acts as Sole Corporate Trustee for a number of charitable and non-charitable Trusts and has delegated day to day decision-making to the Trusts and Charities Committee with final decisions on a disposal of land or assets being made by Council as Trustee. Charitable trust activity is regulated by the Charity Commission and any proposals relating to the estate will be governed by the Trust documents, as amended by any Scheme approved by the Charity Commission. As trustee the City Council is responsible for ensuring the Trust is properly managed in all regards.

The re-organisation of the Active Wellbeing Service will still safeguard the provision of services to the local community which services assist the trust to meet its objects around recreational use of the Park.

Calthorpe Park is held freehold. The land was provided for a designated use and is regarded as ‘specie land’ by the Charity Commission. The trust deed does not expressly provide any powers to deal with the property or manage the trust and the Trust will need to make applications to the Charity Commission for appropriate modern management powers including powers of disposal of property. The provisions of the Section 6(1) Trusts of Land and Appointment of Trustee Act 1996 which provides an implied statutory power of disposal will not assist in this instance. Disposal in this instance may include freehold sale and also the grant of leases or tenancies or the management of the holdings by other parties. Lettings to connected persons including Birmingham City Council and/or the Active Wellbeing Service would also be subject to a specific application for approval from the Charity Commission.

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

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

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

Not applicable. The statutory functions discharged by the Council as Trustee are subject to a separate and distinct statutory regime underpinned (principally) by the Charities Act 2011, Trustee Act 2000 and relevant Charity Commission guidance. These are non-executive functions and are therefore not subject to the Equalities Act 2010 provisions.

#### **4. Relevant background/chronology of key events:**

- 4.1 Calthorpe Park was the second public park in Birmingham opened 1st June 1857 on land owned by Lord Calthorpe. Initially held only by 'licence', the freehold interest was transferred to the Birmingham Corporation subject to the land being made available as a recreation ground. This transfer is recorded as a gift and is treated as land held in trust.
- 4.2 In 1900 land a land exchange regularised the shape of the park while enabling the adjoining housing development or the expansion of Balsall Heath. The land then accepted into the Park is treated as held in trust. The Calthorpe Park Play Centre is located on this land.
- 4.3 In 1893 and 1899 the parkland was extended by further formal acquisition. These are not gifts nor have any charitable status. Other land has been added along Clevedon Road after slum clearances in the 1960's and 70's and although contiguous with the Park are not considered to be part of Calthorpe Park nor as monetary purchases will they have any charitable status. The Park continues to be very well used. This is not a registered charity.
- 4.4 The proposal to seek a Scheme or Order from the Charity Commission is necessary as the acquisition documents provide none of the powers required for the management of a modern trust nor any mechanism for change and currently there is no ability to provide an alternative use for the premises. It is a statutory requirement on the Trust to at all times seek to preserve and properly manage its assets. To do so in this instance will require that all occupations be properly documented. It is overdue that the activities at the Play Centre are formally recognised and documented.
- 4.5 Other applications may need to be made to remove or amend the restrictive covenant limiting the premises to recreational uses only.

#### **4.6 Aims and Objectives of the Trust**

Each property in trust is held as a separate trust and decisions need to be in the best interests of that trust. The assets of the Trust should at all times assist the Trust to comply with the Objects of the trust. The specific objects of the trust are simply to 'use of the premises as a public park and the presence and activities of the Play Centre enhance this.

#### **4.7 Trustee Powers**

A trust's constitution is set out within the executed Trust Deed for each property principally the acquisition deeds or as amended by a scheme agreed with the Charity Commission. All decisions will be mindful of the original intention set out in the documents however subject to compliance with Charity law and Part 7 Charities Act 2011 sufficient powers exist or can be obtained for the Trustees to make decisions on the future of the assets including disposals.

#### **4.8 Trust Finances**

The sole asset of the trust is the park property. The trust has no revenue source or capital investments. The property to be leased was managed and maintained by Birmingham City Council Play Service before transfer to the Active Wellbeing Service and is in good condition.

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

This report seeks approval to make applications to gain appropriate powers for future management or disposal of the property. To do nothing is not an appropriate option as the occupation of land requires to be properly regularised and this is most safely achieved by the grant of an appropriate lease.

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

6.1 To better safeguard the Trust's assets overall, retaining public services leading to the healthful recreation of the citizens of Birmingham within this public park.

**Signatures:**

Chief Officer(s): .....

Dated: .....

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

1. Deed of Acquisition dated 26<sup>th</sup> February 1900 and 1st June 1857

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

1. None.

<b>Report to:</b>	<b>TRUSTS AND CHARITIES COMMITTEE</b>
<b>Report of:</b> <b>Date of Decision:</b>	<b>Assistant Director – Skills and Employability</b> <b>13<sup>th</sup> November 2019</b>
<b>SUBJECT:</b>	<b>BILBERRY HILL CENTRE – POWERS FOR DISPOSAL</b>
<b>Wards affected:</b>	<b>Out of City</b>

**1. Purpose of report:**

To seek approval to obtain appropriate management powers for the land and premises known as the Bilberry Hill Centre, held in trust, including a power of disposal

**2. Decisions recommended:**

That the Committee

- 2.1 notes the premises formally leased to the Birmingham Federation Clubs for Young People is considered to be held in trust but are now vacant, the Federation having been recently placed in administration.
- 2.2 authorises that applications be made to the Charity Commission to obtain either an Order or Scheme for the better management of the trust assets including a power of disposal and, if appropriate, an Order to permit a disposal to a 'connected person' and that the recommendation of the Trusts and Charities Committee be advanced to the next available meeting of the Council as Trustee for approval.
- 2.3 delegates to the Assistant Director of Property authority to secure appropriate valuation and marketing advice for the disposal of the property in line with statutory requirements of the Charities Act 2011 and to negotiate the terms of any disposal subject to the terms and conditions of any disposal having been first considered by the Committee
- 2.4 authorises the City Solicitor to prepare, negotiate, execute, seal and complete all necessary legal documentation to give effect to the above recommendations

<b>Lead Contact Officers:</b>	Nigel Oliver , Property Manager
<b>Telephone No:</b> <b>E-mail address:</b>	0121 464 3028 nigel.g.oliver@birmingham.gov.uk

### **3. Compliance:**

#### **3.1 Consultations:**

Further consultation regarding this report is not required nor envisaged except where it may be required to satisfy the requirements of the Charity Commission in support of the applications to them. The premises are 'out of the City boundaries so there are no direct Ward Members.

#### **3.2 Are there any relevant legal powers, personnel, equalities, procurement, regeneration and other relevant implications?**

The City Council acts as Sole Corporate Trustee for a number of charitable and non-charitable Trusts and has delegated day to day decision-making to the Trusts and Charities Committee with final decisions on a disposal of land or assets being made by Council as Trustee. Charitable trust activity is regulated by the Charity Commission and any proposals relating to the estate will be governed by the Trust documents, as amended by any Scheme approved by the Charity Commission. As trustee the City Council is responsible for ensuring the Trust is properly managed in all regards.

The Bilberry Hill Centre is held freehold. The trust deed does not expressly provide any powers to deal with the property or manage the trust and the Trust will need to make applications to the Charity Commission for appropriate modern management powers including powers of disposal of property. The provisions of the Section 6(1) Trusts of Land and Appointment of Trustee Act 1996 which provides an implied statutory power of disposal may not assist in this instance. Disposal may include freehold sale and also the grant of leases or tenancies or the management of the holdings by other parties. Lettings to connected persons including Birmingham City Council would also be subject to a specific application for approval from the Charity Commission.

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

Duty of prudence – Trustees must ensure that the charity is and will remain solvent. The trustees are responsible for ensuring appropriate cost controls are in place. There are no current capital or revenue resources. If a disposal is supported this will secure either a revenue stream from a letting or a capital receipt from a disposal of the freehold interest. Any transactions will be conducted in line with statutory processes set out in the Charities Act 2011 and receipts ring-fenced and invested appropriately for the Charity. Any disposal, if approved, will be processed by officers in Legal Services and Birmingham Property Services and the valuation report will be undertaken by a qualified valuer costs for which are to be determined. All future running costs for the premises will continue to be covered by the incoming tenant/purchaser to be selected to avoid any burden on the trust.

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

Not applicable. The statutory functions discharged by the Council as Trustee are subject to a separate and distinct statutory regime underpinned (principally) by the Charities Act 2011, Trustee Act 2000 and relevant Charity Commission guidance. These are non-executive functions and are therefore not subject to the Equalities Act 2010 provisions.



#### **4. Relevant background/chronology of key events:**

- 4.1 The land and premises forming the Bilberry Hill Centre located at Rose Hill adjoining the Lickey Hills Country Park was acquired in three parts two of which are considered to be held in trust. The larger part of the trust was gifted to the Council on 4<sup>th</sup> September 1903 by Barrow Cadbury. A smaller area of land adjoining was gifted to the Council on 17<sup>th</sup> December 1904 by Barrow Cadbury and Ernest J Bigwood. The third part is not held in trust being a monetary purchase by the Council from Earl of Plymouth on 2<sup>nd</sup> October 1914. It is a much larger area of land forming part of the Country Park a small portion of which the Federation expanded onto in the 1960's. The trust land is not a registered charity.
- 4.2 On acquisition the premises originally included the smaller properties known as the Crown Temperance Hotel and Bilberry Cottage but by 1916 these were replaced and expanded into the Bilberry Hill Tea Rooms and the separate Coach House. Use of the Tea Rooms and restaurant continued until the 1960's but the premises have been leased to the Birmingham Federation Clubs for Young People (Charity Number 522850) since 1970 as a residential activity centre. The premises have nominally been in the management of the Youth Service who grant aided the rent but on the Federation being placed in Administration and the keys returned to the Council the premises have been declared surplus to their requirements. The premises are not in good condition.
- 4.3 The proposal to seek a Scheme or Order from the Charity Commission is necessary as the acquisition documents provide none of the powers required for the management of a modern trust nor any mechanism for change and currently there is no ability to provide an alternative use for the premises. It is a statutory requirement on the Trust to at all times seek to preserve and properly manage its assets. To do so in this instance will require that the premises are relet or disposed of. To progress any disposal either by freehold disposal or letting it is necessary for the trustees to hold the appropriate powers.
- 4.4 Other applications may need to be made to remove or amend the restrictive covenant limiting the premises to recreational uses only.
- 4.5 **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 as set out on this acquisition is to operate the premises in accordance with the provisions contained in the Birmingham Corporation (Consolidation) Act 1883 with reference to Parks.
- 4.6 **Trustee Powers**  
A trust's constitution is set out within the executed Trust Deed for each property principally the acquisition deeds or as amended by a scheme agreed with the Charity Commission. All decisions will be mindful of the original intention set out in the documents however subject to compliance with Charity law and Part 7 Charities Act 2011 sufficient powers exist or can be obtained for the Trustees to make decisions on the future of the assets including disposals.
- 4.7 **Trust Finances**  
The sole asset of the trust is the land and properties. The trust has no revenue source or capital investments.
- 4.8 **Evaluation of alternative option:**  
This report seeks approval to make applications to amend the restrictive covenant and gain appropriate powers for future management or disposal of the property. To do nothing is not an appropriate option as the occupation of land requires to be properly regularised and this is most safely achieved by the grant of an appropriate lease.

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

- 6.1 To better safeguard the Trust's assets overall, remove potential burdens and seek to preserve the buildings.

**Signatures:**

Chief Officer(s): .....

Dated: .....

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

1. Deed of Acquisitions dated 4<sup>th</sup> September 1903 and 17<sup>th</sup> December 1904

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

1. None.