

<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>18<sup>th</sup> July 2018</b>
<b>SUBJECT:</b>	<b>HIGHBURY – AWARD OF FUNDS BY BIRMINGHAM CITY COUNCIL</b>
<b>Wards affected:</b>	<b>Moseley</b>

**1. Purpose of report:**

- 1.1 To inform the Committee of funds made available by Birmingham City Council to the Highbury Trust to assist essential repairs to Highbury

**2. Decisions recommended:**

That the Committee notes that:

- 2.1 as set out in the report of the Leader of the Council jointly with the Corporate Director, Resources (Appendix 1) and in the private report, Birmingham City Council has allocated £0.5m for the essential repairs at Highbury.
- 2.2 the works to be addressed have been agreed in consultation with the Chamberlain Highbury Trust and will commence once the appointment of a suitable Conservation Architect is resolved.

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### **3. Compliance:**

#### **3.1 Consultations:**

Chamberlain Highbury Trust officers have been fully consulted and agreed the scheme of works required. 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.

#### **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.

#### **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. This major award of monies from Birmingham City Council to the Highbury Trust enables the undertaking of essential major repairs at Highbury and intended to safeguard the building while Chamberlain Highbury Trust continues to seek funding for the full 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. However, the acceptance of these monies presents no risk to the Trustees, comes without ties except that it be spent on the repair of Highbury and greatly benefits the Estate.

#### **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. It now accommodates part of Uffculme Special School in Chamberlain House and also at 92 Queensbridge Road the Four Seasons Gardeners, an Adult Services enterprise.
- 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 up to manage the Estate and seek external grants to enable the refurbishment of Highbury.
- 4.3 Chamberlain Highbury Trust (CHT) is progressing bids to the Heritage Lottery Fund, but as the building continues to deteriorate and in response to the requests from the Chamberlain Highbury Trust for assistance in immediate safeguarding repairs and for further match funding to assist their bids the Leader has determined that an amount of £0.5m will be made available. That money is now available to the Highbury Trust and Acivico have undertaken the consultation with CHT and procured the services of an appropriately qualified architect to enable these works to proceed. The award of further match funding monies may be available subject to further approvals.

#### **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”. The Trust secured additional powers through the Charity Commission Scheme to effect disposal.

#### **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.

#### **4.6 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 but the cost of on-going repairs continually outstrips the resources available. The input of substantial unrestricted funds earmarked for the repair of Highbury is welcome and essential.

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

- 5.1 To do nothing is no longer an option as insufficient funds are available for the trust to undertake works to create or manage the Estate

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

6.1 To best safeguard the asset long term it is appropriate to accept this money and commence an agreed schedule of repair works.

**Signatures**

Chairman of the Trusts & Charities Committee .....

Chief Officer  
Assistant Director of Property (Interim)  
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**List of Background Documents used to compile this Report:**

1. None.

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

1. Report of the Leader of the Council Jointly with the Corporate Director Resources  
February 2018

Date

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