

# Birmingham City Council

## Trusts and Charities Committee

11/03/2024



**Subject:** Highbury Trust – Award of Funds to Chamberlain Highbury Trust

**Report of:** Assistant Director of Corporate Landlord

**Report author:** Nigel Oliver Operational Property Manager

Does the report contain confidential or exempt information? ☐ Yes ☒ No

If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:

### 1 Executive Summary

- 1.1 To enable the Committee to consider the award from the unrestricted funds of the Highbury Estate of a further grant to Chamberlain Highbury Trust in support of their operations and the continuation of their bid to the National Lottery Heritage Fund (NLHF) for the refurbishment of Highbury.

### 2 Recommendation(s)

That the Committee:

- 2.1 Notes the report from Chamberlain Highbury Trust set out in Appendix 1 updating the Committee on its continuing activities on the estate, detailing how monies previously allocated have been properly spent and specifically to seek approval for funds for their future activities.
- 2.2 Award a grant to Chamberlain Highbury Trust of £38,274 from the unrestricted funds of the Highbury Estate for the operations to be undertaken by Chamberlain Highbury Trust as set out in their draft budget for 2024/25.
- 2.4 To instruct officers in Finance and Legal Services to take all necessary steps to facilitate the award of the grant to Chamberlain Highbury Trust and report back to a future Committee meeting, once the grant application project has been completed.

### **3 Background**

- 3.1 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 at 92 Queensbridge Road the Four Seasons Gardeners, an Adult Services enterprise.
- 3.2 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. It is a Registered Charity no 1039194. 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.
- 3.3 Chamberlain Highbury Trust will continue to undertake operations to develop and enhance the Highbury Estate during 2024/25 for which it requires a further grant from the Highbury Trust account as has been approved in previous years and is still actively progressing the bid to the NLHF for capital funding. The continuation of Chamberlain Highbury Trust and their proposed activities on the Estate and bids to external funding sources are beneficial to the Highbury Trust and are to be welcomed. Necessarily at this stage they require continuing financial support but if successful in their bids for NHLF and other monies, they would progress the refurbishment of Highbury, take over the management of the Estate on a 125 year lease and over time end any need for the trust to provide directly support.

### **4 Options considered and Recommended Proposal**

- 4.1 There is currently no viable alternative to progressing matters via Chamberlain Highbury Trust as their presence and activities continue to assist the Highbury Trust to resolve the former governance issues and represent the best opportunity to win new monies for the Estate. To properly support them financially in the meantime is an appropriate use of Trust funds.
- 4.2 To best safeguard the asset long term, it is appropriate to continue to support Chamberlain Highbury Trust in the financial year 2024/25. To do nothing is not an option.

### **5 Legal Implications**

- 5.1 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. 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.

- 5.2 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 the making of awards to support the bids for a refurbishment of Highbury. Chamberlain Highbury Trust have been appointed to act as managing trustees for the Highbury Estate and have had grant awards to assist in funding their operations and to make bids to the NLHF in previous years.
- 5.3 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 at Highbury 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 are necessarily limited but sufficiently enable the future management of the estate *“for the general benefit of the Citizens of Birmingham*

## **6 Financial Implications**

- 6.1 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. Formal accounts are required to be prepared for the Charity Commission returns where appropriate. The Highbury Trust has a revenue stream principally from the letting of Highbury to Civic Catering for the continuing use of the property as a wedding/conference centre but the cost of on-going repairs continually outstrips the resources available.
- 6.2 Previous bids by Chamberlain Highbury Trust to the NLHF for funds for the refurbishment of Highbury have been supported by the trustees. That Chamberlain Highbury Trust are continuing their operations on the Estate and advancing their bid to the NLHF for funds for the refurbishment of Highbury is in line with the longer term ambitions of the trustees to secure the restoration of Highbury.
- 6.3 This decision has no impact on the Council's general fund.

## **7 Public Sector Equality Duty**

- 7.1 The statutory functions discharged by the trustees through the Council as Trustee and the Trusts & Charities Committee 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. Public consultation is not required and Member consultation is not usually undertaken for Trust matters at this

stage but the Leader, Leader of the Opposition Parties, local Members and others will be alerted to the report.

## **8 Background Papers**

8.1 The conveyance dated 30/03/1932.

## **9 Appendices**

9.1 Appendix 1 – Report from Chamberlain Highbury Trust dated 9<sup>th</sup> January 2024.



# The Chamberlain Highbury Trust

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## CHAMBERLAIN Highbury TRUST (CHT)

### Report to Trusts and Charities Committee (T&CC) dated 09 January 2024

#### 1. Purpose

The purpose of this report is to:

- (a) Give a brief update on progress of the Highbury restoration project;
- (b) Report the likely outturn for 2023/24 compared to the budget; and
- © Seek funding from the Committee for CHT activity in 2024/25 not covered by other sources of funding.

#### 2. Completion of the Development Phase

2.1 In 2023-24, CHT had access to up to £368K of Development Grant from the National Lottery Heritage Fund (NLHF) and up to £150K of grant funding from Birmingham City Council (BCC) and up to £40K from the Highbury Trust, in addition to up to £9K of CHT's own resources, in order to develop the plans for the Highbury restoration project up to RIBA Stage 3 ("the Development Phase"). A full professional team, led by specialist heritage architects Burrell, Foley Fischer developed the plans, CHT consulted its stakeholders and communities regularly during the development of these plans and, after two rounds of scope reduction and value engineering, CHT approved the RIBA Stage 3 plans in May 2023.

2.2 In reliance on the fully costed RIBA Stage 3 plans, in August 2023 CHT applied – jointly with BCC - to NLHF for a Delivery Grant towards the costs of the restoration works of just over £5M. The full cost over the 2-3 years' duration of the restoration works ("the Delivery Phase") was stated to be £12M and CHT stated that these costs would be met from the following sources:

NLHF	£5M
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BCC/HIGHBURY TRUST	£5M
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CHT's FUNDRAISING	£2M
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In September 2023, BCC issued the first of two Section 114 Notices and the process that this has entailed has caused uncertainty as regards the ability of BCC to contribute its funding to the Highbury restoration project. If BCC's funding cannot be secured, the NLHF funding will be lost.

2.3 In March 2023, T&CC allocated CHT funding of £33,300 to cover CHT's non-Development Phase activities during 2023-24. In this report, CHT sets out how this funding was used and requests a further allocation from T&CC for its non-Delivery Phase activities in 2024-25.

### 3. **Approved Budget and Likely Outturn for 2023/24**

- 3.1 In March 2023, CHT presented to T&CC its budget for 2023/24 in respect of CHT's non-Development Phase activity. This forecast spending of £33,300 during 2023-24 and T&CC agreed to allocate this sum, all of which T&CC has paid to CHT during 2023-24.
- 3.2 The outturn is likely to be £34,293 although CHT will try to manage this down between now (Jan 2024) and the Year-end. Any deficit will be met from the Contingency. The details are included in Table 1 below:

*Table 1: Performance against Budget 2023/24*

<b>2023-24</b>	<b>2023/24</b>	<b>2023/24</b>	<b>2023/24</b>	<b>Comment</b>
<b>Budget heading</b>	<b>Approved Budget</b>	<b>Year to Date</b>	<b>Full Year Projection</b>	
	£	£	£	
Trust Administrator	4800	3872	5872	Ave £480pm but distorted by a historic underpayment
Insurance & Audit	3000	3211	3211	Insurance premium inflation
Volunteer Coordinator	2000	2760	3260	Under-budgeted by CHT
Activity Planner& Related Costs	13500	7524	14524	Ave £1200pm
Rhododendron Project	2000	0	2000	Specialist propagation work in Cornwall
Fruit Tree Pergola	2500	0	2000	A garden plan that is out of scope of Lottery project
Other Costs	3500	2426	3426	Marketing, catering etc.
Contingency	2000	0	0	This will change if there is a deficit
<b>TOTAL</b>	<b>33,300</b>	<b>19703</b>	<b>34293</b>	Deficit will be met from Contingency

### 4. **Budget 2024/25**

- 4.1 As in past years, CHT seeks an allocation of funds from T&CC to cover CHT's costs of its activities unrelated to the Highbury restoration project (in the past two years this has been the non-Development Phase spending and for the next 2-3 years this will cover the non-Delivery Phase spending).
- 4.2 Details of the Budget for 2024/25, compared to the approved budget and likely outturn for 2023/24 are set out in the following table, Table 2:

Table 2: Proposed Budget 2024/25

<b>2024-25</b>	<b>2023/24</b>	<b>2023/24</b>	<b>2024/25</b>
<b>Anticipated expenditure</b>	<b>Approved Budget</b>	<b>Likely Outturn</b>	<b>Budget</b>
	£	£	£
Trust Administrator	4800	5872	5904
Insurance & Audit	3000	3211	3250
Volunteer Coordinator	2000	3260	3500
Activity Planner & Related Costs	13500	14524	15120
Young Leadership education and training	N/A	N/A	1000
Rhododendron Project	2000	2000	2000
Fruit Tree Pergola	2500	2000	2000
Other Costs	3500	3426	3500
Contingency	2000	0	2000
<b>TOTAL</b>	<b>33,300</b>	<b>34293</b>	<b>38274</b>

4.3 The following is a brief commentary on the main areas of the budget:

*Trust Administrator*

Average of £480pm Apr-Sep 2024, then £504pm Oct24-Mar25.

*Volunteer Coordinator*

Approximately 50 volunteers help CHT maintain the grounds, managed by a Volunteer Coordinator and Health and Safety Advisor. In 2023-24, most of the cost of managing the volunteer workforce was met from the Development Phase funding between April and August 2023. Potentially the Delivery Phase funding will provide funding for this activity at some point in 2024-25. This provision is to cover the period awaiting confirmation of the full Delivery Phase funding.

*Activity Planner and Activity Related Costs*

CHT's freelance Activity Planner has developed a wide range of activities in the mansion and grounds, part of the cost of which was charged to the Development Phase funding in 2023/24. The potential for Delivery Phase funding to cover this activity is the same as for the Volunteer Coordinator. Providing and encouraging public access to the estate through a vibrant and popular activities programme is important, both to satisfy the charitable objectives of CHT and Highbury Trust and also to develop and trial activities for when the restored estate is fully operational. This sum provides for the continuation and development of the activities programme.

*Young Leadership education and training*

Until now, our cost of running the young leadership programme, and our Youth Board, has been included in the Activities budget. However, CHT wants to establish a discreet budget heading for this work for two main reasons. First, so that we can begin to build a budget that will match our ambition for this programme to grow and become much more significant. Secondly, because we believe that this activity will be attractive to external funders, and we will need to show funders the budget for what we will ask them to fund in future.

*Rhododendron Project and Fruit Tree Pergola*

The Rhododendron Project involves expert propagation of horticulturally important and rare species of rhododendrons which will be part of the restored heritage gardens. The Fruit Tree Project preserves varieties of fruit trees originally planted by Chamberlain in a pergola formation. Both projects have been supported by T&CC previously and by external charitable trusts. These sums allow both to continue.

## **5. Proposals**

5.1 T&CC is asked to:

- (a) Note CHT's progress on the Highbury restoration project; and
- (b) Note the likely outturn for the financial year 2023/24.

5.2 T&CC is asked to approve an allocation of **£38,274** from the Highbury Trust to CHT for the financial year 2024/25.