



## Case Report

# Land at Stirchley Birmingham

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### About the charity

The charity comprised land at Stirchley, which was gifted by W A Cadbury to the Corporation of Birmingham to be used as a public recreation ground and bowling green. Other adjoining land had also been given, for example land on which public swimming baths were to be built. These were built and known as Bourneville Lane Baths.

### Why the commission got involved

Birmingham City council, the trustee of the Stirchley charity, initially applied for permission in 2009 to change the use of that land as part of a council redevelopment of land and buildings in the area. Both the baths and the bowling green had closed over 20 years previously and the baths were being converted into a new community centre. The Stirchley land (along with two other adjoining parcels of land) was identified for providing a car park for the new community centre, as well as a children's play area.

### The action we took

We explained that the trusts of the Stirchley land could not be changed to enable it to be used as a car park. It could not be 'merged' with the baths land because in our view this land was given to the council and therefore the council owned it, whereas the Stirchley land was charitable. We provided advice in 2009 about the options available. The council as trustee acted on the advice and undertook an extensive public consultation exercise to determine how it should proceed. In July this year, the council wrote back to ask the commission to authorise a land swap to enable the redevelopment to go ahead.

The council informed us that it owned part of Muntz Park, which was substantially bigger in size to Stirchley and already well-used as a park. The council proposed to 'swap' this land with the land at Stirchley. The charity would therefore have new replacement land and the council, as the owner of the former bowling green, could turn it into a car park for the new community centre.

Because, the council was disposing of the Stirchley land to itself, the commission needed to provide authority under s.105 of the Charities Act 2011. We assessed whether we could exercise this power.

## What we found

Following further correspondence, the commission was satisfied about the following.:

- the council had consulted sufficiently on the proposed swap including with residents of the local area, councillors, local forums with an interest in the issue, and the Cadbury estate
- it was acknowledged that the land to be given to the charity, by the council (part of Muntz Park) was not in the same ward as Stirchley, however that it was in an adjoining ward (around 730 metres away) and was the closest suitable land
- the land to be given to the charity was substantially bigger than the Stirchley land
- Muntz Park was already well-used for recreation

We also acknowledged that the council made the decision using new arrangements it had established for managing conflicts of interest when acting as trustee of various charities.

The commission decided that it could make an order under s.105 to authorise the council to enter into the land swap.

## The impact of our involvement

Prior to our involvement, the former bowling green at Stirchley was not being used for recreation. Authorising the land swap has enabled the charity to acquire bigger and better land for recreational activity. Local residents will also be able to use the former bowling green (and baths) as a newly developed council-owned community asset.

## Lessons for other trustees

It is vital, when making decisions about designated property (property which must be used for a particular charitable purpose such as parks, recreation grounds, village halls) that trustees ensure they have followed a thorough decision-making framework including acting within their legal powers, managing any conflicts of interest, and being sufficiently informed. The latter can mean taking professional advice when appropriate. It also means finding out about the views of the users of these community assets, local people, supporters and other stakeholders. We consider that taking into account these views is essential for the trustees to be able to make informed decisions in the charity's best interest.

The commission will generally not exercise its powers without evidence of proper consultation.

## Related reading

Trustees of charities holding land should familiarise themselves with our guidance [Sales leases transfers or mortgages: what trustees need to know about disposing of charity land \(CC28\)](#) and [Changing your charity's governing document \(CC36\)](#).

Guidance on trustee decision-making, and the principles referred to above, can be found on the GOV.UK website ("[It's your decision](#)" and [CC3](#)).