



Barham Park Trust Committee
3 December 2013

**Report from the Barham Park Trust
Management Team**

For Action

Wards affected:
Sudbury

**Barham Park Complex – Outcome of the Planning
Application and Options Report.**

1.0 Summary

- 1.1 This report advises members of the recent decision of the Local Planning Authority (LPA) in regard to the planning application for the change of use of space within the Barham Park complex from D1 community use to B1 light industrial use. In the light of the decision, the report sets out the options available to the Trust as regards to the next steps in leasing out the space.

2.0 Recommendation

- 2.1 That Members of the Trust consider the options set out below, and instruct officers as to which (if either) should be actioned:

Option 1

To appoint external agents to act on behalf of the Trust in order to remarket the remaining vacant units for D1 uses only;

Or

Option 2

To pursue an appeal against the decision of the Local Planning Authority to refuse planning permission for the change of use of the premises.

3.0 Detail

3.1 Background

At the February 2013 meeting, the Barham Park Trust considered the outcome of a marketing exercise in respect of the Barham Park complex, and agreed to offer a lease for various units within the complex to ACAVA (The Association for the Cultural Advancement through Visual Arts) as the main (anchor) tenant. ACAVA are a successful charitable, not for profit organisation with a national reputation for providing studio space for a range of artists and designers, and specifically linking this space to local communities by a variety of means, including open days, workshops and events.

3.2 The terms of the lease were agreed by the Barham Park Trust and the details have subsequently been negotiated and agreed with ACAVA by officers acting on behalf of the Trust. The proposed lease contains the following detailed controls, aimed at preserving the ethos and character of the original bequest to the Trust:

- Use for artists, photographic and sculpture studios as an amenity and for the benefit of the general public;
- at least two open days for the general public annually;
- any other uses to be subject to Landlord's consent;
- the tenant is prohibited from assigning or subletting the whole or parts of the premises (although licensing of parts of the premises for artists would be allowable);
- the lease is to be contracted out of the Landlord & Tenants Act 1954 – which means the tenant will not have a right of renewal at the end of the 15 year term

Furthermore it was accepted as a planning condition proposed by Planning Officers on behalf of the LPA that the change of use consent would be specific to ACAVA only.

3.3 On 13th November the Council's planning committee considered a planning application from Barham Park Trust for the change of use of various units within the Barham Park complex from D1 (community) to B1 (light industrial) use, in order to accommodate the Trust's preferred outcome from the recent process to market the premises. The application proposed a permission specific to ACAVA, in recognition of their status as a charitable organisation working for community benefit, and to ensure that any consent could not be exploited for general, commercial light industrial use at a point in the future. The planning committee refused the application. The decision notice was formally published on 21st November 2013 and set out the following grounds for refusal:

The proposal would result in the loss of floor space falling within the D1 Use Class and as such would be harmful to the future provision of flexible community facilities for local residents. The proposal is therefore contrary to policy CP23 of the London Borough of Brent LDF Core Strategy 2010

- 3.4 In reaching this decision, the planning committee went against the planning officer recommendation to approve the application. The decision was made after considerable discussion, and following representations from several objectors to the scheme.
- 3.5 Subsequent to the planning committee decision, officers have made contact with ACAVA to discuss their continued interest or otherwise in the premises. ACAVA have expressed a continuing desire to augment their current portfolio of premises within London - they currently operate out of 28 premises in London alone but feel there is a geographical gap in West London which a presence in Brent would fill. Although ACAVA are disappointed with the decision of the Local Planning Authority, they remain interested in occupying the Barham Park premises.
- 3.6 Assuming that Trust members want to continue to pursue leasing the premises, there are essentially two options open to members:
- Option 1 would be to undertake a new marketing exercise for the vacant spaces in an attempt to identify new tenants;
 - Option 2 would be for the Trust to appeal the planning decision in an attempt to secure the planning consent necessary to accommodate the existing preferred lead tenants – namely ACAVA.

Each of these options is considered below:

- 3.7 Option 1
Under this option the Trust would instruct officers to place the remaining vacant units back on the market, specifically restricting interest to D1 uses for those parts of the complex that would require a change of use from any other use types.
- 3.8 Under this option it is likely that the premises will remain vacant for a period of up to six months whilst the tender process is re-run.
- 3.9 Given that improvement works are currently underway to the complex this approach could generate a range of possible occupiers and uses for the Trust to consider. However, members will recall that the previous exercise identified very few uses that would make use of a majority of the space, and this will remain a risk should members decide to retender.
- 3.10 Option 2
Under this option the Trust would instigate an appeal against the decision of the Local Planning Authority to refuse planning permission

for a change of use to accommodate the requirements of the Trust's preferred bidder, ACAVA. The Trust is able to appeal if members are so minded because it is a distinct legal entity from the Council. Any appeal could take up to six months to be determined by the Planning Inspectorate.

- 3.11 If this route is chosen as the preferred way forward officers would need to appoint a Planning Consultant to advise on the appeal case and prepare the appeal documentation on behalf of the Trust.
- 2.12 An initial evaluation would suggest an appeal would be worthwhile. The officer recommendation for the original planning application was to approve the proposal, and indeed some parts of the building already benefit from a Certificate of Lawful Use for B1. However, there does remain a significant risk that the appeal will be refused and therefore those parts of the complex will remain empty for a longer period of time whilst a new procurement exercise is subsequently undertaken.

6.0 Financial Implications

- 6.1 Both options would incur additional modest costs for the Trust. Initial estimates are in the region of £5,000 for remarketing of the premises (using independent agents) and £10,000 for appealing the planning decision (using an independent planning consultant).
- 6.2 Both options will incur a loss of potential income to the Trust for the period that the premises remain vacant. It is difficult to be precise with regards to timescales, but this could be for a period of up to six months for either option.

7.0 Legal Implications

- 7.1 The Council is trustee for Barham Park a registered charity (registered charity number 302931) regulated by the Charity Commission under the Charities Act 2011 .
- 7.2 By a conveyance dated 22 October 1936 Barham Park was transferred by George Titus Barham to the Urban District Council to "hold the land upon Trust to preserve the same for the recreation of the public".
- 7.3 Therefore the Council holds the land in a different legal capacity from that of statutory parks authority .
- 7.4 As a distinct and separate entity, the Trust has the ability as to lodge an appeal against the planning decision of the Local Planning Authority if this is the preferred option.

8.0 Diversity Implications

- 8.1 There are no diversity implications arising from the decisions to be taken in respect of the matters set out in this report.

9.0 Staffing/Accommodation Implications (if appropriate)

9.1 There are no staffing implications.

10.0 Background Papers

10.1 Planning Report and decision

Contact Officers

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