



Executive
14 September 2010

**Report from the Director of
Finance and Corporate Resources and
Director of Environment and Culture**

Ward Affected:
Sudbury

**Barham Park - Former park keepers houses at 776 & 778
Harrow Road Wembley - current position and options for
these properties**

1.0 SUMMARY

- 1.1 This report i) informs the Executive of the current position regarding 776&778 Harrow Road Wembley following Members' decision on 14 December 2009 to approve disposal of these two former park keepers houses to Notting Hill Housing Trust (NHHT) and for the capital receipt to be used for improvements within Barham Park as match funded with application to Heritage Lottery Fund and ii) invites Members to consider the options for the properties now NHHT has withdrawn its interest and to determine subject to the appropriate Charity Commission and Planning approvals whether the properties are to be retained for other operational purposes or are to be sold in the open market

2.0 RECOMMENDATIONS

- 2.1 Members note the position following the decision on 14 December 2009 as detailed in this report
- 2.2 Members consider the options for the properties which range from retention through to disposal and determine subject to the appropriate Charity Commission approval, and subject to paragraph 2.3 below to dispose of the houses in the open market at auction (on such terms as the Head of Property and Asset Management considers to be in the Council's best interests) and in this event Members to agree that the capital receipt generated is retained for works and improvements to Barham Park.
- 2.3 Members instruct officers to advertise the proposed disposal of public open space (as set out in paragraph 5.4 below) and to proceed with the disposal unless, in the opinion of the Head of Property and Asset Management, significant objections are received, in which case this should be reported back to the Executive for it to consider.

3.0 DETAIL

- 3.1 Members considered the report of the Director of Environment and Culture at the meeting on 14 December 2009. This detailed how two properties located on the

western edge of Barham Park were surplus to Parks Service operational requirements and how capital secured from the sale of the two properties could be used to improve infrastructure and facilities within the park

- 3.2 Members resolved that subject to consent from the Charities Commission (CC) and necessary local advertising as a disposal of public open space, agreement be given to the disposal of 776 and 778 Harrow Road to Notting Hill Housing Trust (NHHT) and the capital receipt to be used for improvements within the park
- 3.3 Members further resolved that officers develop an application for grant funding to the Heritage Lottery Fund, using the capital receipt from the disposal of the properties as match funding. The report and minutes are appended as background papers
- 3.4 Barham Park is held in Perpetual Trust by the Council for the purpose of providing public open space for active and passive recreational activities. The park and associated facilities passed to the Council in the 1930's. The issues relating to the trust status of the Council are explained in the Legal section below
- 3.5 In the 1970's the Council built a pair of 3 bed semi detached houses on the western border of the park to be used as housing for staff working in the park. The properties are no longer used for this purpose and for a number of years were left vacant. One is currently in use as a temporary child care facility operated by Brent and the other is used as temporary housing. The effect is that the properties are no longer providing a direct benefit to the park
- 3.6 The park itself although well maintained and holding the green flag award would benefit from significant capital investment to realise its full potential. The Council made an initial application in mid 2009 to the Heritage Lottery Fund for a grant to undertake a full landscape restoration, including restoring the walled garden, improving paths and walk ways, improving children's play facilities and installing better signage. Feedback from the Heritage Lottery Fund Senior Grants Officer was not particularly favourable and it was felt that in times of strong competition the park would not be of high heritage value/benefit to warrant a full pass.
- 3.7 The intention, if Members agree, would be to sell the two former park keepers houses and land on which they stand including the short access road in order to generate some capital to put towards this project. Whilst the HLF option does not appear to be viable the intention now is to either access other grant bodies in particular the Landfill Committee Fund Scheme or implement a smaller improvement programme and use only the capital receipt from the sale of the properties to make improvements to the park, albeit on a smaller scale. The maximum amount to be elicited from the Landfill Committee Fund Scheme is £100,000 and is dependent on the application being made by an active community group.
- 3.8 At the time of Members decision on 14 December 2009 The Council's preferred purchaser of the properties was NHHT which is partnering the Council in the redevelopment of the Barham Park housing estate opposite. NHHT proposed a small scale redevelopment of the Barham Park houses to provide a low rise block of 11 flats which would initially provide decant accommodation for those residents disturbed as a result of the joint project with Brent – which is to demolish the resiform built estate and develop out approximately 335 mixed tenure units. NHHT has however now withdrawn its interest due to financial constraints.

- 3.9 The Council's duty as trustee of the Barham Park Estate is to secure market value on sale of the properties. Officers commissioned an independent open market valuation of the properties last year by the District Valuer. The open market value reported for the properties was £630,000. Whilst this valuation is historic officers consider there is no significant change since in residential property values although prices have softened. A reserve price will be established prior to auction and confirmed to the Director of Finance and Corporate Resources.
- 3.10 Given the fundamental change in the original proposal for the properties officers now seek Members decision on the two options available for the properties which are identified in the Recommendations of this report. In the event the site is sold as two residential units a covenant may be imposed preventing development.

4.0 FINANCIAL IMPLICATIONS

- 4.1 Any capital receipt from a sale of the properties could only be used to fund improvements to Barham Park

5.0 LEGAL IMPLICATIONS

- 5.1 As the properties form part of land held under a charity, then, in its role as trustee, the Council has to be satisfied that the disposal is in the best interests of the charity. In considering this issue, the benefits of the disposal to the purchaser or to the Council's wider objectives in its corporate role, must be ignored. In this case, the Barham Park Trust Management Team has considered the issues and concluded that a disposal of the two residential units is in the best interests of the charity since as explained above:

- 1) It will produce a receipt which can be used to improve the park
- 2) It will not involve the loss of park land as the area is currently occupied by two houses.
- 3) Demolition of the existing buildings and reinstatement of this area of land back to park land would not result in any significant increase in the overall quality of Barham Park.

- 5.2 As well as this general duty, there are specific requirements which have to be complied with under Section 36 of the Charities Act 1993, before any disposal can be undertaken. These are to obtain a written report from a qualified surveyor and to advertise the disposal (unless the surveyor advises that it is not necessary to market the property) and to be satisfied that the proposed terms are the best that can reasonably be obtained in the circumstances. If these requirements cannot be complied with then Charity Commission consent for the disposal will be required. In this case, the Head of Property & Asset Management is satisfied that a disposal at auction would produce the best price reasonably obtainable in the market. Officers therefore consider that the Executive can be satisfied that the terms obtained on a disposal at auction would be the best than can reasonably be obtained in the circumstances of the disposal, although formal approval from the District Valuer will be required.

- 5.3 However, the land in question forms part of the charity's "permanent endowment". Under Section 75 of the Charities Act 1993, specific consent is required to dispose of any land forming part of a charity's "permanent endowment" and Charity Commission consent will also be required on this ground. The Executive is therefore asked to approve the disposal subject to Charity Commission consent. As these properties are situated within Barham Park they form part of the estate and so, under charity rules, any capital gained from their disposal would have to be used to further benefit the recreational enjoyment of the park by the public. Members are therefore recommended to, in their role as Trustees, dispose of the two properties and use the capital receipt towards the match funding for a Lottery application. If a HLF application were not successful, the capital receipt would still need to be ring-fenced for improvements within Barham Park (as explained above).
- 5.4 There is also a separate issue to be considered by virtue of Section 123 of the Local Government Act 1972. This requires that any disposal of the freehold of any land owned by the Council must be at the best consideration reasonably obtainable, unless consent from the Secretary of State for the disposal is obtained. In assessing whether best consideration has been obtained, all possible planning uses need to be considered. However in this case, the view of the Planning Service is that the only other possible use (apart from retention as park land) would be use for a small housing scheme. Accordingly the land has been valued on this basis either as a sale as existing or as a residential development. A residual valuation has suggested that a sale as a residential development site would produce a lower value than an outright sale as existing therefore the Head of Property & Asset Management is satisfied that this proposed disposal, at the figure independently provided by the District Valuer Service of the Valuation Office agency is sufficient to satisfy the requirement to obtain best consideration on any disposal. Officers therefore consider that the requirements of Section 123 are fulfilled in this case.
- 5.5 Since the land in question forms part of the Park, then notwithstanding the fact that the two houses that have been constructed on it, Officers view is that it should be treated as public open space. Accordingly, assuming that Officers approve the proposed disposal in the open market, then the intention to dispose of the land to them will need to be advertised in a local newspaper for two weeks and any objections which are made will need to be considered. Accordingly, members are asked to instruct Officers to carry out this procedure, but to report back to the Executive if any objections are received which are, in the opinion of the Head of Property and Asset Management, significant.

6.0 DIVERSITY IMPLICATIONS

- 6.1 None specific

7.0 STAFFING/ACCOMMODATION IMPLICATIONS

- 7.1 None specific

8.0 BACKGROUND PAPERS

- 8.1 Report of the Director of Environment & Culture to the Executive Meeting on 14 December 2009 and Minutes

Contact Officers

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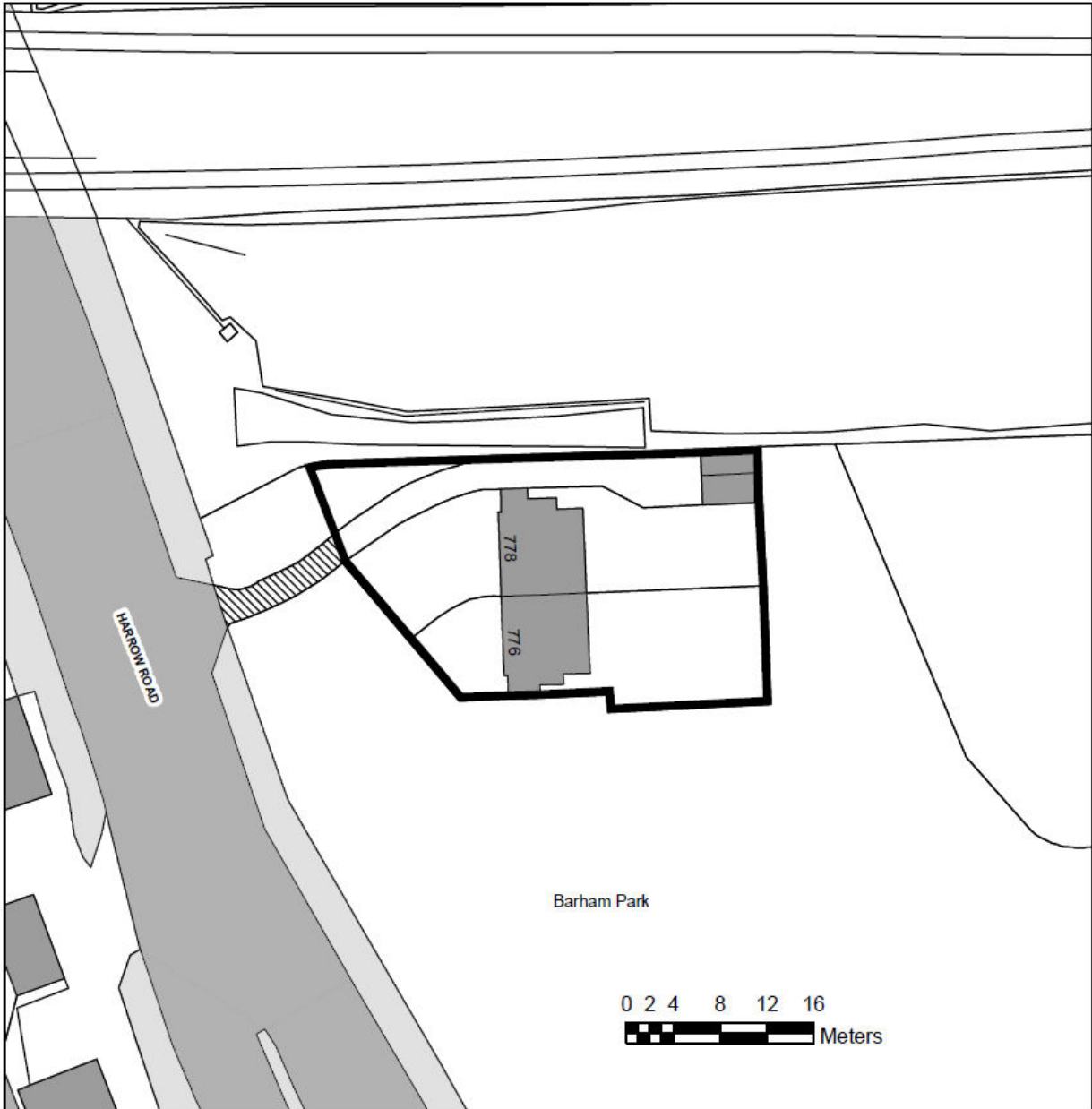
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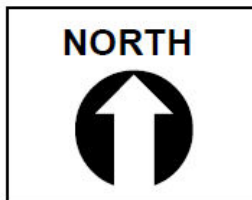
Richard Saunders
Director of Environment and Culture

EXECUTIVE COMMITTEE

**Former Park Keepers Houses,
776/778 Harrow Road, London HA0 2HE.**



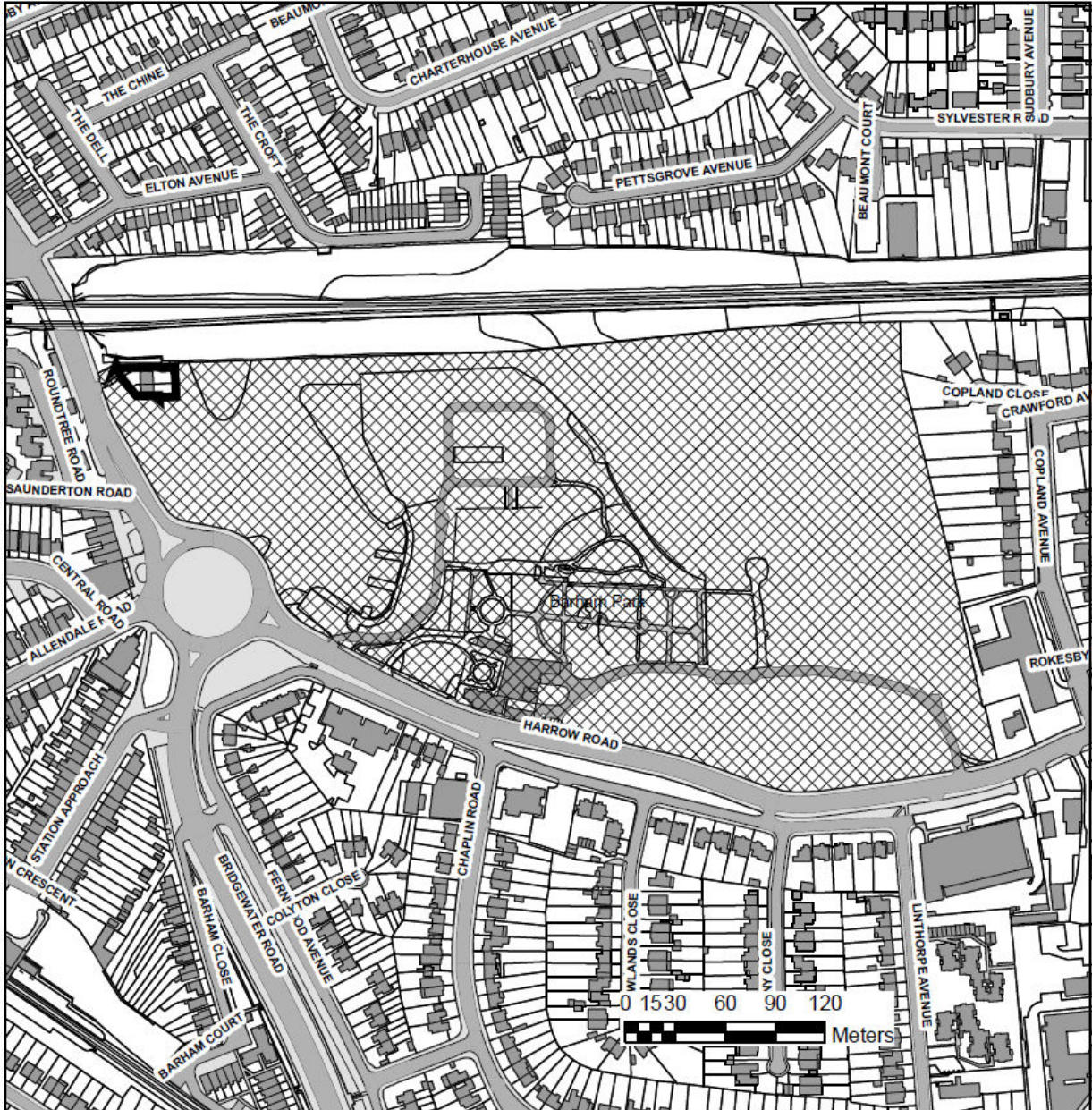
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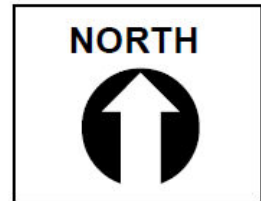
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EXECUTIVE COMMITTEE

**Barham Park and houses at 776/778
Harrow Road, London HA0 2HE.**



**Park shown cross hatched.
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