



Call In Overview and Scrutiny Committee

Wednesday 27 February 2013 at 7.30 pm
Committee Rooms 2 and 3, Brent Town Hall, Forty Lane, Wembley, HA9 9HD

Membership:

Members

Councillors:

Ashraf (Chair)
Denselow (Vice-Chair)
Daly
Kabir
Lorber
HB Patel
RS Patel
Krupa Sheth

first alternates

Councillors:

Hopkins
Mrs Bacchus
Adeyeye
Mitchell Murray
Matthews
BM Patel
McLennan
Harrison

second alternates

Councillors:

Brown
Hossain
Al-Ebadi
Chohan
Beck
Colwill
Aden
Ketan Sheth

For further information contact: Toby Howes, Senior Democratic Services Officer
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For electronic copies of minutes, reports and agendas, and to be alerted when the minutes of this meeting have been published visit:

www.brent.gov.uk/committees

The press and public are welcome to attend this meeting

Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members

Item	Page
1 Declarations of personal and prejudicial interests	
Members are invited to declare at this stage of the meeting any relevant financial or other interest in the items on the agenda.	
2 Deputations (if any)	
3 Minutes of the last meeting held on 17 May 2012	1 - 6
The minutes are attached.	
4 Matters arising	
5 Call-in of Executive decisions from the meeting of the Barham Park Trust Committee held on 13 February 2013	7 - 34

Decisions made by the Barham Park Trust Committee on 13 February 2013 in respect of the following reports were called-in for consideration by the Call In Overview and Scrutiny Committee in accordance with Standing Orders 6 (b) and 18.

Proposals for improving Barham Park building complex and park

The decisions made by the Barham Park Trust Committee on 13 February 2013 were:-

RESOLVED:

- (i) that the Association for Cultural Advancement through Visual Art (ACAVA) be appointed as the preferred bidder for lots 1, 3, 4, 5 and 6.
- (ii) that the Assistant Director Property and Asset Management in consultation with the Assistant Director Neighbourhood Services be delegated authority to enter into appropriate lease arrangements with the preferred bidder.
- (iii) that a tenancy or tenancies be granted to Brent Council of the land shown edged red on Appendix 2 to the report at market rent on terms to be agreed for use in accordance with the charitable

purpose of the trust for a period or periods of up to 25 years. The intention is that this space will then be utilised by the Council for the Children's Centre and a sub-let to the Barham Park Veterans Club or such other future use as appropriate.

- (iv) that the finalisation of the terms of the tenancy or tenancies to be granted to the council be delegated to the Assistant Director of Property and Asset Management, in consultation with the Assistant Director for Neighbourhood Services, to act in the best interests of the Trust.
- (v) that a licence be granted to Brent Council to provide grounds maintenance from the depot at nil cost provided the service is for the sole benefit of Barham Park.
- (vi) that the lounge area (Lot 2) continues to be used for ad-hoc lettings in accordance with the recreational purposes of the Trust.
- (vii) that the letting rates for the ad-hoc lettings as set out in paragraph 3.27 of the report be approved.
- (viii) that officers enter into a Service Level Agreement between the Barham Park Trust and Brent Council to enable the day to day management of the Park and building (including lettings).
- (ix) that officers seek the requisite permissions from the Charity Commission to proceed with these lettings and officers advertise at the appropriate time the proposed disposal of public open space under Section 123 of the Local Government Act 1972 and the Charities Act 2011 and if there are objections to refer the objections to the Charity Commission.
- (x) that the vision for the park at Barham Park as detailed in paragraph 3.35 of the report, the core elements required to improve the open space as detailed in paragraph 3.36 to 3.44 of the report and the final concept design for the park attached at Appendix 4 to the report be approved.
- (xi) that the long standing arrangements whereby the Grounds Maintenance Service for the park is provided by Brent Council be noted.
- (xii) that officers pursue options for a café on the site.
- (xiii) that the works and services as set out in paragraph 3.30, 3.31 and 4.3 of the report at an estimated cost of £227,100 (including VAT) to enable the letting of Barham Park Building be approved.
- (xiv) that the works and services as set out in paragraph 4.9 of the report at an estimated cost of £394,000 (including VAT) to improve park infrastructure for recreational purposes of the residents of Brent be approved.

- (xv) that officers seek the necessary permissions from the Charity Commission to proceed with the capital expenditure.
- (xvi) that officers be delegated the authority to procure and let contracts in accordance with the Council's relevant Contract Standing Orders and Financial Regulations for the building and park works and services as detailed in paragraphs 4.3 and 4.9 following receipt of the necessary Charity Commission approvals.
- (xvii) that officers be asked to publish and post the necessary public notices to comply with Section 123 2A the Local Government Act 1972 and the Charities Act 2011.

The reasons for the call in are:-

Defects in the decision making process:

- i. The committee was not presented with information that enabled it to compare the relative merits of the various bidders for space in the Barham Park buildings on a like-for-like basis. In particular the rental offer of the successful bidder was inclusive of service charges whereas it appears that the other bidders were evaluated on their rental offers excluding service charges. If this was not adjusted for during the evaluation, the effect was to make the successful bidder's financial offer appear more attractive relative to those of other bidders than it actually was
- ii. Based on the information provided in the report and the Frequently Asked Questions Regarding the Leasing of the Barham Park Buildings it is likely that the rental element of the successful bid (i.e. £43,000 minus services charges at £55 per sq metre) is less than the indicative rent (£35,739) and less than the rental income offered by other bidders and this was not drawn to the committee's attention. If this had been drawn to the committee's attention it may have influenced the decision made if members had considered that they wished to generate the maximum rental income for the charity consistent with its purposes
- iii. The financial offer weighting criteria did not operate in the best interests of the council as the criteria did not consider the financial offers relative to each other and made no distinction between bids slightly under the asking price and substantially under the asking price.
- iv. The report sets out a 20 year vision for the park but does not

address the need for a strategy that will secure the capital resources necessary to deliver the vision, especially taking into account that the agreed proposals will exhaust the charity's existing capital in a very short period.

- v. The committee did not consider alternative credible options for generating income such as alternative uses for the upper floors or casual hire of the old library space
- vi. The committee did not consider whether the evaluation criteria adopted were appropriate and what other options were available to meet the objectives of the charity.

A serious risk associated with implementing the decision that has not already been considered?

- i. The risk that the charity may run out of capital to deliver its objectives and look after its assets (in particular the buildings) in the light of the decision to spend all the charity's capital.
- ii. The risk that the revenue generated by the proposed lettings is lower than would have been the case if an alternative process been followed, therefore increasing the charity's reliance on the council's deficit funding.
- iii. Although the report refers to consultation carried out in September 2012 this exercise focussed on the vision for the park and not the buildings (see Appendix 4) and therefore did not fully comply with the Charity Commission's recommendations about consultation made in 2012; therefore there is a risk of challenge.

Suggested action for the Call In Overview and Scrutiny Committee to take:-

- i. To recommend that a new marketing exercise takes place based on criteria and weightings agreed by the Barham Park Trust Committee which better reflect the objectives of the trust. Failing this: to re-evaluate the bids on a like-for-like basis, obtaining necessary additional information from the bidders if required.
- ii. To recommend that the Barham Park Trust Committee retains a

proportion of the charity's capital as contingency in order to reduce the risk to the charity's assets.

- iii. To recommend that the Executive should provide assurances to the Barham Park Trust Committee that Brent Council intends to continue to provide revenue support to the charity if necessary to cover annual deficits.

6 Date of next meeting

The next meeting of the Call-In Overview and Scrutiny Committee is scheduled for Thursday, 28 March 2013 at 7.30 pm and will take place in the event of there being any call-ins of decisions made by the Executive on 11 March 2013.

7 Any other urgent business

Notice of items raised under this heading must be given in writing to the Democratic Services Manager or his representative before the meeting in accordance with Standing Order 64.



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- The meeting room is accessible by lift and seats will be provided for members of the public.
- Toilets are available on the second floor.
- Catering facilities can be found on the first floor near the Paul Daisley Hall.
- A public telephone is located in the foyer on the ground floor, opposite the Porters' Lodge