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Barham Park Trust Committee

Wednesday 13 February 2013 at 7.00 pm
Council Chamber, Brent Town Hall, Forty Lane, Wembley, HA9 9HD

Membership:

Lead Member Councillors:	**Portfolio**
R Moher (Chair)	Deputy Leader/Lead Member for Finance and Corporate Resources
Jones (Vice-Chair)	Lead Member for Customers and Citizens
Crane	Lead Member for Regeneration and Major Projects
Hirani	Lead Member for Adults and Health
Powney	Lead Member for Environment and Neighbourhoods

For further information contact: Bryony Gibbs, Democratic Services
bryony.gibbs@brent.gov.uk

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The press and public are welcome to attend this meeting

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Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members.

Item		Page
1	**Declarations of interests**	
	Members are invited to declare at this stage of the meeting, any relevant financial or other interest in the items on this agenda.	
2	**Minutes of the previous meeting**	1 - 2
3	**Matters arising**	
4	**Proposals for Improving Barham Park Building Complex and Park**	3 - 28

Ward Affected:
Sudbury

Contact Officer: Jenny Isaac, Assistant Director, Neighbourhood Services
Tel: 020 8937 5001 jenny.isaac@brent.gov.uk

5 Any other urgent business

Notice of items to be 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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MINUTES OF THE BARHAM PARK TRUST COMMITTEE
Tuesday 8 January 2013 at 7.00 pm

PRESENT: Councillor R Moher (Chair), Councillor Jones (Vice-Chair) and Councillors Crane, Hirani and Powney

Also Present: Councillor Lorber

1. **Election of Chair**

RESOLVED: -

that Councillor R Moher be elected Chair for the 2012/13 municipal year.

2. **Election of Vice Chair**

RESOLVED: -

That Councillor Jones be elected Vice Chair for the 2012/13 municipal year.

3. **Barham Park - Accounts and Annual Reports**

Mick Bowden (Deputy Director of Finance) introduced a report to the committee setting out the annual report and accounts for the Barham Park Trust for 2011/12 for the committee's consideration and approval. As trustee, the council was required to submit the 2011/12 accounts by 31 January 2013 to the Charity Commission. It was highlighted that the transactions for 2011/12 brought in the receipts from the sale of the 776 and 778 Harrow Road. The receipt of £620k from this sale, along with the interest earned, was being ring-fenced for the future development of the Trust.

Mick Bowden explained that the report also incorporated the annual reports and accounts for the Trust for 2006/7, 2008/9 and 2009/10. Whilst the council had submitted summary financial figures for these years, the full annual reports and accounts were currently outstanding. It was noted that the reports for these earlier financial years were consistent with the summary financial information that had already been submitted to the Commission. Following the Commission's review of the council's arrangements for fulfilling its obligations as trustee, it had been recognised that with regard to transactions between the council and the Trust, there had not always been a clear separation of the two entities. The Commission had stated however that it did not intend to unravel the past, noting that the council had subsidised the charity's income from its statutory funds. The Charity Commission had expressed its views on establishing future arrangements for the Trust and a number of proposed changes would be applied for the production and monitoring of the Trust's accounts for 2012/13 onwards.

Councillor Lorber (Ward Councillor, Sudbury) stated that the accounts presented for 2011/12 were not sufficiently detailed to enable the committee to make an informed decision to approve them. As an example, he noted that there was no information on the rental payments made by the council for use of buildings within Barham Park. Mick Bowden confirmed that the accounts met the requirements set out by the Charity Commission. There would be changes made to future practice with regard to the the production and monitoring of the Trust's accounts to accommodate the Charity Commission's views on the future administration of the Trust. The Chair reiterated that the committee had been advised that the Charity Commission had been consulted and was in agreement with the approach being taken.

RESOLVED: -

that the annual reports and accounts for the Barham Park Trust for 2006/7, 2008/9, 2009/10 and 2011/12 be approved for submission to the Charity Commission.

4. **Date of the next meeting**

The committee noted that the next meeting was scheduled for Wednesday 13 February 2013.

5. **Any other Urgent Business**

None.

The meeting closed at 7.13 pm

R Moher.
Chair

Barham Park Trust Committee
13 February 2013

Report from the Director of Environment and Neighbourhood Services

For Action

Wards Affected:
Sudbury

Proposals for Improving Barham Park Building Complex and Park

1.0 SUMMARY

1.1 To update the Barham Park Trust Committee (BPTC) on three matters: the proposal for letting the Barham Park building complex; proposals to rejuvenate the open space and a suggested allocation of capital funding.

1.2 The report proposes leasing a proportion of the building complex to the Association for Cultural Advancement through Visual Art (ACAVA), generating a gross income of £43,000 per annum for the Trust. It proposes that the lounge area continues to be available for ad-hoc lettings. It also regularises the arrangements for the Children's Centre, park depot and card room.

1.3 The report sets out a 20 year vision for the public open space and the core elements to begin to deliver the proposals.

1.4 Finally, the report suggests how the capital funds arising from the sale of 776 and 778 Harrow Road could be spent to best achieve the Trust's charitable objectives.

2.0 RECOMMENDATIONS

Members of this Committee acting on behalf of the Council as trustee of Barham Park agree the following:

Letting arrangements

2.1 That the Association for Cultural Advancement through Visual Art (ACAVA) be appointed as the preferred bidder for lots 1, 3, 4, 5 and 6.

2.2 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.

2.3 A tenancy or tenancies be granted to Brent Council of the land shown edged red on Appendix 2 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.

2.4 The finalisation of the terms 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.

2.5 To grant a licence to Brent Council to provide grounds maintenance from the depot at nil cost provided the service is for the sole benefit of Barham Park.

2.6 The lounge area (Lot 2) continues to be used for ad-hoc lettings in accordance with the recreational purposes of the Trust.

2.7 Approve the letting rates for the ad-hoc lettings set out in paragraph 3.27.

2.8 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).

2.9 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.

Park vision and 10 year management plan

2.10 The vision for the park at Barham Park as detailed in paragraph 3.35, the core elements required to improve the open space as detailed in paragraph 3.36 – 3.44 and the final concept design for the park attached as Appendix 4.

2.11 Members note the long standing arrangements where the Grounds Maintenance Service for the park is provided by Brent Council.

2.12 Officers pursue options for a café on the site.

Capital Expenditure

2.13 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.

2.14 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.

2.15 Officers seek the necessary permissions from the Charity Commission to proceed with the capital expenditure.

2.16 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.

2.17 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.

3.0 DETAILS

General Background

3.1 The land (which includes various buildings) known as Barham Park was given by George Titus Barham on trust to the Council in 1938. The terms of the trust are '*to preserve the same for the recreation of the public in such manner and subject to such regulations in all respects as the Council may from time to time think proper*". It was registered with the Charity Commission in June 1963 and is regulated by that body.

3.2 The terms of the Trust are extremely wide and it is difficult to summarise in general terms the uses allowed. Section 5 of the 2011 Act states it is charitable to "provide or assist in the provision of facilities for recreation or other leisure time occupation if the facilities are provided for social welfare". A school would not fall under the scope of recreation as education is a separate charitable purpose under charity law.

3.3 The building complex and park are both in need of investment to continue to achieve the charitable objectives. The Trust has a reserve of £658k (as of 31 December 2012). The Executive Report of 12th March 2012 approved the allocation of a total of £30,000 from these capital funds to fund a property option appraisal, project management plan and feasibility study and a feasibility study for the improvement of the open space. Charity Commission approval for this expenditure was given in May 2012.

Proposals for letting the Barham Park building complex

3.4 Following Charity Commission approval, the building complex was divided into lots as set out below. The Lots were marketed from August to September 2012 and the deadline for the receipt of bids was 1st October 2012. The full details of the marketing exercise and evaluation are set out in Appendix 1 and Appendix 2 comprises floor plans of the individual Lots.

Accommodation	Area	Lot
660 Harrow Road 1st floor offices.	180 sq m	1
558 Harrow Road Ground floor lounge & ancillary.	178 sq. m	2
660 Harrow Road Former Library.	291 sq. m	3
660 Harrow Road Former Library 1st floor offices.	80 sq. m	4
1st Floor Office 656 Harrow Road offices.	90 sq. m	5
656 Harrow Road Ground floor Community Workshop.	45 sq. m	6
Card room.	116 sq. m	7
TOTAL	**980 sq. m**	

3.5 The other units at the Barham Park complex of buildings were not subject to the marketing process: The Children's Centre; the Sports and Parks Service Depot; and the Snooker and Billiard rooms.

3.6 At the first stage of the bidding process there were 12 bids and one later withdrew. The bids were evaluated against the following criteria:

- Financial positioning,
- Proposed use – in particular whether recreational or not and if use is suited to the park location,
- The bidder's ability to deliver the project; and
- The bidder's financial offer.

3.7 The top three bids are: ACAVA, Nikita Patel and the Alpha and Omega Christian Fellowship. The Alpha and Omega Christian Fellowship scored third, however their proposed uses are not considered to be fully recreational use and so are not compatible with the charitable objects of the Trust. Their bid for Lots 1 & 3 would also prevent a comprehensive letting of most of the units to one bidder.

3.8 Nikita Patel scored second highest and is a start up business. Her bid is for only one Lot, which would prevent a comprehensive letting of most of the Lots to one bidder.

3.9 The top scoring bid was from ACAVA, who has bid for Lots 1,3,4,5 & 6 (totalling of 686 sq. m). In terms of property management for the Trustee, it is simpler to have one tenant occupying most of the Lots than a number of individual tenants.

3.10 The Council's Finance and Corporate Resources Department have undertaken financial checks confirming ACAVA will be able to fulfil their proposed rental bid, this assessment is based on accounts for the year ending 31st March 2011. Their financial returns for 2012 are being finalised.

3.11 ACAVA's activities fulfil the required recreational use of the building. It is a charity established in 1983 to support the development and practice of the visual arts. It provides studios for over 500 artists in 20 buildings, mostly in London. ACAVA use a wide variety of buildings, many converted from buildings such as industrial factory premises, offices, shops, and schools. Based on their track record we believe they would have the expertise to undertake works/alterations and deliver their programmes.

3.12 ACAVA have offered a rent of £43,000pa including service charge. The service charge figure will be calculated to reflect management, maintenance and repair obligations. This will be dealt with during the course of negotiations and deducted from the rental figure above taking into account any capital works to be undertaken. The recommendation is that lots 1, 3, 4, 5 & 6 are let to ACAVA as overall this is the best offer for the Trust:

1. Taken on a number of Lots.
2. Demonstrate sufficient financial capacity to take on the rental obligation offered.
3. Fit well with the recreational use required by the Trust.
4. Have experience and a track record of delivering similar projects.
5. Have offered a rental bid subject to subsequent service charge calculation that is in excess of the amount assessed and advertised by our RICS Chartered Surveyor.
6. Most advantageous letting in estate management terms in that it ensures there are no voids from amongst the marketed units and establishes another "anchor tenant" alongside the Council.

3.13 Further information about the unsuccessful bidders is below:

1. PIVOT (Alton Bell) - PIVOT scored fourth in the bid process, however their financial standing and rental bid was too low.
2. Angels Families CIC (Ms Thripp) - They scored fifth in the bid process, however that their financial standing was too low and there were some operational.
3. Friends of Barham Library (Councillor Paul Lorber) - They scored sixth in the bid process. Their financial standing was considered too low and their rental bid was significantly lower than the winning bid. Two letters of support have been received for their bid, one from Francis Henry and another from Track Academy.
4. Total Freedom Tabernacles Int'l Ministries (CAC) - They scored seventh in the bid process. Their financial standing and rental bid were considered too low. Their proposed use was not considered to be in keeping with the Charitable objectives of the Trust.

5. Elder Folajimi Raymond Awosika (EFRA) - They scored eighth in the bid process. Their financial standing and rental bid were considered too low. Their proposed use was not considered to be in keeping with the Charitable objectives of the Trust.
6. Track Academy didn't participate in the 2nd stage of the process.

Proposals for the Children's Centre, Snooker and Billiards Room and Card Room

3.14 At present there is no formal arrangement for the occupation of these spaces. Therefore the intention is to regularise the various existing occupations and to provide transparency as to the opportunity cost of these spaces to the Trust, in compliance with Charity Law. The additional intention is to ensure the appropriate rent is paid or offset against the value of the Council's contribution to the management of the Park and for this to be properly reflected in the accounts of the Trust.

3.15 The space occupied by the Children's Centre was converted into a Children's Centre by the Council at a cost of £285,000 funded by a Sure Start, Early Years & Childcare Grant. These activities are a good fit with the recreational objectives of the Barham Park Trust and the money delivered significant improvements to the building. The capital grant can be used as a lease premium and therefore the intention is to discount this capital work against a yearly rental value.

3.16 As part of the grant conditions the area designated as the Children's Centre, has to be made available for a period of 25 years. Therefore it is proposed that any let of this space will be for a term of 25 years.

3.17 To comply with the procedural terms of the Charities Act 2011 this letting is to a connected party (the Council) and therefore a separate application will need to be made the Charity Commission.

Space Occupied by the Barham Park Vets

3.18 The Barham Park Veterans Club (Wembley) is a Registered Charity, having been registered on 27th September 2000. Their charity number is 1082639. They are therefore a different entity from the original Veteran's Club that was formed in the late 1940's and occupied the Snooker and Billiard Room from that period.

3.19 The Barham Park Veterans Club (Wembley) have been using the Snooker and Billiard Rooms for a number of years paying no rent, with the Council paying for any repairs to the property and until recently, the business rates. The card room is also currently used by the Veterans. The recent condition survey has indicated this building, (shown as Lot 7 on the accompanying site plan) is in poor condition and of light weight construction and it has been suggested that possible demolition may be the best option. The cost of bringing this space back into beneficial use may be prohibitive and therefore the medium to long term future for this space will need further consideration.

3.20 The current Barham Park Veterans Club (Wembley) has, at best, a licence to occupy, and no other form of tenure for their current use and occupation of the Snooker and Billiard Room.

3.21 The Barham Park Veterans Club (Wembley) use of Trust land needs to be documented to regularise their status and use of the land consistent with charity law and practice.

3.22 Therefore the recommendation is that the Council will take an over-riding lease of the Snooker and Billiard Room space from the Trust. In turn the Council will then grant the Veterans a tenancy of this space on terms to be agreed between the Council and the

Veterans. This will separate out the relationship of the three parties into two distinct and separate contractual arrangements and also help to ensure the Trust complies with the Charity Commission regulations.

3.23 In addition, in the short term, it is proposed to include the card room within the over-riding lease to the Council and if appropriate, i.e. if the building is considered to comply with health and safety and other compliance issues, to continue with the ad hoc use by the Council, in particular the Remembrance Sunday Commemorations and the Vets by way of licence from the Council.

3.24 The recommendation, in order to regularise these occupations, is for the Trust to grant the Council a lease or leases of the Children's Centre, Snooker and Billiards Room and Card Room.

3.25 The Council rent is to be assessed at a open market level and in accordance with Charity Commission requirements in regard to transactions with a "connected party". This rental will be reflected in the accounts of the Trust. The meaning of a "connected party" is summarised in paragraph 5.7 below.

Parks Depot Centre

3.26 This space within the Barham Park complex was omitted from the recent marketing campaign as it is utilised by the Parks Service solely for the betterment of the Park. As the use is exclusively for the maintenance of Barham Park it is proposed that a rent or occupations fee is <u>not</u> charged.

Ad-hoc lettings of the lounge area

3.27 There is a long standing arrangement with Environment & Neighbourhood Services who manage the lettings of the lounge. In 2011/12 this generated £18,800. The Trustees need to agree the fees for 2013 and it is proposed that the current fees are retained:

- £45.00 per hour
- £60.00 per hour after 10pm between 1st April & 31st October)
- £60.00 per hour after 8pm between 1st November & 31st March

There is an additional Refundable Deposit of £150.00
A 25% reduction of the £45.00 Standard Rate is allowable for children's parties (provided the hire finishes before 7pm) and series/long-term bookings.

If the event is cancelled 5 or more working days before the hire date a fee of 25% is deductible from the deposit.
If the event is cancelled less than 5 working days before the hire date the deposit is not refunded.

Capital investment required to improve the condition of the Barham Park Building

3.28 Recently Property and Asset Management (PAM) has commissioned a number of building related reports to assess the condition of the complex and to prepare a schedule of works required to undertake essential or desirable repairs to the building. These reports will assist the Trust in maintaining the Assets to avoid future potentially expensive repair liabilities and also to improve the lettability of the various parts of the complex.

3.29 A well known and respected firm of Building Surveyors, Calford Seaden Partnership were commissioned to review the reports to identify what works were essential, i.e. wind and

water-tight, health and safety related and needed for the purposes of letting individual lots. They were requested to provide a schedule of essential works, costs and project plan for Trust approval. A précis of the report is set out below.

3.30 The external elements comprise – Recommended (landlords obligation):

1. Roofs: general noted as in good condition with no felt underlay, Calford's opinion is that roofs can be left but on-going maintenance will be required as slates fail.
2. Gutters and down pipes: the most cost effective solution is to replace them as they are leaking and blocked.
3. Chimney stacks: some repointing required, bedding of pots and replacement of flaunching.
4. Walls: generally good condition with minor repointing needed and removal of shrub that is growing out of wall and section re-built, some pebble dashing is in poor condition and needs renewing.
5. Windows: no change proposed although it is noteworthy in some areas the glazing comprises old single glazing.
6. Damp: evidence in 654 and 660 this needs further investigation and remediation if necessary.
7. Drains and gulleys: blocked gulleys noted and full CCTV survey recommended to determine works.

3.31 The internal elements, marketed lots comprise – Recommended (as per commitments during the marketing process):

8. Services: poor services noted and non compliant fire alarm and emergency lighting, the proposal is for replacement.
9. Decorations: if the services, in particular re-wiring instructed, then all rooms and lettings lots will need to be re-decorated.
10. Floor coverings: all carpets are noted as in poor condition and the proposal is that they will be removed and not replaced.
11. WC's: they are all aged and tiling is poor, the proposal includes removal and replacement in most areas.
12. Mains services: as far as practical, where works are being undertaken mains services will be individualised.
13. The Parks Mess Room – It is understood this area and lot 6 share services, the proposal is to provide new services to Lot 5 and 6, providing separation.
14. Structural Survey: Issues with flooring and joists. The surveyor initially indicated a cost of £5,000 however this is subject to further inspection and could be higher.
15. Means of escape (health & safety – essential): Upper levels may require the installation of emergency evacuation provision. The extent of this work will be dependent upon the proposed use and any modern building control requirements. An initial view is, if proved necessary, the installation of windows that allow emergency escape would be sufficient. An indicative budget of £10,000 excluding professional fees and VAT has been set.

3.32 The proposed programme is as follows:

1. Specification – 4 weeks
2. Tender – 4 weeks
3. Tender report approval – 2 weeks
4. Contracts lead in – 3 weeks
5. Contract period – 20 weeks

3.33 The contract period has factored the risk of utility providers taking a long time to process orders and undertake works. The cost summary for the essential or recommended items is set out in the financial implications section of this report.

Vision for Barham Park and Management Plan

3.34 On 12 March 2012 Trustees agreed to allocate £15,000 funding to enable specialist consultants to develop a strategic approach to develop the open space within 'Barham Park' into a more environmentally friendly park. Following this, extensive work has been done to develop a vision and management plan. Further detail on this is in Appendix 3. One of the goals was to reduce the costs of day to day maintenance.

3.35 Following extensive professional advice and the public consultation process the following ambitious 20 year vision and core elements for improving the park's open space were developed.

20 Year Vision

Barham Park will bring local people together and provide a resource which will help to enhance the lives of local people. The park will provide opportunities and facilities for all members of the local community to meet with each other, relax, learn and play. The beauty and tranquility of the historic formal gardens at the heart of the park will flow into a wider parkland rich in wildlife habitats. Users will be encouraged to explore the whole of the park in a safe environment. The park will be improved and managed in a sustainable manner to ensure that investment in the park is protected for future generations.

Core Elements

3.36 To deliver the vision, the consultants identified seven core elements at the heart of the landscape improvements to the park. A concept design is included in Appendix 4.

Paths and Circulation

3.37 It is proposed to remove the line of existing conifers between the War Memorial and railway embankment. This will enable the area behind the conifers to link up with the rest of the park which will be enhanced by the creation of a path that links the west of the park to the east, extending access to the entire park.

Nature Conservation, Meadows, Ponds and Woodlands

3.38 A series of meadows are proposed in the east of the park. Maintaining the meadows at a variety of heights would create habitats that would extend the nature conservation and biodiversity value of the park. Ponds and wetlands would be created in the lower part of the park with a viewing platform and new interlocking path. These would provide the habitat for aquatic, marsh and water loving species as well as educational opportunities such as pond dipping. Vegetation in the existing formal ponds should be reduced to increase biodiversity and health of these ponds. The provision of log piles will offer shelter and food for insects, beetles and invertebrates.

3.39 To increase Barham Parks' educational value interpretation information should be provided to provide information about the plants/trees, how they are being managed and the benefits of their provision.

Historic Core

3.40 The walled and formal gardens will remain although many parts of the existing garden walls need restoring. More seats could be added and access arrangements reviewed to reinstate the original historic features. A couple of options were put forward to make the area

between the walled garden and the war memorial more welcoming and functional.

Boundary Trees and Woodlands

3.41 Mature oak trees are located along the Southern boundary and pre-date the park. It is recommended to plant additional oaks along the boundary as well as more native trees and shrubs.

Car Park Access and Highway Improvements

3.42 It is suggested to create a new entrance to the park by widening the existing pedestrian entrance. Entrance to the car park should be moved as it is currently in a dangerous position and re-orientating it could reduce its visual impact. Better pedestrian access across the busy Harrow Road is also recommended.

Café and Outdoor Eating

3.43 The provision of a café was the most popular new facility provision arising out of the consultation. This has been explored as part of the property options and unfortunately isn't possible in the short term.

Children's Play

3.44 An area for toddler play could be created on the lawn near the card room allowing the existing playground to be developed over time to accommodate older children in more adventurous play.

Other Options

3.45 The consultants report also identified a number of other improvements that could be made to the park over time. Some of these were ideas less well supported during the consultation phase and others have a significant cost associated and therefore additional funding would be required. These improvements include the creation of a community orchard / food growing area, reinforcing the grass surface of the funfair / events area so that it can be used by wheeled vehicles and accommodate a greater number and range of events throughout the year.

4 **FINANCIAL IMPLICATIONS**:

Income from property lettings

4.1 The proposals in this report would provide estimated annual income to the Trust as follows:

	£'000
ACAVA	43
Brent Council	25
Lettings	19
Total	87

4.2 This supplements the existing income of approximately £9,000 from funfair and ice cream concessions, bringing the projected income to £96,000 per annum.

Capital expenditure to improve the condition of the building complex

4.3 The table below summarises the costs of carrying out the essential work on the Barham Park building complex. It is anticipated that during the course of project delivery some of these costs may move around.

Item	Cost
Building Surveyor/Project Manager	£ 14,000
Building Works	£145,650
Structural Survey Building Works	£ 5,000
Means of Escape	£ 10,000
Contingency 10% based on £145k	£ 14,500
Sub TOTAL	£189,150
VAT @ 20%	£ 37,900
TOTAL	£227,050

Dilapidations

4.4 Following the receipt of the Structural Survey the Barham Park Management Team have considered whether previous use caused any problems with the building such that a claim should be made to seek to recover part of the repair costs. Part of the building was used as offices for park staff from which to manage park services including Barham Park itself. This office use ceased in 2010 and whether, and if so to what extent, any such use had any causal effect on the state of part of the property is not clear.

4.5 The majority of the problems relating to the current condition of the building are due to age and wear and tear of the building for which there is no attributable responsibility. There are some internal repairs required to remedy the faults in the joists and ceilings, the cause of which is unclear.

4.6 There are legal and administrative hurdles in seeking to take action on behalf of the Trust to recover any repair costs. These are summarised as follows:

(a) Status of Parks Occupation
There are no documentary arrangements in place governing the status of the historic use of the building by the Parks Department and therefore there are only limited legal responsibilities and liabilities arising from any Parks use implied by the law and accordingly establishing legal responsibility will be difficult.

(b) Age of the Property
The property dates back to 1894 (it was gifted to the Council in 1938). It has been used for various purposes since that date such that causation will be hard to establish. Therefore given the various contributing factors it will be difficult to identify and apportion responsibility.

(c) Financial Cost/Benefit of any Recovery Process
The financial benefit (whether or not there is any likelihood that substantial causal link could be established with Parks use of the building) of the Trust ascertaining and claiming for the recovery of the costs is unclear because:

- It is likely that any such claim, would probably only result in a relatively small sum of compensation having regard to the overall cost of the works required.
- Establishing any legal liability would be complex given that the Parks use of the building was made in part in furtherance of the recreational purposes of the Trust.
- It may be practically difficult to separate out or differentiate between the different statutory and charitable functions and roles historically.

- It has always been the case that the Council has financially provided for the maintenance and upkeep of the park and the buildings, such that any potential claim by the Trust for monies owed would be offset against the significantly higher contributions made over many years.

4.7 Members as trustees need to be made aware of this matter however, as set out above it is not considered to be a fruitful line to pursue having regard to the very limited prospects of real success in ascertaining and recovering any monies.

Capital expenditure to improve the condition of Barham Park Open Space

4.8 The vision for Barham Park is ambitious and must be seen as a 20 year programme. The consultants have identified projects based on the public consultation priorities that should be considered as the initial phase. They have grouped these works into potential work packages which if implemented together are likely to offer the best value in terms of construction costs

4.9 The total costs for all the landscape improvements put forward by the consultants comes to a total cost of approximately £2 million over 20 years. The core first phase projects are set out in the following table and are estimated to cost £393,000. Officers will continue to seek other sources of funding to implementing the remainder of the vision. It is also noted that this investment will not increase the costs of maintenance.

Core Facilities	Tasks/Elements	Year 1	Year 2
Paths, circulation and events	Remove conifers	4,836	
	Remove stumps	1,872	
	Main path**	121,427	
	Path edging		33,626
Nature conservation, meadows, ponds and woodlands	Meadows -Short	5,330	
	Meadows -Medium	26,325	
	Meadows - Long	16,250	
	Pond**		6,546
	Bridge*		19,500
	Decking*		15,600
	Planting		4,680
	Wetlands**		5,850
	Planting		3,120
	Tree and shrub planting		2,250
Historic core and extension	Restoration of existing gardens		14,000
Boundary trees and woodland	Tree planting	1,560	1,560
	Bulbs	325	325
Others	Seats/notice boards/signs	2,500	2,500
	Outdoor Classroom		6,500
	Picnic benches		1,500
	Detailed design	30,000	
Sub total		**210,425**	**117,557**
	VAT @ 20%	**42,085**	**23,511**
Total		**252,510**	**141,068**

* Estimated needs further investigation

** Assume no cart off site

5 LEGAL IMPLICATIONS

Lettings

5.1 The trust land and premises are held as "designated land" (formerly called permanent endowment) for the recreation of the public. Any letting of land by a charity has to comply with the procedural requirements of the Charities Act 2011. In summary:

- the Charity must advertise the proposed disposal by inviting bids in accordance with a report of a qualified surveyor
- the Charity must consider a valuation report from a qualified surveyor on the bids received
- the Charity must be satisfied in choosing a bid or bids that the proposed terms are the best that can be reasonably obtained and
- the Charity must provide the requisite certification in the lease that the trust has complied with these procedural requirements
- if the Charity has not been able to comply with these standard requirements it has consent from the Charity Commission to dispense with these requirements
- the Trust must obtain the consent of the Charity Commission if the proposed letting is to a "connected person" .The charity law in respect of disposals to "connected persons" is summarised below in paragraph 5.7
- if the proposed letting is to another charity at less than best rent these procedural requirements can be dispensed with provided the land is being used for recreation of the public but if the other charity has charitable purposes wider in scope Charity Commission guidance should be obtained as to whether the dispensation applies

5.2 As the Charity is letting designated land and the disposal is by means of a lease of 2 years or more then the Charity must with :

- The Charity must have a power to let the land.
- as there is no express power to dispose of land stated in the trust deed the Charity may be able to rely on a power granted under statute
- if the statutory power does not apply the Charity would need a Charity Commission scheme to add a disposal power to the trust deed

5.3 The Charity can consider using the general statutory power under Section 6 of the Trusts of Land and Appointment of Trustees Act 1996 (commonly called "the statutory power") provided:

(1) the statutory power is exercised in a way which is compatible with the charitable purposes of the Trust
(2) the letting is in best interests of the charity,
(3) there is nothing in the trust deed or legislation which prohibits lettings
(4) if the charity is not replacing the land the extent of the land to be let is small relative to the overall site and will have no effect on the charity furthering its objects
(5) if the charity is not replacing the land in the circumstances set out in 4) above the charity must advertise the disposal in the press and place a notice on the land inviting representation and consider any representations received. The notice must give 1 calendar month for representations. (" the Charities Act notice ")

5.4 Although the purposes of the lettings are consistent with the purposes of the Charity, the proposed lettings are for over 2 years and therefore the Charity will be publishing a Charities Act notice.

5.5 In addition as the proposed letting is of a building within a public open space the Council should advertise the proposed disposal under section 123(2)(A) of the Local Government Act 1972 in a local newspaper on 2 consecutive publication dates inviting representations within 21 days of the first publication date. This is because it is a park open to the public owned by a charitable trust which is a local authority for the purposes of the Local Government Act 1972.

5.6 Any activities provided by tenants should not dominate or generally restrict the use of Barham Park by the public.

5.7 The Charity Commission's consent is required where a disposal (i.e. a sale or letting) of charity land is made to a "connected person" i.e. trustee or employee of a charity in this instance, Brent Council as a service provider of statutory functions and amenities. The Commission must be satisfied that the conflicts of interest between the Council as a trustee and the Council as a service provider of statutory functions and amenities are managed satisfactorily and the trust is achieving the best terms for disposal. The Council will be publishing the proposed disposal as part of the Charities Act notice.

5.8 In view of the value of the proposed contracts for building and park works and services, the contracts will not be subject to the Public Contracts Regulations 2006.

5.9 Officers will 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 detailed in paragraphs 4.3 and 4.9 following receipt of the necessary Charity Commission approvals. Based on estimated costs, all of contracts would be classed as Low Value Contracts or Very Low Value Contracts. For Low Value Contracts at least three written quotes must be sought when procuring the contract whereas for Very Low Value Contracts, there is a requirement to secure best value.

5.10 The Council in its capacity as statutory parks authority will be granted a Licence to use the Depot for the purpose of providing parks /public realm services to the Trust under its Service Level Agreement with the Trust in its capacity as the Barham Park Trust.

6 DIVERSITY IMPLICATIONS

6.1 The Equality Act 2010 section 149 requires that the council has due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations when exercising its functions. The 'due regard ' is that which is appropriate in the circumstances and it therefore depends, upon amongst other considerations, on the nature of the decision being made. The decision before members concerns the use and development of the park and buildings which the Council holds on trust for specific charitable purposes.

6.2 The decisions regarding improvement of the park do not give rise to any adverse impact, and indeed the proposed works will enhance the general public enjoyment and accessibility.

6.3 With regards the letting of the buildings the Charities Act 2011 sets out specific requirements which must be complied with, including fiduciary duties. The need to consider suitability, income generation and viability are major factors in the decision to let and in the recommended choice of bidder for use of the buildings. The recommended decisions do not give rise to any obvious adverse equality impacts on any of the protected groups; the decision to let offers practical use of an empty building, and the proposed use by the arts organisation does not appear to have any adverse impact on any of the protected groups.

6.4 The group states on its website that 'ACAVA, the Association for Cultural Advancement through Visual Art, is an educational charity. It develops and delivers a wide range of educational initiatives, aiming to promote the development of visual skills in relation to school and university curricula and beyond, to provide work experience and promote career development. To meet these aims ACAVA provides a comprehensive range of visual arts services, including the provision of studios and other facilities for professional artists, the mounting of exhibitions, the development of public art and community educational projects, training in the use of digital technology and a consultancy service' . Under the title 'Who benefits from the charities work?' their Charity Commission entry sets out the following beneficiaries:

'School students/teachers benefit from support of artists in teaching the creative curriculum and from "taster days" pointing interested students towards the range of careers in the creative industries

The various communities involved with outreach & intercultural programmes including elderly people, those with special needs and potentially socially excluded young people

Clients of NHS partnership projects recovering from substance misuse, mental health issues etc

Local people who benefit from ACAVA's support for town centre regeneration through the creation of affordable studios and the associated development of artists' skills in delivering community projects

The general public through exhibitions and open studios.

6.5 Having regard to the nature and type of service provided not only is there no apparent negative impact, but there appears to be the potential for the advancement of equality of opportunity and fostering of good relations of various protected groups including the young, the elderly and persons with disability amongst others.

6.6 When having due regard to the equality duty and any unmitigated impact the decision may have upon one or more protected groups, the council is also permitted to take into account countervailing factors, which in this case are the shortage of trust income and the offer made by the recommended bidder and the high level of expenditure in maintaining the buildings and grounds.

7 STAFFING / ACCOMMODATION IMPLICATIONS (IF APPROPRIATE)

7.1 There are no staffing or accommodation implications.

8.0 BACKGROUND PAPERS

Executive report dated 12 March 2012 – Barham Park Improvements.

Appendices

Appendix 1 Detail of the marketing exercise for the letting of the Barham Park Complex
Appendix 2 Floor plan of the building lots
Appendix 3 Further information on developing the vision for the park and public consultation
Appendix 4 Concept design for the 10 year vision for the park

9.0 CONTACT OFFICERS

For proposals relating to the Barham Park building complex
Sarah Chaudhry, Head of Strategic Property
Sarah.chaudry@brent.gov.uk

For proposals relating to the Barham Park open space
Gerry Kiefer, Head of Sports Services
gerry.kiefer@brent.gov.uk

Sue Harper
Director of Environment and Neighbourhood Services

Appendix 1 Detail of the marketing exercise for the letting of the Barham Park Complex

1.0 The Barham Park Complex of Buildings comprises a number of units of which the accommodation details, size and rental values are set out below. During the marketing process individual areas were allocated lot numbers as detailed in the following table.

Accommodation	Area	Rental Value	Lot
660 Harrow Road 1st floor offices.	180 sq m	£10,100 pa	1
658 Harrow Road Ground floor lounge & ancillary.	178 sq m	£8,496 pa	2
660 Harrow Road Former Library.	291 sq m	£13,968 pa	3
660 Harrow Road Former Library 1st floor offices.	80 sq m	£4,734 pa	4
1st Floor Office 656 Harrow Road offices.	90 sq m	£5,362 pa	5
656 Harrow Road Ground floor Community Workshop.	45 sq m	£1,575 pa	6
Card room.	116 sq m	£10,700 pa	7
TOTAL	**980 sq m**	**£54,935 pa**	

1.1 The other units at the Barham Park complex of buildings are:

1. The Children's Centre;
2. The Sports and Parks Service Depot; and
3. The Snooker and Billiard rooms.

These units were not subject to the marketing process.

1.2 The Lots were marketed from August to September 2012 and the deadline for the receipt of bids was 1st October 2012.

1.3 Applicants were invited to bid for the seven individual lots, a combination of, or for all of, the Lots.

1.4 Local and national adverts were placed in the print media as part of the marketing process.

1.5 Property particulars were advertised on the council's web page and sent to various types of organisations including community groups, arts organisations, charities, commercial companies and those parties who had specifically contacted the council regarding the leasing of the Barham Park Buildings.

1.6 Particulars were also sent to parties on the Property & Asset Management's data base of property applicants.

1.7 The Property Particulars contained a bid assessment form which detailed how bids would be assessed. The form specifically aims to assess the bidder's:

1. Financial positioning,
2. Proposed use – in particular whether recreational or not and if use is suited to the park location,
3. The bidder's ability to deliver the project; and
4. The bidder's financial offer.

1.8 During the marketing process, as interested parties sent in questions, responses were given and placed on our website so every bidder had the same information on which to base their bid.

First Stage of the Tender Process

1.9 Twelve parties originally submitted bids, one of which withdrew their bid. Eleven bids directly related to the areas that were advertised.

1.10 One bid, a submission from the We Care Foundation (Toby Chambers), was for areas outside of those that were marketed, which would impact current occupation arrangements. The proposals included the leasing of parkland. The submission contained suggestions that would involve the relocation of existing users in a manner that is deemed undeliverable. These included installing a railway carriage in the park for the Barham Park Vets to use as a snooker and billiard room. Another proposal was to locate a double decker red bus in the car park for use as a café and to relocate the car park elsewhere within the park.

1.11 These first stage bids were evaluated by Richard Barrett (Assistant Director Regeneration & Major Projects), Sarah Chaudhry (Head of Strategic Property) and Howard Fertleman (Estates Surveyor) using the bid assessment form, at this stage no score was awarded for financial positioning as further checks were required.

Second Stage of the Tender Process

1.12 In order to understand bid proposals further, Officers asked bidders to submit comprehensive business plans to support their initial figures, including confirmation of the final rental bids exclusive of service charges.

1.13 Eight of the original bidders responded to the second stage with the required information.

1.14 First stage bidders who did not respond to the second stage, or responded without dealing with our specific queries are:

a) We Care Foundation did respond to the second stage deadline by email which contained information on his meeting with the planning department. However the response did not contain the information requested, therefore Officers were unable to assess him for the second stage of the process.
b) Track Academy despite asking for an extension of the deadline to expand on their business case (which was granted for all parties), no second stage bid was submitted.
c) Majic Nurseries did not respond to the second stage.
d) Mrs Patel withdrew their bid at the first stage.

1.15 On receipt of the Second Stage information, Officers undertook financial checks on the bidders in the form of applying for bank references and credit checks through the council's Finance and Corporate Resources Department to ascertain their financial standing.

1.16 In some cases bank references were not received and bids from the business start-ups had no financial history.

1.17 At this Stage, based on the new information received, Officer's re-scored all eight bids using the bid assessment form. Scores were also awarded for the financial assessment section.

Commentary on the top three bids

1.18 The top three bids are: ACAVA, Nikita Patel and the Alpha and Omega Christian Fellowship. The ACAVA's activities fulfil the required recreational use of the building. It is a charity established in 1983 to support the development and practice of the visual arts. It provides studios for over 500 artists in 20 buildings, mostly in London.

1.19 The Alpha and Omega Christian Fellowship scored third, however their proposed uses are not considered to be recreational use, in keeping with the Charitable objectives of the Trust. Their bid for Lots 1 & 3 would prevent a comprehensive letting of most of the units to one bidder. They want to use the Lots for church services, after school club, youth activities, a contact centre, community use and office space.

1.20 Nikita Patel wants to use the Lot 2 as nursery. She is a business start up with no industry or financial track record for her proposed use. Her bid is only for one Lot, which would prevent the comprehensive letting approach. She scored second in the bid process.

Recommended bidder

1.21 The top scoring bid was from ACAVA, who has bid for Lots 1,3,4,5 & 6 (totaling of 686 sq m).

1.22 In terms of property management it is more conducive to have one tenant occupying most of the Lots than a number of individual tenants. This will reduce Officer time and costs in terms of day to day management and issues such as service charge apportionment is a lot easier to agree.

1.23 The Council's Finance and Corporate Resources Department have undertaken financial checks confirming ACAVA will be able to fulfil their proposed rental bid, this assessment is based on accounts for the year ending 31st March 2011, 2012's financial returns are being finalised.

1.24 ACAVA uses a wide variety of buildings, many converted from buildings such as industrial factory premises, offices, shops, and schools. Based on their track record we believe they would have the expertise to undertake works/alternations and deliver their programmes.

1.25 ACAVA have offered a rent of £43,000pa excluding service charge, when compared with the advertised rental figure of £35,739, this equates to a bid of 120%. The service charge figure will be calculated to reflect management / maintenance and repair obligations this will be dealt with during the course of negotiations and deducted from the rental figure above.

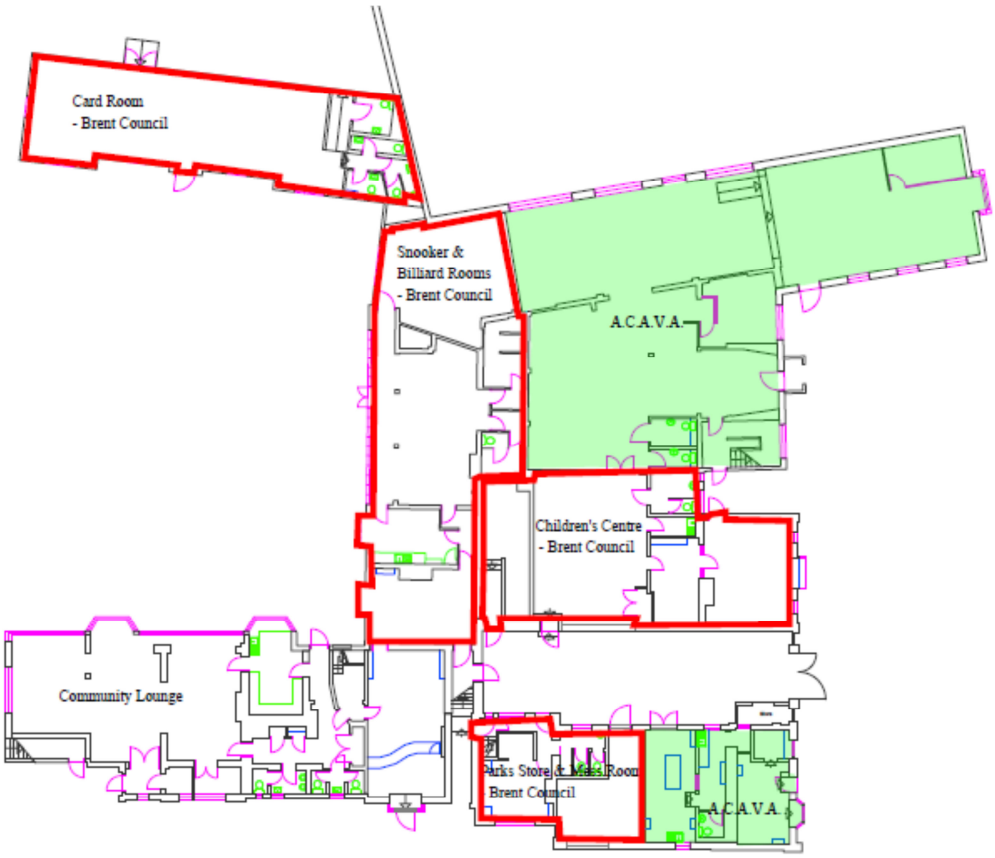
1.26 On the basis that ACAVA have:

1. Taken on a number of Lots,
2. Demonstrate sufficient financial capacity to take on the rental obligation offered,
3. Fit well with the recreational use required by the Trust,
4. Have experience and a track record of delivering similar projects; and
5. Have offered a rental bid excluding service charge that is in excess of the amount assessed and advertised by our RICS Chartered Surveyor.

1.27 We recommend letting lots 1, 3, 4, 5 & 6 to ACAVA, as overall we consider this bid to demonstrate the best bid.

Appendix 2 Floor plan of the building lots

Ground Floor, Barham Park
Areas to be Let



Brent Council occupation shown bordered red.
Proposed letting to A.C.A.V.A. shown shaded green

Appendix 2 Floor plan of the building lots

First Floor, Barham Park
Areas to be Let

Proposed letting to A.C.A.V.A. shown shaded green.

Appendix 3 Further information on developing the vision for the park and public consultation

1 **LANDSCAPE IMPROVEMENT DETAIL**

1.1 In May 2012 a consultant's brief was sent to six consultants. Two submissions were returned and Land Management Services Ltd was appointed to undertake the work.

1.2 The consultants visited the park on several occasions and were provided with information about the history of the park. They met with officers from the Council's Sports and Parks service and identified that:

- The events area used for the funfair is low lying and becomes waterlogged
- Large parts of the park have no footpaths and as a consequence are less well used
- The walled garden is the historic core of the park
- There is a large flat area which could give more activity and biodiversity value to the park
- The area at the rear of the park near the railway line is often water logged
- There are many mature oak trees
- The row of conifers in the park are a venue for anti social behaviour and are coming to the end of their lifespan.

1.3 An initial vision for the park's open space and early concept designs were drafted. These were used to consult with local residents and users of the park.

Consultation

1.4 Two Barham Park User consultation sessions were promoted around the park and held in September in the Lounge. A stakeholder session was also held in September where local ward councillors, local GP's, safer neighbourhood officers, religious group representatives, community groups and residents associations were invited. Designs, photos and plans of the park improvement proposals were displayed and Council officers talked through the suggested park improvements concepts with attendees. Attendees were encouraged to identify their top five improvements and list any new suggestions. Officers tried to arrange consultation sessions with two local primary schools but the schools were unable to accommodate the request

1.5 A brief questionnaire was sent to the occupiers of 898 properties that adjoin or are close to Barham Park. The documentation provided information about the proposals and asked respondents to rank the top ten improvements they felt were most important as well as any other improvement that hadn't been suggested. Their frequency of use of Barham Park and equalities data was also collected.

1.6 The park user session attracted approximately 30 individuals and the stakeholder meeting 6. Twenty seven questionnaires were returned (3%). Of those people responding to the postal survey 33% were aged 45 – 64 and 33% aged 65+. Fifty two per cent of respondents were male. Forty per cent said they had no religion or preferred not to say and 26% were Christian. Forty four per cent of respondents were White and twenty nine per cent Asian or Asian British. Fifty five per cent of respondents said that they visited the park at least once or twice a week whilst thirty per cent visit the park once a month or less.

1.7 The consultation identified that the following facility provisions or facility improvements were the most popular (in order of priority)

1. Café
2. Nature conservation

3. Ponds and wetlands
4. Walled garden
5. Removal of conifers
6. New path
7. Meadows

1.8 In addition a number of other suggestions were put forward during the consultation process with the most frequently proposed being:

1. Need for more sports facilities: tennis, football, outdoor gym
2. More seats and toilets
3. More security
4. Remove conifers although some had concern that this would remove the screen from the railway
5. Creation of a bee garden, more flowers, provision of bird boxes and feeders, medical herb and sensory garden.

1.9 Taking into consideration the views from officers and the consultation process the following ambitious 20 year vision and core elements for improving the park's open space were developed:

20 year vision
Barham Park will bring local people together and provide a resource which will help to enhance the lives of local people. The park will provide opportunities and facilities for all members of the local community to meet with each other, relax, learn and play. The beauty and tranquillity of the historic formal gardens at the heart of the park will flow into a wider parkland rich in wildlife habitats. Users will be encouraged to explore the whole of the park in a safe environment. The park will be improved and managed in a sustainable manner to ensure that investment in the park is protected for future generations.

Core elements

1.10 To deliver the vision, the consultants identified seven core elements at the heart of the landscape improvements to the park. A picture is included overleaf.

Paths and circulation

1.11 It is proposed to remove the line of existing conifers between the War Memorial and railway embankment. This will enable the area behind the conifers to link up with the rest of the park which will be enhanced by the creation of a path that links the west of the park to the east, extending access to the entire park.

Nature conservation, meadows, ponds and woodlands

1.12 A series of meadows are proposed in the east of the park. Maintaining the meadows at a variety of heights would create habitats that would extend the nature conservation and biodiversity value of the park. Ponds and wetlands would be created in the lower part of the park with a viewing platform and new interlocking path. These would provide the habitat for aquatic, marsh and water loving species as well as educational opportunities such as pond dipping. Vegetation in the existing formal ponds should be reduced to increase biodiversity and health of these ponds. The provision of log piles will offer shelter and food for insects, beetles and invertebrates.

1.13 To increase Barham Parks' educational value interpretation information should be provided to provide information about the plants/trees, how they are being managed and what the benefits of their provision are.

Historic core

1.14 The walled and formal gardens will remain although many parts of the existing garden walls need restoring. More seats could be added and access arrangements reviewed to reinstate the original historic features. A couple of options were put forward to make the area between the walled garden and the war memorial more welcoming and functional.

Boundary trees and woodlands

1.15 Mature oak trees are located along the Southern boundary and pre-date the park. It is recommended to plant additional oaks along the boundary as well as more native trees and shrubs.

Car Park Access and Highway improvements

1.16 It is suggested to create a new entrance to the park by widening the existing pedestrian entrance. Entrance to the car park should be moved as it is currently in a dangerous position and re-orientating it could reduce its visual impact. Better pedestrian access across the busy Harrow Road is also recommended.

Café and outdoor eating

1.17 The provision of a café was the most popular new facility provision arising out of the consultation. This has been explored as part of the property options and unfortunately isn't possible in the short term.

Children's Play

1.18 An area for toddler play could be created on the lawn near the card room allowing the existing playground to be developed over time to accommodate older children in more adventurous play.

Other options

1.19 The consultants report also identified a number of other improvements that could be made to the park over time. Some of these were ideas less well supported during the consultation phase and others have a significant cost associated and therefore additional funding would be required. These improvements include the creation of a community orchard / food growing area, reinforcing the grass surface of the funfair / events area so that it can be used by wheeled vehicles and accommodate a greater number and range of events throughout the year.

Implementation plan

1.20 A phased management plan has been developed looking initially at the landscape improvements and secondly focusing on ongoing maintenance.

Appendix 4 Concept design for the 10 year vision for the park

Plan 1: Concept / Strategy