



**MINUTES OF THE BARHAM PARK TRUST COMMITTEE**  
**Tuesday 3 December 2013 at 6.30 pm**

PRESENT: Councillor R Moher (Chair) and Councillors Crane, Hirani and Mashari

Apologies were received from Councillor Denselow

**1. Declarations of interests**

None declared.

**2. Minutes of the previous meeting**

RESOLVED:-

that the minutes of the previous meeting held on 22 October 2013 be approved as an accurate record of the meeting.

**3. Matters arising**

None.

**4. Barham Park complex - outcome of the planning application and options report**

Richard Barrett (Operational Director Property and Projects) informed trustees that the report advised members of the recent decision of the Local Planning Authority (LPA) to refuse the application contrary to officer recommendations in regard to the change of use of space within the Barham Park complex from D1 community use to B1 light industrial use. He advised the decision by the LPA to refuse was on the basis of the loss of D1 contrary to Policy CP23. He highlighted the two options recommended to the trust and informed members that although the report indicated costs of £10,000 to pursue option two, it was anticipated that this was more likely to be in the region of £2000-£4000 depending on the appeal route determining by the Planning Inspector. The Operational Director Property and Projects informed the Committee that informal advice from a planning consultant suggested that the Trust stood a reasonable chance of success should they pursue option two due to the planning officers recommending the application for approval. Richard Barrett informed members that he had been asked to raise a third option to lease the space to the unsuccessful bidders from the exercise conducted back in February. However he advised in his view this would not be in line with best practice due to the passage of time since this marketing and also the fact that the previous bids had been rejected on quality therefore this option could reasonably be challenged by other parties now interested in the space who would not be given the opportunity through the open market. In response to queries regarding the risks of pursuing option two, Richard Barrett informed the trust that there was a risk of refusal in light

of the Planning Committee choosing to refuse the application under Planning Policy 23 although noted that, following informal advice from an external independent Planning Consultant, that the risks were perceived as being lower than indicated in the report. It was confirmed that ACAVA (The Association for the Cultural Advancement through Visual Arts) had accepted that the request for the change in use from D1 (community) to B1 (light industrial) use would be restricted to artistic uses such as sculpture rather than the wider uses of a B1 light industrial use. Richard Barrett confirmed that he had an agreement following discussions with ACAVA that if successful, ACAVA had agreed that the lease would only allow uses associated with artistic endeavours only and would be restricted to ACAVA rather than the unit itself i.e. it could not be sublet for non artistic purposes. In response to queries from members, it was confirmed that conditions could be placed on the lease to ensure the B1 licence would only be used for artistic purposes. Members reflected that both proposed options would result in the premises remaining vacant for a period of time and queried whether there were any options to utilise it whilst a preferred option was being pursued. Richard Barrett informed the Committee that refurbishment works were currently taking place until the end of January although some units which did not require a change of use could be offered immediately to ACAVA subject to agreement as to terms. Members expressed a preference for this to be pursued in regard to Option 2.

Members expressed concern of the perception the change of use may have created and felt that residents needed to be reassured that the change to B1 licence was to enable the activities related to artistic purposes such as sculpturing to take place and that the change to B1 was a technical Planning matter. It was noted that low level machinery would be used and would not be intrusive to the public. Further concern was expressed by Members that although the report cited two public events, the hope was the intention of ACAVA was to have much greater public engagement, through public access and for example school visits to the premises and this had not been fully reflected in the report, allaying concerns of the loss of a community space. The Operational Director of Property and Projects informed the Committee that ACAVA were keen to engage with the public and the local community and that it was an integral part of their operation in other properties around London. It was noted that ACAVA had been advised at the planning committee not to speak and it was felt that they could have alleviated concerns by informing members of the public of their intentions regarding the space and community engagement. It was clarified that if a planning appeal failed, the Committee would have to put the premises back on the property market for expressions of interest. It was noted that if ACAVA used any of the existing spaces in the meantime, these would be the upstairs space although engagement with the community would not be as great due to not having the space required. Option two was proposed and seconded.

The Chair informed members of the public that questions would only be taken on the two options outlined in the report. In response to queries that members were acting as trustees and not sitting as a Council Committee, Fiona Ledden (Borough Solicitor) explained that although members were sitting as trustees and their role was to consider the needs of the trust foremost, the meeting was a sub committee of the Executive and therefore a Council meeting and would be conducted as constituted under part 4 B of the Constitution. In response to motions raised by the public requesting the Committee to suspend making a decision until further options were explored such as the petition requesting the lease be passed to Pivot Point, it

was explained that the only options being considered were the two in the report and that previous bids could not be considered given the time that had expired since the bids were submitted. It was clarified that it had been decided that the Card Room and Snooker Room would be let to the Council. If the Committee chose to submit an appeal which was successful, the Planning Inspectorate was not required to place conditions on the licence however it was clarified that these would be placed on the lease and had previously been discussed and agreed with ACAVA. It was explained that these conditions would also prevent sub letting of the premises except to individual artists. In response to queries from the public it was explained that consent to let had been as a connected person to the Council with a subsequent application to the Charity commission being accepted with the rates as given and confirming that ACAVA were an acceptable tenant of the premises. The Operational Director of Property and Projects explained in response to queries that an appeal would be funded by the Trust and as it was revenue and therefore not committed as part of the capital. Members of the public queried whether voting for a planning appeal would set a precedent with Kensal Rise campaigners regarding the loss of community space and it was clarified that the original planning application was recommended for approval resulting in a unique situation that was not comparable to Kensal Rise.

Members felt that an informed description of the use of the Card Room and Lounge as well as the use and community engagement proposed by ACAVA was required to provide clarity for residents. This will be provided by the operational Director. Representatives of Pivot Point queried whether the expenditure of trust money on either option proposed were suitable use of Trust money when existing community groups could use the premises without planning permission for change of use being required. In response to the query raised it was confirmed that previous bidders could not be approached as the Trust would be left open to legal challenge by not placing the premises on the open market given the period of time that had gone by and also possibly by the Charity Commission.

Members highlighted that both options required the expenditure of Trust revenue and voted unanimously in favour of option two.

RESOLVED:

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

**5. Any other urgent business**

None.

The meeting closed at 7.05 pm

R MOHER  
Chair

