



## Barham Park Trust Committee

**Wednesday 1 September 2021 at 10.00 am**

Conference Hall - Brent Civic Centre, Engineers Way,  
Wembley, HA9 0FJ

Please note that this meeting will be held as a socially distanced physical meeting with all members required to attend in person.

Guidance on the safe delivery of face-to-face meetings is included at the end of the agenda front sheet.

**Due to current restrictions and limits on the socially distanced venue capacity, any press and public wishing to attend this meeting are encouraged to do so via the live webcast. The link to attend the meeting will be made available [here](#)**

### Membership:

#### Members

##### Councillors:

M Butt  
Farah  
McLennan  
Krupa Sheth  
Stephens

#### Substitute Members:

##### Councillors:

Knight  
M Patel  
Southwood  
Tatler

**For further information contact:** James Kinsella, Governance Manager  
020 8937 2063 - james.kinsella@brent.gov.uk

For electronic copies of minutes, reports and agendas, and to be alerted when the minutes of this meeting have been published visit:

**[democracy.brent.gov.uk](https://democracy.brent.gov.uk)**

## **Notes for Members - Declarations of Interest:**

If a Member is aware they have a Disclosable Pecuniary Interest\* in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent and must leave the room without participating in discussion of the item.

If a Member is aware they have a Personal Interest\*\* in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent.

If the Personal Interest is also a Prejudicial Interest (i.e. it affects a financial position or relates to determining of any approval, consent, licence, permission, or registration) then (unless an exception at 14(2) of the Members Code applies), after disclosing the interest to the meeting the Member must leave the room without participating in discussion of the item, except that they may first make representations, answer questions or give evidence relating to the matter, provided that the public are allowed to attend the meeting for those purposes.

### **\*Disclosable Pecuniary Interests:**

- (a) **Employment, etc.** - Any employment, office, trade, profession or vocation carried on for profit gain.
- (b) **Sponsorship** - Any payment or other financial benefit in respect expenses in carrying out duties as a member, or of election; including from a trade union.
- (c) **Contracts** - Any current contract for goods, services or works, between the Councillors or their partner (or a body in which one has a beneficial interest) and the council.
- (d) **Land** - Any beneficial interest in land which is within the council's area.
- (e) **Licences**- Any licence to occupy land in the council's area for a month or longer.
- (f) **Corporate tenancies** - Any tenancy between the council and a body in which the Councillor or their partner have a beneficial interest.
- (g) **Securities** - Any beneficial interest in securities of a body which has a place of business or land in the council's area, if the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body or of any one class of its issued share capital.

### **\*\*Personal Interests:**

The business relates to or affects:

(a) Anybody of which you are a member or in a position of general control or management, and:

- To which you are appointed by the council;
- which exercises functions of a public nature;
- which is directed is to charitable purposes;
- whose principal purposes include the influence of public opinion or policy (including a political party of trade union).

(b) The interests a of a person from whom you have received gifts or hospitality of at least £50 as a member in the municipal year;

or

A decision in relation to that business might reasonably be regarded as affecting, to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral ward affected by the decision, the well-being or financial position of:

- You yourself;
- a member of your family or your friend or any person with whom you have a close association or any person or body who employs or has appointed any of these or in whom they have a beneficial interest in a class of securities exceeding the nominal value of £25,000, or any firm in which they are a partner, or any company of which they are a director
- any body of a type described in (a) above.

# Agenda

Introductions, if appropriate.

Item	Page
<b>1 Appointment of Chair and Vice-Chair</b>	
<b>2. Apologies for Absence</b>	
For the Committee to note any apologies for absence.	
<b>3. Declarations of interests</b>	
Members are invited to declare at this stage of the meeting, the nature and existence of any relevant disclosable pecuniary or personal interests in the items on this agenda and to specify the item(s) to which they relate.	
<b>4. Minutes of the previous meeting</b>	1 - 6
To approve the attached minutes of the previous meeting held on 1 September 2020 as a correct record.	
<b>5. Matters arising (if any)</b>	
To consider any matters arising from the minutes of the previous meeting.	
<b>6. Annual Report &amp; Accounts 2020-2021</b>	7 - 20
This report presents the 2020-21 annual report and accounts for the Barham Park Trust, which there is a statutory requirement to produce for each financial year.	
<b>Ward Affected:</b> Sudbury	<b>Contact Officer:</b> Olga Bennet, Head of Finance, Finance E-mail: <a href="mailto:Olga.Bennet@brent.gov.uk">Olga.Bennet@brent.gov.uk</a> Tel: 0208 937 3337
<b>7. Options for funding the exterior renovation of the Barham Park building</b>	21 - 28
To update Members of the Barham Park Trust Committee on options for funding the exterior renovation of the Barham Park building.	
<b>Ward Affected:</b>	<b>Contact Officer:</b> Leslie Williams, Project Officer

Sudbury

Email: [Leslie.Williams@brent.gov.uk](mailto:Leslie.Williams@brent.gov.uk)

Tel: 020 8937 5628

## 8. General Update Report

29 - 38

To update members on operational issues at Barham Park and on current progress on projects.

**Ward Affected:**  
Sudbury

**Contact Officer:** Leslie Williams, Project Officer  
Email: [Leslie.Williams@brent.gov.uk](mailto:Leslie.Williams@brent.gov.uk)  
Tel: 020 8937 5628

## 9. Any other urgent business

Notice of items to be raised under this heading must be given in writing to the Head of Executive and Member Services or her representative before the meeting. Any decisions taken urgently under this heading must comply with the provisions outlined in paragraph 39 of the Council's Access to Information Rules (part 2 of the Constitution).

**Date of the next meeting:** To be arranged as needed

### **Guidance on the delivery of safe meetings at The Drum, Brent Civic Centre**

- We have revised the capacities and floor plans for event spaces to ensure they are Covid-19 compliant and meet the current social distancing guidelines.
- Attendees will need to maintain the necessary social distance at all times.
- Signage and reminders, including floor markers for social distancing and one-way flow systems are present throughout The Drum and need to be followed.
- Please note the Civic Centre visitor lifts will have reduced capacity to help with social distancing.
- The use of face coverings is encouraged with hand sanitiser dispensers located at the main entrance to The Drum and within each meeting room.
- Those attending meetings are asked to scan the coronavirus NHS QR code for The Drum upon entry. Posters of the QR code are located in front of the main Drum entrance and outside each boardroom.
- Although not required, should anyone attending wish to do book a lateral flow test in advance these are also available at the Civic Centre and can be booked via the following link:  
<https://www.brent.gov.uk/yourcommunity/coronavirus/covid-19-testing/if-you-dont-have-symptoms/>



## **MINUTES OF THE BARHAM PARK TRUST COMMITTEE** **Held as an online meeting on Tuesday 1 September 2020 at 6.00 pm**

**PRESENT (in remote attendance):** Councillor McLennan (Chair), Krupa Sheth (Vice-Chair) and Councillors Agha, Farah and M Patel.

1. **Apologies for Absence**

None.

2. **Declarations of interests**

Councillor Mili Patel declared a personal interest in respect of Agenda Item 7 (General Update Report) as a trustee of the Young Brent Foundation.

Councillor Patel left the meeting for this item and took no part in the discussion or decision made in respect of the recommendations contained within the report.

3. **Minutes of the previous meeting**

**RESOLVED** that the minutes of the previous meeting held on Tuesday 3 September 2019 be agreed as a correct record.

4. **Matters arising (if any)**

None.

5. **Tenant Organisations (Verbal Update)**

At the invitation of the Chair, representatives of the following tenant organisations for the Barham Park buildings complex provided updates on the activities of their respective organisations:

**Friends of Barham Park Library**

Paul Lorber supported by Councillor Lloyd speaking on behalf of the Friends of Barham Library began by advising the Committee how they had needed to adhere to Government guidelines and close the library during lockdown. During closure repairs, decoration and stock checks had been undertaken. After detailed assessments, the library had recently reopened but was operating under limited hours with four activity groups currently having resumed albeit operating in accordance with the relevant social distancing requirements. The groups operating were Memory Lounge; the Dementia Support Group; Art classes and evening Yoga sessions. The children's library remained closed along with the toilet and kitchen facilities. The Trust were advised that the Friends of Barham Park Library continued to monitor and assess safety measures to ensure activities could still take place. In addition, whilst the shop at Sudbury Town Underground station was now reopened sales were limited due to the reduction in commuters using public transport during the pandemic. Financial support was being provided by London Underground in terms of rent reductions with additional grant funding also provided,

however ongoing concern remained in relation to the repair of the library as a listed building.

### **Tmu Samaji UK**

Baburam Gurung speaking on behalf of Tmu Samaj (Nepalese cultural group) reminded the Trust of their status as a charitable organisation focused on the elderly and young people in the community. The group had been involved in providing various community activities but was currently not able to operate due to the pandemic. It was hoped they would be able to reopen shortly with the organisation looking at various measures, including the receipt of grant funding to generate income in order to support their activities and ongoing overheads. During lockdown, the organisation had continued to visit their elderly members in order to provide support and assistance.

Members commended the tenant organisations for their ongoing efforts, dedication and hard work in continuing to support their local communities during such challenging times.

## **6. Annual Report & Accounts 2019-2020**

Jekaterina Popova (Senior Financial Analyst) presented the Annual Report and Annual Accounts for 2019-20. It was noted that the Trust had incurred expenditure of £86,320 on maintenance of the building complex and the park, and generated £100,674 receipts from rental income and interest earned. This had led to the cash balance held by the Trust increasing by £14,354 to £502,651. Out of this £389,052 consisted of restricted funds and £113,600 unrestricted funds. There was also a total of £27,313 of expenditure from the Trust's restricted funds in the 2019/20 financial year up to 31 March 2020. General expenditure on the running and maintenance of the park and buildings had decreased by £17,838 compared to 2018/19 with income having decreased by £660.

The Committee's attention was also drawn to the Independent Examiners report, attached as Appendix C to the report. Whilst this had confirmed that there were no issues regarding the accounts which needed to be brought to the Committee's attention, members were advised of a minor adjustment that may be required to the accounts in relation of the Payments under Premises – Utility. In previous years the accounts had included a payment for utilities, however no payments had been included within the 2019/20 accounts. Further review was being undertaken by the Finance Team and depending on the outcome the Committee was advised there may be a need for a minor adjustment to be made to the final accounts.

Members were also advised of the potential impact of the proposals included for consideration within the General Update report in relation to rent abatement and/or deferrals given the proportion of income generated through the Trusts rental income account, which it was noted would require review on a case by case basis.

Having considered the report it was **RESOLVED**

- (1) To approve the annual report and the Barham Park Trust's Accounts for 2019/20 and authorise officers to file the report with the Charity Commission.

- (2) To approve the Barham Park Trust's accounts for 2019/20 and delegate authority to the Operational Director for Environmental Services to make any minor adjustments to the accounts arising from the query on expenditure on utilities as identified by the Independent Examiner and to file the accounts, for 2019/20 with the Charity Commission.
- (3) To note the Independent Examiner's Review of the Barham Park Trust's Accounts for 2019/20.

## 7. **General Update Report**

Leslie Williams (Project Officer) introduced the report updating the Trust on operational issues at Barham Park along with current progress on a range of projects.

Members were provided with updates in relation to the following issues:

- Security and anti-social behaviour for the period 1 April 19 – 31 March 20, as detailed within section 3.2 of the report. The increase in incidents of anti-social behaviour reported within the park were noted along with the increased level of outreach and Safer Neighbourhood Patrols as a means of tackling the issues alongside the introduction of a Public Space Protection Order covering all parks and open spaces which could be used to assist in enforcement activity.
- Rough sleeping within the park: members noted the work being undertaken with St Mungo's to support the three rough sleepers identified using the park during the year. Whilst all had been offered support and accommodation at the start of the pandemic two had been identified as subsequently returning to sleep at or near the park with St Mungo's continuing to assist where possible.
- General Operational Works – Members noted that operational grounds maintenance work continued to be undertaken by the Council's main contractor Veolia. Recent work had included making safe and opening a gap in an internal fence between the Events Field and Queen Elizabeth II Gardens to allow easier access. The Committee also congratulated Veolia and other officers involved for their efforts in being awarded a London in Bloom Walled Garden Silver Gilt award for their maintenance of the Walled Garden.
- Grass and meadows: Members noted the continued improvement to the range of grasslands and associated wildlife within the park, as detailed within section 3.7 of the report.
- Maintenance of Barham Park Building: Members noted the ongoing operational maintenance works and discussions regarding repairs to the units occupied by the Veterans Club and Friends of Barham Park Library. The expenditure had been sourced from the Trusts unrestricted funds and included in the accounts from 2018/19.
- Fire security system: Members noted the briefings being provided for tenant representatives at the Occupier's Meetings regarding operation of the system for Barham Park and ability for each organisation to re-brief their own members as required.
- Barham Park building Unit 7: Members noted the update provided by Chris Whyte (Operational Director, Environmental Services) regarding the ongoing negotiations with the lead tender applicant (the Friends of Barham Library)

- and their proposed partner organisation the Memory Lounge for provision of a Dementia Centre at Unit 7, with further clarification having also been sought on the partnership arrangements in terms of operation of the lease. Members noted that the property comprised of two distinct areas, the Mess Room and a Store Room, with both areas requiring investment given their current condition, on which details were currently under discussion. In support of these refurbishment costs confirmation was provided that Friends of Barham Park had been successful in securing funding through the Council's Neighbourhood Community Infrastructure Levy fund.
- Barham Park building Unit 8: Chris Whyte then moved on to inform the Committee of plans for Unit 8 and the approval being sought for its underletting to the Young Brent Foundation (YBF), subject to satisfactory clearance of financial checks with Brent Council's Children and Young People Service remaining as leaseholder. As additional background, members were reminded that the Unit had been let by the Trust since 2016 to Brent Council's Children and Young People service as a Children's Centre. The Centre had been managed by Barnardos but due to reorganisation and other changes it was now proposed to under let to a different voluntary sector provider (YBF), although still for use as a Children's Centre. Council staff would continue to be involved in delivering and facilitating services with the YBF also facilitating community and voluntary sector workshops and development. Members noted this would not involve any change to the conditions of the lease between the Trust and Brent Council or to the annual rent but would require a licence to underlet between the Trust and Council involving the Trust consenting to the Council for the underlet in respect of the Unit to YBF. Members indicated their support for the approach outlined noting its link to the overall development of the Family Hub proposals.
  - The challenges being experienced by tenants during the pandemic, which the Committee were advised had resulted in two of the Trust's leaseholders having submitted applications for either rent abatement or for deferment, which required consideration. The applications had been received in relation to:
    - Unit 2 (Veterans Club), which members noted had been closed since the start of the lockdown in March 2020. Given their reliance on membership fees for rental payments which had been severely restricted during the pandemic a request had been submitted for a rent abatement and deferrals over the second and third quarters of 2020. Members also noted the significant risk that membership may not return by September 2020, which may also impact on the collection of the fourth quarter rent and could therefore result in additional requests for rent abatement during the 2020/2021 financial year and beyond; and
    - Units 3, 5, 6, 9 & 10 (ACAVA) who members noted relied on rents collected from their artists' studios, the operation of which had been severely restricted during the pandemic. Whilst the final position needed to be clarified with ACAVA a rent abatement and deferral request had been raised for consideration for the second and third quarter 2020. In considering the issue members were reminded of the organisations substantial rental contribution to the Trust, which it would be important to work to sustain over the longer term. It was also noted that given the ongoing uncertainty around the pandemic additional requests for rent abatement and deferrals may need to be submitted during the

2020/2021 financial year and beyond. In balancing the considerations needing to be taken into account Members also noted the potential impact which the loss of income would have on the Trust along with the risk that other occupiers may also submit similar requests.

Members noted that any requests for rent abatement and rent deferral would need to be considered having taken account of the potential impact on the Trust's financial position, in particular its unrestricted funds and whether these would be in the Trust's best interest. As a result if it was recommended delegate authority was provided to the Operational Director for Environmental Services, in consultation with the Chair of the Trust Committee to consider and make any final decision on individual applications for rent abatement and deferral received during 2020/21 in respect of any units in the Barham Park Building. As part of this process, members noted that the guidance provided from the Ministry for Housing, Communities and Local Government and Charity Commission (as detailed within section 3.15 of the report) would also be taken into account.

- Works – Restricted Funding: Members noted the agreed funding (£177,000) and progress summary on expenditure to date from the Trust's restricted fund, as detailed within section 3.17 of the report. This included works in relation to Trees (as detailed in section 3.18 of the report), the existing windows, doors, frames and other exterior structures of the Barham Park building (as detailed in sections 3.19 – 3.20 of the report) and Events field drainage survey, design and works (as detailed in sections 3.21 – 3.23 of the report). The works to the exterior of the Building had received planning approval, however, given the professional estimates for funding required to cover the full cost of works there would now be a need to secure the necessary funding from grant or other sources. In terms of the Event Field drainage works members noted the work currently being undertaken to progress the procurement of a contractor to carry out the works.
- Works being undertaken through other funding: Members noted the updates provided in relation to the replacement of the Oak tree at the west side of the Park, which following a delay due to the pandemic was now scheduled for completion in autumn/winter 2020/21; the restoration of the Queen Elizabeth II Silver Jubilee Garden in the west side courtyard and reasons for the technical delay and repair works to the walled garden pond, which were planned for autumn 2020.
- The proposed installation of cycling information and safety signs (as detailed within section 3.27 – 3.28 of the report and Appendix A of the report, for which the Committee's approval was being sought.

Following on from the update, Members were keen to recognise the important role which the park had played during the ongoing pandemic in terms of providing an outdoor facility for use by the local community and thanked everyone involved for their efforts, dedication and hard work during such challenging times to ensure the park and its facilities were managed and maintained and had remained available for use by the local community.

Having considered the updates provided it was **RESOLVED:**

- (1) To note the issues set out in this report.

- (2) To note and agree the proposal to underlet Unit 8 of the Barham Park Building (The Children's Centre) by Brent Council's Children and Young People Service to a voluntary sector provider, namely the Young Brent Foundation, on the same rental terms pursuant to the lease in respect of Unit 8 between the Barham Park Trust and Brent Council and subject to the satisfactory clearance of financial checks.
- (3) To delegate authority to the Operational Director for Environmental Services in consultation with the Chair of the Trust Committee to decide upon the proposal for rent abatement and deferrals from:
  - (a) the Veterans in respect of quarters 2 and 3 for the year 2020/21 in respect of Unit 2 of the Barham Park Building, the details of which needed to be finalised; and
  - (b) ACAVA in respect of quarters 2 and 3 for the year 2020/21 in respect of Units 3, 5, 6, 9 and 10 of the Barham Park Building;and note that such decisions would take into account the Ministry for Housing, Communities and Local Government Guidance and the Charity Commission Guidance as set out in paragraph 3.15 of this report.
- (4) To delegate authority to consider and decide upon any further requests for rent abatement or deferral in respect of the Units at the Barham Park Building that arose from the Covid-19 pandemic to the Operational Director for Environmental Services in consultation with the Chair of the Trust Committee and note that such decisions would take into account the Ministry for Housing, Communities and Local Government Guidance and also the Charity Commission Guidance as set out in paragraph 3.15 of this report.
- (5) To note and agree to the proposal to approval the installation of signs in Barham Park to inform and facilitate cycling.


Having left the meeting for the duration of this item, Councillor M.Patel re-joined the meeting at this stage for the remainder of the proceedings.

## 8. **Any other urgent business**

No items of urgency business were raised at the meeting.

The meeting was declared closed at 7.00 pm

COUNCILLOR MARGARET MCLENNAN  
Chair

	<p align="center"><b>Barham Park Trust Committee</b> 1st September 2021</p>
	<p align="center"><b>Report from Strategic Director Regeneration and Environment</b></p>
<p align="center"><b>ANNUAL REPORT AND ANNUAL ACCOUNTS 2020-2021</b></p>	

<b>Wards Affected:</b>	Sudbury
<b>Key or Non-Key Decision:</b>	Non-key
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>No. of Appendices:</b>	Three Appendix A: Trustee's Annual Report Appendix B: Trust Annual Accounts 2020-21 Appendix C: Independent Examiner's Report
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	Olga Bennet, Head of Finance, Finance, Chief Executive's Office. E-mail: <a href="mailto:Olga.Bennet@brent.gov.uk">Olga.Bennet@brent.gov.uk</a> Tel: 0208 937 3337

## 1 Purpose of the Report

- 1.1 This report presents the annual report for the Barham Park Trust for 2020/21. There is a statutory requirement to produce an Annual Report, including the Accounts each financial year.

## 2 Recommendation

For the Barham Park Trust Committee to:-

- 2.1 Approve the annual report and the Barham Park Trust's Accounts for 2020/21.
- 2.2 Note the Independent Examiner's Review of the Barham Park Trust's Accounts for 2020/21.
- 2.3 Authorise officers to update the Charity Commission with the Annual Report and the Accounts for 2020/21 of the Barham Park Trust.
- 2.4 Authorise officers to prepare a financial strategy in respect of the Barham Park Trust for consideration at a future meeting of the Trust Committee.

### **3 Detail**

#### Annual Report for 2020/21

- 3.1 The annual report is set out for consideration by the Committee. It outlines the work undertaken on behalf of the Trust during the year, which included the repair and improvement works on the park and ongoing work to secure tenants for the various buildings on the site.
- 3.2 The Charity Commission has set a threshold below which independent audit of financial statements is not required. For England and Wales this was set as either gross income exceeding £1,000,000 or gross income exceeding £250,000 and gross assets exceeding £3,260,000. Therefore, an Independent Examiner's Report is an accepted way for smaller charities to present their accounts as allowed for by the Charities Act 2011.
- 3.3 The accounts have also been subject to an independent examination by the Head of Audit & Investigations. The independent examiner's report is attached to this report and confirms that there are no issues regarding the accounts to be brought to the Committee's attention.
- 3.4 During 2020/21 the Trust incurred expenditure of £96,283 on maintenance of the building complex and the park. This is made up of £60,383 of unrestricted funds expenditure and £35,900 of restricted funds. The Trust generated £81,300 receipts from rental income and interest earned.
- 3.5 This includes rental income that is due but has not yet been paid. The majority of rental income for 2020/21 is still outstanding. The cumulative rental income due but not paid as at 31 March 2021 was £76,291.
- 3.6 This means that as at 31 March 2021, the Trust had assets of:
- (i) £58k unrestricted funds cash
  - (ii) £353k restricted funds cash
  - (iii) £76k rental income due but not yet received (unrestricted funds)
  - (iv) £939k valuation of Barham Park Building Complex
- 3.7 This means that if the rental income arrears are not received, the Trust would have only £58k of unrestricted cash. If the arrears continue building up, the £58k would be enough to cover around 12 months of maintenance and wardens costs.
- 3.8 Due to the low levels of unrestricted cash, it is necessary for a financial strategy to be developed for the consideration of the Trust Committee to ensure that the Trust is able to operate on a sustainable basis for the long-term. This explains the inclusion of paragraph 2.4 above in the recommendations section of this report.
- 3.9 Following approval by the Trust Committee, the annual report and accounts for 2020/21 will be submitted to the Charity Commission – the deadline for submission is 31 January 2022.

#### Comparison between 19/20 and 20/21

- 3.10 General expenditure on the running and maintenance of the park and buildings increased by £1,376 compared to 2019/20 and income decreased by £19,374. The decrease in income arose because of the inability for the Park to host any fun fair

events because of the Covid-19 pandemic. In 2019/20 the Park earned £20,874 from hall hire, fun fair & ice cream concessions.

- 3.11 The restricted funds expenditure has increased from £27,313 in 19/20 to £35,900 in 20/21.

### Restricted funds

3.12 The restricted funds balance as at 31<sup>st</sup> March 2021 is £353,152. In order for restricted funds to be spent, this expenditure needs to be approved by both the Committee and the Charity Commission. The Committee needs to be satisfied that the proposed expenditure of the restricted funds is in accordance with the terms of the Trust.

3.13 In 2019 the Barham Park Committee and the Charity Commission approved £177,000 of restricted funds expenditure. Out of this approved amount, £63,000 has been spent, which leaves £113,000 of approved expenditure remaining to be spent.

3.14 Of this amount, £95,000 has been allocated to be spent on drainage work for the events field. The remaining £19,000 is allocated to Tree Works. However, these works, originally forecast at £62,000 have come in under budget at £43,130, which was spent across the 19/20 and 20/21 financial years, and consequently there are no immediate plans to spend these remaining funds. Therefore, after the drainage work allocation has been spent, the restricted funds balance would reduce to £258,000.

### Accounts for 2019/20

3.15 At the previous Trust Committee meeting on 1 September 2020, the Committee delegated authority to the Operational Director for Environment Services to make any minor adjustments to the accounts arising from the query on expenditure on utilities that was identified by the Independent Examiner, and thereafter, to file the Trust's accounts for 2019/20 with the Charity Commission. Officers can confirm that after further clarification, no amendments or adjustments to the accounts that were submitted to the Trust Committee in September 2020 were necessary and the Trust's 2019/20 accounts were subsequently filed with the Charity Commission.

## **4 Financial Implications**

4.1 Financial implications are included in the body of the report.

## **5 Legal Implications**

5.1 The submission of an annual report and accounts by the Barham Park Trust to the Charity Commission is required under the Charities Act 2011.

## **6 Equality Implications**

6.1 None.

## **7 Consultation with Ward Members and Stakeholders**

7.1 None.

## 8 Human Resource/Property Implications

8.1 None

**Report sign off:**

**CHRIS WHYTE**

Operational Director of Environmental Services.



# Trustees' Annual Report for the period

<b>From</b>	Period start date			<b>To</b>	Period end date		
	Day 01	Month 04	Year 2020		Day 31	Month 03	Year 2021

## Section A Reference and administration details

**Charity name**

Barham Park Trust

**Other names charity is known by**

Barham Park Trust

**Registered charity number (if any)**

302931

**Charity's principal address**

Brent Civic Centre, Engineers Way  
 Wembley  
 Middlesex  
**Postcode** HA9 0FJ

### Names of the charity trustees who manage the charity

	Trustee name	Office (if any)	Dates acted if not for whole year	Name of person (or body) entitled to appoint trustee (if any)
1	London Borough of Brent	Barham Park Trust Committee		Not applicable as corporate sole trustee
2				
3				
4				
5				
6				
7				
8				
9				
10				

### Names of the trustees for the charity, if any, (for example, any custodian trustees)

Name	Dates acted if not for whole year

### Names and addresses of advisers (Optional information)

Type of adviser	Name	Address

### Name of chief executive or names of senior staff members (Optional information)

## Section B Structure, governance and management

### Description of the charity's trusts

Type of governing document (eg. trust deed, constitution)	<p>The voluntary conveyance dated 22 October 1936 between George Titus Barham (1) and Wembley UDC (2) copy annexed.</p> <p>Related documents</p> <ul style="list-style-type: none"> <li>• The conveyance dated 1<sup>st</sup> February 1937 between Florence Elizabeth Barham (1) and the Mayor Alderman and Burgesses of the Borough of Wembley (2) copy annexed</li> <li>• The Assent dated 1<sup>st</sup> February 1938 between James Williamson and Kenneth Ewart Tansley (1) and the Mayor Alderman and Burgesses of the Borough of Wembley (2) copy annexed.</li> </ul>
How the charity is constituted (eg. trust, association, company)	London Borough of Brent as sole trustee
Trustee selection methods (eg. appointed by, elected by)	Not applicable – the Council as local authority is the sole trustee. The London Borough of Brent is statutory successor to the Borough of Wembley.

### Additional governance issues (Optional information)

You **may choose** to include additional information, where relevant, about:

- policies and procedures adopted for the induction and training of trustees;
- the charity's organisational structure and any wider network with which the charity works;
- relationship with any related parties;
- trustees' consideration of major risks and the system and procedures to manage them.

## Section C Objectives and activities

**Summary of the objects of the charity set out in its governing document**

The land is be held on trust 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.

The benefit is the provision of Barham Park and building for recreational purposes.

**Summary of the main activities undertaken for the public benefit in relation to these objects (include within this section the statutory declaration that trustees have had regard to the guidance issued by the Charity Commission on public benefit)**

**Additional details of objectives and activities (Optional information)**

You **may choose** to include further statements, where relevant, about:

- policy on grantmaking;
- policy programme related investment;
- contribution made by volunteers.

**Summary of the main achievements of the charity during the year**

Working with the Council, Brent Council Parks Service continued to work to progress operational issues, and to prepare capital projects towards commissioning both for the buildings and for the park.

Planning Consent was obtained for the proposed renovation of the exterior of the Barham Park building. Details of the Planning Consent and of the drawings are available at reference 19/3769 on the Brent Council Planning webpages or at [https://pa.brent.gov.uk/online-applications/applicationDetails.do?keyVal=DCAPR\\_147523&activeTab=summary](https://pa.brent.gov.uk/online-applications/applicationDetails.do?keyVal=DCAPR_147523&activeTab=summary)

The Covid-19 pandemic affected activities by the community tenants of the Barham Park building.

Works by contractors were also delayed by the Covid-19 pandemic, though a list of tree surgery works were completed.

The northern pond in the Walled Garden was cleared of debris and minor cracks in the concrete base were sealed.

A revised specification for the renovation of the Queen Elizabeth II Silver Jubilee Garden was tendered, with works on site commencing early in the 2020/21 year.

The meadow area, established in recent years enabled the growth of a range of grasses and flowers, complemented by butterflies and bush-crickets.

## Section E

## Financial review

### Brief statement of the charity's policy on reserves

As at 31 March 2021, the charity held cash reserves of £487,669. Out of this total sum of £487,669, the sum of £353,152 consists of restricted funds and the sum of £134,517 consists of unrestricted funds, (£58,226 of unrestricted cash funds and £76,291 of rental income due). There was a total of £35,900 of expenditure from the Trust's restricted funds in the 2020/21 financial year up to 31 March 2021.

In accordance with the decision of the trustees any future receipts will be used for improvements within Barham Park.

### Details of any funds materially in deficit

### Further financial review details (Optional information)

You **may choose** to include additional information, where relevant about:

- the charity's principal sources of funds (including any fundraising);
- how expenditure has supported the key objectives of the charity;
- investment policy and objectives including any ethical investment policy adopted.

## Section F

## Other optional information

## Section G

## Declaration

The trustees declare that they have approved the trustees' report above.

Signed on behalf of the charity's trustees

Signature(s)		
Full name(s)	CHRIS WHYTE	

<b>Position (eg Secretary, Chair, etc)</b>	Operational Director, Environment Services : Officer with delegated authority to deal with day to day trustee functions of the Trust.	
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<b>Date</b>	
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Charity Name Barham Park	No (if any) 302931
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CC16a

## Receipts and payments accounts

For the period from	Period start date 01/04/20	To	Period end date 31/03/21
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### Section A Receipts and payments

	Unrestricted funds to the nearest £	Restricted funds to the nearest £	Endowment funds to the nearest £	Total funds to the nearest £	Last year to the nearest £
<b>A1 Receipts</b>					
Hall Hire, Fun Fair & Ice Cream Concessions	-			-	20,874
Property Rental Income	2,000			2,000	1,500
Ad-hoc lettings	-			-	-
Fun Fair	-			-	-
Car Parking	-			-	-
Catering Rights	-			-	-
Rental Income - Virgin Media	6,500			6,500	6,500
Rental Income - Other	51,500			51,500	51,500
Brent Council Contribution	-			-	-
Children Centre	11,300			11,300	11,300
Interest earned	10,000			10,000	9,000
	-			-	-
	-			-	-
<b>Sub total (Gross income for AR)</b>	<b>81,300</b>	<b>-</b>	<b>-</b>	<b>81,300</b>	<b>100,674</b>
<b>A2 Asset and investment sales, (see table).</b>					
	-	-	-	-	-
	-	-	-	-	-
<b>Sub total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Total receipts</b>	<b>81,300</b>	<b>-</b>	<b>-</b>	<b>81,300</b>	<b>100,674</b>
<b>A3 Payments</b>					
Maintenance and Wardens	57,653			57,653	53,204
Premises - Utility	-			-	-
Premises - Insurance	2,500			2,500	2,500
Premises - Security	230			230	1,571
Premises - Cleaning	-			-	-
Premises - Repairs and Maintenance	-			-	9,713
Premises - Other	-			-	-
Supplies and Services	-			-	1,732
Waste Disposal	-			-	-
Trees - felling and planting	-	27,580		27,580	15,550
Machinery Repairs	-			-	-
FM running Costs	-			-	-
NNDR	-			-	-
Surveys	-	8,320		8,320	2,050
Consultancy	-			-	-
	-			-	-
	-			-	-
<b>Sub total</b>	<b>60,383</b>	<b>35,900</b>	<b>-</b>	<b>96,283</b>	<b>86,320</b>
<b>A4 Asset and investment purchases, (see table)</b>					
	-	-	-	-	-
	-	-	-	-	-
<b>Sub total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Total payments</b>	<b>60,383</b>	<b>35,900</b>	<b>-</b>	<b>96,283</b>	<b>86,320</b>
<b>Net of receipts/(payments)</b>	<b>20,917</b>	<b>- 35,900</b>	<b>-</b>	<b>- 14,983</b>	<b>14,354</b>
<b>A5 Transfers between funds</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>A6 Cash funds last year end</b>	<b>113,600</b>	<b>387,052</b>	<b>-</b>	<b>502,651</b>	<b>488,297</b>

## Section B Statement of assets and liabilities at the end of the period

Categories	Details	Unrestricted funds to nearest £	Restricted funds to nearest £	Endowment funds to nearest £
<b>B1 Cash funds</b>	Cash	58,226	353,152	-
	Receivables	76,291	-	-
		-	-	-
	<b>Total cash funds</b>	<b>134,517</b>	<b>353,152</b>	<b>-</b>
	(agree balances with receipts and payments account(s))	OK	OK	OK
<b>B2 Other monetary assets</b>	<b>Details</b>	to nearest £	to nearest £	to nearest £
		-	-	-
		-	-	-
		-	-	-
<b>B3 Investment assets</b>	<b>Details</b>	Fund to which asset belongs	Cost (optional)	Current value (optional)
			-	-
			-	-
			-	-
<b>B4 Assets retained for the charity's own use</b>	<b>Details</b>	Fund to which asset belongs	Cost (optional)	Current value (optional)
	Barham Park Building Complex			939,071
<b>B5 Liabilities</b>	<b>Details</b>	Fund to which liability relates	Amount due (optional)	When due (optional)
			-	
			-	
			-	
Signed by one or two trustees on behalf of all the trustees	Signature	Print Name	Date of approval	

# Barham Park Trust

## 2020-21 accounts: Supplementary audit review

### **1 Introduction**

1.1 The Audit and Investigations Unit (A&I) were asked to act as an Independent examiner and review the draft Barham Park Trust ("the Trust") 2020-21 accounts which will be submitted to the Charities Commission.

### **2 Respective responsibilities of trustees and examiner**

2.1 The charity's trustees are responsible for the preparation of the accounts. The charity's trustees consider that an audit is not required for this year under section 144(2) of the Charities Act 2011 (the 2011 Act) and that an independent examination is needed.

2.2 It is my responsibility to:

Examine the accounts under section 145 of the 2011 Act;

Follow the procedures laid down in the general Directions given by the Charity Commission under section 145(5)(b) of the 2011 Act; and to state whether particular matters have come to my attention.

### **3 Basis of independent examiner's report**

My examination was carried out in accordance with the general directions given by the Charities Commission. An examination includes a review of the accounting records kept in respect of the Trust and a comparison of the accounts presented with those records. It also includes consideration of any unusual items or disclosures in the accounts and seeking explanations from officers acting for the trustees concerning any such matters. The procedures undertaken do not provide all the evidence that would be required in an audit and consequently no opinion is given as to whether the accounts present a "true and fair view" and the report is limited to those matters set out in the statement below.

### **4 Independents Examiner's statement**

4.1 Officers acting for the trustees have prepared receipts and payments accounts. Expenditure made from the restricted fund has been approved in the Barham Park Committee report.

4.2 No matter has come to my attention, which gives me reasonable cause to believe that, in any material respect, the requirements:

- To keep accounting records in accordance with section 130 of the Charities Act; and
- To prepare accounts which accord with the accounting records and comply with the accounting requirements of the Charities Act have not been met, or
- To which, in my opinion, attention should be drawn in order to enable a proper understanding of the accounts to be reached.




Michael Bradley – Head of Internal Audit and Investigations at London Borough of Brent

Relevant professional qualification or body: Fellow of the Chartered Institute of Internal Auditors

Brent Civic Centre, Audit & Investigations, Floor 7D, Engineers Way, HA9 0FJ

10 August 2021

 <b>Brent</b>	<b>Barham Park Trust Committee</b>  1 September 2021
	<b>Report from the Strategic Director of Regeneration &amp; Environment</b>
<b>Options for funding the exterior renovation of the Barham Park building</b>	

<b>Wards Affected:</b>	Sudbury
<b>Key or Non-Key Decision:</b>	Non-key
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>No. of Appendices:</b>	None
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	Chris Whyte, Operational Director, Environmental Services; Email: <a href="mailto:chris.whyte@brent.gov.uk">chris.whyte@brent.gov.uk</a> Tel: 020 8937 5342  Leslie Williams, Project Officer, Parks Service, Environmental Services, Regeneration and Environment. E-mail: <a href="mailto:Leslie.Williams@Brent.gov.uk">Leslie.Williams@Brent.gov.uk</a> Tel: 0208 937 5628

## 1.0 Purpose of the Report

To update Members of the Barham Park Trust Committee on options for funding the exterior renovation of the Barham Park building.

## 2.0 Recommendation(s)

### **That the Barham Park Trust Committee RESOLVES**

- 2.1 To note and agree to the proposal for officers to investigate sources of funding in relation to the exterior renovation of the Barham Park Building and for the Operational Director for Environmental Services to approach the Council regarding seeking council capital funding towards funding the exterior renovation of the Barham Park building;
- 2.2 That the total sum of £258,000 towards the part of the items of expenditure as set out in paragraphs 3.24 and 3.25 of the report for funding the exterior

renovation of the Barham Park building, be paid from the Trust's remaining uncommitted restricted funds and permanent endowment arising from the sale proceeds of 776 and 778 Harrow Road, Wembley HA0 2HE, be approved;

- 2.3 That officers seek permission of the Charity Commission to spend the estimated sum stated in the resolution in paragraph 2.2 above from the Trust's uncommitted restricted funds using the procedure set out in section 282 of the Charities Act 2011;
- 2.4 That officers be authorised to submit the necessary application for permission to the Charity Commission and authority be delegated to the Operational Director Environmental Services to progress the application and deal with any issues, requirements and queries arising that are raised by the Charity Commission;
- 2.5 That officers be authorised to give public notice of this resolution if it is directed to do so by the Charity Commission pursuant to section 283 of the Charities Act 2011.

### **3.0 Detail**

- 3.1 The Barham Park building is the responsibility of the Barham Park Trust, a registered charity (number 302931). Brent Council is the sole Trustee. Brent Council manages that role through the Barham Park Trust Committee, a sub-committee of the Council's Cabinet. The delegated officer is the Operational Director of Environmental Services. The operational management of the Barham Park building is with Brent Council's Property Services.
- 3.2 The building is Locally Listed by Brent Council.
- 3.3 The Trust has mainly let the building to organisations that are of public benefit. For much of the final decades of the 20<sup>th</sup> century tenants included a public library, function rooms and Council offices. Currently there are a range of tenant organisations including the ACAVA charity, Barham Community Library, the Veterans Club, Tmu Samaj and the Children's Centre (Brent Council and used by associated partner organisations).
- 3.4 The exterior of the building has received piecemeal repairs over many decades, much of which are now also in need of renovation. Few, of the windows contain the near-original glass, though there are no records to enable the dating of either the windows or the frames. A considerable proportion of the window frames are in poor condition, while the glazing provides poor insulation and the exterior walls require repairs. Heat management is poor and there are numerous other issues. The exterior of the building is in considerable need for renovation.
- 3.5 Consequences of not proceeding:
  - Continual deterioration of the exterior of the building, damage to window frames and consequential damage to the interior of building units.
  - Seasonal effects including loss of heat, reduced ventilation and reducing comfort for building users, who include older and disabled users.
  - Issues also affect the tenanted activities and individuals.
  - Loss of tenants: Risk of reduced ability to retain tenants, reduced tenant renewals, lower occupancy, and less income for the Trust.

- Increased energy use, higher carbon emissions, and increased costs.
  - View of apparent neglect of the building, as viewed from the park and from local neighbourhoods. Risks of further damaged are increased.
- 3.6 As evidence of these, Brent Council Property Services have during the past year and during recent years, received numerous enquiries from tenant organisations regarding the exterior of the building and its affects upon their activities.
- 3.7 The survey for the Borough-wide Decarbonisation project, identified the relatively large heat loss, energy use and carbon emissions from the building.
- 3.8 The Trust funded a Windows Schedule by surveyors to catalogue the windows, doors, frames, skylights and external condition. That exercise also provided specifications for replacement windows etc, compliant with the Locally Listed Building status and with modern building standards.
- 3.9 Planning Permission was sought as the proposed works could affect the appearance of a Locally Listed Building. Permission was granted in January 2020. The Planning documents and drawings are available using the reference 19/3769) or the link to the Planning documents at:
- [https://pa.brent.gov.uk/online/applications/applicationDetails.do?keyVal=DCAPR\\_147523&activeTab=summary](https://pa.brent.gov.uk/online/applications/applicationDetails.do?keyVal=DCAPR_147523&activeTab=summary)
- 3.10 As a Locally Listed building, the window frames are required to be of wood to suitable standards, while uPVC can be used for areas of the building that are not public facing. Modern wooden frames to current standards are considered to have a lifespan similar or longer than for uPVC, though the initial costs are at a premium to uPVC frames.
- 3.11 A building wide fire detection and alarm system was installed in about 2018. Security is an issue for building tenants and others. Officers will attempt to consider the ability to design out crime where there may be possible.
- 3.12 Other initiatives: The Trust will be aware of continuing negotiations regarding the intended Memory Lounge in the currently vacant Unit 7 in the south-east of the Barham Park buildings. One proposal involves a new configuration or disabled-accessible doors to the exterior, possibly to the courtyard, but those discussions are not at a stage to plan the location of doors and windows. If those were to be resolved within the project timetable, then it could be reasonable to save overall costs. The neighbour on this part of the ground floor are ACAVA at Unit 6.
- 3.13 The surveyors, RLB, provided costed estimates for the works, a breakdown is provided in paragraph 3.25. This assumes works were conducted at one time, as otherwise scaffolding, project management and some other costs would be higher. Costs have not been market-tested at this stage, but are professionally prepared estimates.
- 3.14 During the windows survey, the surveyors identified also a damp course issue on a Harrow Road side staircase of the building which was not part of their brief, but which needs to be included in works. An estimate for that and for a few

issues raised by tenants since the survey are estimated at £32,400 including a contingency. The total project costs also include for:

- That the project contingency could cover for the possibility of the need for other works or repairs becoming apparent during the works.
- A cost for the professional works management is available and has been included in the relevant costings in this report.

3.15 Costs for all items within the Windows Schedule plus surveyor fees for RIBA stages 4-7 and Principal Designer Duties, scaffolding, other items raised by tenants, inflation and contingency are estimated at £553k.

### **Sources of funding**

3.16 Barham Park Trust 'receipts and payments': The Trust currently has £58k unrestricted funds cash available. If all the rental income that was due as at 31 March 2021 is received, the Trust would have £134k in unrestricted funds which could be used to contribute to the cost of the renovations. At present, £76k of this are rental arrears which have not yet been received.

3.17 A review of the rental income could identify opportunities for increased rents to contribute to the renovation works.

3.18 Barham Park Trust restricted funds: The Trust has £258k uncommitted in restricted funds from the sale of 776-778 Harrow Road some years ago. These are capital funds which are held in trust for the benefit of the charity over the long term and are subject to restrictions as regards how they may be used and spent. However, in some circumstances, it is possible to drawdown on that fund, subject to the Trust Committee approving the same and subject to the consent of the Charity Commission as set out in sections 282 to 284 of the Charities Act 2011. The Trust has used this route in the past. These could be used as a contribution to fund some of the costs of the renovation. It should be added that there is no guidance from Charity Commission as to whether there should be a minimum level of unrestricted and / or restricted reserves that the Charity Commission would deem as prudent to hold in its accounts. This is an issue the Trust will need to take into consideration.

3.19 The building is, with the park, one of the larger operational assets of the Trust. Further deterioration of the building could add to costs, which may be a consideration to balance if use of part of the Trust's restricted and unrestricted funds were to be considered.

3.20 Brent Council Neighbourhood Community Infrastructure Levy (NCIL): An application for NCIL funding was made in the spring 2021 round to cover a large proportion of the funding for the renovation of the building exterior. The application was well-supported by the local community; and for example the petitions of support were endorsed by over a hundred people. However, this NCIL round was over-subscribed with approximately £5.3 million of bids for the allocated £2.0 million available. With other projects prioritised by the criteria, the Barham Park bid was unsuccessful. There is some encouragement to apply for a future round, especially if the bid was led by a community group.

3.21 Lottery Heritage Fund: In recent years, approaches have been made to the National Lottery Heritage Fund for funding to renovate the exterior of the Barham Park building and to consider some of the features of the park. In

relation to the building, the view of the Lottery Heritage Fund has been that the Barham Park building and/or the park do not have sufficient remaining historical features relating to the development of the milk-processing industry to achieve the criteria for funding – or at least, not in relation to other needs nationwide. Officers have however re-started discussions with the Lottery Heritage Fund to investigate any new grant schemes.

- 3.22 The Public Sector Decarbonisation Scheme (PSDS): Brent Council received funding for the PSDS project to fund heat carbonisation and energy efficiency measures in Brent's building stock. The Barham Park buildings have been identified as a priority due to energy conservation needs. Approximately, and provisionally, £291k, subject to availability criteria, is available for a range of projects at the Barham Park building. Project management costs would be also be covered by the project. It is estimated that approximately £167k of this relates to works to improve the energy conservation of windows, doors, skylights and to the exterior fabric of the building. The balance of £124k would contribute to other energy conservation and decarbonisation initiatives. The appointed contractor is currently visiting all sites for completing the Investment Grade Proposals (IGP). The IGPs and agreement of works to be carried out need to be completed by early September and the completion deadline of the project is March 2022. Ideally this project could be allied with other funding to complete the works. If other funding is not available, an option could be to proceed with what can be achieved with the PSDS project, focusing on the highest priority windows. That would reduce the resources required to complete the remaining works.
- 3.23 Brent Council capital funding: The Council has powers to consider such an application, though within the context of other priorities. A business case for Council Capital Funding would first have to be submitted to the Public Realm Capital Board. This board is chaired by the Operational Director for Environmental Services and meets monthly. If this board approves the business case, the business case would then be submitted to the Council's Capital Programme Board, which meets monthly and is chaired by the Council's Chief Executive. Once this board has approved the business case, the board would then determine the next steps for progression e.g. anything over £500k would normally go to Cabinet via the Council Management Team for final sign-off.
- 3.24 Officers propose that members of the Trust Committee approve the use of its remaining uncommitted restricted funds in the sum of £258k, given the circumstances of the need for the Barham Park building to be renovated and to generate rental income for the Trust which is for the benefit of the charity and which will enable the charity to carry out its purposes more effectively. Otherwise, the building would deteriorate without such works being carried out and the risk of consequential loss of income for the Trust that could occur as a result which could seriously impede the Trust's ability to carry out its purposes effectively. As stated in the recommendations and legal implications sections of this report, the Trust would need to make a resolution for the remaining uncommitted restricted funds to be spent on part of the external renovations works and thereafter, the consent from the Charity Commission to spend such uncommitted restricted funds on part of the external renovations works would need to be obtained. The costs breakdown in respect of the outstanding external renovations works to the Barham Park building are set out in the next paragraph.

### 3.25 Summary of costs and options

The following costs have not been market tested and could be variable, but represent the information that is currently available.

<b>Cost</b>	<b>£'000</b>
Project Management and Design fees	23
Scaffolding	52
Windows and Roof lights	290
Brick Walling and Exterior Boundary	49
Roof and Doors	21
Other	26
General Contingency	92
<b>Total project costs</b>	<b>553</b>
<b>Funding options</b>	
De-carbonisation project (time limited to March 2022)	167
<b>Balance required</b>	<b>386</b>
Notes There could also be £124k available from the Decarbonisation project for other energy conservation improvements at Barham Park, separate from the windows and exterior work.	

### 4.0 Financial Implications

- 4.1 The total estimated costs of the works are £553k. These costs do not include VAT as the Council can recover the VAT costs where the Local Authority is acting as a sole trustee of a trust.
- 4.2 The Decarbonisation project has provisionally allocated approximately £167k of funding towards the improvement of glazing and the exterior fabric of the Barham Park building. However, this funding is conditional upon the remaining cost of the works being funded from other sources. This funding needs to be confirmed by early September 2021, as the decarbonisation funding is time-limited and projects need to be completed by the end of March 2022.
- 4.3 If Decarbonisation funding is utilised, the remaining funds required to complete these works is estimated at £386k.
- 4.4 Barham Park does not have sufficient cash funds to fund the entire costs of the renovation work. The utilisation of uncommitted £258k restricted funds would mean that further funding of £128k from other sources would be required to fund the costs of the works.
- 4.5 If all of the uncommitted restricted funds are utilised to fund this renovation work, there will be no further restricted funds available to fund any future capital works. Additionally, the unrestricted funds cash balance as at 31<sup>st</sup> March 2021 is £58k, so the Committee would need to consider as part of the future financial strategy of the Trust how future capital works would be funded.

- 4.6 An application can be made to the Council to fund some or all of the costs of the renovation. In the first instance, the Council's Capital Management Board would need to approve the funding of this expenditure.

## **5.0 Legal Implications**

- 5.1 Under section 282 of the Charities Act 2011, a charity may make a resolution to spend funds from a permanent endowment if the capital of the fund consists entirely of property given by a particular individual and the charity's gross income in its last financial year exceeded £1000 and the market value of the endowment fund exceeds £10,000. In such circumstances, a charity's Trustees (or Trust Committee in this instance) may resolve that part or all of the restricted funds arising from the permanent endowment ought to be freed from the restrictions with respect to expenditure of capital that apply. However, in order to do this, it is conditional the Trust Committee is satisfied that the purposes as set out in the Trust to which the endowment funds are subject could be carried out more effectively if the capital of the fund, or a relevant portion of the capital, could be expended as well as income accruing to it rather than just income. In this scenario, once such a resolution is passed by the Trust Committee, a copy of the said resolution must be sent to the Charity Commission together with a statement of reasons for passing it. Such a resolution must not be implemented except in accordance with sections 282 and 283 of the Charities Act 2011. The Charity Commission may direct the Trust to provide it with any additional information or explanation requirements regarding the Trust's application for permission and the circumstances it has applied under section 282 of the Charities Act 2011 and the obligations imposed on the Trust under that section.
- 5.2 Under section 283, the Charity Commission may direct the Trust to give public notice of the resolution in such a manner as specified in the resolution and if it does make such a direction, it must take into account any representations made to it by persons appearing to it to be interested in the charity within the period of 28 days beginning with the date when public notice of the resolution is given by the Trust.
- 5.3 When considering whether to concur with the proposed resolution under section 284(1) of the Charities Act 2011, the Charity Commission must take into account any evidence available to it as to the wishes of the donor (ie the terms of the Trust) and any changes in the circumstances relating to the charity since the making of the gift of land and building at Barham Park (including, in particular, its financial position, the needs of its beneficiaries, and the social, economic and legal environment in which it operates).
- 5.4 Under section 284(2) of the Charities Act 2011, the Charities Commission must not concur with such a resolution unless it is satisfied that its implementation would accord with the spirit of the Trust's purposes and that the Trust Committee has complied with the obligations imposed on them by sections 282 and 283 of the Charities Act 2011. The Charity Commission must notify the Trust in writing within 3 months of receipt of the application made under section 282 of the Charities Act 2011 or within 3 months of a direction to give public notice of the resolution. If the relevant three month deadline has lapsed without the Charity Commission notifying the Trust that it does not concur with the proposed resolution, the specified portion of the restricted funds can be expended in carrying out the purposes set out in the trusts to which the fund is

subject without regard to the restrictions on spending from the Trust's restricted funds.

5.5 The Charity Commission's guidance entitled "*Permanent endowment: rules for charities*", which was updated in December 2014, states that a charity should only consider spending its permanent endowment if the Trustees / Trust Committee agree that it is necessary to help the charity carry out its purposes more effectively.

5.6 The land (including the building) 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*".

## **6.0 Equality Implications**

6.1 The proposed projects mentioned in this report will be subject to a screening for equalities impacts and where the potential for adverse impacts is identified, a full equalities impact assessment will be carried out and any requisite mitigating action taken.


## **7.0 Consultation with Ward Members and Stakeholders**

7.1 Officers meet regularly with Ward Members.

## **8.0 Human Resources/Property Implications (if appropriate)**

8.1 Nothing specific other than noted in this report.

<p><b>CHRIS WHYTE</b> Operational Director of Environmental Services</p>
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 <b>Brent</b>	<b>Barham Park Trust Committee</b>  1 September 2021
	<b>Report from the Strategic Director of Regeneration &amp; Environment</b>
<b>GENERAL UPDATE REPORT</b>	

<b>Wards Affected:</b>	Sudbury
<b>Key or Non-Key Decision:</b>	Non-key
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>No. of Appendices:</b>	None
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	Chris Whyte, Operational Director, Environmental Services; Email: <a href="mailto:chris.whyte@brent.gov.uk">chris.whyte@brent.gov.uk</a> Tel: 020 8937 5342  Leslie Williams, Project Officer, Parks Service, Environmental Services, Regeneration and Environment. E-mail: <a href="mailto:Leslie.Williams@Brent.gov.uk">Leslie.Williams@Brent.gov.uk</a> Tel: 0208 937 5628

## 1.0 Purpose of the Report

1.1 To update Members on operational issues at Barham Park and on current progress on projects.

## 2.0 Recommendation(s)

### **That the Barham Park Trust Committee RESOLVES**

2.1 To note the issues set out in this report.

2.2 To delegate authority to the Operational Director for Environmental Services in consultation with the Chair of the Trust Committee to decide on how to proceed moving forward regarding the letting of Unit 7 of the Barham Park Building;

2.3 To note that an independent valuation is being undertaken in respect of Unit 8 of the Barham Park Building (Children's Centre) and thereafter, that officers will

make arrangements for a public notice to be provided regarding the proposed lease renewal of Unit 8 to the Council;

- 2.4 To delegate authority to the Operational Director for Environmental Services to consider responses and objections in relation to the public notice regarding the proposed renewal of the lease in respect of Unit 8 of the Barham Park Building and address such issues in an application to the Charity Commission to seek consent to enter into the lease with the Council;
- 2.5 To delegate authority to the Operational Director for Environmental Services to apply to the Charity Commission to seek their consent for the Trust to enter into a further five year lease with the Council in respect of Unit 8 of the Barham Park Building with consent to sublet the property to an organisation to continue the Children's Centre service on similar terms to the previous lease which was signed on 28 October 2016;
- 2.6 Subject to consent of the Charity Commission, to delegate authority to the Operational Director for Environmental Services to make arrangements for the Trust to enter into a five year lease with the Council in respect of Unit 8 of Barham Park Building at a market rental set by the independent valuer.
- 2.7 To delegate authority to the Operational Director for Environmental Services to enter into a lease renewal with the Barham Park Veterans Club (Wembley) in respect of Unit 2 of the Barham Park Building as set out in section 3.15 of this report.
- 2.8 To authorise the Operational Director for Environmental Services to enter into discussions with the owners of 776-778 Harrow Road to explore the possibilities of reaching agreement to amend the restricting covenants on that property for the benefit of the Trust.

### **3.0 Detail**

- 3.1 **Project Officer:** The Project Officer is within the Parks Service team within Regeneration & Environment. That is a remit covering also other parks in the Borough. The post includes a continuing role for Barham Park given the special situation of Barham Park being managed by the Barham Park Trust. This role is funded by the Council and is not funded by the Trust.
- 3.2 **Security:** There have been several incidences of damage to windows, of people climbing onto the flat-roof areas; and in one incident of a log being thrown at a barred window while a tenant was working inside that room.
- 3.3 **Public Space Protection Orders:** Public Space Protection Orders were introduced to Brent's parks and open spaces in September 2019 and implementation has been in progress.
- 3.4 **Rough sleepers:** Brent Council works with the charity St Mungo's and other partners to reduce rough sleeping and to help people sleeping rough to find accommodation and help appropriate to their needs. During the year St Mungo's were aware of one or more rough sleepers at Barham Park and were working with those clients. During the year, rough sleepers have been offered accommodation at night shelters. The rough sleeper who was using the porch area of Unit 8, has vacated that situation during recent months though at the

time of drafting this report, a rough sleeper has recently been located staying in that same area. The position has been reported to StreetLink; and to St Mungos, a homeless charity which has in the past assisted such individuals. Any update will be brought to the attention of the Trust Committee at the 1<sup>st</sup> September 2021 meeting.

### **Operational works**

- 3.5 Works: Operational grounds maintenance at Barham Park continue to be undertaken by the contractor, Veolia.
- 3.6 Grass and meadows: The meadow area mix of seeded areas within longer grass continues to work well. The maturing grassland seeded in previous years was complemented by additional areas of Poppies and other plants in 2020/21. Grassland butterfly species have now established populations in the grassland and while Bush Crickets provide a sensation of sound. The meadow grasslands will be cut in September.
- 3.7 Barham Park building – Operational. The Property team continued to work on Maintenance. During the year the Property team organised repairs for units including the Veterans Club and the Friends of Barham Library. This expenditure was from the Trust's unrestricted funds and is included in the accounts for the year 2020/21.
- 3.8 Fire security system. Property Services brief the tenant representatives on the operation of the fire-security system for Barham Park. Tenant organisations can re-brief their own members as required.
- 3.9 Barham Park building Unit 7 - The Mess Room & The Store Room (The Rooms): Negotiations with the lead tender applicant, the Friends of Barham Library (FOBL) and their proposed partner organisation the Memory Lounge for a Dementia Centre at Unit 7. FOBL suggest that the Memory Lounge would be the main occupiers and this could be considered to be sub-letting as it suggests a degree of permanence as opposed to a day to day hiring with other organisations. The tender marketing particulars were clear that a sub-lease would not be considered. FOBL have indicated the Memory Lounge are not a standalone body and on this basis the FoBL have made a successful NCIL application that would allow considerable investment in The Rooms to take place and on refurbishment their beneficial use under a lease would provide for an additional rental stream to The Trust.
- 3.10 The provisionally accepted tenant of Unit 7 and the Memory Lounge project have envisaged that the use of the currently vacant Unit 7 is considered to be a partnership between the provisionally accepted tenant of Unit 7 (Friends of Barham Library) and the Memory Lounge project. The alternatives are to agree that the occupation by the Memory Lounge is deemed to be a sub-tenancy; or that the Trust is not minded to create a sub-tenancy or a sub-lease. Officers would welcome the views of members of the Trust Committee on the way forward regarding the letting of Unit 7.
- 3.11 The Committee is invited to agree the proposal to renew the lease of the Children Centre for Unit 8 of the Barham Park Building. Officers are obtaining an independent valuation to assess the market rental. Thereafter, a public notice will be provided to enable the public to submit responses regarding the

proposal to renew the lease in respect of Unit 8 to the Council. Thereafter, after consideration of the responses and any objections in respect of the public notice, it is proposed that officers apply to the Charity Commission to seek their permission to enter into the lease with the Council in respect of Unit 8 and in the application, to address the issues raised in the responses and objections in respect of the public notice.

- 3.12 The lease in respect of Unit 8 of the Barham Park Building (the Children's Centre) expires on 27 October 2021 and a decision will need to be made whether to renew the lease for a further five years and if so, to seek the permission of the Charity Commission to enter into the lease. If this is the case, an independent valuation will be required to assess the market rental that will be applicable for the lease. An independent valuation needs to be carried out and thereafter, the consent of the Charity Commission will need to be sought before the Trust can enter into a further lease with the Council in respect of Unit 8 of the Barham Park building. This is because the Council is considered to be a "connected person" to the Trust as it is the sole corporate trustee of the Trust and the Charities Act 2011 requires that the permission of the Charity Commission is obtained before a charity can dispose of land to a connected person.
- 3.13 At its meeting of 1 September 2020, the Trust Committee agreed to the proposal regarding the underletting of Unit 8 of the Barham Park Building (The Children's Centre) by Brent Council's Children and Young People Service to a voluntary sector provider, namely the Young Brent Foundation (YBF), on the same rental terms pursuant to the lease in respect of Unit 8 between the Barham Park Trust and Brent Council and subject to the satisfactory clearance of financial checks. These have proved satisfactory and Legal Services are instructed to complete the sub-lease transaction. The YBF would continue to facilitate the Children's Centre services at the location. There is no change to the conditions of the lease between the Trust and Brent Council nor to the annual rent, which Young Brent Foundation will reimburse to the Council's Children and Young People Service. The lease to Brent Council in respect of Unit 8 will continue until the 27<sup>th</sup> October 2021 when the current five-year lease expires.
- 3.14 Property Services wrote to the individual Barham Park leaseholders early in 2021 inviting application where required for rents to be deferred should individual leaseholders have had financial issues during the lockdown period. There have been no applications thus far. However, ACAVA claim not to have received the letter and a separate form has been forwarded for their consideration. The Trust should note that ACAVA are in rent arrears and a negotiated solution needs to be worked through with them which would be in the benefit of the Trust in order for the arrears to be recovered.
- 3.15 Barham Park Building, Unit 2 - The Barham Park Veterans Club (Wembley): The lease on the Veterans Unit expires on 6<sup>th</sup> September 2021. Negotiations with the Veterans suggest they would want to renew the lease for a further 4 years. The passing rent is £3,000 per annum. The Trust is recommended to approve a modest increase in rent as the Barham Park Veterans Club is charitable organisation that serves the community with elderly members that has no income other than fee derived from the approximate 60 or so members.
- 3.16 776 -778 Harrow Road consist of two cottages within Barham Park that were subject to a freehold sale some years ago. The restrictive covenant in the sale

required that the site be retained as two residential units. Planning applications have been received in the past and more recently to re-develop the site with multiple residential units namely a block of flats. This was subsequently withdrawn. The Trust is reminded of the restrictive covenant should a similar application be received again and it may be prudent for the Trust to provide a steer as to how such re-development proposals, which include seeking to amend the terms of the restrictive covenant, should be considered in the future as the site appears to be attracting the interest of developers. As set out in the recommendation in paragraph 2.8 of this report, if members of the Trust Committee are minded to explore the possibilities of amending the current restrictive covenants for the financial benefit of the Trust in discussions with the owners of 776-778 Harrow Road, there is the option to delegate authority to the Operational Director for Environmental Services to enter into such discussions. The Trust Committee would have to make a decision or delegate a decision to officers in future as to whether to amend the restrictive covenant in respect of 776-778 Harrow Road and on what terms and for an application to be submitted to the Upper Tribunal (Lands Chamber) to amend and modify the terms of the said restrictive covenant.

### **Works – restricted funding**

- 3.17 The Barham Park Trust Committee previously agreed and sought the consent of the Charity Commission to spend some of the capital comprising the permanent endowment of the Trust’s restricted funds under section 282 of the Charities Act 2011. The Charity Commission gave its concurrence for the Trust to use its restricted funds in respect of £167,000 on 24/01/2019 following the decision of the Trust Committee on 14 January 2019 and subsequently in respect of an additional sum of £10,000 on 17/09/2019 towards the events field drainage survey and design following the decision of the Trust Committee on 3 September 2019.
- 3.18 The table below sets out the agreed expenditure and the expenditure to date from the Trust’s restricted funds, with a summary of progress in the paragraphs that follow. The cumulative expenditure column is of committed purchase orders, and though the financial figures are similar to those of 2019/2020, some of the works had recommenced in 2020/21 following delays during the Covid-19 pandemic and lockdown restrictions.

<b>Item of expenditure</b>	<b>Expenditure in GBP (£) approved by Trust Committee and Charity Commission</b>	<b>Cumulative expenditure to date to 04/08/2021</b>
Barham Park Tree Works	62,000	43,130
Schedule of works in respect of all of the existing windows, doors, frames and similar structures of the Barham Park building	10,000	9,713
Events Field Drainage Survey and Design	15,000	10,370
Events Field Drainage Works	90,000	
<b>Total</b>	<b>177,000</b>	<b>63,213</b>

- 3.19 Tree works: The main tree surgery works recommenced in 2020 following lockdown restrictions and have now completed. There may be some follow-up works required. Note that amongst this work that several trees that were growing immediately adjacent to the Barham Park building have been removed. The Mulberry tree to the east of the building has been braced at height.
- 3.20 Windows: A separate report in the Agenda updates the Committee on options for the financing for the exterior renovation of the Barham Park building. The Planning Application documents including drawings and Planning Permission are available on Brent Council's Planning website pages for the application reference 19/3769:
- [https://pa.brent.gov.uk/online-applications/applicationDetails.do?keyVal=DCAPR\\_147523&activeTab=summary](https://pa.brent.gov.uk/online-applications/applicationDetails.do?keyVal=DCAPR_147523&activeTab=summary)
- 3.21 Events Field drainage: The Barham Park Events Field, on the west (Sudbury Town) side of the park provides space for informal recreation and hosts, typically two visiting fairs each year (though none during 2020 due to the pandemic). Poor drainage can cause problems for the fair in years when there is heavy rainfall in either or both of the spring or the summer. The fair is a significant source of rental income to the Trust. In winter, the Events Field can be water-logged making it un-useable for informal recreation, while also affecting access on sections of the footpath to the west side. A revised package of documents is with Brent Council's Procurement team for a competitive tendering exercise.
- 3.22 A leak was identified in the early autumn of 2020 with the public surface water system (Thames Water) that takes water from the Sudbury Town area. This flows under the railway embankment to then continue to serve communities towards North Wembley. The design of the insert replacement was technically challenging. Work by Thames Water and their contractors continued to April / May 2021.
- 3.23 During the year two water leaks of clean / mains water within Barham Park's own system were repaired.
- 3.24 Events field effluent: While the Funfair was onsite during June and July 2021, a foul effluent was noticed from approximately the centre of the Events Field. There are no known public / Thames Water, nor Council / Trust foul water systems in the vicinity. Thames Water were however contacted, but have not reported a leak. An accidental or other discharge into a surface water system is a possibility and officers are keeping an open mind as to the possible source.

### **Works – other funding**

- 3.25 Oak tree replacement at west side of Barham Park: At the September 2019 meeting of the Barham Park Trust, the Committee resolved to replace an Oak tree that had had to be felled at the west (Sudbury Town) side of Barham Park. The original Oak tree was the one of a pair of prominent, former hedgerow Oak trees, that had had to be felled due to reasons of safety. Tests had indicated that the second tree could be retained. Though the planting of the tree was delayed due to the pandemic, the replacement Oak tree was planted in

2020/21. A number of disease-resistant Elm trees were also planted, on the curve of Barham Park facing Sudbury roundabout.

- 3.26 Queen Elizabeth II Silver Jubilee Garden. Following technical changes to the design and a procurement exercise, a contractor was appointed and works commenced on site in June 2021. The garden is situated in the open courtyard to the west of the Barham Park building. The current work is for the hard landscaping; while the soft landscaping will commence in the autumn of 2021. This was funded with a Neighbourhood Community Infrastructure Levy grant.
- 3.27 Barham Park Walled Garden Pond: Works commenced to clear debris from the northern of the two ponds of the Walled Garden in the autumn of 2020. After removal of the material, occupying the large majority of the volume of the pond, it was found that the concrete liner appears to be in reasonably good condition. Minor concrete repairs were conducted though it may not require a full sealing. The inlet drainage channel was also cleared to restore that feature. Completion for that pond is due in the late summer of 2021. The southern of the pair of two ponds will be cleared of debris at the same time. The shallow pond, to the north of the Walled Garden will also be cleared of debris. This was funded with a Neighbourhood Community Infrastructure Levy grant.
- 3.28 Trees and open woodland: Barham Park has received funding from a 2020 round of the Neighbourhood Community Infrastructure Levy for the planting of replacement and other trees in Barham Park and for the planting of woodland ground flora in some areas of open woodland and on hedges. These works will be programmed for the autumn and winter of 2021/22.

### **Rental in respect of the Barham Park building**

- 3.29 Officers recognise the impact the Covid-19 pandemic may have had on the tenants' ability to pay their rent. In December 2020, a formal application process was implemented which enabled the Trust's tenants in respect of the Barham Park Building to request a full or partial rent deferral or rent negotiation through an online form following the decision of the Trust Committee on 1 September 2020. Support was available for tenants experiencing temporary illiquidity which was a direct consequence of the pandemic. Officers on behalf of the Trust wrote to all tenants to explain the process and provided the link to the online application form. Members of the Trust Committee are advised that no applications have been received from the tenants in arrears at the time of preparing this report. Unpaid rent has continued to accrue since the start of the pandemic and may in the long run compromise the Trust's ability to pay its bills as they fall due if the rent is not collected. Where tenants have arrears and do not engage in the process for applications for rent deferrals, or do not conform to the agreement made as part of that process, the Trust may use legal powers that are available to commercial landlords to recover rent arrears in the future after the current moratorium on commercial landlord action for rent arrears expires on 25 March 2022. Enforcement action may include:
- i. Commercial rent arrears recovery, where allowed by statute (for example, where the Trust is owed 554 days of accrued outstanding unpaid rent or more rent);
  - ii. Adding interest where tenants have not agreed rent deferrals with the Trust;

iii. Possibility of forfeiture of the lease(s) after the expiry of the above-mentioned moratorium.

3.30 If rent arrears continue to accrue, the Trust will not be able to afford to carry out the necessary building works and it also risks losing access to the sum of £167k worth of Public Sector Decarbonisation funding. This is a one-off opportunity and if this opportunity is lost, the future of the maintenance of the whole building is in question. On the other hand, if the renovation works to the exterior of the Barham Park building can be carried out, then existing tenants will also benefit from the refurbishment. Officers therefore propose to take all necessary action as outlined above to recover rent arrears where agreements to abate or defer the level of rent have not been reached.

## **Events**

3.31 Though neither of the usual FunFairs were held during 2020 due to the pandemic, one was held in June/July of 2021 and a second may possibly be held between 29<sup>th</sup> August to 19<sup>th</sup> September 2021. Events organised by tenant activities were curtailed by the pandemic. A socially-distanced Barham Park Art Festival, part of the London Borough of Culture programme was held on 3-4<sup>th</sup> October 2020. This involved tenants ACAVA and the Barham Community Library; and also ActionSpace. Part of the event was outdoors, and the indoor activities also with social distancing.

## **4.0 Financial Implications**

4.1 The market rent of Unit 7 is valued at £2k-£3k per annum with no rental income currently being received for that unit as no lease is in place.

4.2 The proposal is for is a lease renewal of Unit 8 at market rent, as will be confirmed by an independent valuation. The current rental income from Unit 8 is £11,300 per annum.

4.3 The proposal is for a lease renewal of Unit 2 at a negotiated increase in rent on the £3,000 per annum passing rent.

4.4 Other financial implications are set out in the main body of the report.

## **5.0 Legal Implications**

5.1 The land (including the building) 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*".

5.2 The lease between the Barham Park Trust and Brent Council in respect of Unit 8 of the Barham Park Building is due to expire on 27 October 2021 with the Council having rights of renewal under the Landlord & Tenant Act 1954, though such a renewal will require the permission of the Charity Commission. Before submitting an application to the Charity Commission, a public notice of the proposed renewal of the lease must be made in a local newspaper and on site giving at least one calendar month for representations to be made in response. Those representations will need to be considered and addressed in the

application to the Charity Commission for consent for the Trust to enter into the renewed lease arrangements with the Council. Under the lease in respect of Unit 8, underletting requires the permission of the Barham Park Trust and such permission must not be unreasonably withheld. Under the lease in respect of Unit 8, underletting requires the permission of the Barham Park Trust and such permission must not be unreasonably withheld. Under the lease, the authorised use of Unit 8 is as a Children's Centre within Class D1 of the Town and Country Planning (Use Classes) Order 2005 with such other uses to be subject to the written consent of the Barham Park Trust.

- 5.3 A disposal or letting of Trust land to another charity for similar charitable purposes is not subject to the procedural requirements in the Charities Act 2011 (applicable to a disposal to any other third party or a connected person like the Council)
- 5.4 The statutory requirements relating to any other disposal or letting of land are summarised as follows :
- 5.4.1 any disposal or letting of Trust land for more than 7 years to a third party (who is not a charity with similar purposes) can only be authorized by the trustees after considering a written report prepared by a qualified surveyor as to the marketing and the valuation of the land on the basis that the terms proposed for the disposal are the best that can be reasonably obtained;
- 5.4.2 any disposal or letting of Trust land for 7 years or less to a third party (who is not a charity with similar purposes) can be authorized by the Trustees after considering the advice of a suitably qualified person;
- 5.4.3 any disposal of recreational charity land or letting for more than two years to a third party or a connected person (who is not a charity with similar purposes) must be notified in the local press and on site and provide at least one calendar month for people to make representations;
- 5.4.4 any disposal of Trust land or letting to the Council or any other connected person is subject to:  
(1) requirements as set out in paragraphs 5.4.1, 5.4.2 and 5.4.3 above depending on the terms of the disposal  
(2) and the written consent of the Charity Commission  
but the Charity Commission may at its discretion specify that the charity obtain a written report prepared by a qualified surveyor independent from the charity as to the marketing and the valuation of the land.5.4.5 The disposal or letting of Trust land for less than best price to another charity whose objects come within those of the disposing charity and where the disposing charity has power to dispose of land to another charity is not subject to the procedural requirements in the Charities Act 2011 regarding the disposal of charity land, pursuant to section 117(3) of the Charities Act 2011.
- 5.5 The current restrictive covenants that are in place regarding the use of 776-778 Harrow Road are as follows:
- Not to use the Property otherwise than as a single dwelling house and the garage for any purpose other than as an ancillary private garage.
  - Not to divide the Property into two or more dwellings or residential units;
  - Not to erect or cause to be erected on the Property any building or structure whatsoever except a greenhouse or shed of not greater length

- than 4 metres and of not greater height than 3 metres or permit or suffer any person under the Transferor's control to do so;
- Not to carry out any development within the meaning of section 55 of the Town and Country Planning Act 1990 in or upon the Property.

5.6 Applications to modify the restrictive covenant would have to be submitted to the Upper Tribunal (Lands Chamber) pursuant to section 84 of the Law of Property Act 1925. The Registrar of the Upper Tribunal (Lands Chamber) will usually give directions upon receipt of an application to modify a restrictive covenant as to how notice of the application should be provided and published. There will be a process for persons to make objections before a decision is made on whether to approve an application to modify a restrictive covenant. Only those persons with a legal right to the benefit of the restrictions are entitled to object to an application to modify a restrictive covenant. The decision on whether to approve an application to modify a restrictive covenant will rest with the Upper Tribunal (Lands Chamber).

5.7 Applications in respect of planning permission will be a matter for either the Council's Planning Department or the Council's Planning Committee to decide in the exercise of the Council's non-executive functions and that will not be a matter for the Trust to make a decision.

5.8 There is an existing moratorium on the forfeiture (whether by court proceedings or peaceable re-entry) of the vast majority of commercial landlord leases, including for non payment of rent and sums due under the lease, pursuant to section 82 of the Coronavirus Act 2020 and this is currently due to expire on 25 March 2022. As for Commercial Rent Arrears Recovery (CRAC), The Taking Control of Goods and Certification of Enforcement Agents (Amendment) (Coronavirus) Regulations 2020 currently prevent commercial landlords from using the CRAC procedure unless an amount of at least 554 days' rent is due. This restriction is currently due to expire on 25 March 2022.

## **6.0 Equality Implications**

6.1 The proposed projects mentioned in this report will be subject to a screening for equalities impacts and where the potential for adverse impacts is identified, a full equalities impact assessment will be carried out and any requisite mitigating action taken.

## **7.0 Consultation with Ward Members and Stakeholders**

7.1 Officers meet regularly with Ward Members.

## **8.0 Human Resources/Property Implications (if appropriate)**

8.1 Nothing specific other than noted in this report.

<p><b>CHRIS WHYTE</b> Operational Director of Environmental Services</p>
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