



Barham Park Trust Committee

1 September 2021

Report from the Strategic Director of Regeneration & Environment

Options for funding the exterior renovation of the Barham Park building

Wards Affected:	Sudbury
Key or Non-Key Decision:	Non-key
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
No. of Appendices:	None
Background Papers:	None
Contact Officer(s): (Name, Title, Contact Details)	Chris Whyte, Operational Director, Environmental Services; Email: chris.whyte@brent.gov.uk Tel: 020 8937 5342 Leslie Williams, Project Officer, Parks Service, Environmental Services, Regeneration and Environment. E-mail: Leslie.Williams@Brent.gov.uk 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 20th 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
- 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.

Cost	£'000
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
Total project costs	553
Funding options	
De-carbonisation project (time limited to March 2022)	167
Balance required	386
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 31st 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.

CHRIS WHYTE

Operational Director of
Environmental Services