



Executive
16 December 2009

**Report from the Director of
Environment and Culture**

Wards Affected:
Sudbury

Disposal of properties at 776 and 778 Harrow Road

Forward Plan Ref: E&C-09/10-15

1.0 Summary

- 1.1 Barham Park is managed under a charitable trust of which the Council is the Trustee. This report details how two properties located on the western edge of the park are surplus to Parks Service need and how capital secured from the sale of the two properties could be used to improve infrastructure and facilities within the park.

2.0 Recommendations

- 2.1 Subject to consent from the Charities Commission and to paragraph 2.3 below, Members agree to the disposal of 776 and 778 Harrow Road to the Notting Hill Housing Trust and for the capital receipt to be used for improvements within Barham Park.
- 2.2 Members instruct officers to advertise the proposed disposal, as set out in paragraph 3.13 below, and for the Director of Environment and Culture to decide on the matter, unless in his opinion significant objection are received, in which case the matter will be reported back to the Executive.
- 2.3 Members instruct officers to develop an application for grant funding to the Heritage Lottery Fund, using the capital receipt from the disposal of the properties as match funding.

3.0 Detail

- 3.1 Barham Park consists of the site and grounds of the former Barham Park estate and Mansion and is one of three district parks in Brent. In 1936 George Titus Barham conveyed the estate to the then Wembley Urban District Council on his death and the death of his wife. The legal estate in the property passed to what had by then become the Borough of Wembley in 1938. The conveyance requires that the estate is held in trust 'to preserve the same for the recreation of the public in such a manner and subject to such regulations in all respects as the Council may from time to time think proper'.
- 3.2 Barham Park is registered with the Charities Commission and, as such, officers from the Parks Service provide annual accounts to the Commission. The Council (as a corporate body) is the Trustee rather than individual Members and needs to make decisions with respect to the park in the role of Trustee. To ensure Members receive clear advice and guidance in this respect an officer group has been set up (Barham Park Trust Management Team). The officer group consists of the Assistant Director (Culture), The Deputy Director of Finance and Corporate Resources and the Head of Property and Asset Management. The purpose of this approach is to ensure there is a transparency of decision making in the governance of the trust land in the interest of the public as beneficiaries and to ensure there is no conflict of interest between the council acting as trustees and the council acting in its corporate and statutory function. Decisions on the disposal of land held under the charity fall to the Executive.
- 3.3 Barham Park is a popular park (the annual parks household survey shows it is the 3rd most visited park in Brent) and it is used for events throughout the year, including the annual Brent Diwali celebrations. Whilst it retains some of its original formal Victorian character (some features within the park are listed) and obtained 'green flag' status this year, it is in need of investment to bring it up to the same standard as the Borough's other two district parks. To retain green flag status in future years the Council will need to be able to demonstrate a commitment to a long-term plan of infra-structure improvements. Whilst in recent years the Parks Service have been able to secure some small pots of external funding to improve the Park (eg a £10K grant from Natural England in 2008 to improve landscaping and wildlife facilities) the level of infrastructure improvement needed requires a significant amount of capital funding.
- 3.4 The works required to improve Barham Park can be divided into two categories; essential and desired. The essential works are those that are considered as basic works to improve the general infrastructure and ensure the Park can retain its Green Flag status in future years (e.g replacing damaged pathways and improving entrances). These works are estimated at £350K. Desired works are those that improve the general standard of the park and are normally items at the top of the list of community requests (improved lighting and toilet facilities, café provision, etc). These are also the types of facility we would expect to see in a district park. At Barham Park these works are estimated at £950K. This gives an overall total of £1.3M to bring Barham Park to a similar standard to our other Green Flag district parks.
- 3.5 Barham Park would be eligible for a Heritage Lottery Fund (HLF) grant in relation to those elements of the park that are of heritage merit. Initial discussions with the HLF regarding Barham Park have indicated that in order to be successful an application would need to demonstrate a wide range of community benefits and should be an

innovative and exciting improvement scheme and not simply an application for funding to renovate the park. A minimum of 25% match funding would need to be provided by the Council; however the higher the proportion of match funding provided the better the value for money to the lottery fund and the greater the chances of success. Consequently, it is more likely that we would be required to provide 50% match funding. It is difficult to be exact about the level of match funding as the HLF assessment criteria can vary over time and elements of a project can become eligible or non-eligible as the process progresses.

- 3.6 'Competition' for HLF capital grants is very strong. However, the Heritage Lottery Fund have identified Brent as an area which has not received its 'fair share' of HLF funding. The Parks Service have also previously secured and implemented a large HLF grant for Gladstone Park so can demonstrate a successful track record of being able to deliver on this type of project. It is therefore likely that we could be successful in securing an HLF grant for Barham Park.
- 3.7 776 and 778 Harrow Road are both three-bedroom houses (semi-detached) situated on the western border of Barham Park. They were originally used as housing for staff working the park but have not been used for this purpose for a number of years. They are currently being used for temporary housing and as a temporary Children's Centre. As the properties form part of land held under a charity, then, in its role as trustee, the Council has to be satisfied that the disposal is in the best interests of the charity. In considering this issue, the benefits of the disposal to the purchaser or to the Council's wider objectives in its corporate role, must be ignored.
- 3.8 In this case, the Barham Park Trust Management Team has considered the issues at a recent meeting and concluded that a disposal of the two residential units is in the best interests of the charity since as explained above:
- 1) It will produce a receipt which can be used to improve the park
 - 2) It will not involve the loss of park land as the area is currently occupied by two houses.
 - 3) Demolition of the existing buildings and reinstatement of this area of land back to park land would not result in any significant increase in the overall quality of Barham Park.
- 3.9 As well as this general duty, there are specific requirements which have to be complied with under Section 36 of the Charities Act 1993, before any disposal can be undertaken. These are to obtain a written report from a qualified surveyor and to advertise the disposal (unless the surveyor advises that it is not necessary to market the property) and to be satisfied that the proposed terms are the best that can reasonably be obtained in the circumstances. If these requirements cannot be complied with then Charity Commission consent for the disposal will be required.
- 3.10 An independent valuation report has been obtained from the Valuation Agency. This has placed the open market value of the two properties at £630,000. This information has been conveyed to Notting Hill Housing Trust, the RSL partner involved in the proposed redevelopment of the nearby Barham Park Estate. NHHT has subsequently confirmed they are willing to purchase this site at the full open market value subject to obtaining planning permission for a small flatted affordable housing residential development to be used as decant units for Barham Park Estate. The Valuation Agency have also confirmed that since NHHT are offering full market value for the properties, it is not necessary to undertake a marketing exercise. Accordingly, the Head of Property & Asset Management is satisfied that this proposed disposal would represent the best price reasonably obtainable in the market. Officers therefore consider that the Executive can be satisfied that the proposed terms are the best than can reasonably be obtained in the circumstances of the disposal.

- 3.11 However, the land in question forms part of the charity's "permanent endowment". Under Section 75 of the Charities Act 1993, specific consent is required to dispose of any land forming part of a charity's "permanent endowment" and Charity Commission consent will also be required on this ground. The Executive is therefore asked to approve the disposal subject to Charity Commission consent. As these properties are situated within Barham Park they form part of the estate and so, under charity rules, any capital gained from their disposal would have to be used to further benefit the recreational enjoyment of the park by the public. Members are therefore recommended to, in their role as Trustees, dispose of the two properties and use the capital receipt towards the match funding for a Lottery application. If a HLF application were not successful, the capital receipt would still need to be ring-fenced for improvements within Barham Park.
- 3.12 There is also a separate issue to be considered by virtue of Section 123 of the Local Government Act 1972. This requires that any disposal of the freehold of any land owned by the Council must be at the best consideration reasonably obtainable, unless consent from the Secretary of State for the disposal is obtained. In assessing whether best consideration has been obtained, all possible planning uses need to be considered. However in this case, the view of the Planning Service is that the only other possible use (apart from retention as park land) would be use for a small housing scheme. Accordingly the land has been valued on this basis either as a sale as existing or as a residential development. A residual valuation has suggested that a sale as a residential development site would produce a lower value than an outright sale as existing therefore the Head of Property & Asset Management is satisfied that this proposed disposal, at the figure independently provided by the Valuation Agency is sufficient to satisfy the requirement to obtain best consideration on any disposal. Officers therefore consider that the requirements of Section 123 are fulfilled in this case.
- 3.13 Finally, since the land in question forms part of the Park, then notwithstanding the fact that the two houses that have been constructed on it, Officers view is that it should be treated as public open space. Accordingly, assuming that the Executive approve the proposed disposal to NHHT, then the intention to dispose of the land to them will need to be advertised in a local newspaper for two weeks and any objections which are made will need to be considered. Accordingly, members are asked to instruct Officers to carry out this procedure and for the Director of Environment and Culture to decide on the matter, unless in his opinion significant objections are received , in which case the matter will be reported back to the Executive.

4.0 Financial Implications

- 4.1 As outlined in paragraph 3.4 the estimated total capital cost of improvements to Barham Park is £1.3M. It may be possible to secure approximately 50% of the costs from the Heritage Lottery Fund. It is proposed that the £630K capital receipt from the sale of the two properties is used as match funding for a lottery application. If such application is unsuccessful, then as explained above, the receipt will in any event be used to fund improvements to the Park.
- 4.2 Officers will work with the Planning Service to identify any Section 106 funding that could be used for this scheme.

5.0 Legal Implications

5.1 Legal implications are set out in the main body of the report.

6.0 Diversity Implications

6.1 None specific

7.0 Staffing/Accommodation Implications

7.1 None

Background Papers

None

Contact Officers

Any person wishing to inspect the above papers should contact Sue Harper,
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