

MINUTES OF THE RESOURCES AND PUBLIC REALM SCRUTINY COMMITTEE
Held in the Conference Hall, Brent Civic Centre on Thursday 3 April 2025 at 6.00 pm

PRESENT: Councillor Kennelly (Vice-Chair in the Chair) and Councillors S Butt, Dixon, Long, Lorber, Maurice, Mitchell, and Molloy.

Also Present: Councillor Muhammed Butt (Chair of the Barham Park Trust Committee)

1. Apologies for absence and clarification of alternate members

Apologies for absence were received from Councillors Conneely (Chair), Ahmadi-Moghaddam and Shah.

2. Declarations of interests

Councillor S Butt declared a personal interest in respect of Agenda Item 3: Call-In: Barham Park Trust Committee Decision - Operational Property matters and restricted covenants at 776-778 Harrow Road as a member of the Planning Committee at the time planning application 22/4128 was considered and the decision which formed part of the basis of the call-in to be considered under Item 3 was subsequently made. In addition, he advised that he was currently the Vice Chair of the Planning Committee.

Similarly, Councillor Dixon declared a personal interest in respect of Agenda Item 3: Call-In: Barham Park Trust Committee Decision - Operational Property matters and restricted covenants at 776-778 Harrow Road as a member of the Planning Committee at the time planning application 22/4128 was considered and decision upon.

Councillor Maurice declared a personal interest in respect of Agenda Item 3: Call-In: Barham Park Trust Committee Decision - Operational Property matters and restricted covenants at 776-778 Harrow Road as a member of the Planning Committee at the time planning application 22/4128 was considered and the decision was made. In addition, he advised that he was one of the Councillors who had signed the call-in request.

Councillor Lorber declared an interest in respect of Agenda Item 3: Call-In: Barham Park Trust Committee Decision - Operational Property matters and restricted covenants at 776-778 Harrow Road as a Trustee of the Friends of Barham Library. In addition, he advised he was also a Trustee of the Friends of Barham Park. Furthermore, he disclosed that he had been approached on different occasions by the owner of the site at 776-778 Harrow Road.

At this stage of the proceedings, legal advice was offered to members who had participated in the Planning Committee during the consideration and subsequent decision on planning application 22/4128 relating to 776 & 778 Harrow Road, which the Trust Committee decision on modification of the restrictive covenant that was not subject call-in directly related to. Marsha Henry (Director of Law) referenced the seven principles of conduct in public life, specifically highlighting issues of objectivity and integrity which pertained to the way in which the average person might perceive the deliberation of the decision and whether members could arrive at a decision objectively. While there were differences in the matters being deliberated, it was

advised that, in terms of perception, it would be prudent for members who had been involved in the consideration of the relevant planning application to withdraw from discussions on the restrictive covenant issues. Consequently, due to their declared interests as members of the Planning Committee who had participated in the decision on the planning application relating to the site and in line with legal advice, Councillors S Butt, Dixon, and Maurice withdrew from the meeting during the consideration of matters related to the restricted covenants at 776-778 Harrow Road.

Members were advised that Councillor Lorber had been provided with advice in advance of the meeting which was reiterated by Marsha Henry (Director of Law), that he should consider whether he had a disclosable interest, although it was ultimately a matter for him to decide. Councillor Lorber advised that as he had not been a member of the Planning Committee he felt able to consider the call-in matters impartially and without any form of pretermination as he was representing local views. He therefore remained in the meeting and, having presented the call-in, continued in his role as a member of the committee. It was noted that, should any complaint arise as a result that would be subject to separate investigation under the Member Code of Conduct.

No other interests were declared at the meeting.

3. Call-In: Barham Park Trust Committee Decision - Operational Property matters and restricted covenants at 776-778 Harrow Road

In opening the item, the Chair advised that the meeting had been arranged, in accordance with Standing Order 14, to consider a call-in submitted by five members of the Council in relation to decisions made by the Barham Park Trust Committee on Monday 24 February 2025 regarding the following item:

- (a) Operational Property Matters relating to Barham Park and 778 Harrow Road Restrictive Covenant(s) Update

Given the nature of the issues raised under the call-in the Chair advised that he would separate consideration of the call-in into two distinct sections. The first would cover the wider property related issues arising from the Barham Park Trust decisions relating to the increase in allocated funding for Year 1 works to the estate utilising restricted funds and finalisation of the lease arrangements for Unit 6 within the Barham Park building with ACAVA. The second element would cover the decisions relating to modification of the restrictive covenants at 776 and 778 Harrow Road which would be undertaken once those members of the Committee who had declared an interest had withdrawn from the meeting.

In considering the call-in, the Chair reminded the Committee that the line of questioning must remain specifically within the remit of the call-in and that issues raised on anything wider would not be valid and ruled out for consideration.

Having clarified the basis of the call-in, the Chair then proceeded to invite Councillor Lorber to outline the reasons for the call-in as representative of the members who had supported its submission.

In presenting the call-in, Councillor Lorber highlighted the following key issues as the basis for which the decision had been called-in:

- In representing the members who had called in the decision, Councillor Lorber began by outlining a number of concerns regarding the conduct of the Barham Park Trust and the administration of the charity's affairs and highlighted the strength of feeling locally in opposition to the proposed modification of the restrictive covenant impacting on 776 & 778 Harrow Road, as demonstrated by a petition with over 700 signatories calling on the Council to protect Barham Park and not lift the covenant.
- Councillor Lorber expressed his dissatisfaction at being denied the opportunity to speak at the last meeting of the Trust by the Chair of the Barham Park Trust Committee and importance of adhering to guidance provided to Councils when acting as trustees of charities. It was emphasised that councillors were expected to be embedded within the local community and to understand the community's sentiments. However, it was felt the repeated refusal of councillors serving on the Trust Committee to listen to community members and their representatives indicated a fundamental flaw in the process and governance arrangements for the Trust.

As a result, it was felt that the relevant Charity Commission guidance should be reviewed, particularly in situations where there was a significant conflict of interest and support was expressed for the appointment of an independent trustee on the Trust Committee to help avoid such issues with it felt the Council having a direct interest in respect of the modifications being sought to the restrictive covenant designed to protect local interests following approval of the associated planning application. It was felt that this constituted a direct conflict of interest that the councillors serving on the Trust could not manage independently.

- It was explained that the covenant was established to protect the public, and the owner of the site had been aware of the restrictions when acquiring the properties. The covenants explicitly prohibited the addition of car parking spaces and other structures on the land. It was noted that the planning permission approved in June 2023 designated the site as a car-free development, however, the report to the Trust and the valuation referenced car parking spaces and the lifting of other restrictions, which it was felt contradicted the planning permission.
- The accuracy of the valuation relating to modification of the covenant and deed permitting the proposed development at 776 & 778 Harrow Road was also questioned, given the difference in the original position presented to the Trust Committee in September 2023. It was questioned whether the trustees would have pursued lifting or varying the covenant had they known the Trust would receive the reduced valuation (£200,000) given the costs also incurred by the Trust to achieve this amount.
- In summing up, the Committee was advised that the decisions made by the Barham Park Trust Committee on Monday 24 February 2025 were felt to be flawed, which had led to the decisions being called in for further consideration

and members in considering the call-in were urged to refer the matter back to the Trust or, preferably, to the Full Council for a decision regarding the management of the Trust.

The Chair thanked Councillor Lorber for summarising the reasons for the call-in and invited Members to ask any questions they had in relation to the information presented:

- As an initial query, the Chair inquired about the benefits of appointing an independent trustee. In response, Councillor Lorber elaborated on the fundamental issues faced by the Council, which had been recurrent, whether in the context of planning applications or the affairs of the Trust. It was noted that comments had been made about the necessity to meet housing needs within the Borough and, more importantly, the Trust's need to generate funds to avoid the Council having to make financial contributions. Reference was made to the guidance provided by the Charity Commission, which highlighted specific examples of major conflicts of interest that Councils might find challenging to manage with one such example reflected the situation in Brent, involving the disposal of a piece of land to generate funds for maintaining the rest of the land. The Charity Commission recommended that in such situations, the Council should seriously consider whether the conflict of interest was so significant that it could not be managed properly, thereby necessitating the appointment of an independent trustee.
- Further details were also sought on the manner in which it was felt public consultations should be conducted. In response, Councillor Lorber emphasised that Barham Park was land gifted to the public of Wembley for their recreation, and the local community had a strong attachment to the park. It was noted that the community understood the generosity of the individual who gifted the park and wanted to be heard regarding its management. In recognising the history relating to the development of the land at 776 and 778 Harrow Road it was highlighted that the community were opposed to any further development in the park or on the site. Councillor Lorber stressed that the community felt ignored, as they were neither consulted nor informed about decisions affecting the park.
- Members acknowledged the summary of the Charity Commission guidance provided, but as a point of clarification also felt there was a need to consider the extent of any perceived conflict of interest and how this would also need to influence interpretation of the guidance. In response, Councillor Lorber cited additional guidance regarding the appointment of an independent trustee when conflicts of interest were difficult to manage, as this would ensure transparency and impartiality. It was highlighted that reports presented to the Barham Park Trust Committee often referenced Brent Council's contributions to the Trust, whether in terms of officer time or financial support. It was argued that the need to generate funds to avoid Council contributions constituted a conflict of interest, indicating a lack of understanding and independence in managing the Trust's affairs.

As no further issues were raised, the Chair thanked Councillor Lorber for responding to the Committee's queries and advised that he had also accepted a further two requests to speak from members of the public in relation to the call-in. On this basis

he then moved on to invite Gaynor Lloyd (as a local resident who would also be speaking on behalf of the second registered speaker, Philip Grant), to address the Committee with the following key issues highlighted:

- Gaynor Lloyd, having experience as specialist commercial property partner in a law firm and working with valuers, emphasised the critical legal role in drafting the necessary modification and deed relating to the covenant and need to focus upon the precise wording and impact on valuation.

It was noted that altering restrictive covenants would significantly impact on the value of the associated land with concern expressed at the terms of the modification to the restrictive covenant which had formed the basis of the decision by the Trust Committee. Furthermore, while it was felt that the new wording should have been included in the Valuer's instructions, it appeared that officers could later amend these terms through negotiation, without any reference back to assess the impact on value. It was highlighted that the new wording also permitted car parking and garages, despite planning consent explicitly forbidding both.

- The impact on future value was also highlighted as a concern with, if felt, nothing to prevent the owner from submitting another planning application, as had been done before to extended development on the site.
- Concerns were also identified in relation to advice provided in the report to the Trust Committee on disposing of charity land for not addressing whether beneficiaries (the public of Wembley) should have been consulted first or identifying any potential conflicts of interest given the Council's liability for maintaining the park land.
- It was further mentioned that the Charity Commission had issued guidance in August 2024 on the legal responsibilities of trusteeship, prepared in consultation with the LGA, which urgently drew the attention of all local authorities. The call-in referenced Case Study 1 from that guidance, which mirrored the current scenario. It was felt that facilitating this development posed significant risks of conflict of interest for the Trust.
- It was noted that the Council, as the planning authority, faced substantial public objection to the planning application relating to the development of 776 and 778 Harrow Road, yet the Trust did not comment and the receipt of valuation fee in exercising the deed seeking to modify the restrictive covenants to permit the approved development felt to support the potential conflict of interest given the impact on subsidy provided by the Council to support the Trust.
- For the reasons outlined, Gaynor Lloyd advised that she also supported reference back of the original decision and also for the matter be referred to the Charity Commission for further review.

The Chair thanked Gaynor Lloyd for her comments and attendance at the meeting and then invited Members to ask any questions they had in relation to the information presented, with the following issues raised:

- Members referred to Gaynor Lloyd's examination of the report's details, seeking her perspective on what she would have anticipated the report to encompass for the trustees. In response, Gaynor Lloyd remarked that she would have expected the report to provide transparency by clearly setting out the exact terms of what the valuer was being asked to value. It was noted that it was almost impossible to understand from the report how the restrictive covenant was to be listed. Gaynor Lloyd further stated that although she had not seen the valuation report, she would have expected the brief to the valuer to specify the restrictive covenants and their replacements, to be considered during valuation. The difficulty in discerning the basis of the valuation from the report was stressed. It was further explained that valuing the modification or removal of a restrictive covenant was a specialist task with various implications. Further concerns were highlighted in what was felt to be contradiction between the conditions approved as part of the planning permission relating to the site and wording of the modification to the restrictive covenant in relation to car parking and impact on valuation.
- Members referenced page 19 of the committee report, noting the known planning permission and existing covenant restrictions on car parking. The report suggested modifications for residential dwellings and associated infrastructure, including garages and outbuildings and members questioned whether Gaynor Lloyd would have expected the valuer to assign a greater value to the site as a result. While not a valuer, Gaynor Lloyd advised in response that the inclusion of car spaces as part of the redevelopment of the site would likely have a higher market value than those without. The importance of appending the valuer's instructions to the report to ensure transparency and public understanding of the post-event developments in the park was emphasised.
- In terms of any bias in the valuation in favour of the site owner Gaynor Lloyd highlighted the Charity Commission guidance in terms of any valuation process. Whilst not having access to the valuation report, it was accepted that the valuation had been conducted by an accredited professional.

The Chair thanked Gaynor Lloyd for responding to the Committee's queries and then moved on to again invite Gaynor Lloyd to speak on behalf of Philip Grant to address the Committee, with the following issues raised:

- Gaynor Lloyd, on behalf of Philip Grant, referred to the report presented at the Barham Park Trust Committee meeting on 24 February 2015, which stated: "The restrictive covenants were imposed in August 2011 to preserve the area's character and limit development." It was asserted that these aims remained as crucial now as they were in 2011.
- Barham Park, identified as one of Brent's Historic Parks and Landscapes, was considered a heritage asset that the Council pledged to protect. The covenant achieved this by prohibiting "any development in or upon the Property," which was situated within the park and designated as a Site of Importance for Nature Conservation.

- Concerns were therefore highlighted at the basis of the decision made by the Planning Committee when granting development consent in 2023 with covenant therefore representing the final protection.
- Whilst the decisions made by the Trust in February appeared to align with the Council's Property Strategy, approved by the Cabinet last year, it was, however, felt they it did not reflect the charitable aims of the Trust or the wishes of the residents, who were intended to be its beneficiaries.
- The Charity Commission had recommended that local residents should have a voice in the Trust's decisions which, despite a proposal presented to the Council's Corporate Director of Law & Governance, had not been accepted following the most recent review of the Trust's governance arrangements. Additionally, it was noted that Philip Grant along with other residents had been denied the opportunity to address the Trust Committee on these matters in September 2023..
- In concluding, Philip Grant had felt Brent Council as the sole Trustee of Barham Park along with the Trust Committee was acting contrary to the Trust's best interests, and as a result support was expressed for the matter being referred back for further consideration.

With no questions raised, the Chair thanked Gaynor Lloyd (on behalf of Philip Grant) for presenting the representations to the Committee and then proceeded to invite Councillor Muhammed Butt as Chair of the Barham Park Trust Committee to respond to the issues raised within the call-in.

Councillor Muhammed Butt thanked the speakers for their contributions. In responding to the call-in and explaining the basis of the decisions made by the Barham Park Trust Committee, he felt it was important to begin by highlighting that the reports had detailed the process followed by the Trust and assured all present that the Trust had received appropriate advice and legal guidance to ensure full compliance with the requirements related to their charitable obligations. The Committee had received the requisite training to ensure adherence to all necessary requirements and regulations with, he assured members, all decisions made felt to be in the best interest of the Trust and in accordance with the requirements for trustee members.

Having thanked Councillor Muhammed Butt for the initial response on the call-in the Chair took the opportunity to emphasise the importance of adhering to the advice provided in relation to consideration of the call-in. It was therefore confirmed that the topics for discussion at this stage of the meeting would include the decisions relating to the increase in allocated funding for Year 1 works to the estate utilising restricted funds and finalisation of the lease arrangements for Unit 6 within the Barham Park building with ACAVA, prior to those councillors who had declared an interest withdrawing from the meeting for the second element of the call-in.

The Chair then invited comments from the Committee with the following points covered:

- Members raised initial concerns regarding the failure to respect the car-free provision in the planning permission, noting that it had been stated this did not affect the valuation and inquired if this could be reconsidered. In response, Denish Patel (Head of Property) confirmed that there were no plans to breach the planning permission and clarified that the restrictive covenants would align with the planning permission. It was noted that the committee report referred to vehicles, including cycles and cycle parking, rather than motor vehicles specifically.

As further clarification, Martha Grekos (Senior Planning Lawyer) advised the Committee regarding the planning matters:

- The sale of the two properties was lawfully executed by the Trust in 2011, and they were no longer part of the Trust holdings, now being private residential properties outside the Trust estates. The Trust retained certain restrictive covenants imposed on those titles at the time of sale. Planning permission was granted on 13 June 2023, reflecting that these events occurred at separate times.
- The modification of the covenant rights did not constitute a disposal of park land. The present proposal was not a sale or transfer of the actual land, nor did it involve disposing of any charity-owned land or public open space. The Trust retained covenant interests, which did not detract from the public use or enjoyment of the park.
- The Trust would not agree to any covenant release that permitted more than what the planning permission allowed. The intent was to mirror the scope of the approved developments, with no extensions or outbuildings permitted unless aligned with the current planning permission. Condition 3 of the planning permission removed permitted development rights for extensions and outbuildings, and Condition 28 provided measures to prevent vehicle parking within the curtilage of the dwelling houses, ensuring a car-free development.

In reminding members of the initial focus on matters relating to the increase in allocated funding for Year 1 works to the estate utilising restricted funds and finalisation of the lease arrangements for Unit 6 within the Barham Park building with ACAVA the Chair advised that further questions at this stage of the meeting should only relate to the call-in on these elements of the decisions. In continuing the following issues were raised:

- Regarding the funding for Year 1 works, the Chair sought clarification on use of the restricted funds. In response, Tanveer Ghani (Director of Property and Assets) explained that the figure used in the September 2024 Trust Committee Operational Property Matters report was based on an assessment by a surveyor, focusing on works costs and capital costs. The £269,000 estimate for initial repair works did not include professional consultants' fees. The new figure of approximately £350,000 in the February 2025 paper accounted for 10% professional fees and new information regarding VAT treatment.

- In response to further questioning, Ben Ainsworth (Head of Finance) remarked that there were special rules regarding VAT recovery for charity trusts where the local authority was the sole trustee, which differed from the rules applicable to the Council. The Council benefited from rules concerning VAT recovery, whereas the Trust could recover a much more restricted amount of VAT, not to the same extent as the Council. Specifically, the Trust could only recover VAT on its non-business activities and not on its business activities. This distinction was identified during the finalisation of the total cost for the latest report.
- Members recalled that approximately 18 months prior, the Trust had considered a substantial investment in Barham Park, focused on future development of the estate building. The trustees had been advised of the likely investment required. It was questioned whether the costs presented to the trustees included the VAT cost. The response confirmed that the costs presented to the trustees were exclusive of VAT with concerns subsequently expressed by a member of the committee about the basis of the advice in this respect provided to the Trust Committee, which had also caused significant concern among local residents and community groups occupying the Barham Park building given the level of cost previously incurred and perceived lack of progress in delivery of any improvements. As a result it was felt consideration needed to be given to the current governance arrangements of the Trust to ensure appropriate challenge for the benefit of the charity and the people of Brent.
- The Chair then moved on to focus on addressing the re-negotiation of the lease at Unit 6 with further details sought on the repayment of any outstanding arrears. In response, Denish Patel (Head of Property) advised that early discussions with the current lease holder (ACAVA) on the lease re-gear were underway, and one of the conditions would be that any tenants wishing to re-gear their lease must have cleared any arrears owed. A lease re-gear would not proceed if the tenant had outstanding debt to be repaid.
- Confirmation was also sought that the Trust was seeking to obtain the maximum commercial rental agreement and whether that would be sustainable for future tenants. In response, Denish Patel (Head of Property) explained that a valuation would be carried out, potentially including a pro-rata valuation on current rents, as a individual tenant currently held one lease for multiple units. An independent valuation would be conducted for the Trust, and negotiations would proceed based on the valuation.
- The Chair acknowledged the challenges in the commercial rent market and asked if the trust could afford for the building to remain vacant for a substantial period and for how long. In response, Denish Patel (Head of Property) advised that it was not ideal for units to remain vacant for long periods. The intention was for the property to be marketed, and it was noted that there was demand for commercial units in the Borough. Confidence was expressed that the unit could be let within a reasonable period, although there might be a period of vacancy. Efforts would be made to achieve a back-to-back letting if possible.
- In terms of further clarification regarding the VAT position of the Trust the current status of income sources was explained with Tanveer Ghani (Director of Property

and Assets) outlining the potential benefits and costs of VAT treatment and impact of any delay in seeking to progress the essential maintenance works and wider property strategy for the estate building whilst the VAT position was considered, noting that delays in tendering could lead to increased construction and inflation costs.

- The need highlighted to ensure that any lease agreement should avoid any financial loss to the Trust. It was remarked that if ACAVA were to surrender or re-gear their lease, they should continue to pay the due rent until the Council successfully re-let the units. It was emphasised that there should be no unpaid void period, as this was a matter of negotiation and agreement. It was also noted that the units were in poor condition and would be challenging to let. In response, Denish Patel (Head of Property) advised that it would not be fair to the existing tenant to impose such conditions and emphasised that the Trust, when letting properties, engaged in commercial activity, which inherently involved risk. Balancing the sustainability of existing tenants was also important. It was assured that efforts would be made to re-let the units as soon as possible if the proposal proceeded, with a focus on mitigating risks.

With no further issues raised and having considered the grounds for the call-in and response provided at the meeting in outlining the basis for the decisions which had been taken by the Barham Park Trust Committee the Committee (in summing up and considering the options available under the call-process), indicated they were minded to confirm rather than refer back the original decisions taken by the Barham Park Trust Committee in relation to the allocation of funding for Year 1 works to the estate utilising restricted funds and finalisation of the lease arrangements for Unit 6 within the Barham Park building with ACAVA.

It was therefore **RESOLVED**, having noted the comments from two members of the Committee who expressed a preference for referring the decision back for reconsideration on the basis it was not felt the issues raised under the call-on had been adequately addressed, to confirm as a final outcome of the call-in the original decision made by the Barham Park Trust on Monday 24 February 2025 in relation to the allocation of funding for Year 1 works to the estate utilising restricted funds and finalisation of the lease arrangements for Unit 6 within the Barham Park building with ACAVA, with it noted that those decisions would therefore take immediate effect following the meeting.

In accordance with their disclosable interests declared earlier in the meeting Councillors S Butt, Dixon, and Maurice then withdrew from the remainder the meeting prior to the consideration of matters pertaining to the related to covenants at 776-778 Harrow Road.

The Committee then turned their attention to the matter regarding the modification of the restrictive covenant on 7768 & 778 Harrow Road, to which Martha Grekos (Senior Planning Lawyer) provided a concise summary of the earlier discussions pertaining to this issue. It was reiterated that the Trust would not agree to any covenant release that permitted anything more than allowed under the granted planning permission. The intent was to mirror the scope of the approved developments, unless aligned with the current planning permission. Condition 3 of the planning permission removed

permitted development rights for extensions and outbuildings, and Condition 28 provided measures to prevent vehicle parking within the curtilage of the dwelling houses, ensuring a car-free development.

Having thanked Martha Grekos for the summary, the Chair then invited comments from the Committee, with the following issues raised:

- The Chair inquired whether a public consultation was necessary and, if so, what benefits it would bring to the Trust. Opinions were also sought on the scope of such a consultation, whether it should cover the Sudbury area only or be extended to the wider Wembley area. In response, Marsha Henry (Director of Law) indicated that a consultation would not be required. Whilst acknowledging that the restrictive covenant was held on trust for a charity in accordance with section 121A of the Charity Act 2011 and that the covenant benefited the land to which it related, it was not accepted that the cottages were to be used for any particular purpose of the charity, that they amounted to designated land, or that the consequential publication and engagement requirements of section 121A applied. Accordingly, the Trust would need to request that the Charity Commission formally dispense with the requirements of section 121A in their section 105 application.
- The Chair noted that over 700 residents had signed a petition expressing a desire to have a say in what was built and used in the park. The Chair hoped this would be considered in future decisions. The Chair emphasised the importance of preventing boundary creep and ensuring that the green space and public park were protected from overdevelopment. In response, Denish Patel (Head of Property) assured that the development would remain within the current title, requiring verification by an independent surveyor both prior to and during the development.
- Members noted that the February 2025 Trust report, particularly paragraph 3.9 onwards, might cause concern due to the specified paragraphs purportedly conflicting with the conditions imposed on planning. Members also questioned why these paragraphs were included in the report and why the valuer referred to car parking spaces for each of the new houses. In response, Denish Patel (Head of Property) reassured the Committee that the designated adviser worked exclusively for the Trust, not the Council or the landowner. It was emphasised that the adviser's report was solely for the benefit of the Trust with further assurance that that valuers used their professional judgment to collate evidence from the market.
- Assurance was sought as to whether it was felt the Trust had received maximum value for the valuation and whether obtaining another valuation would provide benefit to the Trust. In response, Denish Patel (Head of Property) reminded the Committee that chartered surveyors adhered to the highest professional and ethical standards dictated by the RICS. It was stated that the valuation represented the best terms reasonably obtainable for the proposed change and that any further changes to the restrictive covenants would require future approval by the Trust Committee. Tanveer Ghani (Director of Property and Assets) additionally noted that the Charity Commission had been engaged

following a separate complaint submitted following the decision taken by Trust meeting in February 2025 in relation to the legal and valuation advice provided. The Charity Commission had indicated that they would not minded to pursue the complaint any further, based on the information which had been provided in response to their requests for further detail. There was deemed to be no further value in seeking different valuation reports, as it would frustrate the process and undermine the Trust's position in future negotiations. Furthermore, the Chair sought assurance that the actions were in line with the Trust's objectives and the best interests of the charity, as well as compliance with planning consent and regulations. In response, Tanveer Ghani (Director of Property and Assets) confirmed that the definitive planning permission for the development allowed on the site had been obtained. The valuation was undertaken in terms of the gross development value, in line with the planning permission for.

- Members inquired about the meaning of recommendation 2.1, specifically referring to the modifications outlined in paragraphs 3.8 to 3.11 of the Trust report, which referenced garages, parking spaces, and other elements and appeared to contradict the planning approval granted. In response, Tanveer Ghani (Director of Property and Assets) explained that the covenant modifications would need to be drafted through the legal conveyancing process with independent solicitors acting on behalf of both parties. In continuing the response, Martha Grekos (Senior Planning Lawyer) referred to paragraphs 3.8 and 3.9 to 3.11 of the committee report, which discussed the proposed modifications in the planning permission. It was acknowledged that these paragraphs might appear contradictory but clarified that the TP1 dated 12 August 2011 showed all the restrictive covenants. The proposed modifications were intended to facilitate the development. There were six restrictive covenants, including one that restricted the use of the property to a single private dwelling. As planning permission had been granted for an increased number of dwellings, that restriction needed to be removed. The modifications preserved reasonable protections while enabling the approved redevelopment and would be finalised following the legal conveyancing process. In concluding the response, Nadeem Khan (Chief Lawyer Property Planning and Environment) further added that the modifications would only authorise what the planning permission allowed, ensuring alignment with the planning permission. The document would be presented to the other parties' solicitors for comments and suggestions with assurance provided the aim was to modify the restrictive covenants to allow the development in accordance with the planning permission and related conditions.
- Further clarification was sought that there were no further significant changes proposed, with Martha Grekos (Senior Planning Lawyer) confirming that the changes were solely to allow the permission granted in 2023. It was emphasised that there would be no additional changes beyond what was granted in the planning permission.
- Members questioned the necessity of modifying the restrictions, particularly those related to vehicles and storage, given that the planning permission specified a car-free development. Details were sought around the reason why the restrictions to allow vehicle access needed to be modified when it was not part of the planning permission granted in 2023. In response, Martha Grekos

(Senior Planning Lawyer) clarified that the term 'vehicle' could include cycles. It was further explained that planning permission had mandated a car-free site with measures to prevent residential parking. The covenants would not create inconsistencies, ensuring a car-free development with essential access for emergency services only.

- Members cited page 19 of the committee report, which referenced the parking of vehicles by residents and visitors in designated areas approved under planning permission, and questioned whether or not this referred to car vehicles. In response, Martha Grekos (Senior Planning Lawyer) confirmed that it did not refer to car vehicles, as Condition 28 specified a car-free development. Nadeem Khan (Chief Lawyer Property Planning and Environment) further highlighted that one of the existing restrictive covenants prohibited the parking of trailers, mobile homes, caravans, cars, or boats, which would remain unchanged.
- Members identified that the committee report referred to modifying the restriction on standing or supporting vehicles, commercial vehicle trailers, mobile homes, caravans, trailers, carts, or boats to permit reasonable residential use. It was questioned why the report stated modifications if officers claimed there were none. In response, Nadeem Khan (Chief Lawyer Property Planning and Environment) informed that the modifications would align with the planning permission, allowing the development. It was further explained that all variations and modifications to the restrictive covenant would be reviewed to ensure compliance with the planning permission. For the avoidance of doubt, Martha Grekos (Senior Planning Lawyer) read Condition 28 from the committee report, which required measures to prevent vehicle parking within the curtilage of the dwelling house prior to first occupation. These measures were aimed to ensure a sustainable car-free development and protect the amenities of Barham Park users.
- Members expressed concern regarding the clarity of the proposed modifications presented for approval. In response, whilst acknowledging the potential for confusion members were once again assured that the planning permission would form the guiding document and compliance with Condition 28 was assured within the original planning consent was confirmed.

In recognising the concerns raised the opportunity was once again taken to highlight the importance of robust governance arrangements in relation to management and operation of the Trust.

- Members inquired whether the discussed modifications were specific to the current development or if they would be permanent modifications applicable to future developments, to which Martha Grekos (Senior Planning Lawyer) confirmed that the modifications were specific to the current development and were necessary to lift the restrictions to allow the approved permission to proceed.
- Concerns were raised around parking arrangements within the boundary of properties at 776 and 778 Harrow Road, specifically for furniture removal vans and service vehicles. In response, Martha Grekos (Senior Planning Lawyer)

assured that such measures had been considered by as part of the planning consent granted

- As a final point, and in addressing earlier queries raised by members pertaining to page 19 of the committee report, Martha Grekos (Senior Planning Lawyer) confirmed that the wording was correct, allowing vehicle and pedestrian access for lawful residential use while complying with Condition 28, which prevented permanent vehicle parking but permitted temporary access. Denish Patel (Head of Property) further added that each clause specified the planning permission and provided examples, such as modifications permitting the construction of residential dwellings and associated infrastructure, including garages, in accordance with planning permission 224128.

With no further issues raised and having considered the grounds for the call-in and response provided at the meeting in outlining the basis for the decisions which had been taken by the Barham Park Trust the Committee (in summing up and considering the options available under the call-process), indicated they were minded to confirm rather than refer back the original decisions taken by the Barham Park Trust Committee in relation to the modification and discharge of the restrictive covenant for 776 and 778 Harrow Road.

It was therefore **RESOLVED**, having noted the comments from one member of the Committee who expressed a preference for referring the decision back for reconsideration on the basis it was not felt the issues raised under the call-on had been adequately addressed, to confirm as a final outcome of the call-in the original decision made by the Barham Park Trust on Monday 24 February 2025 in relation to approving the modification of the restrictive covenants at 776 and 778 Harrow Road, delegating authority to execute the deed and seeking Charity Commission consideration of the Qualified Surveyor's Report and authorisation under Section 105 of the Charities Act to modify or discharge the covenants. It was noted that these decisions would therefore take immediate effect following the meeting.

4. **Any other urgent business**

No items of urgent business were identified.

The meeting closed at 7.38 pm

Councillor Daniel Kennelly
Vice-Chair in the Chair