

Meeting	Finchley & Golders Green Area Environment Sub- Committee
Date	16 October 2012
Subject	The leasing of the Pavilion in Cherry Tree Wood Brompton Grove East Finchley N2
Report of Summary	Commercial Director To ask the Sub-Committee if it wishes to make representations to the Executive in relation to the proposed grant of a lease of the pavilion in Cherry Tree Wood, Brompton Grove, N2

Officer Contributors	Judith Ellis – Valuation Manager Richard Malinowski – Principal Valuer Jenny Warren – Greenspaces Manager
Status (public or exempt)	Public with a separate exempt report
Wards Affected	East Finchley
Key Decision	No
Reason for urgency / exemption from call-in	Not applicable
Function of	Executive
Enclosures	Appendix 1 – Section 123 Notice Appendix 2 - Lease Plan Appendix 3 - Pavilion Elevation Appendix 4 – Summary of representations
Contact for Further Information:	Judith Ellis, 020 8359 7364/judith.ellis@barnet.gov.uk Richard Malinowski, 020 8359 7359 / richard.malinowski@barnet.gov.uk

1. RECOMMENDATIONS

- 1.1 That the Sub-Committee consider whether or not it wishes to make representations to the Executive in respect of the proposed grant of a lease of the pavilion in Cherry Tree Wood to Mr Sarfaraz Dostezad.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Delegated Powers Summary Report approved 9th July 2012 reporting the terms of the letting of the pavilion to Mr Sarfaraz Dostezad.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Corporate Plan 2012-13 has a corporate priority of 'Better Services with Less Money'. A key principle of the medium term financial strategy is to continually review the use of council assets so as to reduce the cost of accommodation year on year and to obtain best consideration for any surplus assets to maximise funds for capital investment and/or the repayment of capital debt. This letting does this by producing a rental income and the refurbishment of an empty and dilapidated property.

4. RISK MANAGEMENT ISSUES

- 4.1 There are no policy considerations and officers do not anticipate significant levels of public concern. If the Council does not proceed with the letting then an empty building attracts the obvious detrimental nuisances such as vandalism and arson and will eventually require demolition. To offset the risks of further vandalism, Greenspaces have installed fencing around the building. However this has been breached on a number of occasions involving further vandalism.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The property was widely marketed such that it was open to any category of persons to submit a bid, irrespective of race, sex, disability, sexual orientation, marital status, transgender, age, religion or religious belief. Further, the Council's Equalities Policy takes account of the Council's statutory duty to promote equal opportunities and to eliminate discrimination and inequality amongst persons of different race, gender and disability. The proposed disposal has been evaluated against the principles in the Equalities Policy and no adverse implications for any, specific, equalities group has been identified.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 The Council will benefit from the annual rent detailed in the accompanying exempt report with the responsibility for repair and maintenance being passed to the tenant.

7. LEGAL ISSUES

- 7.1 Local authorities are given powers under Section 123(1) of the Local Government Act 1972 (as amended) to dispose of land held by them in any

manner they wish, including the grant of leases. The only constraint is that, except with the consent of the Secretary of State, a disposal must be for the best consideration reasonably obtainable.

- 7.2 Section 123 (2A) of the Local Government Act 1972 (as amended) provides that a local authority may not dispose under Section 123(1) of that Act of any land consisting or forming part of an open space unless, before disposing of the land, they cause notice of their intention to do so to be advertised for two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to them.
- 7.3 The lease will be formally documented on the basis of the terms detailed in the Delegated Powers report.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 The Council's constitution in Part 3, Responsibility for Functions, paragraph 3.10 details the executive functions of the Area Environment Sub-Committees. These include the day-to-day promotion, management and development of parks and open spaces.
- 8.2 The Council's constitution in Part 4,– Management of Real Estate, Property and Land, Paragraph 7 (i) states "Whenever a decision is taken by the Executive or the relevant Director acting under delegated powers to advertise the possible disposal or appropriation of open space land, the Director or designated officer shall report the matter to the next relevant Area Environment Sub-Committee to enable it to decide whether it wishes to make representations to the Executive in relation to the disposal of the open space land".

9. BACKGROUND INFORMATION

- 9.1 The park is currently served by a small 150 sq ft (13.93 sq m) modular kiosk that was leased to Sally Anne Wigfield. The lease on the kiosk has now expired however the tenant will be permitted to remain under a tenancy at will until the pavilion café opens. Once the letting of the pavilion has been concluded, the kiosk will be relocated to another park and put on the open market.
- 9.2 The subject premises comprise a pavilion of 1,044 sq ft (97 sq m) with a covered veranda of 511 sq ft (47.5 sq m) at the front giving a total area of 1555 sq ft (144.5 sq m) as shown edged red on the attached plan. The building was originally used as a sports pavilion and changing rooms but since the playing fields in the park often became waterlogged during the winter months this use ceased. Subsequently it was used for a short time as a nursery but then became vacant and has deteriorated over the years. The pavilion is fenced off, derelict and the only other option is to demolish. Nevertheless the pavilion has character and is situated adjacent to a children's play ground and in the opinion of officers once refurbished would enhance considerably the facilities available in the park.
- 9.3 The premises have been marketed for a number of years and several proposals, mainly for nurseries were received in the past. A nursery use would not be approved by planners as this would give rise to traffic issues along Brompton

Grove, an unadopted, unmade up and unlit road at the rear of the park. During the last two years discussions have taken place with the existing kiosk operator and various proposals were put forward and considered by officers but these discussions stalled as the plans were ambitious, expensive and funding was not available. Further marketing including additional advertising took place over the past year and an acceptable offer was eventually received. The operator of the kiosk also submitted a proposal but this was below the recommended offer. The recommended proposal has already been approved by a Delegated Powers report dated 9th July 2012.

- 9.4 It has been agreed with Mr Sarfaraz Dostezad that the Council will grant him a lease for a period of 25 years on a full repairing and insuring basis and contracted out of the Landlord and Tenant Act 1954. The permitted use will be as a café and the trading hours will be the usual park opening hours. The property will be repaired and minor changes externally comprising either new front or café style doors as shown on the drawing in Appendix 3, are proposed. The financial terms have been included in the exempt part of this report. It is the view of the Valuation Manager that the proposed disposal complies with the Council's statutory duty to achieve the best consideration reasonably obtainable.
- 9.5 The extent of the letting is the building shown edged red on the lease plan in Appendix 1. The blue and green areas comprise the external seating areas where the tenant will be allowed to place tables and chairs. The green area is part of the footpath along the frontage and the blue area comprises soft ground and so the tenant will be permitted to place a hard surface, subject to any Greenspaces requirements. A right of way for vehicle deliveries is shown coloured brown.
- 9.6 As the land is held as public open space, the proposed disposal was advertised in the Barnet Press for two consecutive weeks on 28th June and 5th July 2012. A Notice of the proposed disposal was also posted at the property. These required that any objections to the letting were to be made to the Council by 13th July 2012.
- 9.7 Following the advertisement, 18 communications were received, the details of which are summarised in the table under Appendix 4. Of these 10 are considered as objections and the remaining 8 regarded more as representations or observations relating to the loss of the kiosk.
- 9.8 Officers have been informed by the prospective tenant that the menu available at the premises will be varied with a Middle East and Mediterranean cuisine, salads and vegetarian options, sandwiches and pastries. It will not be a pizzeria as appears to have been suggested by a number of objectors.
- 9.9 The kiosk currently located in the park was intended as a temporary facility as it was hoped that in time the pavilion would be refurbished and provide these facilities. It is the opinion of officers that the park cannot support two cafes and so the kiosk currently operated by Sally Anne Wigfield will have to close once the pavilion opens for business. Greenspaces will relocate the kiosk to another park where there are currently no catering facilities. Thus the rent for the kiosk, as detailed in the exempt report, will cease to be payable but should be recouped on another site.

10. LIST OF BACKGROUND PAPERS

10.1 None.

Cleared by Finance (Officer's initials)	SR
Cleared by Legal (Officer's initials)	SWS

Appendix 1

LONDON BOROUGH OF BARNET

COMMERCIAL DIRECTORATE

SECTION 123(2A) OF THE LOCAL GOVERNMENT ACT 1972

Proposed Lease - Pavilion building
Cherry Tree Wood, East Finchley

NOTICE IS HEREBY GIVEN that the Council is intending to grant of a lease for 25 years for the above pavilion for the use as a cafe.

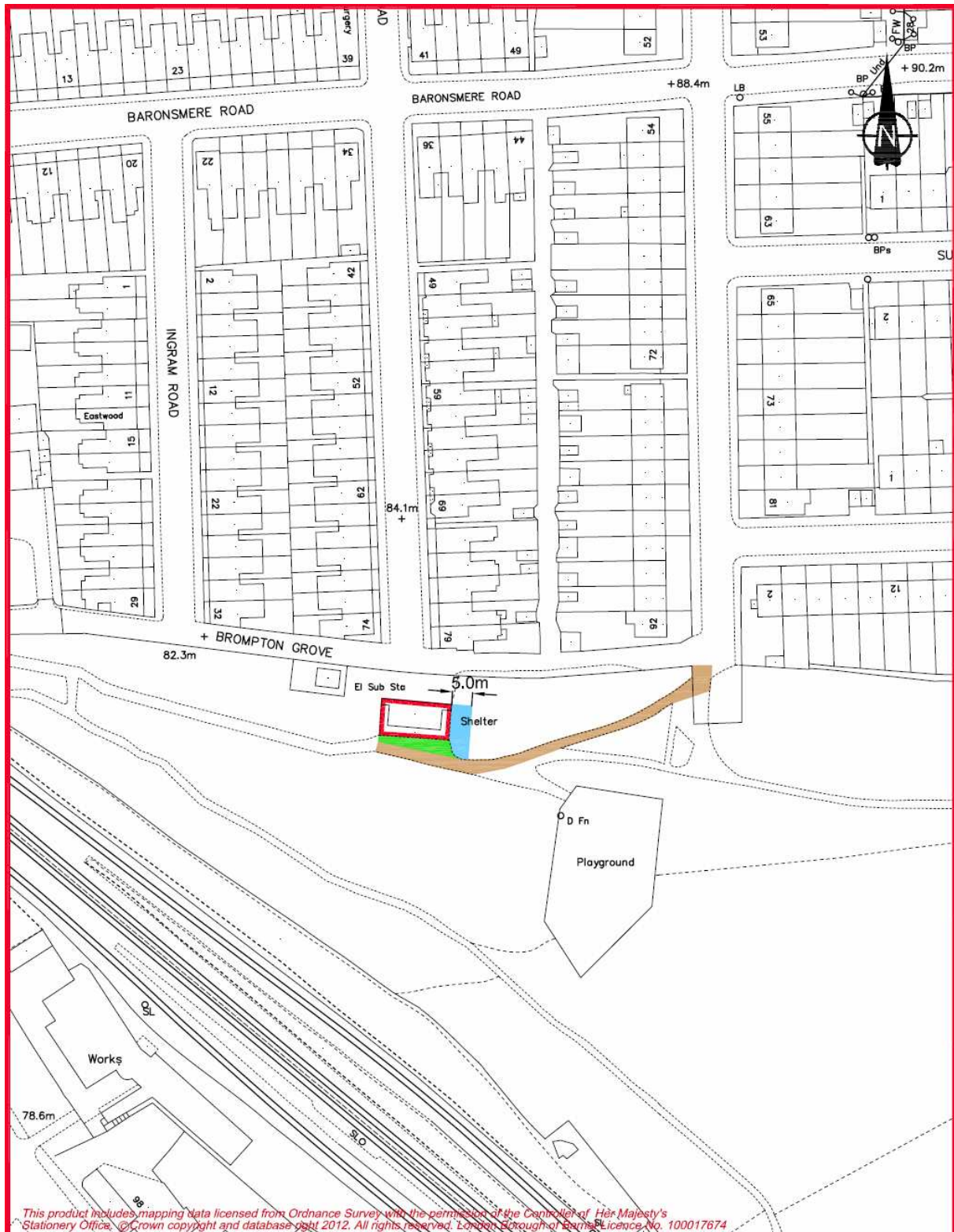
A plan showing the proposed leased area may be viewed at the offices of Property Services, Building 2, North London Business Park, Oakleigh Road South, London N11 1NP. It may be viewed between the hours of 9.00 am to 5.00 pm Mondays to Fridays (excluding public holidays).

Before making any further decision on the proposal, the Council will consider any written representations received. All written representations, which should be addressed to the Interim Assistant Director of Commercial Services, 1st floor, Building 2, North London Business Park, Oakleigh Road South, London N11 1NP (quoting reference: Property Services Disposal of Cherry Tree Wood) must arrive no later than 5pm, 13th July 2012.

Dated this day 28th June 2012

Mark Peat
Interim Assistant Director or Commercial Services
1st Floor Building 2
North London Business Park
Oakleigh Road South
London N11 1NP

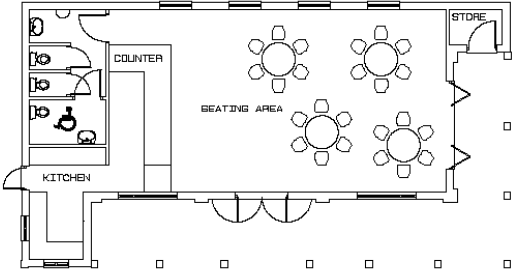
Appendix 2



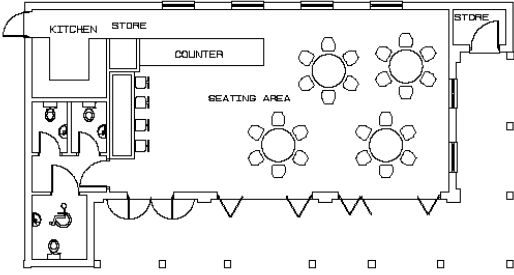
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Initiated by S.S. Drawn by K.E.B. Checked by S.S. Date 14/05/12	SCHEME: CAFE IN CHERRY TREE WOODS, HIGH ROAD, EAST FINCHLEY, N2	Craig Cooper, Commercial Director.	
TITLE: <h3 style="text-align: center;">LEASE PLAN</h3>	London Borough of Barnet, North London Business Park, Oakleigh Road South, New Southgate, London, N11 1NP. Tel. 020 8359 2000	DRAWING No. 24405	
Scales 1:1250			

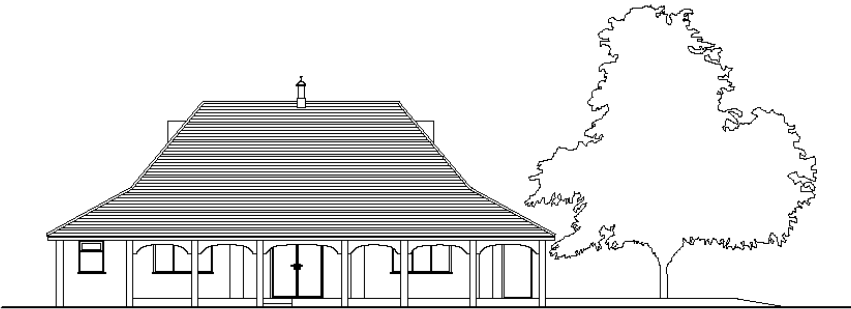
Appendix 3




PROPOSED PLAN (A)



PROPOSED PLAN (B)



PROPOSED FRONT ELEVATION

NO.	DATE	BY	REVISIONS
DESCRIPTION			
Site Address			
CHERRY TREE WOOD PAVILLION EAST FINCHLEY N2			
JOB TITLE			
CONVERSION OF PAVILLION TO CAFE			
Drawing Title			
PROPOSED PLAN AND ELEVATIONS			
Scale	1:100	Date	JUL. 2012
Drawn by		Checked by	PRC
 Alan Cox associates Architectural & Planning Consultants TEL: 020 - 8440 - 7777 FAX: 020 - 8398 - 9556 AX			
Proj. No.	381833		Rev.

Appendix 4

Communication	Date	Summary of Representations
Letter	05.07.2012	Preference for pavilion to be demolished and site restored to woodland as change of use will alter character and tranquillity of the park.
Letter	06.07.2012	Existing café provides appropriately scaled facility. Extra traffic, noise, smells, litter
Letter	07.07.2012	Barnet should adopt private road and apply a condition that lessee makes good Brompton Grove. Best to demolish.
Letter	07.07.2012	Against Pizza use, pizza boxes and concern over rats
Letter	08.07.2012	Too many cafes in High Street, rats, noise and cooking smells will spoil peace and quiet. Resurfacing Brompton Grove endanger users. In a dangerous state. Return to natural state.
Letter	08.07.2012	As above
Letter	10.07.2012	No proper consultation
Letter	11.07.2012	Whether tenant is fit person
Letter	11.07.2012	Written by Tenant of Kiosk
Letter	10.07.2012	No consultation
Email	10.07.2012	Concerns re existing kiosk – tenant works with Treehouse
Email	10.07.2012	Concerns re existing kiosk
Email	10.07.2012	Concerns re existing kiosk - Pizza proposal
Email	10.07.2012	Concerns re existing kiosk
Email	10.07.2012	Concerns re existing kiosk - Pizza proposal
Email	18.07.2021	Concerns re existing kiosk - Pizza proposal
Email	28/07.2012	Concerns re existing kiosk - Pizza proposal
Phone	13.07.2012	Further information requested