



Policy and Resources Committee

February 22nd 2023

Title	The Avenue House Estate, East End Road, Finchley N3 3QE
Report of	Stephen McDonald
Wards	Finchley Church End
Status	Public
Urgent	No
Key	No
Enclosures	<ul style="list-style-type: none">• Scheme made by the Charity Commission of England and Wales dated 2nd October 2001• Minutes of the meeting of the council of the London Borough of Barnet dated 23rd September 2014
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Summary

London Borough of Barnet received an application from their tenant, the Avenue House Estate Trust requesting the council's consent for alterations to the layout of the second floor flat in Avenue House.

Barnet Council are the Trustee of Avenue House. Usually, the Full Council acts as Trustee however they delegated this authority to Policy and Resources Committee in 2014. There is no evidence that this has been varied under any later decision of the Council. Therefore, the Policy & Resources Committee would need to approve for the proposed works to be documented via a licence for alterations, subject to planning permission.

The relevant provision is 5(5) the scheme made by the Charities Commission dated 2 October 2001 3 which allows the Council to delegate the exercise of powers to a committee consisting of two or more members.

The area in question was originally converted to facilitate a caretaker flat during the time the building was used by the council by the installation of dry wall partitions to make it suitable as a dwelling. None of the walls are supporting walls.

Since the occupation by The Avenue House Estate Trust, there has been no need for a flat and to date, the space has been sub-let to tenants for office use only.

The Avenue House Estate are now seeking the consent of the Council to modify the unit and its use for teaching purposes.

Under the terms of the lease dated 22/10/2002 and granted for 125 years with effect from 1/11/2002, the tenant is not allowed to make any alterations, additions or improvements to the Premises save such as may be first approved in writing by the Council as landlord, such approval not to be unreasonably withheld or delayed.

Any consent will be by way of a formal licence, which will encompass inter alia, the following conditions:

- The works will be subject to planning permission,
- In accordance with Building Regulations and the London Building Act (if appropriate)
- Subject to all necessary statutory consents and approvals.
- In so far as the Council's approval will be needed in their capacity as planning authority and building control authority, such consent will be dealt with separately via the usual process. The Policy & Resources Committee is not required to consider those matters.

Officers Recommendations

That the Policy and Resources Committee approves consent via a license for alterations to allow The Avenue House Estate to make alterations to the layout of the second floor flat in Avenue House and delegates authority to the Deputy Chief Executive to negotiate and settle the terms of the licence for alterations.

1. Why this report is needed

- 1.1 Since the property was let to The Avenue House Estate, they have managed and let the space to tenants for use as an office. The space was initially converted by the installation of dry wall partitions to make it suitable as a dwelling, originally designed to facilitate a caretaker flat during the time the building was used by the council.
- 1.2 None of the walls to be altered are supporting walls. The unit is currently void, and they now have an opportunity to sublet the space to one of their existing tenants, a charity organisation who wishes to use it for teaching and are therefore seeking the Council's consent to be allowed to remove some of the partition walls.
- 1.3 Any consent will be by way of a formal licence, which will encompass inter alia, the following conditions:
 - The works will be subject to planning permission,
 - In accordance with Building Regulations and the London Building Act (if appropriate)
 - Subject to all necessary statutory consents and approvals
 - In so far as the Council's approval will be needed in their capacity as planning authority and building control authority, such consent will be dealt with separately

via the usual process. The Policy & Resources Committee is not required to consider those matters.

2. Reasons for recommendations

- 2.1 In accordance with the lease terms, LBB cannot unreasonably withhold consent.
- 2.2 Providing the license to consent will facilitate income generation for the Avenue House Estate which will in turn help to contribute to the maintenance and running of the building.

3. Alternative options considered and not recommended

- 3.1 Do nothing option or reject the works option. This is not recommended as the lease states that consent is not to be reasonably held, and facilitating these works will enable the Avenue House Trust to generate income which will help to support the maintenance and running of the building. Any consent provided will be subject to planning permission.

4. Post decision implementation

- 4.1 The Avenue House Trust are fully responsible for funding the works.
- 4.2 A licence for alterations would usually require the tenant to obtain all necessary consent and they can be obtained after the licence is complete, before works start.

5. Legal and Constitutional References

- 5.1. Under the terms of the lease dated 22/10/2002 and granted for 125 years, the tenant is not allowed to make any alterations, additions or improvements to the Premises save such as may be first approved in writing by the Council, such approval not to be unreasonably withheld or delayed
- 5.2 Under the Council Constitution, Article 7 the terms of reference of the Policy and Resources Committee includes the following responsibilities:
 - To be responsible for strategic policy, risk management, oversight of the organisation, performance and operational working of the Council functions/activities:

In September 2014 the Council delegated to Policy & Resources Committee its decision-making powers under the Charity Commissioners' scheme dated 2 October 2001 for Avenue House Estate, and its liabilities powers and duties under the Lease as corporate trustee landlord to the Policy and Resources Committee.

5. Insight

Not applicable in the context of this report.

7. Social Value

Not applicable in the context of this report.

8. Risk Management

It will be a contravention of both the lease term and Section 19(2) Landlord and Tenant Act 1927 if the consent is unreasonably withheld. The tenant can seek court redress for a declaration that the Landlord has unreasonably withheld consent and/or no further act of consent is required from the landlord.

9. Equalities and Diversity

- 9.1 Equality and diversity issues are a mandatory consideration in the decision-making of the council.
- 9.2 Decision makers should have due regard to the public-sector equality duty in making their decisions. The equalities duties are continuing duties they are not duties to secure a particular outcome. The equalities impact will be revisited on each of the proposals as they are developed. It is important that Council has regard to the statutory grounds in the light of all available material. The statutory grounds of the public-sector equality duty are found at Section 149 of the Equality Act 2010 and are as follows below.

A public authority must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.3 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
 - Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 9.4 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

9.5 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- Tackle prejudice, and
- Promote understanding

9.6 Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act. The relevant protected characteristics are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race,
- Religion or belief
- Sex
- Sexual orientation
- Marriage and Civil partnership

10. Corporate Parenting

In line with Children and Social Work Act 2017, the council has a duty to consider Corporate Parenting Principles in related decision-making across the council.

11. Consultation and Engagement

Not applicable

12. Environmental Impact

There are no direct environmental implications from noting the recommendations. Implementing the recommendations in the report will lead to a positive impact on the Council's carbon and ecology impact, or at least it is neutral.

13. Background papers

Please see attached papers.