

Agenda for a meeting of the Regulatory and Appeals Committee (Meeting as Trustees) to be held on Thursday, 28 March 2024 at 10.00 am in Council Chamber - City Hall, Bradford

Members of the Committee – Councillors

LABOUR	CONSERVATIVE	GREEN
Shafiq Alipoor Mullaney Lal	Brown Sullivan	Edwards

Alternates:

LABOUR	CONSERVATIVE	GREEN
Engel I Hussain S Hussain Jamil	Pollard Glentworth	Love

Notes:

- This agenda can be made available in Braille, large print or tape format on request by contacting the Agenda contact shown below.
- The taking of photographs, filming and sound recording of the meeting is allowed except if Councillors vote to exclude the public to discuss confidential matters covered by Schedule 12A of the Local Government Act 1972. Recording activity should be respectful to the conduct of the meeting and behaviour that disrupts the meeting (such as oral commentary) will not be permitted. Anyone attending the meeting who wishes to record or film the meeting's proceedings is advised to liaise with the Agenda Contact who will provide guidance and ensure that any necessary arrangements are in place. Those present who are invited to make spoken contributions to the meeting should be aware that they may be filmed or sound recorded.
- If any further information is required about any item on this agenda, please contact the officer named at the foot of that agenda item.
- **A legal briefing for all Members will take place at 0915 in the Banqueting Hall on the day of the meeting.**
- Applicants, objectors, Ward Councillors and other interested persons are advised that the Committee may visit any of the sites that appear on this Agenda during the day of the meeting, without prior notification. The Committee will then reconvene in the meeting room after any visits in order to determine the matters concerned.
- At the discretion of the Chair, representatives of both the applicant(s) and objector(s) may be allowed to speak on a particular application for a maximum of five minutes in total.
- **INTERESTED PARTIES ARE ASKED TO NOTE THAT ITEMS ** AND ** WILL NOT BE CONSIDERED BEFORE **.**

From:

Jason Field

Interim Director of Legal and Governance

Agenda Contact: Yusuf Patel

Phone: 07970 411923/07970 411623

E-Mail: yusuf.patel@bradford.gov.uk/jane.lythgow@bradford.gov.uk

To:

A. PROCEDURAL ITEMS

1. ALTERNATE MEMBERS (Standing Order 34)

The Director of Legal and Governance will report the names of alternate Members who are attending the meeting in place of appointed Members.

2. DISCLOSURES OF INTEREST

(Members Code of Conduct – Part 4A of the Constitution)

To receive disclosures of interests from members and co-opted members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

Notes:

- (1) *Members must consider their interests, and act according to the following:*

Type of Interest	You must:
<i>Disclosable Pecuniary Interests</i>	<i>Disclose the interest; not participate in the discussion or vote; and leave the meeting <u>unless</u> you have a dispensation</i>
<i>Other Registrable Interests (Directly Related)</i> OR <i>Non-Registrable Interests (Directly Related)</i>	<i>Disclose the interest; speak on the item <u>only</u> if the public are also allowed to speak but otherwise not participate in the discussion or vote; and leave the meeting <u>unless</u> you have a dispensation</i>
<i>Other Registrable Interests (Affects)</i> OR <i>Non-Registrable Interests (Affects)</i>	<i>Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being</i>

(a) to a greater extent than it affects the financial interests of a majority of inhabitants of the affected ward, and

(b) a reasonable member of the public

knowing all the facts would believe that it would affect your view of the wider public interest; in which case speak on the item only if the public are also allowed to speak but otherwise not do not participate in the discussion or vote; and leave the meeting unless you have a dispensation.

- (2) *Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.*
- (3) *Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.*
- (4) *Officers must disclose interests in accordance with Council Standing Order 44.*

3. INSPECTION OF REPORTS AND BACKGROUND PAPERS

(Access to Information Procedure Rules – Part 3B of the Constitution)

Reports and background papers for agenda items may be inspected by contacting the person shown after each agenda item. Certain reports and background papers may be restricted.

Any request to remove the restriction on a report or background paper should be made to the relevant Strategic or Assistant Director whose name is shown on the front page of the report.

If that request is refused, there is a right of appeal to this meeting.

Please contact the officer shown below in advance of the meeting if you wish to appeal.

(Yusuf Patel – 07970 411923 / Jane Lythgow 07970 411623)

B. BUSINESS ITEMS

4. MEMBERSHIP OF SUB-COMMITTEES

The Committee will be asked to consider recommendations, if any, to appoint Members to Sub-Committees of the Committee.

(Yusuf Patel – 07970 411923 / Jane Lythgow 07970 411623)

5. **DISPOSAL OF 40 BROWGATE, BAILDON**

1 - 12

Previous reference: Minute 34 (2022/23)

The report of the Strategic Director, Place, (**Document “K”**) asks Members, acting as Trustees of Baildon War memorial Charity, to agree to the disposal of 40 Browgate Baildon namely Baildon War Memorial. This is consisting of both house and shrine and following an appraisal of options by Phil Barker, Assistant Director of Sport & Culture under delegated powers from the Director of Place.

Recommended –

That the outcome of the Options Appraisal be accepted and, as both charities align, and ensuring that the Baildon War Memorial be retained, the transfer of asset to Bradford Flower Homes Development Limited be agreed.

To be actioned by: Strategic Director, Place



Report of the Director of Place to the meeting of Regulatory and Appeals to be held on 28th March 2024

K

Subject:

Disposal of 40 Browgate, Baildon ARN 52746 namely Baildon War Memorial.
Consisting of both house and shrine, which is held on charitable trust.

Summary statement:

Regulatory & Appeals Committee, acting as Trustees of Baildon War memorial Charity 220830 are requested to agree to disposal of 40 Browgate Baildon namely Baildon War Memorial. Consisting of both house and shrine following an appraisal of options by Phil Barker, Assistant Director of Sport & Culture under delegated powers from the Director of Place.

EQUALITY & DIVERSITY:

This reports supports the Bradford District Equality Objectives and Equality Plan 2021-2025 by:-

- Improving the way we work to help everyone
- Working better with our communities

David Shepherd
Director of Place

Portfolio: Place

Report Contact: Phil Barker
Phone: (01274) 431377
E-mail: phil.barker@bradford.gov.uk

Overview & Scrutiny Area:

Regulatory & Appeals Committee

1. SUMMARY

- 1.1 Regulatory & Appeals Committee, acting as Trustees of Baildon War memorial Charity 220830 are requested to agree to disposal of 40 Browgate Baildon namely Baildon War Memorial. Consisting of both house and shrine following an appraisal of options by Phil Barker, Assistant Director of Sport & Culture under delegated powers from the Director of Place.

2. BACKGROUND

- 2.1 Bradford Flower Homes Development Limited Charity 119575 have indicated, via the Councils Estates Service, a wish to take over management responsibility and custodianship of Baildon War Memorial (consisting of both house and shrine) held on charitable trust by Baildon War memorial Charity 220830
- 2.2 Bradford Flower Homes Development Limited Charity 119575 states *“its objects are restricted specifically, in each case only for the public benefit to relieve older/elderly people who are in need by reason of their age, ill health, disability, financial hardship or other disadvantage including the provision of social housing, other housing, accommodation, and assistance.”*
- 2.3 At the Regulatory & Appeals Trustees meeting on 16.3.23 agreed that the Assistant Director, Sport & Culture in Place be authorised to appraise the options for the potential disposal of Lodge and associated land at 40 Brow Gate, Baildon (ARN 52746) by transfer to Bradford Flower Homes Developments Ltd and that a detailed progress report be provided to a meeting of the Trustees, once the appraisal has been completed.
- 2.4 The purposes of the Baildon War Memorial (220830) charity are *“The provision of a war shrine and memorial house for the benefit of poor and infirm married couples of good character who are resident in Baildon at the time of their appointment”*.
- 2.5 The Trustees (R&A) must act in the charity’s best interests to carry out its purposes, both now and for the future.
- 2.6 This property has been vacant since the last occupier died over 8 years ago. It’s now in a heavily dilapidated state of repair which will require over £150,000 to refurbish it to bring it to a habitable state and comply with DDA legislation.
- 2.7 The Council are not able to access funding to undertake the works and there is no budget within the Council to undertake the works.
- 2.8 Bradford Flower Fund are able access their own capital and external funding and have agreed to undertake all works necessary to bring the property back to its intended purpose of providing accommodation for appropriate people.
- 2.9 The options were presented to Phil Baker, Assistant Director of Culture, Sport and Leisure in a briefing note – see Appendix A

- 2.10 The outcome of the option appraisal dated 29.2.24 is attached as Appendix B and states *"to confirm that I have appraised the options Agree to transfer asset to Bradford Flower Homes Development Ltd as the purposes of both charities align. Ensuring they retain the war memorial. See Appendix B*

3. OTHER CONSIDERATIONS

- 3.1 To follow due process, under Section 6 of the Trustees of Land and Appointment of Trustees Act 1996, whereby The Committee must consider the request in terms of what is in the best interests of the charity. Charity Commission Guidance advises that this means; "Acting in the charity's best interest's means always doing what the trustees decide will best enable the charity to carry out its purposes, both now and for the future."

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 Costs to be borne by Bradford Flower Fund

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1 The Committee must consider the request in terms of what is in the best interests of the charity. Charity Commission Guidance advises that this means; "Acting in the charity's best interest's means always doing what the trustees decide will best enable the charity to carry out its purposes, both now and for the future."

6. LEGAL APPRAISAL

- 6.1 Baildon War Memorial charity's governing document is the Scheme dated 21st February 1928 as amended by Scheme dated 3rd February 1965 (the Scheme). The Scheme doesn't seem to contain an express power to transfer the charity assets to, or merge with, another charity or a general power to do any other lawful thing that is necessary or desirable for the achievement of the charity's purposes nor does it make provision for the charity's dissolution. In addition, the Scheme doesn't contain other rules or restrictions that would prevent the proposed charity asset transfer.

- 6.2 Notwithstanding, section 105 of the Charities Act 2011 (as amended) provides a statutory power for the Charity Commission to authorise dealings with charity property where it appears to them that any action proposed or contemplated in the administration of a charity is expedient in the interests of the charity, the Charity Commission may by order sanction that action, whether or not it would otherwise be within the powers exercisable by the charity trustees in the administration of the charity.

- 6.3 The charity trustees must first demonstrate the following points:

- a. how the present charitable trusts are not actually workable;
- b. how they are encountering difficulties in expending the income or using Baildon War Memorial upon the present charitable trusts; and
- c. how the proposed charity asset transfer is in the best interest of the charity.

6.4 The charity trustees must consider the following points as part of the decision making process:

- a. whether the proposal for Bradford Flower Homes Development Ltd (the receiving charity) to take over custodianship duties and responsibilities is the best way forward to ensure that Baildon War Memorial will be used as it was intended to be, so furthers the existing charitable aims and objectives of Baildon War Memorial charity (the transferring charity) - this involves making an assessment on the suitability of the receiving charity and whether it is in a better position to administer, manage and maintain the charity asset;
- b. whether the receiving charity has at least one charitable purpose similar to the transferring charity and whether the existing charitable aims and objectives and trusteeship provisions would require amendments in accordance with section 280 of the Charities Act 2011 (as amended), before proceeding with the proposed charity asset transfer; and
- c. whether the people currently benefiting from the charity asset would continue to benefit from it once the proposed charity asset transfer is complete.

6.5 Other considerations:

- a. There is a possibility that Baildon War Memorial could be classed as 'designated land' based on the wording of the Scheme. The meaning of 'designated land' is land that must be used for a specific purpose of the charity according to the document that explains how the land must be used.
- b. There is a possibility that 'permanent endowment' applies based on the wording of the Scheme. The meaning of 'permanent endowment' is property that the charity must keep rather than spend. The charity assets were meant to be held by the charity forever, sometimes to be used in furthering the charity's purposes and to produce an income. The transferring charity has the ability to transfer 'permanent endowment' to the receiving charity if the transferring charity is satisfied that the proposed charity asset transfer will ensure the endowment will meet its original purposes and the receiving charity can and will continue to keep the 'permanent endowment' after the transfer.

The receiving charity is a charitable company and therefore there may be a requirement to appoint the charitable company as trustees of the 'permanent endowment' and 'designated land' and follow the Charity Commission's guidance. 'Designated land' and 'permanent endowment' must not be merged with the receiving charity's general funds and assets and they must continue to be held on their original trusts.

6.6 There is an understanding that the proposed charity asset transfer would not constitute a disposition of land or property held by or in trust for a charity (such as a freehold sale). As a result, compliance with the statutory requirements under sections 117-123 of the Charities Act 2011 (as amended) would not be required.

6.7 In addition, it appears that the ownership title to Baildon War Memorial is not vested in the Council as it is still vested in The Official Custodian for Charities 'land holding' service on behalf of charities by virtue of the Scheme and Charities Acts. This means that there is no obligation on the Council to comply with disposal of land or property

requirements which apply to principal councils under the Local Government Act 1972. Baildon War Memorial is outside the ambit of such Act. Therefore, there is no requirement for the Council to comply with the advertisement process for the disposal of public open space under section 123(2A) of such Act.

- 6.8 There doesn't appear to be a statutory requirement to advertise the proposed charity asset transfer. However, given the political sensitivities and potential publicity with the transfer of trusteeship, it may be considered sensible to allow a period of consultation with the public to give them an opportunity to make representations and raise objections to the proposed charity asset transfer.
- 6.9 There are risks if the receiving charity is appointed as sole corporate trustee of Baildon War Memorial. Namely the previous charity trustees would have no power of future administration and management of the charity and would not be able to demand Baildon War Memorial back in the future.
- 6.10 In view of the factors and complexities, the charities may need authority from the Charity Commission as part of transferring assets. The Charity Commission would have to consider the extent of their involvement with the proposed charity asset transfer, which may involve the making of a Scheme or Order. Further guidance from the Charity Commission would be useful to understand the procedure and implications linked to the proposed charity asset transfer.

7. OTHER IMPLICATIONS

7.1 SUSTAINABILITY IMPLICATIONS

Not applicable

7.2 TACKLING THE CLIMATE EMERGENCY IMPLICATIONS

Not applicable

7.3 COMMUNITY SAFETY IMPLICATIONS

Not applicable

7.4 HUMAN RIGHTS ACT

Not applicable

7.5 TRADE UNION

Not applicable

7.6 WARD IMPLICATIONS

Not applicable

7.7 AREA COMMITTEE LOCALITY PLAN IMPLICATIONS

Not applicable

7.8 IMPLICATIONS FOR CHILDREN AND YOUNG PEOPLE

Not applicable

7.9 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

None

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

9.1 Accept the Outcome of the Options Appraisal by Phil Barker Assistant Director of Sport, Culture and Leisure (formerly Culture and Sport)

- The charities outcomes align with those of Bradford Flower Fund
- A current dilapidated property will be brought back into use which aligns with the Charities outcomes
- Removes a ongoing issue with disrepair and dilapidation of a building in the Baildon community
- The charity will loose an asset but one that does not generate an income only a burden.
- The War Memorial will be retained

9.2 Disregard the Outcome of the Options Appraisal by Phil Barker Assistant Director of Sport, Culture and Leisure (formerly Culture and Sport)

- The Charity retains an asset
- The building will be left to continue to fall into further dilapidation
- The building will not be able to used and delivery the outcomes of either charity
- The War Memorial will be retained

10. RECOMMENDATIONS

Recommended -

To accept the Outcome of the Options Appraisal and agree to the transfer of asset to Bradford Flower Homes Development Ltd as the purposes of both charities align. Ensuring they retain the war memorial

11. APPENDICES

Appendix A Options Appraisal Briefing Note to Phil Barker Assistant Director of Sport, Culture and Leisure (formerly Culture and Sport)

Appendix B Outcome of Option Appraisal by Phil Barker Assistant Director of Sport, Culture and Leisure (formerly Culture and Sport)

12. BACKGROUND DOCUMENTS

Decision of Regulatory & Appeals Trustee meeting 16.3.23

40 Browgate Location and images

This page is intentionally left blank

Briefing Note

Subject: 40 Browgate, Baildon

Confidential:

1. **Purpose** to appraise the options regarding the potential disposal of 40 Browgate, Baildon
2. **Decision required** recommend preferred option to Regulatory & Appeals Committee acting as trustees of Baildon War memorial Charity 220830

3. Background

Bradford Flower Homes Development Limited Charity 119575 have indicated they wish to take over management responsibility and custodianship of Baildon War Memorial (consisting of both house and shrine) held on charitable trust.

“The Charity’s objects are restricted specifically, in each case only for the public benefit To relieve older/elderly people who are in need by reason of their age, ill health, disability, financial hardship or other disadvantage including the provision of social housing, other housing, accommodation, and assistance.”

R&A meeting on 16.3.23 agreed that the Assistant Director, Sport & Culture in Place be authorised to appraise the options for the potential disposal of Lodge and associated land at 40 Brow Gate, Baildon (ARN 52746) by transfer to Bradford Flower Homes Developments Ltd and that a detailed progress report be provided to a meeting of the Trustees, once the appraisal has been completed.

The purposes of the charity, Baildon War Memorial (220830) are “The provision of a war shrine and memorial house for the benefit of poor and infirm married couples of good character who are resident in Baildon at the time of their appointment.

The Trustees (R&A) must act in the charity’s best interest’s to carry out its purposes, both now and for the future.

This property has been vacant since the last occupier died over 8 years ago. It’s now in a heavily dilapidated state of repair which will require over £150,000 to refurbish it to bring it to a habitable state and comply with DDA legislation.

The Council are not able to access funding to undertake the works and there is no budget within the Council to undertake the works. BFF are able access their own capital and external funding and have agreed to undertake all works necessary to bring the property back to its intended purpose of providing accommodation for appropriate people.

4. Key issues –

The following advice on the options from colleagues in Legal is:-

1. The governing document does not make provision for the charity’s dissolution and it does not contain a specific power of disposal.

2. As the proposed charity asset transfer would be of property, which is held upon specific trusts, this may require the making of a Scheme whereby they can use their statutory power under section 105 of the Charities Act 2011.

Before they can consider making a Scheme or Order to amend its provisions, the charity trustees must demonstrate the following points:-

- a. how the present trusts are not actually workable;
 - b. how they are encountering actual difficulties in expending the income or using the property upon the presently stated objects/purposes; and
 - c. how the proposed charity asset transfer is in the best interests of the charity.
3. Alternatively, the charity trustees may wish to consider appointing the company as charity trustee by amending the trusteeship provisions in accordance with section 280 of the Charities Act 2011. If the trusteeship is changed the previous trustee would have no power of future administration and management of the charity.

The following advice on the options from colleagues in Estates:-

This property has been vacant since the last occupier died over 8 years ago. It's now in a heavily dilapidated state of repair which will require over £150,000 to refurbish it to bring it to a habitable state and comply with DDA legislation.

The Council are not able to access funding to undertake the works and there is no budget within the Council to undertake the works. BFF are able access their own capital and external funding and have agreed to undertake all works necessary to bring the property back to its intended purpose of providing accommodation for appropriate people.

5. Financial, HR, Communications issues (including value for money)

This would relieve the Council of the duty to find funding for the maintenance and repair of a property that will always be let on a less than market rent and thus rarely having any surplus capital for big works/repairs that may be required in the future.

6. Options

1. Not to dispose of 40 Browgate, Baildon and leave property empty
2. Not to dispose of 40 Browgate, Baildon but invest to secure future income
3. Agree to transfer asset to Bradford Flower Homes Development Ltd as the purposes of both charities align.

7. Recommendations

3. Agree to transfer asset to Bradford Flower Homes Development Ltd as the purposes of both charities align. Ensuring they retain the war memorial.

Report Sponsor: Mick Priestley	Contact Officer: Gill Bennison Extension: 1377
-----------------------------------	---

RE: Disposal of Browgate, Baildon

Phil Barker
To Gill Bennison
Cc Mick Priestley; Gillian Catlow

Reply Reply All Forward

Thu 29/02/2024 23:44

Follow up. Start by 01 March 2024. Due by 01 March 2024.

40 Browgate, Baildon briefing note.docx .docx File

Decisions 16032023 1100 Regulatory and Appeals Committee.pdf .pdf File

Hi Gill,

40 Browgate, Baildon

I have now reviewed the document and I am fine that we report back with the recommendation 3 as detailed in the report, "Agree to transfer asset to Bradford Flower Homes Development Ltd as the purposes of both charities align. Ensuring they retain the war memorial"

Therefore, I am writing as the Assistant Director of Culture, Sport and Leisure (Previously AD Sports and Culture) and authorised officer under section 14:20 of the Councils constitution to confirm that I have appraised the options for the disposal of 40 Browgate, Baildon and you can report back to R&A Committee with a detailed progress report to the Trustees with an update and recommendation as detailed in the attached report.

Kind regards,
Phil

Phil Barker
Assistant Director Culture, Sport and Leisure

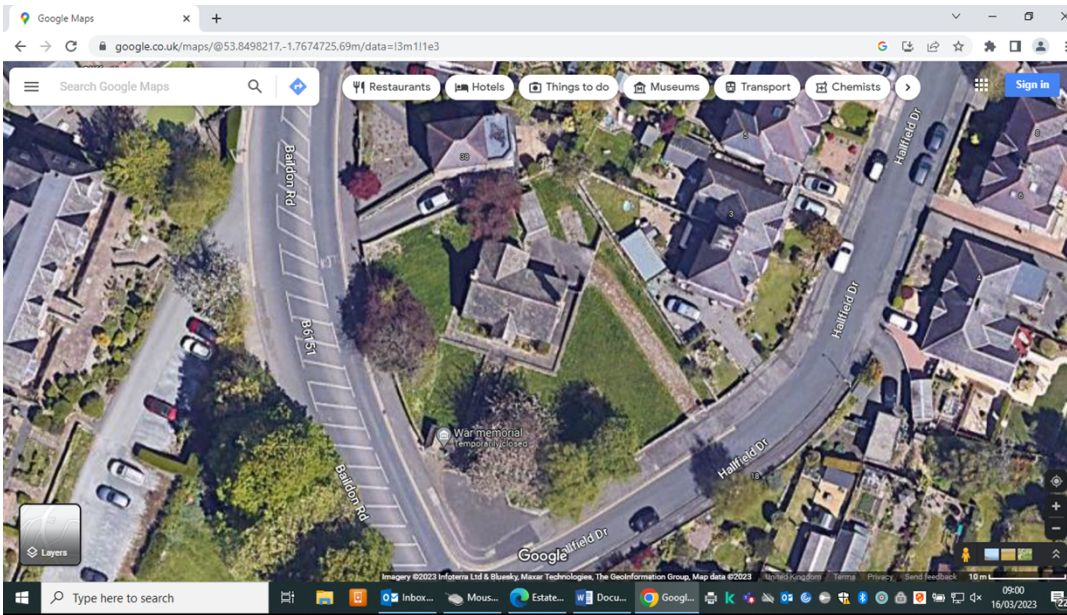
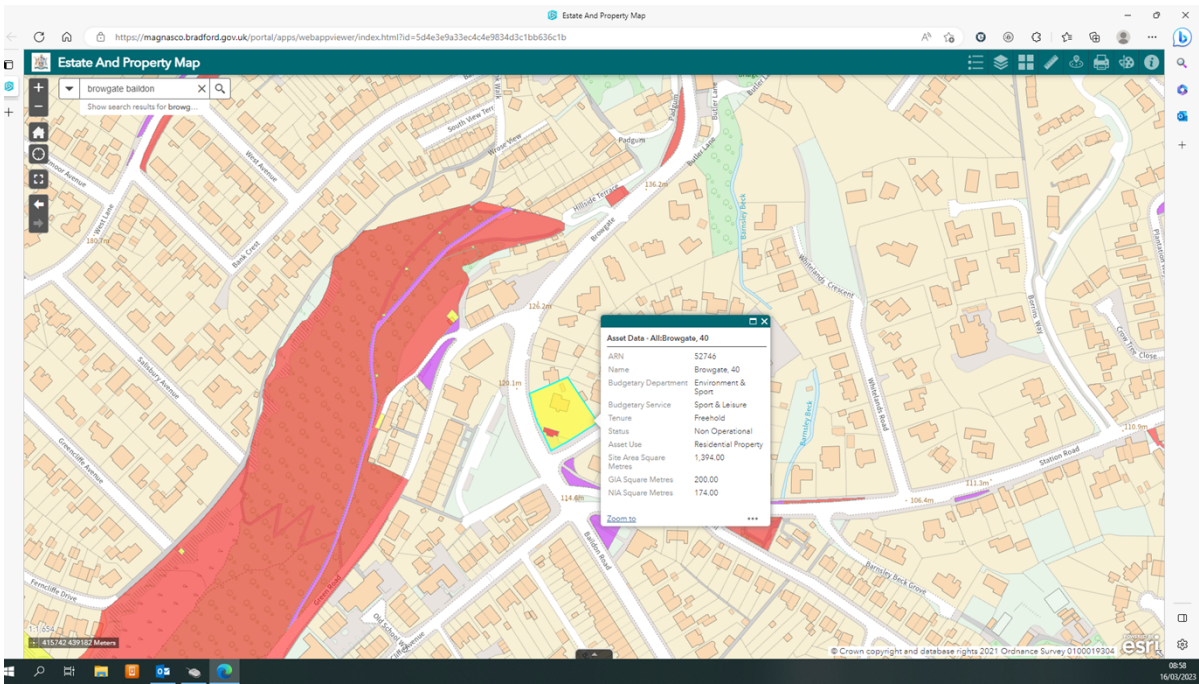
Tel: [01274 432616](tel:01274432616)
Britannia House, 1st Floor, Bradford BD1 1HX

City of Bradford Metropolitan District Council
Department of Place

Visit our website www.bradford.gov.uk
Get the Bradford Council mobile app www.bradford.gov.uk/app
Follow Bradford Council on Twitter www.twitter.com/bradfordmdc
Follow Bradford Council on Facebook www.facebook.com/bradfordmdc



This page is intentionally left blank



This page is intentionally left blank