OVERVIEW AND SCRUTINY COMMISSION – CALL IN OF THE DECISION TAKEN ON THE SALE OF LAND ON THE BROADWAY (P4)
2 MAY 2013

7.15PM – 9:05PM

PRESENT: Councillors Peter Southgate (chair), Councillor Peter McCabe (vice-chair), Councillors Iain Dysart, Suzanne Evans, Suzanne Grocott, Samantha George, Diane Neil Mills, Judy Saunders, Russell Makin, Jeff Hanna, Richard Hilton, David Dean (substitute for Henry Nelless).

ALSO PRESENT: Councillors Mark Allison (Cabinet Member for Finance), Councillor Andrew Judge (Cabinet Member for Environmental Sustainability and Regeneration), Caroline Holland (Director of Corporate Services), Chris Lee (Director of Environment and Regeneration), Benjamin Sherlock (Scrutiny Officer), Rebecca Redman (Scrutiny Officer), Wendy MacNab (Merton Resident), James McGinlay (Head of Sustainable Communities), Susan Sime (Senior Lawyer, Legal Services), Valerie Mowah, (Policy Officer, Spatial Planning), Jacquie Denton (Estate Surveyor, Property Management)

1 DECLARATIONS OF INTEREST

None

2 APOLOGIES FOR ABSENCE

Apologies for absence were received from Peter Connellan, Jo Sullivan-Lyons, Councillor Chris Edge.

3 CALL IN – SALE OF LAND ON THE BROADWAY (P4)

Councillor Peter Southgate outlined the reasons for the Call In and introduced the signatories of the Call in request, confirming that the Monitoring Officer had deemed this call in valid. Councillor Peter Southgate outlined the process and the individuals who would speak during the call in.

EXCLUSION OF THE PUBLIC

During the debate the Panel passed the following resolution on two occasions prior to discussing the information provided in appendix 3 to the report, after which the meeting resumed in public session.

RESOLVED: That the public are excluded from the meeting during discussion of appendix 3 as it involves the disclosure of information relating to the financial or business affairs of the authority.

Councillor Peter Southgate also emphasised that this Call In was an opportunity to look in detail at improving the P4 site in Wimbledon and to examine in depth the options for appropriate use of the site.

Councillor Peter Southgate reminded the Commission that the discussion should remain focused on the sale of the P4 site and not dwell on planning options. He also

informed the Commission that he had received legal advice that if the decision was referred back Cabinet should receive the reference as they had made the decision. In addition, contrary to the views expressed in the call in, officer advice confirmed that the decision was not contrary to the council's budget and policy framework.

Councillors Suzanne Evans and David Dean disputed this and asserted that it was for the Commission to decide who would receive the decision, if it was referred back.

Councillor Peter Southgate explained that Paul Dale (Assistant Director of Resources) had informed him that the decision was consistent with the budget; that the Call In raisers' point about the Localism Act was covered in the report, that the Economic Development Strategy was not in the budget and policy framework, and that the decision on the sale of land on the Broadway was not contrary to the outcomes of the Community Plan – therefore there were no grounds to refer the decision back to full Council, should the Commission agree to this .

Councillor Diane Neil Mills stated that part of the decision was based on the Economic Development Strategy which was part of the council's policy framework and therefore should be considered for referral back to full council. James McGinlay confirmed that the Economic Development Strategy was not part of the council's policy framework.

Councillor Peter Southgate welcomed comments from the signatories of the call in.

Councillor Diane Neil Mills thanked members, officers and residents in attendance. She stressed the importance of the decision and outlined her objection to the sale of P4 due to a lack of strategic and financial arguments, which were contrary to the council's budget and policy framework.

Councillor Diane Neil Mills highlighted that the P4 site is of strategic importance, being in the heart of the Wimbledon cultural cluster as outlined in the Local Development Framework. She felt that it was key for LBM to support it, as it provides access to the nearby theatres and adds amenity value to visitors to the shops and offices in Wimbledon.

Councillor Diane Neil Mills gave her opinion that a surplus of parking spaces in Wimbledon did not render the P4 site redundant as a car park, as even a 50m distance can impact foot traffic to businesses nearby. She felt that the survey was flawed by being an aggregate survey. She suggested that any P4 proposal should be based on Better Value development as outlined in the Council's Core Strategy regarding provision of cultural facilities, especially in the East of Wimbledon.

Councillor Diane Neil Mills felt that LBM should secure new cultural assets in the Broadway area and develop their infrastructure. She believed that the proposal to dispose of P4 showed an absence of leadership and did not adequately leverage the site. She told the Commission that there had been no dialogue with theatre management on this decision which contradicted Merton Council's professed support for the theatre.

Councillor Diane Neil Mills stated that disposing of P4 with no restrictions on its use

made it hard for cultural organisations to match the bids of commercial developers. She suggested that the council could and should dispose of the site if there was social benefit to the proposed use. She felt that the council should continue to support the New Wimbledon theatre by enabling the P4 site to remain in its current use as a car park.

Councillor Diane Neil Mills asked for clarity on how cultural proposals could compete if the P3 land was also put on the market with no restrictions on its development. She gave her opinion that if the P4 site was not developed with cultural facilities, then the P3 site should be.

Councillor Diane Neil Mills said a report should be made to ensure the best consideration as disposal would result in a loss of income.

Councillor Suzanne Grocott asked three questions. Firstly, why the sale was needed. Secondly, why it was needed now. Thirdly, what criteria had been used to justify it?

Councillor Suzanne Grocott said that the Cabinet decision suggested the P4 car park is surplus to need. She disputed this arguing that the car park is often used at 100% capacity. Also despite officers' claims that current users will find other places to park, they concede it is hard to give any estimates about this, and that no assumptions can be used to determine how drivers will choose to park.

Councillor Suzanne Grocott questioned how necessary the receipt of funds was at this time from the site if we had sufficient reserves at present.

Councillor Peter Southgate then introduced Wendy MacNab, a local resident. Wendy MacNab outlined her objections to the decision stating that she felt that the parking survey had been inadequate and did not show the real usage of the car park, nor did it look at the users of the car park or reasons fro parking at the P4 site.

Wendy MacNab stated that December and January were the busiest periods for the New Wimbledon Theatre, but the survey did not cover these periods, also focusing only on Thursday, Saturday and Sunday periods.

Wendy MacNab pointed out that the survey itself stated that the P4 site was often over capacity. She told the Commission that if the site was developed it would reduce light levels, air quality and the view for surrounding areas and from the air – going against the Merton policy on maintaining views in the borough.

Wendy MacNab explained that although the Palace Cinema building had previously stood on the P4 site, it had been a gabled building and so did not impact on air space or views in the way that proposed developments might.

Wendy MacNab told the Commission that the P4 site was a crucial asset for theatre parking. For example, HGVs need to park for theatre events, and site development of P4 would restrict their ability to get near the theatre.

Wendy MacNab also pointed out that the open air space aids dispersal of traffic fumes and sounds, and provides light to theatre dressing rooms, as well as the Broadway itself. Wendy MacNab particularly pointed to the proposed massing

allowance in the report, and its lack of mitigation features. She referred to the Local Development Framework allowance for permitted heights, and suggested that a square block building as in the massing diagram was not appropriate for the area. As mentioned in the site Development Brief, the area is close to residential areas which would be negatively affected by the introduction of buildings taller than 4 storeys.

Wendy MacNab mentioned that around the borough a lot of bulky buildings had recently been planned with resistance from residents.

Wendy MacNab suggested that an arts centre be approved by Merton Council to meet a demand created by the closure of the Sir Cyril Black Community Centre on St George's Road. The Broadway would be a suitable location for this arts centre. She stated that she felt the proposals as given were too focused on best value and not residents' needs.

Wendy MacNab made the point that the financial climate creates a risk of new offices remaining unused after construction. She was also concerned that an unregulated retail bid may not fit in with the character of the area. She asked what surveys justified the addition of more offices, and said that new residential developments needed to be big enough to house families, not just commuters.

Wendy MacNab gave her opinion that the £0.25m annual revenue that the P4 car park generates would be lost for a one-off gain, if the site was sold on the market.

Councillor Andrew Judge responded by clarifying that any bid on the P4 site would have to demonstrate that it contributed to Street Scene and the Wimbledon economy before it went ahead. He informed the Commission that the density, mass and appearance of any building would be considered by the planning committee if and when the P4 site is sold. The Cabinet decision to which the Call In referred did not specify the dimensions of any development that might take place – the massing diagram in the report was just for marketing purposes.

Councillor Andrew Judge said that recent consultation around the borough shows that there is no demand for an arts centre on the P4 site.

Councillor Andrew Judge read out an email from the Ambassador Theatre Group, dated 30 April 2013, which stated that they had been aware that the P4 car park was temporary and would be sold, adding that they had no objection to the sale.

Councillor Andrew Judge asserted that the theatre does not depend on the car park. He pointed out that many London theatres do not have their own parking, and that the New Wimbledon Theatre is near several public transport interchanges. Studies show underuse of parking spaces in Wimbledon even at peak times.

Councillor Andrew Judge pointed out that the P4 site was acquired by LBM at cost to the Council, under a compulsory purchase order. He advised that it is an asset of value and that LBM should consider maximising that value in financial terms. Councillor Andrew Judge also pointed out that the gap in frontage on the Broadway was detrimental to the appearance of Wimbledon centre.

Councillor Andrew Judge confirmed that if the site went to tender but no bid met the current value of the car park that the council would not sell. However, if the bid is higher than the current value, the Council has an obligation to sell the site for the benefit of Merton and Wimbledon. He also stated that an Arts centre could be proposed as part of a bid, but that so far this has only been proposed for the P3 site.

Councillor Andrew Judge added that it should not be assumed that the existing car park revenue would disappear if the site is sold, as the same car park users would continue to pay to park elsewhere

Councillor Mark Allison explained that development options should be considered and that a decision should be taken soon, despite reserves, to ensure a timely receipt of funds.

Councillor Mark Allison referred to paragraph 7.1 of the Cabinet report, which states that the Council has a legal obligation to obtain the best reasonable consideration of land value. Councillor Mark Allison felt that the only way to judge the best consideration of the P4 site's land value was for the market to demonstrate the value of the site. It was Cabinet's judgement that if the right price was offered on the market, then a sale could be decided under further consideration.

Councillor Peter Southgate asked for clarity on what the "right price" was. He questioned whether, if an offer that was higher than the Existing Use Value given in the exempt appendix was received, the site sale would then go ahead.

Councillor Peter Southgate asked how the figure for the "right price" was derived. The Director of Corporate Services, Caroline Holland said that the valuation was based on existing use. Caroline Holland confirmed that the needs of the area and planning assumptions would be considered before the best proposal was accepted.

Councillor Samantha George said she would have expected a more detailed valuation, including alternate uses for the site. She said she could not gain comfort that alternate uses had been considered, from the information that had been provided.

Councillor Peter Southgate said that he calculated a higher value for the site than the one given in the exempt appendix. It was his opinion that Cabinet should not base a valuation decision on the information given.

Councillor Mark Allison said that the multiple options for the site make concrete valuation difficult and abstract at present.

Councillor David Dean asked Caroline Holland why the sale was happening now. Caroline Holland explained that the disposal of the site and loss of income had been incorporated into the Medium Term Financial Strategy and that the council has long intended to sell the P4 site.

Councillor David Dean asked Caroline Holland if the current Return on Investment (ROI) was approximately 17%. Caroline Holland said that based on current information, this was correct.

Councillor David Dean asked Caroline Holland if she thought this was a good ROI. She said that for a car park it was good, but that the Council does not yet know what ROI it could get instead.

Councillor Richard Hilton asked what the return on capital would be, if the council sold P4 at the Existing Use Value in the exempt agenda. Caroline Holland explained that a market test would not use the same figure. She said that the best consideration for the site had to be made.

Councillor Richard Hilton felt that any decision to go to market should be backed by an independent valuation including the value of alternate uses. He suggested that a mixture of residential and retail use could have been valued. He asked how good value could be decided when no independent valuation had been sought. Caroline Holland confirmed that Corporate Services had not sought an alternate use valuation. Councillor Iain Dysart asked why, if there was consensus about the existing income generation, Cabinet had assumed an alternate purpose would be better.

Caroline Holland explained that income from the P4 car park disposal had already been factored into the council's budget.

Councillor David Dean raised that the number one reason for retail success is proximity to transport links, and that in Merton and other outer London boroughs the most important transport link is car parks. If a car park is taken away, he said, business rates would reduce in turn. He asked how much rates were estimated to fall with the disposal of the P4 car park site.

The Director of Environment and Regeneration, Chris Lee responded that the survey had shown Wimbledon to be over-served by car parks. He conceded there had been no analysis of the impact of removing individual car parks but explained that there was a long term plan to redevelop the site for some time.

Chris Lee said that the Council needs to use its vacant sites for redevelopment to increase revenue to the Council. He felt that the car park at P4 was a good use of the site but not necessarily the best use, nor was it vital for retail or the theatre.

Councillor Jeff Hanna raised that the Call In request form mentions that the clarity of aims and desired outcomes was not met by the decision. He asked if there was a way to better know the value of the site before a market test. Caroline Holland said there was not. Councillor Jeff Hanna asked whether, if the Cabinet decision is ratified, the council would continue with the sale. Caroline Holland replied that, as explained in the report, the council is not obliged to accept any bid, including the highest.

Councillor Suzanne Grocott asked Chris Lee if there was a way to test the theory that P4 car park users would continue to park elsewhere, for example by making other spaces free to park in, and seeing if those spaces are used instead of P4.

Chris Lee said there had been no driver behaviour analysis, but that use of Wimbledon Centre's public transport links was to be encouraged. He said that Environment &Regeneration department are assuming that existing provision will be

sufficient, and that the department is improving signage for car parks in the area. He said that while the P3 and P4 car parks are plainly visible to motorists, others will have better signage so drivers know where to park.

Councillor Suzanne Grocott asked if there was an aim to reduce cars in Wimbledon. She asked if there was evidence that other car parks had been increasing revenue since their signage was improved. Chris Lee replied that there were no figures but that they could be provided. He confirmed that the council is encouraging public transport use.

Councillor David Dean gave the example of Kingston and Croydon as similar boroughs that rely on car transport. He pointed out that the central London theatres Councillor Mark Allison had referred to had far better public transport links than Wimbledon.

Councillor David Dean said that in P4, the revenue per space was better than most car parks and that its high use indicated it was a very successful car park. He felt this could not be relied on to carry over to other car parks, as it was likely due to the site's central location.

Councillor David Dean stated that people dropping off disabled residents at the theatre may be disinclined to do so at P3 because of its distance from the Theatre. Councillor David Dean said that Wimbledon needed and deserved the P4 car park.

Councillor David Dean asked if the council could liaise with Kingston to discuss their car parking approach and if other car parks should be sold rather than the P4 site.

Councillor David Dean suggested that the council contact NCP to make an offer to lease the car park to them. Councillor Suzanne Evans supported Councillor David Dean's proposal. Councillor Suzanne Evans said that the current business plan for the P4 site did not make sense and that revenue-losing car parks should be closed down instead.

Councillor Suzanne Evans brought the Commission's attention to paragraph 3.4.1 of the Call In report, where it claims there is no evidence that closing the P4 car park will lead to a decline in local business. She asked if there was any evidence that closing the P4 car park would not lead to a decline in business.

Councillor Andrew Judge said that there will still be disabled car parking spaces near to the theatre. Councillor Andrew Judge pointed out that previous independent valuations of other sites have not equated to the actual market value.

It was moved by Councillor Judy Saunders and seconded by Councillor Peter McCabe:

That the decision be ratified, and not be referred to either Cabinet or full Council. She stated that the area has potential for development and that people will be able to park in Wimbledon whether P4 is a car park or not.

Councillor Andrew Judge explained that the council cannot take the P4 site to market without deciding to dispose of it, and that the P4 site has been on the disposal list for

a some time. He reiterated that Cabinet would make a business decision after offers had been made, and that it would consider the quality, value, planning permission and contribution to Wimbledon that each bid offered.

The motion was put to the vote.

4 members voted in favour.

5 members voted against.

The motion was denied.

Councillor Diane Neil Mills stated that she felt that she had sufficiently explained why the decision runs contrary to the Local Development Framework (LDF). Councillor Diana Neil Mills added that the decision was also contrary to the financial and budgetary policy of the council. Councillor Jeff Hanna questioned the value of the car park to the culture and community assets in the area. He stated that the New Wimbledon Theatre had a capacity of 1670, which left almost 1400 people who do not park in the P4 car park. He concluded from this that the P4 car park was not vital for the theatre's survival.

Councillor Jeff Hanna said that the Call In signatories financial arguments had been challenged by Cabinet Members and the Director for Corporate Services, since LBM was not committing to a sale if no bids met the required value.

Councillor Iain Dysart asked what results had come from consultation with community groups. Councillor Peter Southgate said that the Wimbledon Municipal Group had declined to attend, indicating a lack of interest in the decision.

Councillor Samantha George pointed out that the day before the Call In, a cultural group had raised the prospect of an arts centre in Wimbledon with her and that this was not reflected in the report. She also felt that the Localism Act avenue for the site (via the Community Right to Bid) had been denied by expediting the sale. She felt the community groups should have a chance to bid.

Councillor Andrew Judge reiterated that the Wimbledon Municipal Group had expressed an interest in the P3 site for an arts centre development but not in the P4 site.

Councillor Peter Southgate felt that an independent valuation was needed before bidding begins, so that the bids can be objectively evaluated. He felt that the figure given in the exempt materials was too low.

Councillor Andrew Judge responded that the figure in the exempt paper was not a valuation. Councillor Mark Allison added that the P4 site has been on the council's disposal list for a long time. Councillor Samantha George said that the Council often market-tests, and asked why this had not happened for P4.

Councillor Diane Neil Mills disputed that no group was interested in P4 as an arts site or that the New Wimbledon Theatre would be unaffected. Councillor Diane Neil Mills stated that Wimbledon Music Group has expressed an interest in an arts centre, and

that Wendy MacNab had already outlined her views that the lack of parking would be devastating to the theatre.

It was moved by Councillor Richard Hilton and seconded by Councillor Suzanne Evans:

That the decision should be referred back to Council instead of Cabinet.

Councillor Peter Southgate said that the decision should return to the decision maker which was Cabinet.

Councillor David Dean added that since the “disposal” aspect of the sale had been questioned, the decision was valid to return to full council.

The motion was put to the vote.

5 members voted in favour.

5 members voted against.

The chair used his deciding vote and the motion was denied.

RESOLVED: That the decision is referred back to Cabinet for reconsideration at its meeting on 10 June 2013. That the Commission forward the following recommendations to Cabinet for consideration in relation to the sale of land on The Broadway (P4):

A. That Cabinet reconsider the decision taken on the sale of land on the Broadway (P4 site);

B. That Cabinet undertake a more comprehensive valuation of the P4 site’s value (including its on going value as a P4 site) before opening up to tender;

C. That Cabinet compares bids received with the site's current value as a car park, and does not accept any bid that fails to achieve value against this benchmark

Furthermore, that the following comments be noted by Cabinet as an informative from the Panel:

- To consider the potential for the site to contribute to the emerging "creative quarter" in this part of the Broadway
- To reference provisions of the Localism Act allowing the community right to bid for public assets