

Merton Council Sustainable Communities Overview and Scrutiny Panel



Date: 2 June 2016
Time: 7.15 pm
Venue: Committee rooms C, D & E - Merton Civic Centre, London Road, Morden
SM4 5DX

AGENDA

Page Number

- | | | |
|---|---|--------|
| 3 | Call-in report of Land at 111 - 127 The Broadway,
SW19 (Known as P4) | |
| | Appendix 3: report setting out officers' response
to the call-in | 1 - 32 |

**This is a public meeting – members of the public are very welcome to attend.
The meeting room will be open to members of the public from 7.00 p.m.**

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Sustainable Communities Overview and Scrutiny Panel Membership

Councillors:

Abigail Jones (Chair)
Daniel Holden (Vice-Chair)
Stan Anderson
Michael Bull
David Chung
Russell Makin
John Sargeant
Imran Uddin
James Holmes
Najeeb Latif

Substitute Members:

Edward Foley
Abdul Latif
Janice Howard
Laxmi Attawar
Mike Brunt

Note on declarations of interest

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. If members consider they should not participate because of a non-pecuniary interest which may give rise to a perception of bias, they should declare this, withdraw and not participate in consideration of the item. For further advice please speak with the Assistant Director of Corporate Governance.

What is Overview and Scrutiny?

Overview and Scrutiny describes the way Merton's scrutiny councillors hold the Council's Executive (the Cabinet) to account to make sure that they take the right decisions for the Borough. Scrutiny panels also carry out reviews of Council services or issues to identify ways the Council can improve or develop new policy to meet the needs of local people. From May 2008, the Overview & Scrutiny Commission and Panels have been restructured and the Panels renamed to reflect the Local Area Agreement strategic themes.

Scrutiny's work falls into four broad areas:

- ⇒ **Call-in:** If three (non-executive) councillors feel that a decision made by the Cabinet is inappropriate they can 'call the decision in' after it has been made to prevent the decision taking immediate effect. They can then interview the Cabinet Member or Council Officers and make recommendations to the decision-maker suggesting improvements.
- ⇒ **Policy Reviews:** The panels carry out detailed, evidence-based assessments of Council services or issues that affect the lives of local people. At the end of the review the panels issue a report setting out their findings and recommendations for improvement and present it to Cabinet and other partner agencies. During the reviews, panels will gather information, evidence and opinions from Council officers, external bodies and organisations and members of the public to help them understand the key issues relating to the review topic.
- ⇒ **One-Off Reviews:** Panels often want to have a quick, one-off review of a topic and will ask Council officers to come and speak to them about a particular service or issue before making recommendations to the Cabinet.
- ⇒ **Scrutiny of Council Documents:** Panels also examine key Council documents, such as the budget, the Business Plan and the Best Value Performance Plan.

Scrutiny panels need the help of local people, partners and community groups to make sure that Merton delivers effective services. If you think there is something that scrutiny should look at, or have views on current reviews being carried out by scrutiny, let us know.

For more information, please contact the Scrutiny Team on 020 8545 4035 or by e-mail on scrutiny@merton.gov.uk. Alternatively, visit www.merton.gov.uk/scrutiny

Committee: Sustainable Communities Overview and Scrutiny Panel (call-in)

Date: 2 June 2016

Agenda item:

Wards: Abbey

Subject: Sale of land on The Broadway (P4)

Lead officer: Chris Lee

Lead member: Cllr Mark Allison

Forward Plan reference number:

Contact officer: Jacquie Denton

Recommendations:

That the Sustainable Communities and Scrutiny Panel consider the information provided in response to the call-in request and decide whether to:

Refer the decision back to Cabinet for reconsideration; or

Determine that the matter is contrary to the policy and/or budget framework and refer the matter to Full Council; or

Decide not to refer the matter back to Cabinet, in which case the decision shall take effect immediately.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. The Overview and Scrutiny Commission is asked to consider the call in request together with the officer's comments and further information provided in response to the reasons for the call-in.

2 DETAILS

- 2.1. Under the Scheme of Management 2014 the Head of Sustainable Communities is authorised to negotiate and agree terms for the disposal of land.
- 2.2. Cabinet resolved at the meeting of 17 December 2007 the strategic principle that the development of the P4 site should be as a mixed development comprising commercial elements (residential and retail) and community facilities.
- 2.3. In order to ensure that the Council achieves best consideration for the site a report was taken to Cabinet on 11 March 2013 recommending that the site be disposed of (in line with the Council's Asset Management Plan), without restriction on use and that the then out dated Planning Brief of 2003 be rescinded.
- 2.4. Cabinet resolved at the meeting of 11 March 2013 that (1) the decision taken of Cabinet 17 December 2007 be rescinded and that the P4 site be disposed of on the open market without restriction on use; and (2) the then

existing Planning Brief published in 2003, entitled 3 WTC Site, Wimbledon be revoked.

- 2.5. This decision was called in by Overview and Scrutiny Commission and taken Overview and Scrutiny Commission (call-in) on 2 May 2013 and to Cabinet on 10 June 2013. Cabinet resolved that a further report be presented to the September Cabinet meeting addressing the matters arising from the Call-in.
- 2.6. At its meeting of 16 September 2013 Cabinet responded to questions raised from Overview and Scrutiny Commission and following consideration resolved that the resolutions of Cabinet made at its meeting of 11 March 2013 are upheld.
- 2.7. In line with this decision the site has been marketed on the open market without restriction on use and a report was brought to Cabinet at its meeting of 18 May 2016 in order to dispose of the site on terms as set out in that report
- 2.8. Cabinet at the meeting of 18 May 2016 resolved that Cabinet; (1). agrees to the disposal of land at 111-127 The Broadway, SW19, also known as “P4” site, on the terms set out within the report and (2). delegates the completion of the disposal and precise terms to the Director of Environment and Regeneration in consultation with the Cabinet Member for Finance.
- 2.9. Councillors Michael Bull, Suzanne Grocott, Daniel Holden and David Williams have requested that this decision is called in for the reasons shown in part four of the request form
- 2.10. The Councils procedure for dealing with call in requests is set out in paragraph 16 of Part 4E of the constitution.
- 2.11. The monitoring Officer has accepted the call-in as valid and the Panel is required to consider the reason for the call in and decide on its recommendation

3 RESPONSE FROM OFFICERS

- 3.1. **General** - Officers have considered each of the points raised, but largely these are predicated on there being an option to do something with the site other than a freehold disposal. The only options available to the Council at this stage were either to sell or not sell the site. Cabinet had made a decision in March 2013 (upheld following call-in) to dispose of the site. It had not instructed any further analysis or options appraisal or authorised the development of the site by the Council or entry into any form of lease. Therefore whilst alternative options have been considered in deciding to take forward the disposal resources have not been allocated to producing detailed analysis or financial costings. Some of the points raised were raised during the call-on of the March 2013 decision.
- 3.2. **Question** - The site is of strategic importance and key to building a creative arts cluster (as identified in Merton's Economic Development Strategy). Yet paragraph 4 makes clear that there has been very little consultation with local groups who would be key to the success or otherwise of this aspiration, such as the New Wimbledon Theatre, Polka Theatre, Wimbledon College of Art and Wimbledon Choral Society. Nor has there been recent consultation with residents living nearby.

- 3.2.1 **Response** The matter of consultation was raised during the call in of the decision of Cabinet of 11 March 2013 and was considered by Cabinet at its meeting of 10 June 2013.
- 3.2.2 Whilst there is no obligation on the Council to consult prior to the disposal of land, as the P4 site was included in the Council's Draft LDF Sites and Policies Development Plan, there was in fact wide consultation. The details of this consultation are not repeated here but are set out in the report to Overview and Scrutiny Committee (call in) of 2 May 2013 (see paragraph 3.1 of the report to Overview and Scrutiny of 2 May 2013 Appendix 2).
- 3.2.3 Cabinet accepted that there had been sufficient consultation and did not resolve that any further consultation be undertaken. Accordingly, there has been no further consultation and it is considered that any further consultation (i.e. concerning the actual development proposed for the P4 site) would be appropriate through the normal planning process.
- 3.3. **Question** - The council clearly has a duty to deliver best value. However, there is no clarity in the report as to what constitutes best value. Best value may not necessarily be delivered through an outright sale. Nor is there clarity about what might deliver best value for the wider community in and around Wimbledon town centre. Over many years, there has been an aspiration – including by the council - to provide a new community facility as part of any redevelopment of this site to benefit residents and yet this would not be delivered through the proposed outright sale. With regard to financial implications, current pressure is on the council's revenue budget not capital budget and – unlike with a long leasehold geared interest sale for example – an outright freehold sale risks increasing pressure further on the revenue budget as a result of lost future income.
- 3.3.1 **Response** The obligation upon the Council in relation to a land disposal is set out in section 123 of the Local Government Act 1972. That duty is to obtain the best consideration reasonably obtainable (i.e. generally the best price, although other matters may be taken into account in determining the best price provided they are quantifiable). There is no duty to consider any other matters and indeed if the Council does not obtain the best consideration reasonably obtainable it must obtain the consent of the secretary of state (unless the disposal is by way of a short tenancy). It is considered that a disposal as recommended in the report to Cabinet of 26 April 2016 complies with that duty.
- 3.3.2 The decision of Cabinet of 11 March 2013 was that the site be disposed of without restriction on the use which whilst it removed the requirement for a community use on the site did not prohibit bids being submitted which include this use. The Council did not receive any bids that proposed a community use.
- 3.3.3 To offer the site on a long leasehold basis with a geared rent would not be attractive to the market for this type of development opportunity because offices become obsolete more quickly than say industrial premises and are likely to need redevelopment. For this reason the office market is not comfortable with geared leases and many developers will not bid for leasehold sites. Developers or investors will only redevelop to maintain or improve the value and/or quality of their asset. This is expected to be more

frequent for an office building than say an industrial unit but the timescale even for offices is unlikely to be less than fifty years. To have proposed this as an option would have resulted in either no bids being submitted or the Council not being able to meet its duty to obtain the best consideration reasonably obtainable.

3.3.4 Further the loss of income from the car park has been taken into account in assessing the bids received and it is considered that financially the Council will be in a better position on receipt of the capital sum despite the loss of revenue currently received. Having taken into account all factors and undertaking a vigorous evaluation process the Council considers that the bid outlined in the report to Cabinet of 18 May 2016 represents best consideration reasonably obtainable.

3.3.5 The development set out in the bid also makes a contribution to the local community in that it creates job opportunities and proposes to deliver a vibrant mixed use development that will make a significant contribution to the economic vitality and well being of this area of Wimbledon and accordingly will provide best value.

3.4. **Question** This call-in relates primarily to the due consideration and evaluation of alternatives. Whilst it may be the stated aim of the Administration to maximise the potential of the land at 111-127 The Broadway SW19 (known as “P4”), the Cabinet has failed to demonstrate that an outright sale of the property at the price proposed is necessarily maximising its potential. The last call-in relating to this decision in 2013 was submitted because no valuation had been undertaken of the site. This proved the right decision given the proposed sale proceeds being discussed at that point and the 5-fold amounts now being discussed. The situation, however, has moved on again since 2013 and any decision being made in 2016 must now take into account the current plans for Crossrail 2 which could involve the re-development of part of Wimbledon town centre. It may well be that the proposed sale price already reflects this, but this is by no means clear.

3.4.1 **Response** Up to date valuations have been undertaken in order to inform the decision making process (which were included as an appendix to the report to Cabinet of 18 May 2016). These take into account all relevant market factors. It is difficult to determine the impact of Crossrail since this is currently only at the point of consultation with work not expected to commence until 2023. The Council has and, are sure bidders will have fully considered the uncertainty of Crossrail and accordingly the positive and negative implications.

3.5. **Question** A decision as important as this should not also be accepted on the basis that the Council perceives that it would cause a “loss of reputation” if it “changed its mind” after lengthy discussions. It has to presumed that a legally binding “verbal agreement” had not been given before official approval of the decision and, therefore, any prospective buyer would understand that a change in circumstance/ new information would be taken into account without detriment.

3.5.1 **Response** The selected bidder is fully aware that authority would need to be obtained before the Council can enter into any legal agreement and no

commitment has been given. The reputation of the council would not be a deciding factor in whether a disposal proceeded. However a loss of credibility is a factor which the Council should be aware of. The recommendation to proceed with the bid has been arrived at following a rigorous evaluation process and interrogation of the proposal; had that process raised any concerns, then the recommendation would not have been made.

- 3.6. **Question** In consideration of the alternative options, Merton Council has failed properly to evaluate these. It is an overly risk-averse decision taken by a Cabinet which has not seriously undertaken any real examination of alternatives, but just wants to “get rid of the land as soon as possible”. 3.5 states that “the council is keen to look at retaining property and developing sites to add value”. Yet where it has the golden opportunity to do so here with P4, it simply puts obstacles in the way such as “the council does not currently have in-house experience and expertise to carry out such a project”, without including any detail of what it would cost in terms of time and/or resources to buy-in or develop such experience and expertise. By focusing solely on the risks of the alternatives, the council shows that it is scared of failure rather than necessarily taking the most beneficial decision for the long term future of Wimbledon and its residents.

- 3.6.1 **Response** In considering the alternative options for the site the Council must consider all of the risks and balance those against the potential return. In particular when large amounts of public money are to be used to fund a project the Council must minimise those risks in order to protect that money and ensure that it is used in the best way with the best return achievable. In this instance the capital sum achievable offers the best alternative.

- 3.6.2 In terms of the cost of buying in resources, it is obviously difficult to accurately estimate these due to unforeseen problems and delays that can arise relating to professional fees such as legal, finance, project management, feasibility studies and other technical consultants.

- 3.6.3 In terms of time, one would estimate it to take something in the region of upwards of two years (with two years being very ambitious) to appoint a developer. This could of course be much longer if there is any delay in the planning process.

- 3.7. **Question** 3.3 states that the Council would either need to (a) provide the finance for the scheme or (b) seek to let a design, build and finance contract. Taking these in turn

Financing a scheme

No details are provided in the report of what level of financing would be needed for such a scheme and the rate of interest at which this funding could be borrowed.

- 3.7.1 **Response** Cabinet had made a decision in March 2013 (upheld following call-in) to dispose of the site. It had not instructed any further analysis or options appraisal or authorised the development of the site by the Council or entry into any form of lease. Therefore these options, which would require the investment of considerable time and money, are not available.

- 3.8 **Question** 3.3 highlights the risk of a “speculative development” whereas 6.5 notes “the current confidence in the Wimbledon office market”. If the market is speculative, then surely it would be better to be in control of the development, than risk the developer coming back in a year’s time (after planning permission has been granted and the building sold) saying that it can’t find tenants and requesting change of use to residential for example (as happened with the development on Hartfield Road, stating that the building was “too far away from the station”). This risk has not been included in the paper.
- 3.8.1 **Response** This would not be a Council risk. Once planning consent has been granted and the sale completed the property would transfer to the purchaser. The risk relating to the construction and future letting of the building is then completely with the purchaser. If the scenario described did occur, and the purchaser wished to apply for a change of use, then it would be able to apply (at its own risk) to the planning authority. The decision as to whether or not to grant a change of use would rest solely with the planning authority who would be bound to follow due process. Any failure to change the planning approval would have no impact on the Council.
- 3.9 **Question** No valuation on a lease of an office block with vacant possession has been undertaken; nor of current rental amounts which could be earned. The paper highlights the business rates that could be generated, but these would still accrue to the Council in either of the 2 alternative scenarios
- 3.9.1 **Response** It is unclear what scenarios are envisaged here, but we have assumed that the Council builds an office block on the site and either (a) the property is let in its entirety on a long lease or (b) the council manages and controls the property and lets it on short term lettings.
- 3.9.2 The annual rental value for a, fully occupied, completed retail and office scheme has been assessed as £2,295,000pa. (This figure is supplied by Andrew Scott Robertson although this figure is naturally speculative as it would depend on actual occupancy rates and good tenants)
- 3.10 **Question** Based on the range of valuations received; planning permission itself appears to be worth an additional £3million. If the Council was in control of a development which could provide the “high quality” being sought in 3.5, then it would be likely to be given planning permission.
- 3.10.1 **Response** We are unable to comment on the figure of £3 million as we do not understand how this figure is arrived at. Planning consent is granted (by the Council as planning authority) on the basis of each individual application. The party which makes the application is not a consideration and therefore any planning application submitted by the Council to the planning authority would not receive any preferential treatment.
- Letting a design, build and finance**
- 3.11 **Question** – The paper talks about the amount of time this would take. This option has not seriously been considered as an alternative as the council have had since 2013 to test the market to see if this would be attractive. Given the fact that there were 114 registered interests and 17 offers received; there is obviously considerable interest in this site in the market.

- 3.11.1 **Response** The interest shown and number of bids received demonstrates only that disposal of the site as a freehold without restriction, is a very attractive opportunity for the market. It gives no indication as to how attractive a design, build and finance option may be. It is equally possible to argue that such a response demonstrates that this is by far the most attractive option to the market and that the Cabinet decision to dispose of the freehold was the correct decision.
- 3.12 **Question** Again, no costing has been given to benchmark against an outright sale. No detail is given in the report about the potential benefits of a Long Leasehold Geared Interest sale. The site could be sold subject to a 150 year lease for example with the council retaining the freehold. This would generate a year on year return for the council which could more than offset the loss of parking revenue whilst the council would also retain additional control over the development. The option would still remain to sell the freehold interest at a future date.
- 3.12.1 **Response** Cabinet had made a decision in March 2013 (upheld following call-in) to dispose of the site. It had not instructed any further analysis or options appraisal or authorised the development of the site by the Council or entry into any form of lease. Therefore these options, which would require the investment of considerable time and money, are not available.
- 3.12.3 Disposal of the site on a long leasehold geared basis is not viable or appropriate for a development of this type. For the reasons set out in paragraph 3.3.3. above. Income generated from any lease is dealt with at paragraph 3.9.2.
- Request for documents**
- 3.13. **Request** Any internal or external discussions or costing on what expertise would be needed and possible exploratory discussions with 3rd parties to underpin comments made in para 3.2 of the report. **Response** In consideration of the Cabinet decision that the site be disposed of freehold there are no detailed costings relating to this.
- 3.14 **Request** All minutes and documentation relating to any discussions held with other Councils that have formed a joint venture to develop property sites. **Response** There are no minutes and documentation available with regard to discussions relating to joint ventures specific to this site.
- 3.15 **Request** Evidence to substantiate the differing timescales expected for the various options (outright sale; financing a scheme; design build and finance) **Response** In consideration of the Cabinet decision that the site be disposed of freehold there are no detailed timescale relating to this.
- 3.16 **Request** Full costings and risk analyses for the following options:
Freehold sale of the land, Long annuity income receipt, Joint Venture, Council develops land directly
- 3.16.1 **Response** Cabinet had made a decision in March 2013 (upheld following call-in) to dispose of the site. It had not instructed any further analysis or options appraisal or authorised the development of the site by the Council or entry into any form of lease. Therefore these options, which would require the investment of considerable time and money, are not available

- 3.17 **Request** Details of the latest utilisation rates for the P4 car park compared to other car parks in Wimbledon town centre. **Response** This information is given in Appendix 5.
- 3.18 **Request** Forecasts for capital appreciation of the site over the next 5, 10 and 20 years **Response** There is no data available that would allow us to reliably project these figures.
- 3.19 **Request** Details of any 'non embarrassment' clause proposed as part of the contract to avoid the purchaser 'flipping' the asset at a profit. **Response** The contract for sale will not include a claw back provision as there is no restriction on the use of the site, the proposed use of office represents the highest value for the site. This has been demonstrated by both the valuation and the marketing process.

4 ALTERNATIVE OPTIONS

- 4.1 None. The monitoring Officer has deemed the call in request to be valid and the commission is required to consider the request as the matter falls within its remit.

5 CONSULTATION UNDERTAKEN OR PROPOSED

- 5.1 None for the purpose of this report. Any consultation undertaken, as part of the decision being considered, will be referred to in the report on which the decision was based.

6 TIMETABLE

6.1

7 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 7.1 Included within the body of this report and the cabinet report of 18 May 2016

8 LEGAL AND STATUTORY IMPLICATIONS

- 8.1 Included within the body of this report and the cabinet report of 18 May 2016

9 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 9.1 None for the purposes of this report

10 CRIME AND DISORDER IMPLICATIONS

- 10.1 None for the purpose of this report.

11 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 11.1 None for the purpose of this report

12 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix 1 Cabinet report 11 March 2013
- Appendix 2 Overview and Scrutiny Commission (call-in) report 2 May 2013
- Appendix 3 Cabinet report 10 June 2013
- Appendix 4 Cabinet report 16 September 2013

- Appendix 5 Car park utilisation rates (exempt report)

13 BACKGROUND PAPERS

- 13.1 Cabinet report 18 May 2016, Cabinet report 11 March 2013, Overview and Scrutiny Commission (call-in) report 2 May 2013, Cabinet report 10 June 2013 and Cabinet report 16 September 2013.

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Report to: Cabinet

Date: 11 March 2013

Wards: Abbey

Subject: Land at The Broadway, Wimbledon, SW19 (known as P4)

Lead officer: James McGinlay

Lead member: Councillor Andrew Judge

Forward Plan reference number: 1246

Contact officer: Jacquie Denton

Recommendations:

- A. That the decision of Cabinet at its meeting of 17 December 2007 be rescinded and that the P4 site be disposed of on the open market without restriction on use.
 - B. That the existing Planning Brief published in 2003, entitled 3 WTC Site, Wimbledon be revoked.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report considers the disposal of the P4 site, The Broadway, Wimbledon.

2 DETAILS

- 2.1. The P4 site extends to approximately 0.22 ha (0.54 acres) and currently comprises a public car park as identified on the plan appendix 1.
- 2.2. The car park provides 70 spaces which generate a net income of £220,000 per annum excluding VAT
- 2.3. There is a licence to allow use by the tenant of 105-109 The Broadway of a strip of the car park for fire escape purposes. This licence can be ended at any time but this action would considerably limit the use of 105-109 The Broadway. There is also an emergency escape onto the car park from the studio theatre, access rights for the substation at the rear of the theatre and the theatre itself requires access to the parking spaces at the rear of the building. The actual parking spaces used by the theatre are included within their lease (these rights are shown hatched on the plan Appendix 2).
- 2.4. The P4 site was acquired in 1990 for the replacement of Civic Facilities from the Wimbledon Town Hall site. Part of the site (119-123 The Broadway, including 25 and 26 Wimbledon Arcade) was acquired using compulsory purchase powers. 111-117 The Broadway and 125-127 The Broadway were acquired voluntarily.
- 2.5. Cabinet resolved at the meeting of 17 December 2007 the strategic principle that the development of the P4 site should be as a mixed development comprising commercial elements (residential and retail) and community facilities.

- 2.6. The existing planning brief for the site, was published nearly 10 years ago (2003) when a different planning and legislative framework prevailed. Since then there have been a number of changes including the publication of the National Planning Policy Framework in March 2012, The London Plan (July 2011), and Merton's Core Planning Strategy (July 2011). The brief proposed the site be developed for retail and food and drink uses (A1 and A3) and a new public hall (community/leisure/recreational uses) with associated car parking and service access. The planning brief is now out of date as it refers to a number of policies and guidance which have since been superseded. Furthermore the site is included within the Council's draft sites and Policies Development Plan Document and draft Policies Map (2013) which is currently out for consultation (please refer to section 4 of this report). The site is proposed in the draft DPD for an appropriate mix of residential and town centre uses including retail, café and restaurants, cultural, leisure and entertainment, offices and hotel.
- 2.7. At its meeting of 15 June 2012 the Integrated Project Team (IPT) agreed that the disposal be progressed and that a development brief be prepared for a car free scheme consisting of ground floor retail with residential on upper floors.
- 2.8. It is proposed that the site be disposed of on the open market by way of an informal tender, with the benefit of a development brief. With this method the property is generally marketed with a date by which purchasers must submit a bid. A purchaser can then be selected from the bids following a previously agreed criteria. The process has the advantage that it formalises the sales process and creates a procedural surety around it. This method will maximise capital receipt whilst allowing consideration of the proposed development to also be a key element of the selection criteria.
- 2.9. Whilst the development brief will reflect the Council's preferred uses, as agreed by the IPT at its meeting of 15 June, it will also indicate that the Council is prepared to consider other proposals for other land uses, provided that they are compatible with the town centre location and contain active ground floor uses.

3 ALTERNATIVE OPTIONS

- 3.1. That the site remain as a car park and continues to generate income.
- 3.2. That the site be disposed of with the restriction on use agreed by Cabinet in December 2007, a mixed development comprising commercial elements (residential and retail) and community facilities.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. The site is included in the Council's Draft Sites and Policies Development Plan Document and draft Policies Map (DPD) which is currently out for consultation. The consultation commenced on 16th January and will end on 27th February 2013. Three stages of consultation on the DPD have previously taken place in July – September 2011, January – April 2012 and June – July 2012.

- 4.2. Other departments of the council have been consulted in the preparation of this report.

5 TIMETABLE

- 5.1. It is proposed that the site be placed on the market in spring 2013
- 5.2. It is likely that offers made will be conditional on obtaining planning consent for the proposed development and therefore it is expected that the current use as car park will continue to operate for the year 2013/14.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. The disposal will produce a capital sum. There will be a loss of income of approximately £220,000p.a. parking services budgets will need to be amended accordingly to reflect this. A rent of £95,750p.a. is paid from Parking Services to Property Management and Review budget, therefore PMR budget will also need to be amended to reflect this.
- 6.2. The use of the site as a car park was intended as an interim use pending development.
- 6.3. It is intended that the disposal will be dealt with in house using existing resources.
- 6.4. Property implications are included within the body of this report.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. The council has an obligation under section 123 of the Local Government Act 1972 dispose of an interest in land to obtain best consideration reasonably obtainable.
- 7.2. In 1992 the predecessor of the Department for Communities and Local Government ("DCLG") introduced The Crichton Down Rules ("the Rules") under which surplus Government land which was acquired by, or under a threat of, compulsion should be offered back to former owners, their successors, or to sitting tenants. It is recommended by the DCLG that local authorities and statutory bodies in England follow the Rules, however, they are not binding on local authorities and there is no legislative or mandatory requirement that local authorities follow them. The Rules are policy guidance to be taken into account, where relevant, by the bodies to which the Rules are addressed, and any decision on whether or not to apply them should be made by the body in question, ie the Council.
- 7.3. Where the Council wishes to dispose of land to which the Rules apply, former owners will, as a general rule, be given a first opportunity to repurchase the land previously in their ownership, provided that its character has not materially changed since acquisition (Rule 10). The character of the land may be considered to have 'materially changed' where, for example, dwellings or offices have been erected on open land, mainly open land has been afforested, or where substantial works to an existing building or the demolition of a building have effectively altered its character. It is for the Council to decide what constitutes a material change. If it deems that the character of the land is significantly altered, then the Rules do not come into operation.

- 7.4. The general obligation to offer back property to former owners will not apply to “non agricultural land” which becomes surplus and available for disposal more than 25 years after the date of acquisition. The date of acquisition is the conveyance, transfer or general vesting declaration (where the property is acquired under a compulsory purchase order). Records held by Merton and Richmond Legal Services indicate that the land at 111-117 The Broadway was acquired by the Council on or before 27 January 1987 so the Rules do not apply to this land. The land at 119-123 The Broadway including 25 and 26 Wimbledon Arcade was acquired under a Compulsory Purchase Order made on 9 March 1990 but the date when the this land became vested in the Council is unknown but assumed some time during 1990. As this land was acquired less than 25 years ago, the Rules apply. However, all buildings comprised within this land were demolished many years ago and therefore the Council considers that the character of the land has materially changed since the Council’s acquisition so the Rules do not come into operation.
- 7.5. Due to the length of time since the acquisition and the fact that the buildings were demolished soon after it is considered that the Rules do not apply and it is not considered appropriate to try to trace or contact the previous owners.
- 7.6. The localism Act 2011 gave parish councils and local voluntary and community organisations the ability to nominate local land or buildings they would like to see included in lists of community assets. If the local authority agree to list a property then this property will remain on the list for five years during which time the owner will be unable to dispose of the property without first giving community interest groups an opportunity to purchase the property. This could delay the sale by up to six months. There is a possibility that parish councils and local voluntary and community organisations may nominate the P4 site. This could delay the sale as outlined if this council decide to list the property.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. None for the purposes of this report

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None for the purposes of this report

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. None for the purposes of this report

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix 1 site plan
- Appendix 2 plan showing rights across site.

12 BACKGROUND PAPERS

- 12.1. Cabinet report of 17 December 2007.

Committee: Overview and Scrutiny Commission (call In)

Date: 2 May 2013

Agenda item:

Wards: Abbey

Subject: Sale of land on The Broadway (P4)

Lead officer: Chris Lee

Lead member: Cllr Andrew Judge

Forward Plan reference number: 1246

Contact officer: Jacquie Denton

Recommendations:

That the overview and Scrutiny Commission consider the call in request and decide whether to -

- A. Refer the decision back to cabinet for reconsideration, setting out in writing the nature of its concerns
- B. Refer the matter to full council where the Commission/panel determines that the decision is contrary to the Policy and/or budget framework.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. The Overview and Scrutiny Commission is asked to consider the call in request together with the officer's comments and further information provided in response to the reasons for the call in.

2 DETAILS

- 2.1. Under the scheme of Management 2012 the Head of Sustainable Communities is authorised to negotiate and agree terms for the disposal of land.
- 2.2. Cabinet resolved at the meeting of 17 December 2007 the strategic principle that the development of the P4 site should be as a mixed development comprising commercial elements (residential and retail) and community facilities.
- 2.3. In order to ensure that the council achieve best consideration for the site a report was taken to Cabinet March 2013 recommending that the site be disposed of (in line with the Council's Asset Management Plan), without restriction on use and that the now out dated Planning Brief of 2003 be rescinded.
- 2.4. Cabinet resolved at the meeting of 11 March 2013 that (1) the decision taken on 17 December 2007 in respect of the site being linked to Hartfield Road car park be rescinded and that the site be disposed of on the open market without restriction on use; and (2) the existing Planning Brief published in 2003, entitled 3 WTC Site, Wimbledon be revoked. A copy of the report is attached in appendix 2.

- 2.5. Councillors Diane Neil Mills, Henry Nelles, Suzanne Grocott and Chris Edge have requested that this decision is called in for the reasons shown in part four of the request form (appendix 1)
- 2.6. The councils procedure for dealing with call in requests is set out in paragraph 16 of Part 4E of the constitution.
- 2.7. The monitoring Officer has accepted the call-in as valid and the Commission is required to consider the reason for the call in and decide

3 RESPONSE FROM OFFICERS

- 3.1. Question - There has been insufficient consultation with local groups with potential interest in the site including New Wimbledon Theatre, Polka Theatre, Wimbledon College of Art, and Wimbledon Choral Society. The site is of strategic importance and key to building a creative arts cluster (as identified in Merton's Economic Development Strategy).
- 3.1.1 Response The site has been identified as a development opportunity in Merton's Unitary Development Plan (2003) and more recently, included in the Council's Draft LDF Sites and Policies Development Plan Document (DPD) and draft Policies Map which is currently out for consultation. The consultation commenced on 16th January and ended on 27th February 2013. Three stages of consultation on the DPD have previously taken place in July – September 2011, January – April 2012 and June – July 2012. Details of the DPD "call for site" documents and consultation, which this site is include in can be viewed at http://www.merton.gov.uk/environment/planning/planningpolicy/ldf/sites_policies_dpd.htm
- 3.1.2 Responses have been invited by the council at all stages to date of public consultation on the draft DPD. A number of responses on the P4 site have been received including those from the Wimbledon Society, Bell Hammer Ltd. and English Heritage.
- 3.1.3 Wimbledon Theatre have always been fully aware that the car park use was temporary and that the site would be developed in the future.
- 3.1.4 At Borough Plan Advisory Committee on 21st May 2012, members considered a number of viable redevelopment options for both Hartfield Road (P3) and The Broadway (P4) car parks. The proposed land uses and disposal do not prevent or restrict a creative/arts led development. However this is dependent on viable proposals coming forward via the site marketing process.
- 3.1.5 At the meeting of March 11th Cabinet recommended the site's disposal on the open market without restriction on use. Therefore this does not preclude any uses, including those associated with building a creative arts cluster subject to accordance with relevant material considerations such as Merton's Development Plan.
- 3.2. Question - The decision to expedite the sale is justified in part to avoid the possibility of local groups requesting that the site be added to the list of sites eligible under Community Right to Bid; this is contrary to the Localism Act and is pre-emptive in spirit.

- 3.2.1 Response – the use of the site as a car park was always intended as an interim use, it has long been identified as a development site for town centre uses. As part of the ongoing process of asset management it was identified that the market may now support a disposal which offers better value to the council than its current use.
- 3.2.2 There has been no intention to avoid the possibility of local groups exercising their rights under the Localism Act (“the Act”). The Act applies to both council and non council owned assets. If an application were received the council would have to consider this in accordance with the procedure set out under the Act. If after doing so it was decided that the property was an asset of community value it will be listed on the council's register of community assets and will remain listed for five years. Whilst this wouldn't prevent a disposal it must be done in accordance with the Act. This requires the local authority to first offer the community group an opportunity to purchase the land which must be at the market value. They will have six weeks in which to decide and a further six month should they decide to get funds together. The councils procedures can be found at www.merton.gov.uk/community_right_to_bid.
- 3.3. Question - The purpose of selling the site is unclear; the Budget (6 March 2013) states that in depressed markets, asset sales will not be prioritised yet there is little appetite for new office accommodation on the Broadway and there is contraction in retail space across the UK, neither of which suggests that this is a good time to sell an asset, particularly one of great strategic importance. As an income generating asset, the use of the site as a car park is very valuable and when capital appreciation considered, a better investment than disposal. Even if the capital receipt were used for debt redemption, early redemption penalties are punitive in a low interest rate environment. The pressure is on the revenue budget not capital budget and the disposal would increase pressure further on the revenue budget. As of 31 January 2013, cash investments at Merton Council were in excess of £80 million.
- 3.3.1 Response - The purpose of selling the site is to achieve best value for the council from the asset. Indications are that the Wimbledon market has improved and therefore disposal may be advantageous to the council. The council considers assets on a site by site basis and has sought external advice on the viability of the site.
- 3.3.2 The loss in revenue income has already been taken into account in the Medium Term Financial Strategy (MTFS) as approved by council on 6th March 2013. This reduction has been included from the start of the 14/15 financial year.
- 3.3.3 The council actively reviews its debt portfolio to fund redemption opportunities as they arise. As at 31 March 2013 the average rate of the council debt portfolio was 5.72%. Current Public Works Loans Board (PWLb) borrowing rates are 1.72%. In the current economic climate of low interest rate and extremely low investment returns it is economical for the council to seek to reduce its debt currently at high interest rates rather than invest at low interest rates currently around 0.5%. This is however dependant on the premiums charged by lenders and these have precluded

viable debt redemptions recently. The 2013/14 Treasury management Strategy Paragraph 5.6 as approved by council on 6th March 2013 states the councils borrowing policy of debt rescheduling and redemption. Currently the councils Borrowing Strategy is to use its internal investments to finance the capital programme thereby maintaining an under borrowing position. The strategy is prudent in the current economic environment. The Director of Corporate Services regularly monitors interest rates. The council may use capital receipts in financing its debt redemption should the need arise. However this is a decision which would be made in consultation with members.

- 3.3.4 There is a significant amount of capital expenditure budgeted for in the next few financial years and it is anticipated that this will reduce the council's cash balances and then result in a need to borrow externally. Cash received from the disposal of assets will reduce the need for substantial long term external borrowing to support the capital programme. Capital Receipts can be used to directly fund Capital Expenditure
- 3.4. Question - The use of the site as a car park is of great amenity value; parking at another car park (e.g. Queen's Road) is not a substitute for P4. The desire to use the site to regenerate the area is flawed as (a) the loss of parking will lead to a decline in the local businesses (including shops, bars, restaurants, the New Wimbledon Theatre and the Polka Theatre) and (b) there are other sites that make a negative contribution to the state of the Broadway that should be prioritised for redevelopment. The P4 site makes a positive contribution to the local area in amenity terms and does not detract from the visual aspects of the street scene
- 3.4.1 Response – In considering this site the council has also looked at Queens Road car park and Hartfield Road P4. There is no evidence to support the view that the loss of parking will lead to a decline in the local businesses. The site is well served by public transport and is directly served by 4 bus services (routes 57, 93, 131 and 219). Other bus services are available a short walk away at the Sir Cyril Black Way bus stand. This site is also 5 minutes' walk from Wimbledon Station with its rail, tram and underground connections.
- 3.4.2 Whilst the 2012 parking surveys for Wimbledon identified this as a very busy car park, it also demonstrated that across the town centre sufficient spare car parking capacity was available to accommodate the potential loss of parking from this site. Alternative public car parks are available within a reasonable walking distance (up to 400- 500m) and during the day some on-street parking is also available close by around South Park Gardens. There is no restriction on the future development of the site and therefore the scheme could include parking. Redevelopment of the site is likely to bring people/business to the area.
- 3.5. Question - No consideration has been made of (a) disposing of another car park with lower utilisation rates than P4, which has a utilisation rate in excess of 100 percent (b) retention of the freehold (c) sale to New Wimbledon Theatre and/or Polka Theatre and/or Wimbledon College of Art (d) use of powers to redevelop dilapidated office blocks on the Broadway. If

P3 were to be developed, P4 would be of even greater importance for provision of parking.

- 3.5.1 Response (a) Consideration has been made with regard to disposal of other car parks. The only public car park in council ownership with lower utilisation rates than the Broadway Car Park is the predominately long stay car park in Queens Road. However, there are issues relating to access and regarding Network Rail which would affect any redevelopment of the site.
- 3.5.2 The 2012 parking demand study demonstrated that the town centre retained sufficient capacity overall (including both private and council owned car parks) to accommodate the redevelopment of both the P3 and P4 sites. Although it is accepted that movement patterns around the town centre (vehicular and pedestrians) are likely to change as a result. Nevertheless, both sites are highly accessible by public transport and are supported by a network of accessible links.
- 3.5.3 (b) retention of the freehold would affect the ability of developers to obtain funding and would affect the capital receipt achievable.
- 3.5.4 (c) Sale to Wimbledon theatre. Wimbledon theatre are free to put forward a bid for the site which would be considered with all bids
- 3.5.5 (d) use of powers to redevelop other office buildings on The Broadway. The council has no plans, or seen a credible business case to support using its powers as a planning authority, including compulsory purchase, to redevelop other buildings in Wimbledon. The P3 site is not being considered for development until 2019 at the earliest. In the event of any future redevelopment, P3 is of sufficient size to include re-provision of parking on-site, subject to detailed proposals.

4 ALTERNATIVE OPTIONS

- 4.1. None. The monitoring Officer has deemed the call in request to be valid and the commission is required to consider the request as the matter falls within its remit.

5 CONSULTATION UNDERTAKEN OR PROPOSED

- 5.1. None for the purpose of this report. Any consultation undertaken, as part of the decision being considered, will be referred to in the report on which the decision was based.

6 TIMETABLE

6.1

7 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 7.1. Included within the body of this report and the cabinet report of 11 March 2013

8 LEGAL AND STATUTORY IMPLICATIONS

- 8.1. Included within the body of this report and the cabinet report of 11 March 2013

9 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

9.1. None for the purposes of this report

10 CRIME AND DISORDER IMPLICATIONS

10.1. None for the purpose of this report.

11 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

11.1. None for the purpose of this report

12 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix 1 Call in request form
- Appendix 2 Report to cabinet 11 March 2013
- Appendix 3 External valuations of P4 CONFIDENTIAL
- Appendix 4 Parking Study (2013) Extracts which particularly relate to Wimbledon are attached the full report can be viewed at http://www.merton.gov.uk/environment/planning/planningpolicy/1df/planningresearch/parking_research_2012.htm
- Appendix 5 Minutes of the Integrated Project Team (IPT) on 15 June 2012 and the new development brief prepared following the action point from that meeting
- Appendix 6 Details of which departments were consulted in the preparation of the Cabinet report (Paragraph 4.2) and the feedback that was given as part of that consultation.
- Appendix 7 Economic analysis of the minimum price the council would be willing to accept, including all assumptions.
- Appendix 8 Details of any debt redemption considerations/proposals in the 2012/13 and 2013/14 financial years (including calculations of penalties due, impact on revenue budget, etc)
- Appendix 9 E-mail from Ms MacNab local resident.

13 BACKGROUND PAPERS

13.1. Cabinet report 11 March 2013

Committee: Cabinet

Date: 10th June 2013

Agenda item: 5

Wards: All

Subject: Reference from Overview and Scrutiny Commission – Call in of decision taken on Sale of Land on the Broadway (P4)

Lead officer: Rebecca Redman, Scrutiny Officer

Lead member: Councillor Peter Southgate, Chair of Overview & Scrutiny Commission

Forward Plan reference number: 1265

Contact officer: Rebecca Redman, Scrutiny Officer; 020 8545 4035;
Rebecca.redman@Merton.gov.uk

Recommendations:

Further to hearing the call in of the decision taken on the sale of land on the Broadway (P4 site), the Overview and Scrutiny Commission wished to make the following recommendations:

- 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*

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 To present to Cabinet the recommendations of the Overview & Scrutiny Commission in relation to the call in of the decision taken on the sale of land on the Broadway (P4 site). Members have requested that Cabinet reconsider the decision, with reference to their recommendations as outlined above.

2. DETAILS

- 2.1 At its meeting on 2nd May 2013, the Overview and Scrutiny Commission heard the call in of the decision taken on the sale of land on the Broadway (P4 site).

3. FINDINGS AND RECOMMENDATIONS OF THE OVERVIEW AND SCRUTINY COMMISSION

3.1 The Overview and Scrutiny Commission received a report detailing the officer response to the Call In request and considered the views of the call in signatories and local representatives at the meeting, as well as hearing representations from the Cabinet Member for Environmental Sustainability and Regeneration, Cabinet Member for Finance.

3.2 Members expressed their concerns regarding the information that had been used to make the decision which they felt did not provide an adequate analysis of the potential uses of the site, the potential income lost from the parking facilities, and the actual value of the site that may be sought.

3.3 The Overview and Scrutiny Commission agreed to refer this decision back for Cabinet to reconsider alongside the following recommendations:

- 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

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

- Consider the potential for the site to contribute to the emerging "creative quarter" in this part of the Broadway; and
- Reference provisions of the Localism Act allowing the community right to bid for public assets

4. ALTERNATIVE OPTIONS

4.1 Cabinet is required under the terms of the Constitution to receive, consider and respond to references from overview and scrutiny.

5. CONSULTATION UNDERTAKEN OR PROPOSED

5.1 None for the purposes of this report.

6. TIMETABLE

6.1 None for the purposes of this report.

7. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

7.1 None for the purposes of this report.

8. LEGAL AND STATUTORY IMPLICATIONS

8.1 None for the purposes of this report.

9. CRIME AND DISORDER IMPLICATIONS

9.1 None for the purposes of this report.

- 10. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**
 - 10.1 None for the purposes of this report.
- 11. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**
 - 11.1 None for the purposes of this report.
- 12. APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**
- 13. BACKGROUND PAPERS**
 - 13.1 Minutes of the Overview and Scrutiny Commission meeting held on 2nd May 2013.

Committee: Cabinet

Date: 16 September 2013

Agenda item:

Wards: Abbey

Subject:

Lead officer: James McGinlay

Lead member: Councillor Andrew Judge

Forward Plan reference number: 1270

Contact officer: Jacquie Denton

Recommendations:

A. That the decisions of Cabinet at its meeting of 11 March 2013 be upheld.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report considers the reference from overview and Scrutiny Commission – call in of decision taken on sale of Land on the Broadway (P4).

2 DETAILS

- 2.1. The above site was declared surplus and agreed for disposal by Cabinet in December 2007, as an interim measure it has been used as a car park. The authority to approve terms for disposal of land is delegated to the Director of Environment and Regeneration and in turn to the Head of Sustainable Communities.
- 2.2. At its meeting of 17 December 2007 Cabinet resolved “that the development of the P4 site should be as a mixed use development comprising commercial elements (residential and retail), and community facilities”.
- 2.3. In order to ensure that the council achieved the best consideration reasonably obtainable for the site in any future disposal, and thereby satisfy its statutory duty, a report was taken to Cabinet at its meeting on 11 March 2013. This report recommended that the requirement for community use on the site be removed. This would not prevent community use on the site as potential purchasers including community use would still be able to bid, but would open the site up to bids which do not include community use.
- 2.4. The report also requested that the existing planning brief for the site, which is now 10 years old, be revoked
- 2.5. At the meeting of 11 March 2013 it was agreed that the decision of Cabinet at its meeting of 17 December 2007 requiring that any sale of the land include

- a community use be rescinded and that any future disposal on the open market be without restriction on use.
- 2.6. It was also agreed that the existing planning brief published in 2003 be revoked.
- 2.7. The decision of cabinet was called in by scrutiny and a report to answer questions raised by members was taken to Overview and Scrutiny (call in) on 2 May 2013.
- 2.8. In considering the reference from Overview and Scrutiny Commission the following are brought to Cabinets attention;
- 2.9. **a) “That Cabinet reconsider the decision taken on the sale of land on The Broadway”.** As previously stated the site has been on the disposal programme for a number of years. The site has not been marketed due to the financial climate and market conditions which meant that the interim use as car park, until now, represented best use of the asset.
- 2.10. The council constantly reviews its property and land holdings to ensure that best value is being achieved. In carrying out research relating to the preparation of the development brief the council commissioned external consultants to carry out an options study and provide a market review. An overview is provided in Appendix 1, with the full report relating to P4 contained in Appendix 2. Indications are that the market is improving and it is therefore considered that in bringing the site to the market now the council should be able to achieve a greater value, than the existing use value, for the asset both in financial terms and in terms of the regeneration opportunities which may be brought forward.
- 2.11. In order to achieve the best consideration reasonably obtainable for the council from any future disposal officers would wish to market it without restriction on use. It is also for this reason that outline planning consent has not been sought as the council would wish to encourage the greatest number of offers and not wish to limit it's future use and potential.
- 2.12. Guidance with regard to development of the site is provided within the development brief. A development brief outlines the council's aspirations for the development of a site within existing policy documents. It is an advisory document not statutory.
- 2.13. A parking demand study was carried out in 2012 this demonstrated that whilst The Broadway car park is a busy car park that the town centre retained sufficient capacity overall (including both private and council owned car parks) to accommodate the redevelopment of both the P3 and P4 sites. Alternative public car parks are available within a reasonable walking distance (up to 400- 500m) and during the day some on-street parking is also available close by around South Park Gardens. Although it is accepted that movement patterns around the town centre (vehicular and pedestrians) are likely to change as a result. Nevertheless, both sites are highly accessible by public transport and are supported by a network of accessible links. There is no restriction on the future development of the site and therefore the scheme could include parking. The Ambassadors Theatre Group, running Wimbledon Theatre ,support the proposal to dispose of and redevelop the car park.

- 2.14. **b) “That Cabinet undertake a more comprehensive valuation of the P4 site’s value (including its on-going value as a car park) before opening up to tender”.** It is correct that the Council should have an understanding of the current and most up to date value of this site before exposing it to the market so as to be sure that the exercise of marketing will not be in vain. The commissioning of external valuations has a cost, also the valuations provided would only remain valid for a period of 3 months. It is therefore intended that comprehensive valuation advice be sought at the time of any future marketing, to coincide with the date that tenders are received, including the value of the income stream, in order to inform the decision making process.
- 2.15. Whilst valuations have not yet been commissioned, as stated in para 2.10 above, the council has undertaken detailed appraisal analysis of the potential values for the site. These have informed the decision to consider marketing the site by providing contemporary advice on value for a number of development options. These appraisals will be refreshed prior to marketing.
- 2.16. **c) “That cabinet compares bids received with the sites current value as a car park, and does not accept any bid that fails to achieve value against this benchmark”.** This is accepted however it is important that the council complete a bona fide marketing process to maintain its credibility in the market. The council would not be obliged to accept any of the offers received unless they are beneficial to the council and offer best value compared to the current use of the site as income generator.
- 2.17. In it’s referral the Overview and Scrutiny Commission asked that Cabinet consider the potential for the site to contribute to the emerging “creative quarter” in this part of The Broadway. The P4 site is located within an area identified in Merton’s Core Planning Strategy (2011) as a cultural area/ quarter within the Wimbledon Sub Area. The cultural area/ quarter is an illustrative presentation of the existing cultural facilities, such as the New Wimbledon Theatre, restaurants and public houses (this list is not exhaustive) located in Wimbledon Town Centre.
- 2.18. Specific reference to the P4 site in Merton’s Core Planning Strategy states as follows: The future priority is to ensure the successful implementation of key development sites within the town centre in order to deliver new retail, leisure and entertainment facilities. The main priorities previously identified were Wimbledon Station Precinct, the Broadway Extension and the site adjacent to Wimbledon Theatre. Development of these sites would generally be mixed use with active frontages at street level and business space with possibly some residential on higher floors (para 16.15 pg.81)
- 2.19. Additionally the site is proposed in the Draft Sites and Policies Local Plan and Policies Map (Submission 2013) for: Any of the following or an appropriate mix of town centre type uses such as retail (A1 Use Class), café and restaurants (A3 Use Class), community (D1 Use Class), cultural, leisure and entertainment (D2 Use Class), offices (B1[a] Use Class) and hotel (C1 Use Class). The site may incorporate residential development (C3 Use Class) on upper floors.

- 2.20. The Overview and scrutiny Commission further asked Cabinet to note provisions of the Localism Act allowing the community right to bid for public assets.
- 2.21. The localism Act 2011 gave parish councils and local voluntary and community organisations the ability to nominate local land or buildings they would like to see included in lists of community assets. If the local authority agree to list a property then this property will remain on the list for five years during which time the owner will be unable to dispose of the property without first giving community interest groups an opportunity to purchase the property. Community interest groups are allowed a period of six weeks in which to decide whether they wish to bid for the property. If they confirm their intention to bid within the six week period they are then given a period of six months to arrange funding, and put together their bid and business plan. If the P4 site were successfully listed, this could delay the sale by up to six months. Currently the site is not listed as a community asset, although an application has been received which is being processed. Therefore the opportunity for the community to apply to bid for the site under the Localism Act 2011 does not currently arise.

3 ALTERNATIVE OPTIONS

- 3.1. n/a

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. As detailed in the report to Cabinet on 11 March 2013.

5 TIMETABLE

- 5.1. Subject to market conditions it is intended that the site be brought to the market in the second quarter of 2014.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. As detailed in the report to Cabinet on 11 March 2013 and report to Overview and scrutiny Commission (call in) 2 May 2013.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. The council has an obligation under section 123 of the Local Government Act 1972 dispose of an interest in land to obtain best consideration reasonably obtainable
- 7.2. Other implications are as detailed in the report to Cabinet on 11 March 2013 and report to Overview and Scrutiny Commission (call in) 2 May 2013.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. None for the purpose of this report

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None for the purpose of this report

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. Linked to risk ER72. Consequence of risk is loss of income/reputation.

**11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE
PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- Appendix 1 Overview of the Appraisal Review & Market Research as at May 2012
- Appendix 2 Options study relating to P4 dated May 2012
CONFIDENTIAL

12 BACKGROUND PAPERS

- 12.1. Reference from Overview and Scrutiny Commission – Call in of decision taken on Sale of Land on the Broadway (P4)

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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