

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- A. That the decision of Cabinet at its meeting of 17 December 2007 be rescinded and that the P4 site be disposed of on the open market without restriction on use.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.