

# Agenda Item 3

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## SUSTAINABLE COMMUNITIES OVERVIEW AND SCRUTINY PANEL

10 JANUARY 2018

(7.15 pm - 10.10 pm)

**PRESENT:** Councillors Abigail Jones (in the Chair), Daniel Holden, Stan Anderson, Kelly Braund, Michael Bull, David Chung, Russell Makin and John Sargeant

**ALSO PRESENT:** Councillor Abdul Latif, David Dean, David Williams, Ross Garrod (Cabinet Member for Street Cleanliness and Parking), Nick Draper (Cabinet member for Community and Culture), Martin Whelton (Cabinet Member for Regeneration, Environment and Housing), Agatha Mary Akyigyina OBE, Caroline Cooper-Marbiah (Cabinet Member for Education), Brenda Fraser, Joan Henry, Dennis Pearce, Howard Joy (Property Management & Review Manager, ENVR), Neil Milligan (Development Control Manager, ENVR), Tom Procter (Head of Contracts & School Organisation), Charles Baker (Waste Strategy and Commissioning Manager), Jacquie Denton (Principal estate surveyor), Hannah Doody (Director of Community and Housing), Paul Evans (Assistant Director of Corporate Governance), Graeme Kane (Assistant Director of Public Space, Contracting and Commissioning), Chris Lee (Director of Environment and Regeneration), Paul McGarry (FutureMerton Manager), James McGinlay (Assistant Director for Sustainable Communities), Jane McSherry (Assistant Director of Education), Annette Wiles (Scrutiny Officer), Jane Bolton, Head of Housing Services (Merton); John Ferman, Regional Director South London; Simon Gagen, Head of Responsive Repairs Merton; Carmen Jones, Resident Involvement Manager; Paul Quinn, Director of Merton Regeneration; Mike Robbins, Regional Investment Manager, Sara Sharp (Save Merton Hall Campaigner, petition instigator and applicant for the Historic England listing), John Chambers (Save Merton Hall Campaigner), Dan Goode (Merton Matters) and Alison Cousins (Co-chair, The John Innes Society).

### 1 APOLOGIES FOR ABSENCE (Agenda Item 1)

There were no apologies for absence.

### 2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of pecuniary interest.

### 3 MINUTES OF THE PREVIOUS MEETING (Agenda Item 3)

The minutes were accepted as a true and accurate record of the previous meeting.

### **Matters arising**

It was noted that Cllr Whelton has accepted the Panel's recommendation that a review be conducted in 12 months to ensure parking charges in parks are delivering the intended outcomes.

#### 4 EXEMPT MINUTE OF THE PREVIOUS MEETING (Agenda Item 4)

The exempt minute from the previous meeting was agreed as a true and accurate record.

#### 5 CALL-IN: DECISION TO AWARD THE CONSTRUCTION WORKS FOR MERTON HALL (Agenda Item 5)

The call-in was introduced by the signatories:

##### **Cllr David Williams:**

- The need for a new secondary school in Merton is not disputed;
- What is in dispute is the need for the Elim Church to gain a rebuild that is three times the size of its current venue at the cost of Merton residents;
- Merton Hall is the wrong building for the Elim Church and in the wrong place;
- Since these issues were originally examined, the Virgin gym building in Battle Close has also become available. It is similar to the venue currently owned by the Elim Church;
- Wrong that the Elim Church is being funded by the Council to increase the size of its venue;
- Merton Hall is worth more than the £600K stated in the Cabinet report;
- Using Merton Hall to provide a new venue for the Elim Church means the destruction of an important community asset and part of the borough's historical legacy;
- The land swap arrangement has been surrounded in secrecy. This hasn't been necessary when only the bidding process is commercially sensitive;
- In summary, the Council is paying over the odds to provide Elim with a venue that is triple the size of its current premises and this doesn't include stamp duty and fees which will all add to the total costs; and
- Wants to offer a lifeline to Merton Hall; the Virgin gym in Battle Close is a better location offering the ability to provide a more appropriate rebuild and a good deal for Elim.

##### **Cllr David Dean:**

- The land swap will result in part of Merton's heritage being destroyed and this is being paid for by residents;
- Given the extent of negotiations with Elim, should a contract between it and the Council already have been signed?;
- Now that an alternative site has been identified (Battle Close), Cabinet should use its common sense;
- This is feasible because as yet, no contract has been signed between the Council and Elim; and

- Recommends a motion to Cabinet to reconsider its decision as Battle Close is available for immediate occupation.

In response to Panel member questions, the call-in signatories clarified:

- (Cllr Dean) Had assumed that a contract had been signed with Elim Church. Would need to clarify with legal officers why this hasn't yet happened and if this is normal practice;
- (Cllr Dean) The South Wimbledon Community Association moved to Merton Hall in 2011 since when it has been running the hall with usage extensive. As a result of the land swap, the Association has essentially been thrown out. Merton Hall was left for the use of the people. The Council has never previously considered selling it;
- (Cllr Williams) Alternative options have been previously considered. However, there has been a change since the original decision was taken; Battle Close has come into play. As there is no contract in place with Elim Church, there is an opportunity to consider this but only if the decision is referred back to Cabinet to give it a further opportunity to consider its decision;
- (Cllr Dean) Wandsworth has determined it has lots of Assets of Community Value. However, Merton has not made the same volume of decisions. Residents should be given the choice to be able to buy Merton Hall. Not convinced that the decision about Merton Hall being an Asset of Community Value will be transparent;
- (Cllr Williams) Hasn't personally spoken to representatives of the Elim Church to clarify their comments on the land swap which appear online; and
- (Cllr Dean) It is the Council that is proposing the deal and as such the Elim Church isn't responsible for its terms.

Representations were then taken from witnesses.

**Sara Sharp** (Save Merton Hall Campaigner, petition instigator and applicant for the Historic England listing):

- Has been in the Council Chamber too many times to explain the importance of Merton Hall;
- The role of councillors and officers is to serve the borough. Residents have been failed by the Merton Hall decision;
- The application to Historic England for listing of Merton Hall has been delayed;
- Currently there is a Judicial Review challenging the planning permission granted on Merton Hall which will result in 80% of the building being demolished;
- It is not true that those opposing the land swap are anti-school. Rather love the borough and its heritage;
- Another site has now become available (Battle Close). The Council holds the key; this is a cleaner and greener option; and
- The Council has agreed costly major construction work without thinking about it. The land swap decision is political.

In response to questions from Panel members, the witness clarified:

- As Merton Hall is a heritage asset, it can't be rebuilt once the building works commence. From the outset, had asked for this to be given thought. Noted the petition against the changes to Merton Hall; this is a credible expression of local interests; and
- Frustrated with the Council's approach to the borough's heritage. Noted that Rose Cottage has been demolished along with other heritage assets.

**John Chambers** (Save Merton Hall Campaigner):

- Lives adjacent to Merton Hall; is its nearest neighbour;
- The land swap, demolition and rebuild of Merton Hall is claimed as being the most cost effective approach but this is only the case if Merton Hall is valued as a community asset and not for potential residential development;
- Officers have not been clear on whether or not the Council has offered the Elim Church a cash offer to purchase its building; and
- The Elim Church will be able to dictate the use of Merton Hall. It won't bless same sex relationships. This is in opposition to the Council's own equal opportunities policy.

In response to questions from Panel members, the witness clarified:

- The South West Wimbledon Association was doing a good job running Merton Hall. Initially, it was offered a 28 year lease and invested its own money in the facility but had its lease terminated with six months notice. Merton Hall was used widely under its management; and
- Respects the work of officers but they are working to the needs of the administration. Believes officers are not happy with the loss of a community asset. The administration is taking too blinkered a view and it is opposed to stepping back and finding a cost effective alternative.

**Dan Goode** (Merton Matters):

- Not anti school but rather pro Merton's heritage;
- The Elim Church is opposed to LBGT+ rights. The claim that it is independent of the global Evangelical Alliance and its views on LBGT+ rights is not true;
- Given this the LBGT+ community will not feel safe using Merton Hall once under the management of the Elim Church. The Council shouldn't promote organisations that oppose equal rights; and
- Why was the equality assessment not initially undertaken adequately? This was about haste and not what is right.

Panel members had no questions for Mr Goode.

**Alison Cousins** (Co-chair, The John Innes Society):

- The John Innes Society is non political and espouses community values. Merton Hall is within the society's area of benefit;
- Had not been aware of the public meeting held in November 2017 that looked at the development of Harris Wimbledon and the resulting impact on Merton Hall;

- The society's response to the planning application in March 2017 is on record and it has supported the application to Historic England;
- Merton Hall is a rare public building by architect Quartermaine. It is notable for having examples of Masonic crests and Innes family emblems contained within the building; and
- It was built to provide public benefit to local people which is a good reason for its protection.

In response to questions from Panel members, the witness clarified:

- The society supported both the applications for listing with Historic England and as an Asset of Community Value. It is the Masonic crests and Innes family emblems that make it unique.

Officers were then invited to respond to the points raised by the call-in signatories and witnesses. Chris Lee, Director for Environment and Regeneration provided the following response:

- Responsible for co-ordinating a complex land assembly in order that the new Wimbledon Harris School can be built. This includes chairing the project board and working closely with a range of officers including the Director of Corporate Services as well as the Education and Skills Funding Agency. Has delegated responsibility for ensuring the land swap represents value for money and for ensuring the site is ready on time. Time is a key constraint given projected secondary pupil numbers from September 2018 onwards;
- Has determined that the land swap as agreed by the Cabinet is value for money. Ultimately, this will be assessed and checked by the district auditor;
- It is the only deal viable at this time; any further delay will result in further cost which will be borne by the Council. Battle Close is not suitable to be used to build a new secondary school. To use this for relocating Elim Church would delay the development and therefore cost more as planning consent would need to be acquired again. In addition, Battle Close has a higher potential land value and does not equate to Value for Money when considered as a site for the church. Given timing and costs are critical, this would jeopardise the whole arrangement. The Council has to consider the loss that would result if Battle Close were not used for housing development;
- Needs to be careful in what can be discussed openly at this time for a variety of reasons. Currently, there is no contract in place with the Elim Church and this is a confidential commercial arrangement. Additionally, there is an application for listing Merton Hall with Historic England and an application has been made to subject the planning consent to Judicial Review;
- The Council has not used a Compulsory Purchase Order arrangement for the Elim Church. This would take longer and cost more. Rather the Council has sought to offer Elim a fair deal. The Council is not funding the Elim Church. Rather it is seeking an appropriate land deal equivalent to a Compulsory Purchase Order. The Elim Church made it clear that it didn't want a cash deal. Rather it wants an equivalent site in SW19;
- Whilst Council budgets are tight, this is a much needed secondary school. Also, whilst Cabinet has taken the decision on awarding the contract to enable the

works to Merton Hall, it is clear that this is subject to the listing decision; work will not proceed if the hall is listed by Historic England; and

- There is a clear separation of duties with regard to the listing as an Asset of Community Value. This process is defined in legislation with explicit conditions to be met. As such, the Council is dealing with this application appropriately.

Cllr Whelton, the Cabinet Member for Regeneration, Environment and Housing, gave his response to the points raised by the call-in signatories and witnesses:

- The Council needs to deliver a new secondary school by September 2020 but to do so is complex;
- Was previously the Cabinet Member for Education and therefore knows the land assembly well and can say that the decision taken to proceed with awarding the contract to proceed with the Merton Hall works is correct;
- The Council is committed to the new school. This means finding alternative suitable accommodation for the Elim Church given a Compulsory Purchase Order will would take longer and cost more;
- High Path is the right location for the new secondary school as this is the area of highest need; and
- Whately Avenue, the temporary site for the new school, will open from September 2018. The Council therefore needs to move ahead in order to have the permanent site open in time. The land swap represents the best value for money to achieve these objectives.

In response to questions from Panel Members, the Cabinet Member and officers clarified:

- (Cllr Whelton) Cabinet decisions are reviewed and determined by all Cabinet Members. Cabinet has taken decisions on the delivery of the new school based on achieving value for money;
- (Cllr Whelton) It has been necessary to find suitable alternative accommodation for Elim Church. This requires the building to be reconfigured to suit the needs of the church. This arrangement has been determined based on value for money;
- (Tom Procter, Service Manager Contracts & School Organisation) The floor space of Merton Hall is about 15 – 20% larger than the venue currently held by the Elim Church on the High Path Estate. However, the overall site is actually smaller than that currently occupied by Elim. Additionally, the configuration of Merton Hall does not meet the needs of Elim;
- (Chris Lee) Any suggested alternative to the land swap agreed by Cabinet in July 2016 would require a new planning application for which there is no time;
- (Chris Lee) Officers can give no undertaking other than that contained in the current planning permission regarding Merton Hall. However, if time and money allow, it could be possible to explore retaining some of the heritage items from the hall;
- (Cllr Whelton) Whilst no contract has been signed with the Elim Church, there is no potential of securing a cash deal; Elim has made it clear that it only wants an equivalent site;
- (Cllr Whelton) A Compulsory Purchase Order is not appropriate as this approach can drag on for many years and cost the tax payer more;

- (Chris Lee) Merton Hall has been locally listed since 1995;
- (Chris Lee) A detailed analysis of the suitability of the Battle Close site for the school development has been undertaken by the Council and the Education and Skills Funding Agency. This assessed that it is not suitable for the school. A similar analysis to use Battle Close to relocate Elim Church has not been undertaken because the delay this would cause to the school development and its potential as a housing site makes it too expensive. It is possible to share more information about the analysis of the Battle Close site with Cllrs as long as this remains exempt;
- (Tom Proctor) The Council has already received an additional 260 secondary school applications for this year compared to last. There isn't capacity within existing provision to meet this demand. Failure to deliver the new secondary school would result in the need for emergency 'bulge' classes across existing secondary schools. Any delay potentially jeopardises the opening of the new school and children's education in the borough;
- (Chris Lee) The decision regarding listing with Historic England is anticipated in mid-January;
- (Chris Lee) Consideration of any alternative solution will take considerable time and result in bulge classes, additional costs and undermine the value for money the Council has achieved;
- (Chris Lee) The Domex site was not subject to Compulsory Purchase Order. The Council acquired this site through private treaty. The Nelson Trading site was explored for the school development. However, this is in multiple ownership with a variety of lease arrangements meaning it would have been expensive and time consuming to acquire; and
- (Chris Lee) Alternative options to the current land swap are constantly being considered just in case this solution doesn't progress. However, this is constrained by Elim Church requiring an alternative site within the SW19 postcode and the fact that its current site unlocks the site for the new school.

Panel members then discuss the call-in:

- Some members expressed their sorrow that things had got to this point; Merton's heritage assets are worth celebrating but that this is set against a growing demographic;
- Gratitude was expressed for having the opportunity to have this discussion in detail and the request was made to look at minimising the affect of the construction within the existing planning consent;
- Other members emphasised that this is ultimately about education and whilst it is a very difficult decision there is faith in the work of officers who are supporting the Cabinet to achieve its decision; and
- Members were mindful that enacting the decision to proceed with the Merton Hall works is contingent on the listing decision; if Merton Hall is listed by Historic England the works will not proceed.

Cllr Bull questioned the proportionality of the building contract and highlighted the importance of Merton's heritage assets. He proposed the following motion:

Regarding the construction contract for Merton Hall the Panel is concerned to note:

1) that the contract to build a replacement facility at Merton Hall for Elim Church is disproportionately large and does not provide a like for like replacement. It is also stated in the report that the contract will involve a re-build of the majority of Merton Hall;

2) that Merton Hall is regarded by many as a valuable community asset and that the Cabinet's overt hostility to the potential for listing the building is misplaced.

The panel further notes that since the original decision was taken the Virgin site at Battle Close has become available as an alternative location for Elim Church and that no contracts have been signed.

Accordingly, the Panel agrees to refer the Cabinet's decision back for reconsideration, including relocation to Battle Close.

Paul Evans, the monitoring officer, noted that the reference was within the agreed scope for the call-in. Cllr Holden seconded the motion. Those voting for the motion were Cllrs Bull, Holden and Sargeant. Those voting against were Cllrs Anderson, Braund, Chug and Russel. On which basis the motion fell.

There being no other suggested motions, the matter was not referred back to Cabinet and the decision took effect immediately.

## 6 CLARION HOUSING GROUP: REPAIRS AND REGENERATION (Agenda Item 6)

The following Clarion representatives introduced themselves to the Panel:

- Jane Bolton, Head of Housing Services (Merton), South West London;
- John Ferman, Regional Director South London;
- Simon Gagen, Head of Responsive Repairs Merton;
- Carmen Jones, Resident Involvement Manager;
- Paul Quinn, Director of Merton Regeneration; and
- Mike Robbins, Regional Investment Manager.

John Ferman provided some introductory remarks:

- Clarion will come into being on 15 January 2018. This provides an opportunity to perform in a different way. Clarion will be the largest social landlord in the country giving it huge buying power and the ability to re-procure contracts in a way not previously available;
- Over £2m has been spent on making job opportunities available to residents and others. In the last 7/8 months, 330 people have received training that has led them into employment; and
- There are legacy issues that pre-date the merger. There was poor performance in the handling of complaints and day-to-day repairs. However, good progress is now being made on all KPIs. Consistently high scores are being achieved which has been independently verified. Currently, there are no outstanding enquiries

older than 3 months. Previously, under Circle, some outstanding enquiries were 12 months old. Clarion is committed to making these standards the norm.

In response to questions from Panel members, representatives from Clarion clarified as follows:

- (John Ferman) Clarion's CEO is not keen on participation in Merton's scrutiny process; Clarion's own scrutiny process is established through its constitution. It therefore doesn't seem efficient to duplicate the effort. However, it is hoped that this will be a constructive meeting with the Council and Clarion working together to move forward through dialogue and an open and transparent process;
- (John Ferman) Despite the scale of regeneration, this will incur no additional costs for tenants;
- (Simon Gagen) Clarion recognises that there has been an issue with some communal doors at Morden House. A new solution has recently been installed which includes issuing door fobs to all residents. The success of this will be monitored through the use of these fobs. Agrees that the doors are vulnerable and that this issue may not have been addressed in an ideal way previously. Also noted that a new national door repair contract has just been awarded;
- (Mike Robins) Noted the progress made with Hatfield Mead leaseholders and that going forward Section 20 consultations will be conducted with transparency and openness;
- (John Ferman) Highlighted the *Clarion Way* programme which is now driving the business. Clarion will be proactive and share information without being asked. Its new contact software means the business is aiming to resolve 80% of the contacts received without having to move these on to another contact. Planned works will get more consultation. This will be achieved through a 15% increase in the budget to support this area. Accepted that residents will take some time to see this improvement happening before they can believe in it;
- (John Ferman) Acknowledged the need to improvement resident communications but noted that this can only be achieved after the merger happens formally. After this takes place there will be a rollout of proactive resident communications;
- (Simon Gagen) Long term repairs have significantly improved over the last six to nine months. Clarion is confident that there are now no long term repairs that pre-date September 2017. This is being supported by the use of new software and new reporting methods;
- (John Ferman) Monthly statistics show that Merton is first in London for the success of fixing repairs on the first attempt. Others are now looking at Merton to understand the reasons for this success;
- (Paul Quinn) There are 3,000 residents across the three sites that will be affected by the regeneration of Merton's estates. This is being supported by an extensive consultation of residents and regular site meetings. Confident that using these methods will be able to bring residents through the delivery stages and encourage longer term buy-in;
- (Simon Gagen) All four fire hoses on the Brick Field Road site are in working order following some remedial work to the valves which also aims to prevent illegal use. However, major works are the responsibility of the Council and Clarion is currently working on a submission to the Council on what should be reinvested;

- (Jane Bolton) Sweeping of the Brick Field Road site is now happening using a small mobile cleaning unit but it is difficult to maintain the standard on the site. Residents are being asked to support this. The site is regularly seen by site inspectors and the housing officer;
- (Mike Robins) It can be difficult to estimate costs for works to be paid by residents. There is need for some contingency because contractors often won't know the full scale of the work to do until it commences. Clarion has just put in place a third party auditor to look at estimated and actual costs on projects;
- (John Ferman) Has been in place at Clarion since June and has found staff to be engaged. Affinity Sutton has had a staff survey for some time which is monitored by an independent third party. This will be applied to the whole of Clarion after the merger;
- (Simon Gagen) The electricity supply to the Brick Lane Road site will be considered as part of the reinvestment programme that the Council and Clarion are currently discussing. Noted that caravans are now considerably larger than they were previously and are demanding more power; and
- (Jane Bolton) Recommended that specific questions about the Brick Lane Road site can be raised with Dawn Helps, the Housing Services Manager.

## 7 UPDATE: WASTE, RECYCLING AND STREET CLEANING (Agenda Item 7)

Due to lack of time, the Panel agreed to initially concentrate on the pre-decision scrutiny item regarding the size of wheeled bin required for the new service rollout to take place from October 2018.

Graeme Kane, Assistant Director Public Space, Contracting and Commissioning, introduced the item:

- This is a small but significant decision; whether to order 240 litre or 180 litre wheeled bins for the rollout of the new service to take place from October 2018. This bin size will be used for general waste and dry recycling; and
- The bin sizes of other authorities and best practice have been reviewed;
- Seen as a decision between providing capacity and encouraging recycling. With the smaller option the risk is that residents may find other ways to dispose of their waste with an impact on fly tipping.

In response to officer questions, Graeme Kane clarified:

- Whilst dependent on the size of bin bag used, on average a 180 litre bin will hold between three to four bin bags of general waste. Whilst the emphasis will be on recycling as much as possible, larger households (five plus people) will be able to request a larger capacity bin (240 litre);
- Any instance of residents seeing general waste and recycling going into the same bin lorry should be reported to the waste team to be looked at further. This shouldn't happen and if it does it risks undermining the good will of residents; and
- The suggestion of a smaller bin size has resulted from the team continually reviewing the service (including required capacity), best practice and evidence from WRAP.

Cllr Holden proposed a motion: “This Panel welcomes the flexible approach being taken to bin sizes. We are also aware that a number of alternative bin options have been proposed by residents including the *Bell Orb*. We recommend that all these options be reviewed to ensure flexibility and choice”.

Graeme Kane noted that the *Bell Orb* is not wheeled and therefore is not a viable option.

The motion was seconded by Cllr Bull and voted for by Cllrs Holden and Bull. Cllrs Anderson, Braund, Chung and Makin voted against. Cllr Sargeant abstained. This meant the motion fell.

Cllr Holden proposed a further motion: “This Panel recommends that residents be provided with a range of bin size options from the outset of the new service so that they can order their preferred option. This would prevent the need for all households to be provided with the same sized bin initially”.

Chris Lee noted that it is unlikely that households will know what sized bin they will require from the outset. There will also be additional costs incurred in canvassing households.

The motion was seconded by Cllr Bull and voted for by Cllrs Holden and Bull. Cllrs Anderson, Braund, Chung, Makin and Sargeant voted against. This meant the motion fell.

A vote was then taken on the proposed 180 litre bin size which was supported unanimously by all members of the Panel.

It was agreed by the Panel to suspend standing orders and extend the meeting by up to 15 minutes.

In response to member questions on Veolia’s performance, Graeme Kane clarified:

- Issues regarding the service provided by Veolia to flats were noted;
- Further deductions to Veolia are yet to be determined. Some payments are being withheld to make these feasible to enact;
- Inconsistency in reports of fly tipping incidents will be down to how they are reported causing some duplication;
- Christmas tree collection is on track to be achieved by the deadline;
- The plan for leaf sweeping used by Veolia will be picked-up and discussed after the meeting;
- Agreed the need to extend coverage of fly tipping posters promoting the fines that can be imposed;
- Street bins are being monitored as they have also been noted by the waste team;
- Reporting of missed bins is now being reported electronically meaning that reporting is likely to be more accurate; and
- Veolia is liable for any damage caused to other vehicles by its bin lorries.

8 PERFORMANCE MONITORING (Agenda Item 8)

The members of the Panel agreed to defer this item to the next meeting on 16 January 2018 due to lack of time.