



MINUTES OF THE CALL IN OVERVIEW AND SCRUTINY COMMITTEE Wednesday, 2 March 2011 at 7.30 pm

PRESENT: Councillor Castle (Chair) and Councillors Mrs Bacchus, Denselow, Gladbaum, Kabir and Lorber

Also Present: Councillors Allie, Beck, Butt (Deputy Leader and Lead Member for Resources), Crane (Lead Member for Regeneration and Economic Development)

Apologies were received from: Councillors Arnold and Mashari

1. Declarations of personal and prejudicial interests

None declared.

2. Minutes of the last meeting held on 2 February 2011

RESOLVED:-

that the minutes of the last meeting held on 2 February 2011 be approved as an accurate record of the meeting.

3. Matters arising

None.

4. Call-in of Executive decisions from the meeting of the Executive held on 15 February 2011

Decisions made by the Executive on 15 February 2011 in respect of the following reports were called-in for consideration by the Call In Overview and Scrutiny Committee in accordance with Standing Orders 6 (b) and 18.

4.1 Newfield Primary School - determination of proposal to alter Newfield Primary School

The reasons for the call-in were:-

- To fully understand the implications for the Mission Dine Centre and to understand what assistance Brent Council is providing to help them relocate.

Suggested action for the Call In Overview and Scrutiny Committee to take:-

- To receive a full briefing from officers on alternative buildings available and their rental cost.

The Chair referred to the reasons for call in of this item as set out in the agenda focusing on the future of the Mission Dine Centre. He then invited Tony Eaton of the Brent Law Society, representing the Mission Dine Centre (MDC), to address the committee. Tony Eaton began by stating that negotiations between the MDC and the council over the future of the site had been complicated by the council using a commercial law firm which would only respond after receiving instruction from the council, thus impacting upon MDC's costs. He explained that the MDC had been given the impression that they would be able to secure a longer lease and had also initially thought they would also qualify for rent abatement because of their charity status. In addition, the MDC had invested in building improvements after such works had been deemed necessary by the council if a new lease was to be approved. Tony Eaton queried why the council was now proposing to demolish the building when they were aware that the MDC was interested in extending the lease and had invested in building improvements. Members noted that the MDC was willing to cooperate with the council with regard to future arrangements and sought further negotiations, however the MDC did retain the right to appeal the council's decision.

With the approval of the Chair, Omo Wale, a volunteer for MDC, addressed the committee. Omo Wale began by asserting that the Executive report had been misleading and he felt that the proposals would only benefit Newfield Primary school to the detriment of the MDC and suggested that proposals to benefit both parties should be pursued. The current proposals would see the removal of an important and well-used facility for older people. Omo Wale opined that the report lacked details of school places or expansion in other schools, whilst the MDC had failed to be consulted on the proposals which it certainly would have objected to.

With the approval of the Chair, Ravi Chauhan, representing the MDC, addressed the committee. Ravi Chauhan felt that proposals to demolish the MDC building were unfair in principle. He queried whether an Equality Impact Assessment (EIA) had been undertaken prior to the decision being taken as it had not been included in the report. Ravi Chauhan commented that the EIA may have concluded that the proposals would adversely affect the local community, whilst the MDC had not been involved in the consultation and neither had any of its users been consulted. In view of these outstanding issues, he suggested that the proposals were in breach of public law and the Brent Compact. He commented that the MDC wished to work with the council with regard to future arrangements and he urged that the council enter negotiations, otherwise judicial review of the decision may be pursued.

With the approval of the Chair, Dame Betty Asafo-Agyei, the operator of MDC, addressed the committee. Dame Betty Asafo-Agyei stated that the MDC had originally been moved to the site after the council had determined that a previous building was dilapidated. The present site was subsequently identified and the appropriate planning permission granted. Although works had been behind schedule, the MDC had been able to secure the funds necessary to undertake improvements to the building on this site, however despite this the council had since stated its intention not to renew the lease and to demolish the building.

Councillor Beck, a councillor who had requested call in of this item, addressed the committee. Councillor Beck enquired why the MDC had not been consulted about the proposals and what other options had been considered and if so what had

justified these not being pursued. He also sought details with regard to the timeframe that the decision had been made in. Councillor Beck acknowledged that although the council had written to the MDC with a list of organisations that MDC users may be referred to, it did not include a list of alternative sites that might be appropriate to the MDC to move to. He also sought assurances that an EIA had been undertaken prior to the decision being taken and asked that copies be circulated to councillors.

Councillor Allie, who had also requested call in of this item, addressed the committee. Councillor Allie commented that since local residents had voiced their objections to the proposals at a public meeting on 18 January, it was unlikely that they would object to the school acquiring land on public space as an alternative and there had also been no evidence to date that there would be objections to this. The council had indicated that it would seek to work with organisations in rent arrears at a recent public meeting and the action being taken in respect of the MDC went against this principle. Councillor Allie also enquired whether the proposals included expansion of Newfield Primary School's existing footprint.

Members then discussed the matter in detail. Councillor Gladbaum sought reasons as to why the planning application in respect of Newfield Primary School had been deferred at the Planning Committee meeting on 23 February. She also sought further details with regard to identifying alternative sites for the MDC. Councillor H B Patel expressed concern that the charity funding the MDC had secured would be wasted as the building was to be demolished and he enquired whether Newfield Primary School could instead be expanded at another location to enable the MDC to remain. Councillor Denselow sought clarification as to why it is not necessary for the proposals to be reconsidered by the Executive.

Councillor Lorber, in noting that the land occupied by the MDC was to be used as a playground area, enquired on the possibility of using a small piece of green land for this purpose instead and he also sought details with regard to the size of the MDC site. He asked for further explanation as to why the council had not agreed to extend the lease to the MDC either on a short or long term basis, especially in view of the expectation the MDC had in securing this and of the subsequent funding they had secured to undertake building improvements. With regard to non payment of rent, he asked why this was being raised as an issue now when it had been ongoing for a while, especially as other organisations were also in similar situations. Councillor Lorber enquired whether the decision to terminate the lease with the MDC in writing due to rent arrears had been provided and commented that the council should be mindful that such organisations would not necessarily have the legal expertise to interpret rent demand letters and could easily lead to misunderstanding. He suggested that as the proposed use of the MDC site for a playground consisted of a relatively small area, demolition of the building was unnecessary and he felt that the proposals should be reconsidered.

The Chair commented that Newfield Primary School was surrounded by green land and enquired why a proportion of this land had not been considered for Newfield Primary School expansion instead.

In reply to issues raised, Councillor Crane (Lead Member for Regeneration and Economic Development) commented that he understood the EIA with regard to the proposals had been circulated to all councillors and it had been completed prior to

the Executive meeting. The Executive were aware of all the issues upon making its decision and Councillor Crane advised that any delay in implementation could jeopardise providing the school places so needed. He added that the MDC had been written to in October 2010 informing them of the intention to demolish the building in order to facilitate expansion of Newfield Primary School thus providing the MDC time to consider their position and future arrangements.

Richard Barrett (Head of Property and Asset Management, Regeneration and Major Projects) advised that the open green space around Newfield Primary School was public owned and was likely to encounter significant opposition if the council sought to use any of it to expand the school and the land would also need to be fenced off. In addition, it was council policy to retain as much open public space as possible. The MDC was on council land and so was less problematic in terms of seeking school expansion. Richard Barrett advised that planning permission for the expansion had been deferred at the Planning Committee meeting held on 23 February to the next Planning Committee meeting to enable further consultation to take place and to allow the MDC to formally comment on the application. The MDC had been informed of the need to acquire the site for school expansion on 27 October 2010. A further letter had been sent to them in February advising of other premises in the borough MDC users may find appropriate to use and the council had requested a list of MDC users to help identify what alternative sites and services they may qualify for. The role to the community provided by the MDC was recognised and attempts to resolve future arrangements with them were being actively considered. Rent arrears may not be pursued because of MDC's situation and the community work they undertook.

Richard Barrett confirmed that the site was 60x30 feet and would be used to provide a school playground. The council had been in discussion with the MDC with regard to a short term lease as the MDC was not receiving council funding, but a short term lease would facilitate obtaining external funding. The reasons for the lease not being renewed were due to both non payment of rent and the need for the council to demolish the building to access the land and use for other council purposes. Richard Barrett advised that the MDC's activities did not meet the council's voluntary sector strategy and so were not entitled to either council funding or a rent abatement. In addition, the MDC had been sent a rent demand for outstanding arrears that remained unpaid.

Arnold Meagher (Legal Adviser, Legal and Procurement) advised the committee that the MDC was subject to a landlord (the council) and tenant (MDC) agreement and one of the reasons the council did not want to extend the lease was due to non payment of rent. Should the matter go to the court, the court would consider if there were any grounds for the MDC to apply for a new lease and whether there were any grounds for compensation to the MDC with regard to refurbishments they had carried out on the building.

The committee then decided not to agree recommendations put forward by the Chair that the Executive reconsider the decisions made to take into account the issues, including legal, that were raised at the meeting and to provide the MDC with a list of possible alternative sites.

RESOLVED:-

that upon considering the report from the Directors of Children and Families and Regeneration and Major Projects, the decisions made by the Executive be noted.

4.2 Restructuring of Children's Centre buildings/provision in Brent

The reasons for call-in were:-

- To discuss fully the funding for Children's Centres and the reason behind budget reductions proposed for 2011/12. To fully understand the implications of the policy proposed.

Suggested action for the Call In Overview and Scrutiny Committee to take:-

- To explain clearly the funding situation of Sure Start Centres and to understand and scrutinise the decision to remove funding in 2011/12 and recommend revised funding based on information provided.

Councillor Lorber, a councillor who had called in this item, summarised the reasons for call in and sought further details with regard to the present funding situation and whether the spending cuts would affect other relevant bodies as well as the council. He also asked for an explanation as to the basis on which the reduction in funding rested. Clarification was sought as to whether the £2.25m savings identified was a decision specifically made by the council. Councillor Kabir sought further details with regard to arrangements should schools or nurseries provide accommodation. Councillor H B Patel acknowledged that £105,000 savings could be made through using school buildings, however he asked what impact this might have upon the running of the schools. Councillor Gladbaum commented on the role Children's Centres played in helping to reduce child poverty but appreciated the need to make savings in all areas due to the acute budget pressures.

In reply, Councillor Butt (Deputy Leader and Lead Member for Resources) confirmed that 2011/12 grant had been reduced by £2m from the previous year and the savings were also part of the council's overall One Council Programme and Efficiency Savings. Whilst there would be a redefining of the service, all current Children's Centres would remain open and the council would use innovative ways to protect the service.

Krutika Pau (Director of Children and Families) advised that Children Centre's funding was previously ring-fenced under the SureStart grant, however it was now part of the Early Intervention grant which was not. Members heard that Children and Families had to make significant savings and all areas of activity had been reviewed. Although the council had identified that £2.25m savings were necessary as a result of the Government's Emergency Budget and subsequent Comprehensive Spending Review, every effort had been made to minimise impact on Children's Centres and the council was one of very few local authorities in London that was not closing any of them. The council was also working with schools and nurseries to consider how they could provide accommodation. It would be the school's choice as to whether they could provide their facilities, however feedback to date had been positive. Whilst the intention was for schools to provide accommodation, the existing Children Centre's staff would continue to provide the same service on the premises.

RESOLVED:-

that upon considering the report from the Director of Children and Families, the decisions made by the Executive be noted.

4.3 Preston Manor High School - determination of proposal to alter Preston Manor High School

The reasons for the call-in were:-

- To fully establish the need, with evidence, of reception and primary school places within the immediate vicinity and local area surrounding the Preston Manor High School.
- To fully understand the impact and consequences of increased Traffic which would lead to congestion, Parking problem, and disruption to the residents and users of Carlton Avenue East.
- Effect of the expansion of the School on the residents of the Carlton Avenue East, Preston Road, Holly croft Avenue and Ashley Garden.
- Impact of the loss of sports playing space on the school and local communities
- The impact of pre-existing covenant on Preston Manor High school's playing field.

Suggested action for the Call In Overview and Scrutiny Committee to take:-

- To receive full briefing from officers and the lead member on the above issues and to provide school places where the need is higher by finding an alternate site.

Councillor H B Patel, one of the councillors who had called in this item, outlined the reasons for call in, including the impact of the covenant on Preston Manor High School's playing field and traffic concerns. He also expressed concern with regard to an apparent lack of consultation with local residents with regard to the proposals.

With the approval of the Chair, a number of local residents addressed the committee on this item. Jack Gordon, a local resident, began by claiming that Preston Manor High School had ignored previous out of court agreements with residents and an apparent refusal to cooperate with local residents. He stated that noise pollution at after school and weekend events was a problem, along with traffic congestion, whilst there was often unruly behaviour at bus stops by the school's pupils who were also associated with generating litter in the area. Jack Gordon felt that the multi games facilities proposals contravened the Environmental Protection Act and the school premises would be in too close a proximity to residents' gardens in Carlton Avenue East. He asserted that the site was already over capacity as it had been deemed appropriate for 700 pupils, however there were already 1,500 pupils and this would increase to 2,000 if the proposals were approved.

Ann Hadlow, a local resident, stated that pupil numbers at the school had been rising steadily and the proposals would see a reduction in the amount of playing fields in an area which was already deficient in such facilities. Although Sport England had not objected to the proposals, this was on the basis of fulfilling a

number of conditions, such as the building being two storeys. The school had initially informed residents that the building would be one storey, however at the most recent consultation this had changed to two storeys which in her view would be overbearing and out of character for the local area, especially in respect of the roof design proposals. Ann Hadlow concluded by stating that she was still awaiting a reply from the council in respect of whether £7million funding would be withdrawn if the proposals were not concluded by 5 September 2011.

Martin Francis, the Chair of Governors for Chalkhill and Braincroft Primary Schools, began by expressing concern about the proposed building contractors for Preston Manor High School, stating that there had been problems with the firm in respect of the two schools he was involved in. Martin Francis stated that there was a need for more school places in the area and this was coupled with the fact that Preston Manor High School was in competition with the Ark Academy. He expressed the need to cater for demand for places in the area from nearby roads, however the council had widened the school's prospective area for pupils for HA0 and HA9 postcodes. He expressed concern that the automatic entry from primary to secondary school would effectively mean parents choosing secondary schools for their children at the age of four. In addition, Alperton and Wembley schools had also expressed an interest in opening primary schools and such a development would destabilise existing primary schools. Martin Francis also felt that the expansion of Preston Manor School would increase the inequality in amount of school facilities between the north and south of the Borough. He stated that the proposals had not included an Equality Impact Assessment (EIA), whilst the wider implications of the proposals also needed to be considered.

Melvyn Singer, a local resident, expressed his objection to the proposals because of increased traffic that would impact in particular on Carlton Avenue East and adjoining roads. The traffic problems would be exacerbated on Thursdays as this also coincided with refuse collection day and Melvyn Singer suggested that there would be a marked increase in the risk of accidents, with road safety a particular issue just outside the school. There was also a lack of car spaces in the area and there was a need to take a pragmatic approach in considering such proposals.

Monica Patel, a local resident and representing Elmstead Avenue Residents' Association, outlined her opposition to the proposals. She stated that residents of Elmstead Avenue had not been consulted about the school's planning application and some of the properties in this road were closer to the school than those in Carlton Avenue East. She felt that the 71 recorded responses to the application illustrated the lack of consultation and there had not been a proper site visit. The school's travel plan was also flawed and there had been accidents in the area, contrary to what had been claimed. In addition, the school was failing to adhere to its current travel plan. Monica Patel enquired whether funding would be made available to upgrade the road in light of the proposals. Residents wished for the covenant in respect of the school's playing fields to be upheld, whilst the proposed multi games facility was not necessary as Preston ward already had one. Monica Patel concluded by stating that attention should be focused on addressing the lack of school places in the south of the borough and residents wished that admission to the school be based on catchment area only.

Members then discussed this item. Councillor H B Patel referred to the 4,000 consultation documents sent to residents as set out in the Executive report and

enquired where these had been delivered and how had they been distributed. With regard to the proposals, he enquired whether all Brent primary schools had been consulted and if so what had been their responses. With reference to the term 'vicinity' in respect of where the pupils would be coming from, he sought further details, stating that the HA0 and HA9 postcodes mentioned both covered large areas. Councillor H B Patel also sought clarification with regard to how many additional school places were required in the borough and of the 500 students attending Brent schools who lived outside the borough, what distance did they live outside of Brent. Councillor H B Patel suggested that the timing during which the traffic survey took place may not be reflective of the actual traffic situation in the area, whilst the loss of a playing field was also regrettable as there was already a shortage of such facilities in the area. Although he understood the council's need to provide extra school places, he stated that journey times should not be unreasonably impacted upon and that pupils should be provided with schools that were nearest and most convenient to them. The traffic impact on local residents also needed to be given serious consideration.

Councillor Gladbaum acknowledged the concerns raised by residents, however she stressed the borough's priority need to increase school places. Furthermore, there was an immediate pressing need to provide additional school places in order to comply with what the council was legally bound to provide. Councillor Gladbaum sought views with regard to doubts expressed about the building contractors proposed and she also enquired whether the travel plan proposals were discussed at the Planning Committee meeting where the school's application was considered. Councillor Denselow enquired whether alternative sites to provide the additional school places had been considered.

Councillor Lorber stated that providing school places was a big issue for the borough and the current situation was particularly acute. There were a number of factors to overcome with regard to providing places for pupils in the south of the borough and any opportunity to expand schools in Brent needed to be taken. Councillor Lorber also commented that any delay in plans to expand Preston Manor High School would put school places at risk.

In reply to the issues raised, Krutika Pau advised that the council had a duty to secure sufficient school spaces for all children in the borough and Preston Manor High School was playing a role in helping to achieve this. Members heard that, like many other boroughs in London, there was a severe shortage of school places in Brent and many boroughs were expanding their existing schools to address this. Krutika Pau stated that there were also wider factors to be taken into consideration, such as the significant increase in birth rate in the borough, with an additional 900 children in January 2011 compared to January 2010. A number of children were currently without school places and even with the Preston Manor High School expansion, the borough would still be short of school places. Members noted that the nearby Wembley Primary School and Ark Academy were both full, whilst Chalkill Primary School only had places available in year five. Slightly further afield, Sudbury Primary School and the Ashleigh Gardens Early Learning Centre were also full. Krutika Pau advised that there were there had been an additional 89 births in the planning consultation area of Preston Manor High School, which was equivalent to three forms of entry. The number of children without school places constantly fluctuated as new families move to the borough to search for school places and the council needed to respond to where there was demand for school

places. Sites were constantly being considered for expansion potential and ongoing discussions with schools continued. A strategy was in place to address the immediate, short term and long term school places needs. Members were advised that all schools in Brent had been consulted in respect of the proposed expansion of Preston Manor High School. In order for a school to expand, the criteria included whether the school wished to expand and if it had sufficient space, whilst relevant planning factors also needed to be taken into consideration. Krutika Pau explained that a pupil's admission to a school could not be discriminated on the grounds that they lived outside the borough and such situations the school concerned may be the pupil's nearest.

Richard Barrett advised Members that the first traffic survey had been undertaken during heavy snowfall and so a subsequent one was conducted in January 2011 and it was this survey that the results were based on. It was acknowledged that parking spaces in the area was an issue and as a result the school had agreed to introduce a new travel plan to reduce the impact of the proposals, including considering staggering opening times and introducing 'walking buses'. Breakfast, out of hours and after school clubs were also to be set up to help reduce the impact. However, it was felt that the roads in the area would be able to accommodate the additional traffic and the proposals for the playing fields had been approved by Sport England. The two under 16s football pitches would become fully drainable to prevent flooding, whilst the under 13/14s football pitch would be re-provided and there would be a full sized, floodlit astro turf hockey pitch, an additional cricket pitch at Eton Grove, badminton court, a replacement running track and a new MUGA five-a-side pitch. Richard Barrett confirmed that the consultation had been undertaken in line with council procedures and included consultation with residents and appropriate bodies.

The committee then decided not to agree a recommendation put forward by Councillor H B Patel that the Executive re-consider its decisions and consider in detail where school places are in most need and identify an appropriate site to provide these.

RESOLVED:-

that upon considering the report from the Directors of Children and Families and Regeneration and Major Projects, the decisions made by the Executive be noted.

5. The Executive list of decisions for the meeting that took place on Tuesday, 15 February 2011

RESOLVED:-

that the Executive list of decisions for the meeting that took place on Tuesday, 15 February 2011 be noted.

6. Date of next meeting

It was noted that the next meeting of the Call In Overview and Scrutiny Committee was scheduled to take place on Wednesday, 30 March 2011 at 7.30 pm and would only take place if there were any call ins of decisions from the Executive meeting held on 14 March 2011.

7. Any other urgent business

None.

8. Exclusion of press and public

At this stage of the meeting, members of the public were asked to vacate the room in order to discuss an appendix to the report that was not for publication. The appendix was not for publication as it contained the following categories of Exempt Information as specified:

- in paragraph 3 Schedule 12(A) of the Local Government Act 1972 namely: information relating to the financial or business affairs of any particular person (including the Authority holding the information)
- in paragraph 5 Schedule 12(A) of the Local Government Act 1972 namely Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings

In reply to queries from Members, Arnold Meagher (Legal Adviser, Legal and Procurement) advised that the playing field was owned by the school at the time the covenant was put in place. The school intended to apply to a modification of the terms of the covenant. A legal avenue existed for residents to apply for compensation or an injunction which would prevent commencement of works until a final court decision.

The meeting closed at 10.10 pm

A JOHN
Chair