

**CALL-IN SUB COMMITTEE****7 APRIL 2009**

Chairman: \* Councillor Anthony Seymour

Councillors: \* Mitzi Green \* Narinder Singh Mudhar (4)  
\* Jerry Miles (1) \* Stanley Sheinwald\* Denotes Member present  
(1) and (4) Denote category of Reserve Member**PART I - RECOMMENDATIONS - NIL****PART II - MINUTES**36. **Attendance by Reserve Members:****RESOLVED:** To note the attendance at this meeting of the following duly appointed Reserve Members:-Ordinary MemberReserve MemberCouncillor BE Gate  
Councillor Mark VersallionCouncillor Jerry Miles  
Councillor Narinder Mudhar37. **Declarations of Interest:****RESOLVED:** To note that the following interests were declared:

<u>Agenda Item</u>	<u>Member</u>	<u>Nature of Interest</u>
4. Call-in of Major Contracts and Property Portfolio Holder Decision: Tennis Courts, West Harrow Recreation Ground, West Harrow	Councillor B E Gate	Declared a personal interest as he lived within close proximity to the site but, considered that he could make representations on the issue as a Ward Councillor.

38. **Minutes:****RESOLVED:** That the minutes of the meeting held on 29 November 2007, be taken as read and signed as a correct record.39. **Call-in of Major Contracts and Property Portfolio Holder Decision: Tennis Courts, West Harrow Recreation Ground, West Harrow:**

Prior to the commencement of the consideration of the Call-In matter, the Chairman advised that the Portfolio Holder for Major Contracts and Property was in attendance at the Sub-Committee to respond to the call-in as part of the requirement of that process.

The Portfolio Holder Major Contracts and Property had agreed a decision to declare the tennis courts at West Harrow Recreation Ground available for lease and had authorised the Corporate Director Place Shaping to undertake a process to consider the disposal of this open space and agree terms for the grant of a lease for up to 35 years in relation to the site. A Call-In Notice calling in the decision had been subsequently received, signed by 6 Council Members, and the decision had therefore been referred to this Sub-Committee for consideration.

The Sub-Committee received the notice invoking the call-in procedure, the report of the Corporate Director Place Shaping submitted to the Portfolio Holder and the relevant Decision Notice.

The decision had been called-in on two grounds:

- **inadequate consultation with stakeholders;**
- **the absence of adequate evidence on which to base the decision.**

The Chairman, after outlining the procedure to be followed at the meeting, invited Councillor B E Gate to speak on behalf of the signatories. Councillor Gate expressed his concern at the decision, as he felt that it had been made without being properly considered in terms of public accessibility. There had also, in his opinion, been no

consultation with Ward Councillors, residents and stakeholders, and no views had been sought on the proposals prior to the decision being made.

Councillor Gate referred to the first instance when he became aware of the proposal, which was at a Week of Action event and the matter had been displayed for information to those attending, although the item was not an element of the meeting. He emphasised that he was not against the principle of the proposals as he agreed the Open Space was in a state of disrepair and that work was needed to bring the area to a more acceptable standard. However, he remained concerned that the appropriate process had not been followed as part of the decision making by the Portfolio Holder.

Upon being invited to respond, the Portfolio Holder for Major Contracts and Property agreed that a process error had occurred which had led to Ward Councillors not being consulted at an early stage as part of his consideration of the decision. He then explained the intention of his Decision was to serve as an enabling process to allow officers to discuss with interested parties proposals to bring the Tennis Courts, West Harrow Recreation Ground back into full use, as the site was not in good maintenance order. He emphasised that part of the brief for this project would be to ensure public accessibility and provide added benefits to the local community and users of the facility. He noted that the further decision stage after this point would involve a full consultation as part of the drawing up of and agreement of proposals for the facility. He then explained the technical details that led to the identification of such sites for improvements and officers confirmed that the process used aimed to ensure a cross section of improvements across the borough.

In response to questions from Members of the Sub-Committee, clarification was provided on the following issues from Councillor Gate on behalf of the signatories:

- the tennis courts were in a state of disrepair and two were also serving as an additional incorporated use as basketball courts.
- Ward Councillors were never formally consulted regarding the proposals and only became aware of the decision once it was published;
- the Member had not been contacted by any residents regarding the proposals;
- the only element of consultation that he considered had happened would be in relation to the questions he asked at a Week of Action event when the proposal was displayed and he had been given to understand at that event that the proposal was merely an idea concerning the site;
- whilst the Member did not disagree with the principle of the proposals the issue of aspects of it including building did require further thought in terms of location although it was recognised this was a planning issue.

In response to questions from Members of the Sub-Committee, clarification was provided on the following issues by the Portfolio Holder:

- the officers had received only one expression of interest in respect of the tennis courts;
- the timescale for completion of any final proposals in relation to the site remained uncertain and subject to the further agreement of the entire process, including consultation, and it was not anticipated this would be prior to the end of 2010;
- any proposals currently held were those suggested by the potential developer and would remain subject to rigorous consideration and challenge in line with the Council's own expectations and ambitions for the site;
- the consultation process stage was normally implemented when the Council had significant proposals to put to the local community to ascertain support and other views at that point;
- the Portfolio Holder welcomed the idea that the local community should be approached regarding their ideas for the site and this could be a requirement of the brief to the developer;
- no formal consultation had been undertaken as the decision was supposed to be enabling and therefore remained at the "evidence gathering" stage;

- he had made the decision concerning the proposals from the Corporate Director as this was in line with the previous processes followed and advice received.
- the issue would have to be part of a future decision making process after a wide and inclusive consultation process irrespective of the decision he had taken at this time;

The Chairman thanked Councillor Gate and the Portfolio Holder for their attendance.

**(The Sub-Committee then adjourned from 8.20 pm – 8.39 pm to receive legal advice).**

Members of the Sub-Committee, having considered all the evidence, summarised their individual views relating to the grounds for call-in. The Sub-Committee made the following key points:

- on ground one (inadequate consultation with stakeholders) there was a recognition from the Portfolio Holder that an error of due process in relation to consultation with Ward Councillors was made and therefore this was a valid ground to call in the decision;
- on ground two (the absence of adequate evidence on which to base the decision) it was the opinion of the Sub-Committee that as inadequate consultation had been undertaken it followed that the Portfolio Holder therefore, had inadequate evidence to reach his decision and that ground two was also valid.

On being put to the vote, the unanimous decision was that the challenge to the decision made by the Portfolio Holder Major Contracts and Property should be upheld and the decision referred back to the decision maker.

**RESOLVED:** That the decision in relation to Tennis Courts, West Harrow Recreation Ground, be referred back to the Portfolio Holder Major Contracts and Property for reconsideration due to the following concerns:

- (i) no consultation had been undertaken with Ward Councillors, residents and stakeholders concerning the proposals prior to the decision;
- (ii) the Portfolio Holder had been provided with inadequate evidence on which to base his decision.

(Note: The meeting having commenced at 7.30 pm, closed at 8.50 pm)

(Signed) COUNCILLOR ANTHONY SEYMOUR  
Chairman