

**Merton Council - call-in request form****1. Decision to be called in: (required)**

<b>Harris Academy Wimbledon – Contract award decision for Merton Hall construction works</b>
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**2. Which of the principles of decision making in Article 13 of the constitution has not been applied? (required)**

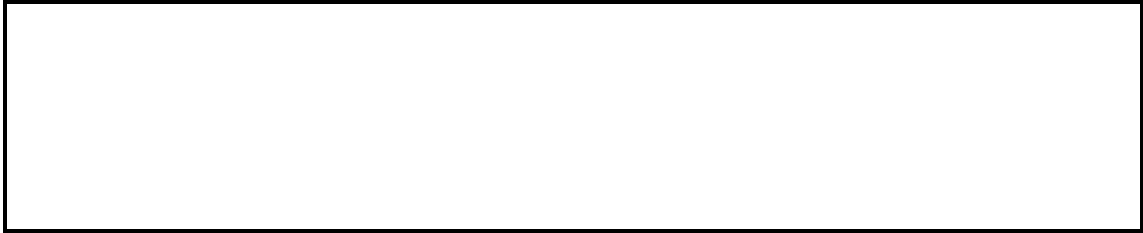
Required by part 4E Section 16(c)(a)(ii) of the constitution - tick all that apply:

(a) proportionality (i.e. the action must be proportionate to the desired outcome);	X
(b) due consultation and the taking of professional advice from officers;	X
(c) respect for human rights and equalities;	X
(d) a presumption in favour of openness;	X
(e) clarity of aims and desired outcomes;	
(f) consideration and evaluation of alternatives;	X
(g) irrelevant matters must be ignored.	

**3. Desired outcome**

Part 4E Section 16(f) of the constitution- select one:

(a) The Panel/Commission to refer the decision back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns.	X
(b) To refer the matter to full Council where the Commission/Panel determines that the decision is contrary to the Policy and/or Budget Framework	
(c) The Panel/Commission to decide not to refer the matter back to the decision making person or body *	
* If you select (c) please explain the purpose of calling in the decision.	



**4. Evidence which demonstrates the alleged breach(es) indicated in 2 above (required)**

Required by part 4E Section 16(c)(a)(ii) of the constitution:

**(a) proportionality**

We – the signatories – would question whether the decision to enter into a construction contract for virtually the wholesale demolition and rebuilding of Merton Hall is proportional to the council's prime objective, namely to deliver a new secondary school on the High Path site, particularly given that there is no necessity to demolish the majority of Merton Hall in order to deliver the new school.

The Cabinet's decision is not proportional from a financial perspective since there are significant question marks over whether the council is getting value for money in its transaction with Elim FourSquare Gospel Alliance (henceforth referred to as Elim Church). For example, in July 2016 a budget of [REDACTED] was set aside (excluding stamp duty and fees) to relocate Elim Church to Merton Hall. Yet, despite the Charity Commission listing Elim Church as having assets of £194million, their financial contribution towards the church's move to Merton Hall appears to be limited. For example, it was revealed in a recent Member Enquiry that the council has even paid Elim's legal and surveyor's costs associated with the land transfer.

This brings into question the claim in the Cabinet report that the council is receiving value for money for this transaction with Elim Church. We are advised that a Compulsory Purchase Order would have been too expensive and that this is the view of the Director for Environment and Regeneration. Yet at the council's expense, Elim appear to be upgrading their facility from a church in a light industrial warehouse to an important heritage building which enjoys in a prime location close to the station and on a bus route.

Press reports certainly suggest that Elim Church is extremely happy with the deal it has struck with Merton Council, with Pastor Jon Featherstone reported as saying in a sermon on 27 August:

*"They can't stop us, we are getting a building worth £4m and haven't got to pay one penny. No-one can stop us. Let's go big, let's go all out, build something titanic."*

It is clear that Elim Church will have a valuable new building that in time they can sell on if they so wish. A recent Member Enquiry has confirmed that there will be “no restriction on Elim selling the property in the future”. Whilst the transfer to Elim includes an overage provision should they dispose of Merton Hall for a use other than the current use as community, it has not been shown what benefit this would bring to local residents and the wider community to whom Merton Hall was gifted at the request of John Innes.

There is a lack of proportionality with regard to the impact of the loss of Merton Hall on the local community. Whilst the site may be worth a lot in financial terms, it is worth a lot more to the community and yet this value appears not to have been measured or evaluated as part of this decision making process.

The fact is that this is too precious an asset for the council to give it away. Nor is there any necessity for the council to offer up a heritage site of community value for almost wholesale demolition.

There are other alternatives. For example the site could have been subject to compulsory purchase or an alternative arrangement could have been reached to re-site Elim Church on a similar site to the one it currently occupies in High Path.

In considering this matter, it is important that local residents have full and transparent responses to the following questions:

- i) What was the chronology of the negotiations and discussions between Merton Council and Elim Church on the proposed land swap and redevelopment of the Merton Hall site?
- ii) Did Elim Church specifically identify and ask the council for Merton Hall?
- iii) Did the proposal to do a land swap between the High Path site and Merton Hall initially come from the council?
- iv) How much did the council offer Elim Church to purchase the High Path site outright?
- v) Why did the council feel they had to agree to the loss of Merton Hall given its value to the local community and the fact there were other options available?
- vi) Who put this draft deal on Merton Hall together? What Member involvement was there in it?
- vii) What is the commercial value on the Elim Church site on High Path
- viii) What is the commercial value on the Merton Hall site

With regard to proportionality, claims have also been made by the council that Merton Hall was ‘underused’. These are strongly refuted by local residents and users of the facility with reports that bookings were in fact being turned away. It is important that this claim be scrutinised further.

Finally, there remain major question marks over the proportionality of the

extent of the works proposed to Merton Hall under this decision. Labour councillors may have made claims to the contrary but it is clear from the plans that what is proposed is the wholesale demolition of most of the current Merton Hall building with only the facade being retained. Indeed the adaptations to Merton Hall are described in the Cabinet report itself as being 'to adapt and re-build the majority of the Merton Hall building'.

Given that the building is currently subject to applications to add it to both the National Heritage List for England and the list of Assets of Community Value as well as the planning decision being subject to Judicial Review, the decision to proceed with the contract award for construction works does not seem to be proportionate. This is reinforced by the fact that Cabinet in their published decision at ii) actively opposes adding a potential listing of Merton Hall by the Department for Culture, Media and Sport (DCMS) thus demonstrating the administration's contempt for the concerns of the local community.

The Cabinet decision also fails to take into account the request made by Cllr Najeeb Latif on 9 November 2017 for the council to serve a temporary Building Preservation Notice on Merton Hall under Section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Thus far, no determination of this has been made and so this request for temporary protection of the building is also pending.

**(b) due consultation and the taking of professional advice from officers;**

We understand that elements of this decision have been commercially sensitive. However, whilst there was consultation on the need for a new secondary school in Merton and there was statutory consultation on the council's two planning applications for redevelopment of Merton Hall, there has not been any kind of meaningful consultation with the local community on the principle of the council's land swap with Elim Church.

Given that Merton Hall was commissioned by renowned philanthropist John Innes to provide benefit to the local community as a public hall, there is a strong argument that the local community – particularly those people living immediately around the site - should have been asked whether they agreed to the change of use and loss of this facility from public ownership. There is clear evidence that the local community strongly opposes (as shown by the scale of the petition, the applications for listed building status and for listing as an Asset of Community Value and the Judicial Review).

This consultation could easily have been undertaken notwithstanding the commercial sensitivity of the proposed terms of any contract with Elim Church. By not thus consulting, the council appears to be in contravention of its own public engagement and consultation policies.

**(c) respect for human rights and equalities;**

Serious concerns have been expressed by local residents that the council is breaching its own equalities protocol by using taxpayers' money to promote and enhance a church whose attitudes and beliefs are understandably seen as homophobic by some in the local community.

A statement on the website of the Elim Fellowship, which represents Elim churches worldwide, says: "We believe that sexual purity is a necessary expression for all of God's children and requires abstinence from adultery, fornication, incest, homosexuality, or other sexual relationships or practices forbidden by Scripture."

By contrast, Merton Hall has always been a community asset which is available for use by all parts of Merton's community, regardless of race, religion or sexual orientation. That was the basis on which it was commissioned by John Innes for the benefit of the local community. Yet, under this decision the future use of Merton Hall will predominantly be by the congregation of Elim Church, many of whom do not live in Merton. There are understandably serious concerns that some residents within the local community are being unfairly disadvantaged through this decision and that the beliefs of the Elim Church risk causing a divide within that community, particularly in terms of access to future community facilities hosted by Elim on the Merton Hall site. It is feared that LGBT+ residents and community groups risk being prevented from accessing these facilities.

This was identified as a serious issue by the Children and Young People Overview and Scrutiny Panel at their meeting of 8 November 2017. As a result of their discussions, Members made a formal recommendation requesting that "Cabinet seek formal written assurances from the Elim Church that under its management Merton Hall lettings will enable the venue to remain for the use of all the community and that these lettings will be fully compliant with equality legislation."

This reference and its agreement by Cabinet is to be welcomed. However, no such written confirmation has yet been received from Elim Church and as such there are still no guarantees that the LGBT+ community will be afforded equal access to the building.

These concerns are unfortunately only reinforced by the Equalities Analysis. The Cabinet report admits at 8.1 that the original Equalities Analysis dated 1 July 2017 did not include any consideration of the negative impact of the council's proposals for Merton Hall. Whilst this has not been addressed and a new EA produced, it is extremely concerning that potential negative impacts have been identified for all of the following protected characteristics (equality groups): Age; Disability; Gender Reassignment; Marriage and Civil Partnership; Race; Religion/Belief; Sexual orientation; and Socio-economic status.

Within the plans to mitigate these negative impacts, the revised EA states simply that 'council officers have spoken to the Elim Church' yet, without written guarantees, this provides little reassurance to the LGBT+

community.

The EA also refers to the South Wimbledon Community Association (SWCA). The SWCA undertakes a great deal of very valuable work supporting local residents, some of whom are vulnerable with specific needs. However, it is clear to anyone who has visited the 3 Pincott Road facility that they have only been offered significantly inferior premises by the council to the ones they previously occupied. No analysis is provided as part of the Cabinet report of the disadvantages and restrictions on service and opportunities that this has entailed and yet this should surely have been taken into consideration when considering the award of the contract for redevelopment of the Merton Hall site as part of the revised Equalities Analysis.

Furthermore, there is no recognition in either the EA or the Cabinet report of the fact that the Pincott Road site is part of the planned High Path regeneration and, as such, this facility is unlikely to be available for a significant period of time over the coming decade and, even when it is, works on the estate are likely to make access to and use of the facility challenging.

Finally, we haven't seen any analysis of the advantages and disadvantages for residents on lower incomes of moving the food bank hosted at the Elim church and what temporary arrangements might be put in place to ensure that this important facility continues to serve the community.

**(d) a presumption in favour of openness;**

We don't think the administration would dispute the fact that there has been significant secrecy around this issue. Whilst we accept that some of this has been required to protect commercial confidentiality, we do not believe it has been required to the degree that has happened and therefore we do not believe there has been a full presumption of openness.

Residents understandably have a number of questions about the nature of the precise arrangements reached with Elim Church and the way in which their council taxpayer funds are being spent to give away and demolish the majority of an important heritage building. For example, we have had no sight of the conditional contract with Elim. There are also a number of unanswered questions with regard to the finances of the scheme and the detail of the negotiations (see eight questions above at (a)).

Furthermore, there is considerable scope for conflicts of interest to arise in this case through the fact that it is Merton Council which is one of the two parties engaging in the land swap and which has secured planning permission and yet it is also the council which is tasked with evaluating and deciding on both the application for listing Merton Hall as an Asset of Community Value and for the application of a temporary Building Preservation Notice. This risks undue pressure being placed on those officers and Members responsible for these decisions to act in order to

further the council's case rather than taking an independent and objective view based solely on the evidence as should be the case.

In order to retain confidence in the council as an organisation, it is important that residents are assured that these processes have been undertaken properly and thoroughly according to the proper processes yet no such evidence has been provided to demonstrate that this is the case.

**(f) consideration and evaluation of alternatives;**

Whilst the Cabinet report may refer to (and dismiss) some alternative options, i) the list of alternatives is by no means comprehensive and ii) the necessary information has not been provided to enable residents and Members to evaluate whether the Cabinet was correct to dismiss the alternatives listed, such as using the council's CPO powers.

For example, we understand that Merton Council originally made an offer to buy the Elim Church site on High Path but this offer was rejected by Elim's headquarters.

Yet there is no information on this provided as part of the report. A Member Enquiry has been submitted but council officers have not as yet confirmed that the council did indeed make Elim such an offer for their High Path site. Nor have they advised what the value of the council's offer to Elim for their High Path site was or the reasons for which it was turned down. The provision of this information is crucial since it demonstrates a further alternative which appears not to have been evaluated in the decision report considered by Cabinet.

Furthermore, no details have been provided of which other industrial premises owned by Merton Council in the borough were considered by Merton Council for the re-siting of Elim Church. As such, there is not the evidence available to Members to reassure them that one of these premises would not have proved a more cost effective option.

In conclusion, we would comment the evidence provided above to Scrutiny and, by way of a key outcome, ask them to.

- Acknowledge that the unseen draft contract with Elim – which has been magnified by the enormous cost of rebuilding the majority of Merton Hall - is a price too high in both financial terms and loss of a substantial and valuable community asset, which is part of Merton's heritage
- Recommend that the Cabinet agree to renegotiate the purchase of the Elim site in High Path with the church authorities as the current arrangement is neither a transparent use of the Council's money nor its assets.

## 5. Documents requested

All papers provided to the Director of Environment and Regeneration, the Director for Children, Schools & Families, the Leader of the Council, the Cabinet Member for Regeneration, Environment and Housing, the Cabinet Member for Finance and the Cabinet Member for Education, prior to, during and subsequent to the decision making process on Merton Hall.

All emails, reports and associated documentation relating to the land swap and construction works proposed for Merton Hall provided to the relevant Cabinet Members, Leader of the Council, Chief Executive, Director of Environment and Regeneration, Director for Children, Schools & Families, Director of Corporate Services and other council officers over the last 5 years.

Meeting notes of all meetings between officers / Cabinet Members and Elim Church on the land swap and construction works proposed for Merton Hall.

Any correspondence between officers / Cabinet Members and any other external organisations on the possible re-siting of the Elim Church.

Copies of all correspondence between the Council and Elim Church on its future lettings policy for any community facilities provided at Merton Hall once within Elim Church's ownership.

Copies of all correspondence between council officers and Cabinet Members on a) the application to make Merton Hall an Asset of Community Value and b) the request for a Temporary Building Preservation Notice for Merton Hall.

Any other equalities analyses carried out in relation to the land swap with Elim Church and the proposed construction works on Merton Hall.

The risk analysis conducted in relation to the various options for procuring the current Elim Church site at High Path.

Detailed financial analysis of a) the various options available to the Council for procuring the Elim Church site on High Path; and b) the Cabinet's current and previous decisions on construction works to Merton Hall.

A copy of the latest commercial valuation of the Elim Church site on High



Path.

A copy of the latest commercial valuation of Merton Hall.

Details of the assets (financial and otherwise) held by Elim FourSquare Gospel Alliance.

A breakdown of precise details of the revenue generated for the Council from lettings at Merton Hall over the last 5 years.

The detailed analysis by Merton Council of the community usage of Merton Hall over the past 5 years.

Analysis of the community usage of 3 Pincott Road thus far since being leased to the SWCA and any feedback received.

Details of any informal consultations carried out with key stakeholders (including a list of who these 'key stakeholders' were) on the re-siting of Elim Church and the proposed redevelopment of Merton Hall.

A copy of the draft conditional contract between Merton Council and Elim Church referred to in the 11 December 2017 Cabinet report.

A full list of all industrial premises currently within the ownership of Merton Council.

## **6. Witnesses requested**

Cllr Martin Whelton, Cabinet Member for Regeneration, Environment and Housing, LB Merton

Cllr Mark Allison, Cabinet Member for Finance, LB Merton

Cllr Caroline Cooper-Marbiah, Cabinet Member for Education, LB Merton

Chris Lee, Director of Environment and Regeneration, LB Merton

Howard Joy, Property Management & Review Manager, LB Merton

Tom Procter, Head of Contracts & School Organisation, LB Merton

Fiona Thomsen, Head of Shared Legal Services at the South London Legal Partnership

Neil Milligan, Development Control Section Manager, LB Merton  
(responsible for considering requests for temporary Building Preservation Notices)

Sara Sharp, Save Merton Hall campaigner, petition instigator and applicant for the Historic England listing

John Chambers, Save Merton Hall Campaign

Dan Goode, Merton Matters

Andrew Boyce, Chair of the South Wimbledon Enhancement Plan

Tyrone Ashby, Chair, Merton LGBT+ Forum

Representative(s) from the South Wimbledon Community Association  
(including the treasurer who is dealing with the funding/financial elements relating to their move to Pincott Road)

Representative from the Wimbledon Society

Alison Cousins / Dese Child, Co-Chairs, The John Innes Society

Representative from Elim Church

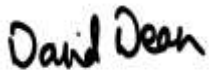
Representative from Historic England

Representative from the Department for Culture, Media and Sport

Representatives from each of the former regular users of Merton Hall i.e.

community groups/clubs etc.

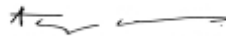
**7. Signed (not required if sent by email):**



**Cllr David Dean**



**Cllr Najeeb Latif**



**Cllr David Williams**

**8. Notes – see part 4E section 16 of the constitution**

Call-ins must be supported by at least three members of the Council.

The call in form and supporting requests must be received by 12 Noon on the third working day following the publication of the decision.

The form and/or supporting requests must be sent:

- **EITHER** by email from a Councillor's email account (no signature required) to [democratic.services@merton.gov.uk](mailto:democratic.services@merton.gov.uk)
- **OR** as a signed paper copy to the Head of Democracy Services, 7<sup>th</sup> floor, Civic Centre, London Road, Morden SM4 5DX.

For further information or advice contact the Head of Democracy Services on 020 8545 3864

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