

**TITLE OF REPORT: NORTH HERTFORDSHIRE MUSEUM AND COMMUNITY FACILITY AT HITCHIN TOWN HALL**

REPORT OF THE STRATEGIC DIRECTOR OF CUSTOMER SERVICES & PROJECT EXECUTIVE

EXECUTIVE MEMBER: COUNCILLOR TONY HUNTER

**1. SUMMARY**

- 1.1 The North Hertfordshire Museum and Hitchin Town Hall Project was designed to provide a Museum facility which meets customer expectations, reduces operating costs and, in doing so, provide a sustainable operating model for the Hitchin Town Hall Gymnasium & Workman's Hall Trust. The project also provides for the refurbishment of Hitchin Town Hall to enhance and provide a long term future for this important heritage asset.
- 1.2 The contractual dispute between NHDC and Hitchin Town Hall Ltd has been reported on a number of occasions and the current status was subject to a detailed report to Council on 16 July 2015 and a subsequent report to Cabinet on 28 July 2015.
- 1.3 Following consideration of these, this report is presented to Council to request that authority is given to bring forward the agreed capital expenditure to a maximum of £138k for the fit out of the Town Hall in order to ensure necessary preparatory works can be undertaken in time for the anticipated opening in the later part of 2015. This authority is being sought prior to the resolution of ownership and access to the parts of the site formerly occupied by 14/15 Brand Street and the final resolution of the contractual dispute between NHDC and Hitchin Town Hall Ltd and, as such, carries some risk.

**2. RECOMMENDATIONS**

- 2.1 That Council approves the immediate capital expenditure to a maximum of £138,000 for the fit out of the Hitchin Town Hall.

**3. REASONS FOR RECOMMENDATIONS**

- 3.1 The recommendation contained in paragraph 2 is made to enable the necessary preparatory works to be carried out at Hitchin Town Hall to enable it to open in the latter part of 2015 in accordance with Council's direction.

**4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 An alternative option to delay incurring capital expenditure to the point where the contractual dispute between the parties was concluded was considered. Such an option would be lower risk but necessarily entail the delay of the opening of the facility and incur additional revenue costs and other potential contractual liabilities. Given the direction provided by Council in previous resolutions this option has not been recommended

## **5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**

5.1 Consultation has been carried out with the Leader of the Council and Executive Member for Community Engagement & Rural Affairs.

## **6. FORWARD PLAN**

6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

## **7. BACKGROUND**

7.1 The decision making history of this project is fully set out in the background papers in para 16.

7.2 At its meeting on 10 March 2015 Council resolved at minute no 78:

- (1) That the Capital Budget be increased by a maximum of £253,392 [£223,392 project budget (paragraph 8.4) plus £30,000 for treatment of moisture in basement (paragraph 8.6)];*
- (2) That, in the event of Hitchin Town Hall Limited not being in a position to make its contractual financial contribution of £490,000 at the likely completion of the construction contract in May 2015 (paragraph 8.3), this additional proportion of the capital cost of the project will need to be funded from Council resources;*
- (3) That any implications on 2014/15 and 2015/16 capital budgets as a result of profiling project spend be reported in the third quarter capital monitoring report; and*
- (4) That further reports be submitted in due course identifying any additional budgets necessary to complete the project.*

7.3 Following this, at its meeting on 16 July 2015 Council resolved at minute 37:

- (1) That Council not agree to the proposals to vary or replace the Development Agreement submitted by Hitchin Town Hall Ltd.;*
- (2) That officers be instructed to serve notice on Hitchin Town Hall Ltd terminating the Development Agreement in the event of non-payment of their capital contribution and, subject to this,*
- (3) It be agreed that NHDC will operate the Town Hall directly in accordance with the general provisions of the Development Agreement, and that Cabinet be requested to approve the necessary revenue budget and reviews this operating model within three years of opening and, subject to this,*
- (4) It be agreed that capital expenditure to a maximum of £138,000 be earmarked for the fit out of the Town Hall.*

The Council's decision was based on the information available to it at the time, that terminating the Development Agreement in the event of non-payment was the best approach to take. The further capital expenditure was approved by Council on the basis that the Development Agreement would be terminated.

7.4 Finally, at its meeting on 28 July 2015 Cabinet resolved at minute 38:

- (1) *That the revenue budget for operating the Hitchin Town Hall, as detailed in Paragraphs 8.1, 8.2 and 10.3 of the report, of £67,000 in 2015/16, be agreed, and that £251,500 be built into the base budget for future years;*
- (2) *That the approach to the operational model be endorsed, and that it be noted that this will be subject to review within three years of opening; and*
- (3) *That it be noted that any variation to the agreed approach would be subject to approval by Cabinet or Council.*

The operational model endorsed was that set out in the Development Agreement as to the use of the facilities, as agreed by Council in minute 37(3).

## **8. HITCHIN TOWN HALL CAPITAL EXPENDITURE**

- 8.1 At its meeting on 16 July 2015 Council agreed capital expenditure to a maximum of £138,000 for the fit out of the Town Hall subject to NHDC serving notice on Hitchin Town Hall Ltd of termination of the Development Agreement in the event of non payment of its capital contribution of £490,000. At the time of writing this report this capital contribution has not been paid.
- 8.2 Dialogue with the relevant interested parties to attempt to establish a mutually acceptable resolution continues and until this is concluded it would not be in the Councils best interests to immediately terminate the Development Agreement in the event of non payment.
- 8.3 As a result, authority is now sought to incur the agreed capital expenditure before termination of the Development Agreement to give sufficient time to complete the fit out of Hitchin Town Hall in line with the Council's expectation that this will be open later in the year subject to the completion of the ongoing exhibition fit out and other miscellaneous construction works.
- 8.4 There is a risk that if the Council was ultimately unable to secure ownership or access to the 14 and 15 Brand Street site this investment would be at risk but this needs to be weighed against the risk that Hitchin Town Hall would not be ready to open when anticipated and the resulting financial risks that arise from this are outlined in paragraph 11.7.

### **Capital Expenditure**

- 8.5 The capital costs reported to Council on 16 July 2015 reflected the full costs of internal fit-out of the Town Hall and in accordance with the responsibilities set out in the Development Agreement. These are summarised in table 1 below.

<b>Area</b>	<b>Capital Budget</b>	
Café and Kitchen	£	64,563.27
Admin Office	£	1,540.00
Lucas Room	£	13,200.00
Mountford Hall	£	38,435.00
General	£	20,246.75
<b>Total</b>	£	<b>137,985.02</b>

- 8.6 The capital estimate represents the maximum required and will be confirmed once an approach to events, catering etc has been determined. To ensure that capital works to the café and kitchen are completed and ready for when the building opens to the public, officers have commenced work in this area as any slippage could impact on the overall programme. This report requests the authority to advance the approved capital expenditure for the same reason.
- 8.7 The additional capital expenditure would increase Hitchin Town Hall Limited's liability to the Council where it has failed to meet its obligations under the Development Agreement.

## **9. LEGAL IMPLICATIONS**

- 9.1 The General Power of Competence contained within the Localism Act 2011 came into force on 18 February 2012 and effectively replaced the previous wellbeing powers. The statutory General Power of Competence gives a local authority the power to do "anything that individuals generally may do". Section 1(4) of the same Act confirms that in using such power the local authority may do so for the benefit of the authority, its area or persons resident in its area.
- 9.2 The authority has power under section 144 of the Local Government Act 1972 to provide, or encourage any other person or body to provide, facilities to encourage visitors, for conferences, trade fairs and exhibitions or improve, or encourage any other person or body to do so for any existing facilities. It has powers under section 19 of the Local Government (Miscellaneous Provisions) Act 1976 to provide recreational facilities, buildings, equipment, supplies or other assistance. To the extent these do not cover the current proposals then the General Power of Competence under section 1 of the Localism Act 2011 gives a local authority the power to do "anything that individuals generally may do for the benefit of the authority, its area or persons resident in its area.
- 9.3 The Council is currently in an on-going contract dispute with Hitchin Town Hall Ltd in respect of this project and therefore at this time it is correct and appropriate for detailed discussions on the issues in dispute to be kept confidential. The public interest in the project is acknowledged and therefore the need for confidentiality will be kept under on-going review.
- 9.4 Specific legal implications for the project are contained within the previous reports to Full Council listed in the background papers at paragraph 16. The Council has contractual obligations in relation to this project and would be at risk of a breach of contract claim if it failed to make payments in accordance with the terms of the contract.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 These are set out in the body of the report.
- 10.2 Following Council's decision to directly operate the Town Hall and the allocation of the capital budget to enable this any further revisions required to the capital budget as costs are finalised will be highlighted to Cabinet within the quarterly capital monitoring reporting.

## 11. RISK IMPLICATIONS

- 11.1 The risk implications, fully detailed in the report to Council on 8 August 2013, identify a number of areas albeit with an acknowledgement that the range of risks associated with a complex project of this kind can not be comprehensively forecast. The range of risk value is from £758k - £2.5m with an assessment of risk at £629k.
- 11.2 In addition to 11.1, there is a Cabinet Top Risk “North Hertfordshire Museum & Hitchin Town Hall project” that has been monitored by the Finance, Audit and Risk Committee for a number of years. The description of this risk includes:
- Loss of or unavailability of or capacity of key personnel at Hitchin Town Hall Ltd and potential failure to mobilise resources to operate the building
  - Lack of fund raising and a ramp up plan from Hitchin Town Hall Ltd
  - Failure to adhere to the Development Agreement
- 11.3 There are identified financial risks in 2015/16 relating to the delivery of this project. These were included as appendix 8 to the Budget report to Council in February 2015. <http://web.north-herts.gov.uk/aksnherts/images/att9095.xlsx>
- 11.5 The financial risks and opportunities from managing the Town Hall will be monitored through the capital and revenue monitoring process mentioned in section 10.
- 11.6 There are a number of operational risks from managing the facility. These include generating the anticipated levels of income; ensuing adherence to the hiring policy (programming and price); facilities management and staffing. A written assessment of these and other identified risks will be made and wherever possible mitigating actions put in place.
- 11.7 The financial risks associated with not proceeding with the recommended course of action to agree capital expenditure before the termination of the Development Agreement are detailed below:
- Loss of income if the facility does not open as anticipated during the course of December 2015:  
Museum - £28,000 per annum / £2,300 per month  
Town Hall - £338,000 per annum / £21,800 per month
  - Expenditure would continue to be required for staff, premises etc. although this could be mitigated to some extent:  
Museum - £455,000 per annum / £37,900 per month  
Town Hall - £251,000 per annum / £20,900 per month
  - Delays in mobilising marketing/sales plans for both buildings resulting in a reduction in forecast income once operational.

## 12. EQUALITIES IMPLICATIONS

- 12.1 The Equality Act 2010 came into force on the 1<sup>st</sup> October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5<sup>th</sup> April 2011. There is a General duty, described in 12.2 that public

bodies must meet, underpinned by more specific duties which are designed to help meet them.

- 12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.3 The proposals made in this report do not in themselves alter the overall project design as previously reported, but seek to ensure that in ensuring momentum to the existing contracts etc, a facility to meet the needs of all communities in North Herts can be completed and brought into community use. The report also suggests consideration of management arrangements for the facility which will be subject to the Public Sector Equality Duty.

### **13. SOCIAL VALUE IMPLICATIONS**

- 13.1 As the recommendations made in this report do constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 needs to be applied, although equalities implications and opportunities are identified in the relevant section at paragraphs
- 13.1 As the recommendations made in this report do not yet constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at paragraphs 12. Any individual award of a public service contract which may arise following subsequent review of the Council's operation of the hall over the next two/three years will be evaluated in terms of its social value through the Council's agreed procurement processes.

### **14. HUMAN RESOURCE IMPLICATIONS**

- 14.1 There are no direct Human Resources implications arising from this report other than those associated with the significant additional workload on the Project Team Members. This is currently mitigated by the reallocation of resources from less time sensitive projects.
- 14.2 The Human Resources implications arising from this report are associated with the significant additional workload on the Project Team Members and the need to recruit, train and manage a staff team to operate the Town Hall. This is currently mitigated by the reallocation of resources from less time sensitive projects but this situation cannot be sustained over a long period.
- 14.3 The demands of this project have required the temporary transfer of Senior Managers and Project Support staff to the Hitchin Town Hall project to develop alternative options and to minimise risk. The additional time having to be committed to this project including that of Chief Officers has created pressures and delays on other important work programmes elsewhere.
- 14.4 The approach agreed by Council in July 2015 provides additional management resources. These resources once in place will help manage the additional workload described above.

- 14.5 The Museum staff have already been through a restructure and formal consultation process that included the possibility of the staff working on the Town Hall as well as the Museum. Communications with staff to update them on the latest position will follow.

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## **16. BACKGROUND PAPERS**

- 16.1 Report to Cabinet 23<sup>rd</sup> August 2005 on the Findings of the Review of the North Herts Museums Services.
- 16.2 Report to Cabinet 27<sup>th</sup> January 2009 on the Future of Museums Services.
- 16.3 Cragg Management Services report on the possible relocation of North Hertfordshire Museums to Hitchin Town Hall- Annex 2, Cabinet 19<sup>th</sup> May 2009
- 16.4 Report to Council on 3<sup>rd</sup> December 2009: Hitchin Town Hall/Museum Feasibility Study Outcomes and Actions Arising

- 16.5 Report to Council on 11<sup>th</sup> February 2010: Hitchin Town Hall/Museum Community Group Proposal
- 16.6 Report to Cabinet on 28<sup>th</sup> September 2010: Hitchin Town Hall/ Museum Proposals
- 16.7 Report to Council on 10<sup>th</sup> November 2010: Hitchin Town Hall/ Museum Proposals
- 16.8 Verbal update to Council on 7<sup>th</sup> April 2011: North Hertfordshire Museum & Community Facility at Hitchin Town Hall
- 16.9 Report to Cabinet on 26<sup>th</sup> July 2011: North Hertfordshire Museum & Community Facility: Project Update
- 16.10 Report to Council on 10<sup>th</sup> May 2012: North Hertfordshire Museum & Community Facility
- 16.11 Report to Council: 15<sup>th</sup> October 2012 North Hertfordshire Museum & Community Facility
- 16.12 Report to Council 23<sup>rd</sup> April 2013 North Hertfordshire Museum & Community Facility: Proposal for the Inclusion of 15 Brand Street
- 16.13 Report to Council 8<sup>th</sup> August 21013 North Hertfordshire Museum & Community Facility: Proposal for the Inclusion of 15 Brand Street
- 16.14 Report to Overview & Scrutiny Committee 18<sup>th</sup> December 2014 Development Agreement: North Hertfordshire District Council & Hitchin Town Hall Ltd
- 16.15 Report to Cabinet 27<sup>th</sup> January 2015: North Hertfordshire District Council & Hitchin Town Hall Ltd: Project Update
- 16.16 Report to Council 12<sup>th</sup> February 2015: North Hertfordshire District Council & Hitchin Town Hall Ltd: Project Update
- 16.17 Report to Council 10<sup>th</sup> March 2015: North Hertfordshire District Council & Hitchin Town Hall Ltd: Project Update
- 16.18 Report to Council 16<sup>th</sup> July 2015: North Hertfordshire Museum and Community Facility at Hitchin Town Hall
- 16.19 Report to Cabinet 28<sup>th</sup> July 2015: North Hertfordshire Museum and Community Facility at Hitchin Town Hall