

**TITLE OF REPORT: ITEM REFERRED FROM CABINET: 27 JANUARY 2015 – NORTH HERTFORDSHIRE MUSEUM AND COMMUNITY FACILITY AT HITCHIN TOWN HALL – PROJECT UPDATE**

*The following is an extract from the Draft Minutes of the Cabinet meeting held on 27 January 2015.*

**108. NORTH HERTFORDSHIRE MUSEUM AND COMMUNITY FACILITY AT HITCHIN TOWN HALL – PROJECT UPDATE**

[Prior to the consideration of this item, Councillors Bernard Lovewell, Peter Burt and Julian Cunningham declared that they would be withdrawing from the Chamber, as they were Members of the Cabinet Sub-Committee (Council Charities), which was responsible for making decisions on the North Hertfordshire Museum and Community Facility on behalf of the Hitchin Town Hall: Gymnasium and Workmans Hall Trust.]

The Strategic Director of Customer Services and Project Executive presented a report in respect of the North Hertfordshire Museum and Community Facility at Hitchin Town Hall – Project Update.

The Strategic Director of Customer Services and Project Executive advised that he wished to amend the recommendations in the report to ensure that any decision was made in accordance with the Council's Constitutional procedures.

The Strategic Director of Customer Services and Project Executive stated that it was anticipated that Cabinet would be considering a report which, in part, detailed emergency action taken by the Chief Executive to authorise the expenditure highlighted in the original Recommendation 2.1 of the report to reflect additional costs resulting from delays in the building programme in securing discharge of conditions for Listed Building Consent. However, following consultation with the Cabinet Chairman and Portfolio Holder for Community Engagement and Rural Affairs, the report was amended to seek approval from Cabinet for this element of expenditure and to recommend the necessary adjustments to the 2014/15 Capital Programme and to note any implications on the Capital budget for 2015/16.

The Strategic Director of Customer Services and Project Executive explained that, unfortunately, there was some doubt that the requisite notice required under the Constitution's "Special Urgency" provisions had been met (in particular, whether the required notice had been followed) and so, as a result, he instead proposed the following changed recommendations:

- "2.1 Cabinet note the Chief Executive's intention to take action under the Special Urgency procedure tomorrow to authorise capital expenditure of £68,539 to reflect the additional capital costs resulting from the delays in the building programme in securing the discharge of conditions for Listed Building Consent (as outlined in paragraph 8.4);
- 2.2 To recommend to Council an increase of the capital programme up to a maximum of £223,392 (paragraph 8.4).
- 2.3 To note that following consideration of the Capital Programme by Full Council on 12<sup>th</sup> February 2015 any implications on 2015/16 capital budgets as a result of profiling project spend will be reported in the third quarter capital monitoring report.
- 2.4 To note that a further report will be submitted in due course identifying any additional contingency budget necessary to complete the project."

The Strategic Director of Customer Services and Project Executive stressed that the reason for suggesting the above approach was to ensure that Cabinet's decision making was procedurally correct, in order to minimise the risk of any challenge at a critical stage of an already complex and contentious project. He apologised for the need to make these changes at such a late stage.

The Strategic Director of Customer Services and Project Executive advised that, in addition to those items the subject of the current report, Officers had identified a number of additional items which may need further treatment either during the course of the current construction period or prior to opening. These included:

- Additional refurbishment of the Town Hall entrance foyer ;
- Additional investigation/remedial action to remove moisture from the basement;  
and
- Repositioning of the main electrical panel in the Town Hall.

The Strategic Director of Customer Services and Project Executive commented that it was likely that, in order to minimise any further delays to the main contract, this work may need to be undertaken following the completion of the main contract, and a report detailing this and the likely requirement for an additional contingency budget would be brought to Cabinet in due course. Cabinet was also asked to note that, as was normal in a contract of this sort, settlement of final payments and other potential claims between the parties and their appointed contractors would continue for some time after the completion of physical works. These matters would also be reported in due course.

The Portfolio Holder for Community Engagement and Rural Affairs added that this continued to be a complex project. Whilst the delays and additional costs were regrettable, he stressed that it was important for the contract to be completed, with the hope that the finished facility would be a building of which the residents of North Hertfordshire would be proud. Other Cabinet Members supported his comments.

**RECOMMENDED TO COUNCIL:** That an increase of the Capital Programme up to a maximum of £223,392 for additional costs in respect of the North Hertfordshire Museum and Community Facility project (as set out in Paragraph 8.4 of the report) be approved.

**RESOLVED:**

- (1) That the Chief Executive's intention to take action under the Special Urgency procedure tomorrow to authorise capital expenditure of £68,539 to reflect the additional capital costs resulting from the delays in the building programme in securing the discharge of conditions for Listed Building Consent (as outlined in Paragraph 8.4 of the report) be noted;

***[Note: The above action was taken by the Chief Executive on Thursday, 29 January 2015. A copy of that decision will be despatched to all Councillors via the Members' Information Service on 30 January 2015.]***

- (2) That it be noted that, following consideration of the Capital Programme by Full Council on 12 February 2015, any implications on 2015/16 capital budgets as a result of profiling project spend will be reported in the third quarter capital monitoring report; and
- (3) That it be noted that a further report will be submitted in due course identifying any additional contingency budget necessary to complete the project.

**REASON FOR DECISION:** To comply with the Council's contractual commitments to complete the development to a specified standard and timescale.

*The following is the report considered by Cabinet at its meeting held on 27 January 2015.*

## **NORTH HERTFORDSHIRE MUSEUM & COMMUNITY FACILITY AT HITCHIN TOWN HALL: PROJECT UPDATE**

REPORT OF THE STRATEGIC DIRECTOR OF CUSTOMER SERVICES & PROJECT EXECUTIVE  
PORTFOLIO HOLDER: 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 This report details a number of areas where additional unavoidable cost has been or will be incurred in order to meet the Council's contractual obligations and seeks approval for the necessary adjustment to the capital budgets in 2014/15 and 2015/16.

### **2. RECOMMENDATIONS**

- ~~2.1 To agree the capital cost increase on the North Hertfordshire Museum/Hitchin Town Hall Project to reflect additional costs resulting from delays in the building programme in securing discharge of conditions for Listed Building Consent of £68,539 (para 8.4).~~
- ~~2.2 To agree to recommend the necessary adjustment in the 2014/15 capital programme and note that any implications on the draft capital budget to be considered by Council for 2015/16 will be reported in the 3<sup>rd</sup> quarter monitoring report. These changes are currently estimated to total £223,392 (para 8.4).~~
- ~~2.3 To note that a further report will be submitted in due course identifying any additional contingency budget necessary to complete the project (para 8.6).~~
- 2.1 Cabinet note the Chief Executive's intention to take action under the Special Urgency procedure tomorrow to authorise capital expenditure of £68,539 to reflect the additional capital costs resulting from the delays in the building programme in securing the discharge of conditions for Listed Building Consent (as outlined in paragraph 8.4)
- 2.2 To recommend to Council an increase of the capital programme up to a maximum of £223,392 (para 8.4).
- 2.3 To note that following consideration of the capital programme by Full Council on 12<sup>th</sup> February 2015 any implications on 2015/16 capital budgets as a result of profiling project spend will be reported in the third quarter capital monitoring report.
- 2.4 To note that a further report will be submitted in due course identifying any additional contingency budget necessary to complete the project.

### **3. REASONS FOR RECOMMENDATIONS**

- 3.1 The recommendations contained in paragraph 2 are made in order to comply with the Council's contractual commitments to complete the development to a specified standard and timescale.

### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 No realistic alternative option could meet North Hertfordshire District Council's (NHDC) contractual obligations to the construction contractor or the requirements agreed between NHDC and Hitchin Town Hall Ltd set out in the Development Agreement.
- 4.2 Whilst considerable scrutiny of the additional costs has been undertaken by NHDC's appointed Quantity Surveyor and Officers, if Cabinet or Council were minded not to support the increased expenditure additional costs and risk would be incurred as a result of the Council's contractual commitments to other parties and, in addition, completion of the building works and facility opening could not be assured.

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

- 5.1 Consultation has been carried out with the Leader, Deputy Leader and Finance Portfolio Holder, Portfolio Holder for Community Engagement & Rural Affairs and Chairman of Overview & Scrutiny on the proposals.

### **6. FORWARD PLAN**

- 6.1 The report contains a recommendation on a key decision, which has not been notified to the public in the Forward Plan. It was not possible to defer consideration of this decision because of the reasons outlined in paragraph 4 above. The Chairman of Overview & Scrutiny Committee has been informed and notice of the recommendation has been available at the Council Offices, Gernon Road, Letchworth for three clear working days prior to the date of this meeting.

### **7. BACKGROUND**

- 7.1 The decision making background to this project has been set out in a number of reports to Council most recently on 8<sup>th</sup> August 2013. In addition, regular updates reports have been provided to Area Committees/via Members Information Services. The full decision making history is detailed in paragraph 16.

### **8. NORTH HERTFORDSHIRE MUSEUM & COMMUNITY FACILITY AT HITCHIN TOWN HALL: PROJECT UPDATE**

- 8.1 The financial and other risks associated with this project have been documented in a number of the previous reports. Most pertinent to consider at this stage is the size and complexity of the project, the characteristics of the site and the basis on which the Council entered the Development Agreement.
- 8.2 The likely cost increase and delay in completing the project was first notified in reports to Area Committees and via Members Information Services in September 2014 and thereafter in December 2014 and January 2015. The initial assessment of risks, outlined in the report to Council on 10<sup>th</sup> May 2012 (para 8.12) identified a number of areas where additional cost and delay

could be problematic. The additional costs can be categorised in three broad categories, namely:

- Those associated with the delay in securing the discharge of conditions for Listed Building consent etc.
- Additional items which, in view of conditions of site, require additional works not previously identified.
- Additional costs incurred or likely to be incurred as a result of the scale and complexity of the project including building cost inflation, securing necessary approvals etc.

8.3 A financial summary of each category illustrating the range of likely costs appears below:

Item	Assessment of Potential Cost £	Agreed Position at 20.01.15 £	Items to be agreed £
Delays in obtaining Listed Building Consent etc	103,573.50	86,439.00	17,134.50
Conditions on Site	168,434.50	87,350.00	81,084.50
Additional to Scope of Contract	70,323.00	40,323.00	30,000.00
<b>Total</b>	<b>342,331.00</b>	<b>214,112.00</b>	<b>128,219.00</b>

[Source: Appleyard & Trew Quantity Surveyor's Report (15<sup>th</sup> January 2015)]

### Project Budget

8.4 Cabinet is asked at recommendation 2.1 to authorise the expenditure of £68,539 which covers the 8 week delay on the construction in accordance with para 5.6.23 of Section 5 Part A of the Constitution and 10.5.7 of Section 19 Part B (Financial Regulations). This is part of the £86,439 as shown in the above table which also includes £17,900 for the work undertaken as part of Listed Building Consent. The expenditure is required to maintain progress on site and reduce further delays to the project.

Cabinet is also asked at recommendation 2.2 to recommend the adjustment in the capital programme for 2014/15 and the draft capital budget for 2015/16 up to a maximum of £223,392 to Council – this sum being the difference between total project variance (para 8.5) and the sum detailed in recommendation 2.1 i.e £291,931 less £68,539.

8.5 The table below provides an overview of project expenditure, project budget and the effect of the additional costs detailed in 8.3.

<b>Project Expenditure</b>	<b>£</b>
Original Contract sum	3,113,618
Construction potential cost	342,331
Total construction cost	3,455,949
Other project costs	
Consultancy costs (includes £28,584 of additional costs due to increase build cost)	405,482
Museum Fit out estimate	900,000
Pre Project cost	245,000
<b>Total Project cost</b>	<b>5,006,431</b>

<b>Project Capital Budget</b>	<b>£</b>
NHDC contribution	3,320,896
Strategic Priority Fund	30,000
HLF funding	873,604
HTH Ltds grant	490,000
<b>Total Budget</b>	<b>4,714,500</b>
<b>Less Total Project cost</b>	<b>5,006,431</b>
<b>Total Project Variance</b>	<b>291,931</b>

8.6 In addition to those items costed in para 8.3 above, Officers have identified a number of additional items which may need further treatment either during the course of the current construction period or prior to opening. These include:

- Additional refurbishment of the Town Hall entrance foyer
- Additional investigation/remedial action to remove moisture from the basement
- Repositioning of the main electrical panel in the Town Hall.

It is likely that, in order to minimise any further delays to the main contract, this work may need to be undertaken following the completion of the main contract and a report detailing this and the likely requirement for an additional contingency budget will be brought to Cabinet in due course.

8.7 Cabinet is also asked to note that, as is normal in a contract of this sort, settlement of final payments and other potential claims between the parties and their appointed contractors will continue for some time after the completion of physical works. These matters will be reported in due course (recommendation 2.3).

## 9. LEGAL IMPLICATIONS

9.1 Cabinet's terms of reference include at 5.6.23 "To receive reports on contract overspends in accordance with limits set out in the Financial Regulations and agree the action to be taken" and at 5.6.34, by recommendation to Full Council "The annual budget, including the capital and revenue budgets".

9.2 Specific legal implications for the project are contained within the previous reports to Full Council listed in the background papers at paragraph 16. As stated at paragraph 3.1 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 contracts.

## **10. FINANCIAL IMPLICATIONS**

10.1 These are set out in the body of the report.

## **11. RISK IMPLICATIONS**

11.1 The risk implications, fully detailed in the report to Council on 8<sup>th</sup> 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.

## **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

## **13. SOCIAL VALUE IMPLICATIONS**

13.1 As the recommendations made in this report do not constitute an additional 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.

## **14. HUMAN RESOURCE IMPLICATIONS**

14.1 There are no direct Human Resources implications arising from this report other than those associated with additional workload on the Project Team Members. This is currently mitigated by the reallocation of resources from less time sensitive projects.

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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