

Keep Hitchin Special

(Caring for our Historic Market Town)

Representations to Hitchin Committee under Public Participation 7th June 2011

Dear Chairman and Members

Re: Agenda Item 8: UPDATE ON REDEVELOPMENT OF CHURCHGATE AND ITS SURROUNDING AREA: INFORMATION NOTE (Report of the Strategic Director of Finance, Policy & Governance)

1.0 Purpose of Public Participation:

- 1) to point out significant misrepresentations of fact in the Information Note;**
- 2) to request Hitchin Committee to recommend to Council (via Cabinet) that:**
 - a) significant misrepresentations of fact in the Information Note should be corrected and the Note re-issued; any similar misrepresentations of fact in the FAQ's on the Council's website should also be corrected;**
 - b) the Council should reaffirm that the Churchgate Planning Brief remains the Council's Statement of Policy and that Option A in the Planning Brief Final Report should be confirmed as the Council's preferred option;**
 - c) delegation of power to the Churchgate Project Board to approve a scheme by Simons prior to submission of a Planning Application should be rescinded and that decision should be reserved to Full Council.**

1.1 Reasons for representations by KHS

- 1.1.1) The function of KHS is to represent views within Hitchin not otherwise represented by the formal civic societies;
- 1.1.2) The Churchgate Redevelopment is recognized within Hitchin as the largest ever single change to the character of the town centre and progress is being followed by a large number of people, principally through: FAQ's on NHDC website; local newspapers, and council reports, including those to Hitchin Committee. It is insulting to the intelligence of the public for the council to publish misrepresentations of fact and expect to get away with it
- 1.1.3) Exposure of Simons' tender scheme to public comment – and the subsequent lack of any public acceptance by Simons that the principles of the Churchgate Planning Brief (as adopted by the Council as its Statement of Policy after extensive public participation) must be followed - has led to an outburst of indignation and

objections from the public as expressed at the Churchgate Liaison Form and through letters to the press. Without prompt reassurance by the Council that the adopted policy will be upheld, the public can be expected to turn invoke outside agencies as appropriate to protect the concerns that it was the purpose of the Planning Brief to protect. Involving outside agencies will not be as efficient in use of time and energy by the public - and by the Council itself - as a clear indication by the Council of its own determination to uphold its own policy;

1.1.4) Apparent weak control to date of Simons during the current scheme preparation period has caused widespread loss of confidence in the Council, in particular its Project Board, which meets only in secret without publication of any agendas, reports and minutes. The public recognized that three key decisions that will determine the outcome of the development are:

- a) approval of Simons scheme under the Development Agreement prior to submission of a Planning Application;
- b) grant of Planning Permission by the Planning Committee;
- c) confirmation by the Secretary of State of the CPO on the Churchgate Centre following a Public Inquiry.

The last two decisions will be taken only after public consultation. It is anomalous that the first key decision will be taken in secret without any opportunity for consultation.

2.0 Apparent misrepresentations of fact

2.1 In the opinion of KHS, significant misrepresentations of fact occur within the Information Note in the sentences emboldened below. Hitchin Committee is NOT expected to debate whether all or any statements are in fact misrepresentations – they do not have the information. Hitchin Committee is only asked to report to Council that any misrepresentations that are found to be included should be corrected.

2.2 Para 3.10

2.2.1 The Council, including Members and Officers has not made a decision on any proposed scheme. The only decision that has been made is on awarding Simons the contract to act as development partner for the Churchgate centre and its surrounding area.

KHS comments: selecting a contractor merely to play a role (act as development partner) would usually only require considering: the record of the contractor on completed similar work; the quality of the team put forward; the ability of the team to understand the particular local issues as evidenced in a short response to the Brief; general proposal of terms in the form of a formula for calculating numbers once a scheme had been prepared.

In this case, before deciding on selection, the Council saw a detailed scheme of plans at each level, elevations, 3D computer model, artists' perspectives, timetable to completion and specific terms (commercially sensitive). The level of detail was sufficient for the Council to score the submission on many aspects.

The contract (Development Agreement) does not bind the contractor to build the initial scheme – but the report to Council clearly stated that the contractor would only ‘evolve’ the scheme in the light of consultation, not that they would start from scratch¹.

The officers report to Council stated: at Para 4.13: ‘.....Additionally, Simons were reminded that, if their solution was unacceptable, the Council has the ability to decide whether to award the contract or not.....’. The corollary is obvious – if the Council did award the contract, then it had decided to accept Simons ‘solution’. There is no minute to suggest the majority in Council had any reservations or wished to impose conditions when appointing Simons, to qualify that acceptance.

To reinforce the point, Council minutes record that an amendment motion, from Hitchin councillors Judi Billing and Martin Stears-Hanscomb, was lost: "that the award of the contract for the redevelopment of the Churchgate shopping centre be deferred to enable Members to receive further re-assurance that the scheme can adhere more closely to the Churchgate Planning Brief." By voting down the amendment motion, Council implicitly accepted the departures from principles in the Planning Brief of displacing the market and building on St Mary Car park. The report that the council made no decision other than to appoint Simons as developer in a total vacuum is significantly misleading.

2.2.2 Officers have responded in detail to the points previously raised regarding the Churchgate Planning Brief and Simon’s initial vision exhibited in May 2010.

This detailed response to Hitchin Society is publicly available on the Churchgate Liaison Forum webpages on the Council’s website.

KHS comments: According to itself, the Planning Brief contains guiding principles and urban design guidance. Further information tabled to Council on 25 Feb 2011 stated: The planning brief provides a set of guiding principles which should be followed when developing a scheme within the Churchgate Development Area. Officers are claiming that because, when giving guidance, the Brief uses ‘should’ rather than ‘must’, the Brief is only advisory and can be disregarded by the developer (and the Council) at its discretion. The dictionary however interprets ‘to advise’ as ‘giving opinion to someone about what they should do in a particular situation’, whilst ‘to guide’ is ‘to show someone the way by leading’. The Brief includes an Illustrative Master Plan, which shows clearly where the guidance leads. The dictionary also gives one meaning of ‘should’ as ‘must’.

Two hundred members of the public did not give up a weekend to be consulted

¹ Note references in officers’ report to Council on Procure & Next Steps to ‘slightly different scheme’, will be refined and fine-tuned’:

Para 5.4 The Planning Authority will require that consultation on the scheme be carried out prior to submission of the planning application and will require this to be genuine consultation (ie it is not a mere presentation of the final scheme). This potentially may lead to a **slightly different scheme** to that which wins the procurement process. :

Para 4.18 It is important to stress that, if the Contract for the redevelopment of the Churchgate centre and surrounding area is awarded by Council, the **developer’s scheme proposal will be refined and fine tuned** as a result of feedback during the public consultation phase and during the planning process.

merely on what **advice** the Council might give to the developer of Churchgate – they expected the Council to take **policy decisions** that would lead the developer to prepare an acceptable scheme.

It is therefore willful to deny that the Brief gives no more than advice. The Council should stick to its principles!

- 2.2.3 The Council has also previously responded on its Compulsory Purchase Order (CPO) powers, advising that Simons will try to negotiate with all relevant land owners to purchase the land by way of private agreement. Only if this is unsuccessful, following reasonable negotiations, will a CPO be considered.

Simons is in discussion at present with key landowners such as Hammersmatch and at this stage it is premature to advise if CPO powers will be necessary.

KHS comments: KHS maintains contact with Hammersmatch as owners of the Churchgate Centre. By email on 24 May 20011, the agent for Hammersmatch said: ‘Hammersmatch have had no approach from the reported Joint Venture partner, and no negotiations are on-going with Simons. It remains the case that my clients are pursuing the refurb’. The agent also said: ‘There were earlier meetings, and a total failure to agree. We are surprised they think we are still in negotiations, although nothing any of us now hear in this saga should surprise us!’

The claim that Simons are in discussions with Hammersmatch is at best misleading- at worst it appears a deliberate attempt to deny the risk that Churchgate will not be acquired either privately or by CPO, and that all the current trouble and stress to the town will prove unnecessary.

- 2.2.4 **The time to judge whether consultation and listening to local views has had an impact will be when Simons’ design proposal is published. Until then, neither the Council nor the people of Hitchin are in a position to judge.** Once Simons has a revised scheme it will be publicly consulted on before it is submitted as a planning application.

KHS comments: Simons have made clear at CLF that building on St Mary’s Car park is central to their approach. The public objects to that in principle – not the detail. Delaying until the design proposal is published will only prolong the public disquiet and increase abortive costs.

- 2.2.5 Simons is required to gain Council approval for its proposal before it can be submitted as a planning application, and, depending on obtaining Council agreement to that proposed scheme going forward as a planning application, it will be the Local Planning Authority which will ultimately make the final decision on the scheme.

Planning is a statutory process and has a framework as to how applications must be processed in accordance with central government guidance. **There is a clear separation between the Councilors and officers sitting on the Churchgate Project Board and those that will be considering the planning application.** The councilors sitting on any future Planning Control Committee are required and

trained, to judge applications independently in light of the various policy considerations and the Committee has regularly shown a willingness to make its own decisions.

*KHS comments: The council persists in being ingenuous on the separation of the Planning Committee from the Council. The councillors on the Planning Committee will take account of **all** material considerations within the discretion allowed. The fact that fellow councilors have already decided to give approval must obviously weigh with the councilors on the Committee – they are only human! Usually the Planning Committee will only have to consider officers’ recommendations and perhaps views of a Ward Councillor, not decisions by Full Council or the Project Board to whom responsibility has been delegated. It is therefore important that the Project Board takes due care to consider the council’s adopted policies when deciding to approve the design and does not duck out saying it is only up to the Planning Committee to allow the scheme or not.*

3.0. Evidence of public disquiet with the current progress on implementing the adopted Planning Brief.

3.1 Para 3.6 of the Information Note reports: The Committee will be aware of recent articles and letters in the Advertiser and the Comet that relate to the Churchgate Development Agreement (DA) and to criticism of the Council for allowing the proposed development to include St Mary’s and Portmill Lane car parks.

KHS comments: Brian Limbrick in last weeks Letters stated ‘I have lived in an around Hitchin for 75 years. Never before have I read so much concern in your paper for the future of our beautiful Hitchin’. The degree of public disquiet is extreme and this is not healthy in a democracy.

Luckily the NHDC Constitution allocates responsibility to Area Committees to report to Council on any matter affecting their area². Hitchin Committee reported fully via Cabinet to Council on the draft Planning Brief and all amendments were accepted by Cabinet & Council.

² **Extract from NHDC Constitution** (with KHS emboldening)

Area Committees are given substantial powers and responsibilities. They work in close contact with the communities we serve.

They have power to consider and report to Council on any matter affecting their area.

Terms of Reference: Community - power of well-being

3. To consider the policies and actions of the Cabinet as to their appropriateness to the needs and aspirations of local communities.

4. To receive petitions, presentations and questions from members of the public, groups and outside bodies on matters relating to their area.

5. To act as a forum for discussion on matters of local interest and in particular to elicit/hear the views of local bodies and organisations.

7. To provide local input into centrally determined specifications for all services.