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Exhibit 1

SECTION 17
NORTH HERTS DISTRICT COUNCIL CODE OF CONDUCT
FOR COUNCILLORS (AND VOTING CO-OPTEES)
(Approved by Council on 18 July 2013)

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SECTION 17 NORTH HERTS DISTRICT COUNCIL CODE OF CONDUCT FOR COUNCILLORS (AND VOTING CO-OPTEES) (Approved by Council on 18 July 2013)

1. Introduction

1.1 Trust and confidence in public office-holders and institutions are important for the functioning of local authorities. This is particularly true in the case of elected officeholders. The Council has therefore adopted this Code of Conduct to promote and maintain high standards of conduct in public life. It is each Councillor's responsibility to comply with the provisions of this Code.

1.2 The Code of Conduct applies to all elected Councillors, voting co-opted members and

appointed members.

2. When does the Code of Conduct apply?

2.1 In this Code "meeting" means any meeting of

(a) the authority;

(b) the executive of the authority;

(c) any of the authority's or its executive's committees, sub-committees joint committees, joint sub-committees, or area committees;

(d) informal meetings with other members and/or officers relating to the discharge of the authority's functions.

2.2 The Code of Conduct applies—

(a) whenever you conduct the business, or are present at a meeting, of the authority; or

(b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed; or

(c) whenever you act, claim to act or give the impression you are acting as a representative of the authority; or

(d) at all times and in any capacity, in respect of conduct identified in paragraphs 3.4(a)

and 3.5; or (e) in respect of any criminal offence for which you have been convicted during your term

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2.3 Where you are elected, appointed or nominated by the authority to serve on any other authority or body you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body.

2.4 Where you are elected, appointed or nominated by the authority to serve on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, unless it conflicts with any other lawful obligations to which that other body may be subject.

3. Rules of Conduct

3.1 As a Member of North Hertfordshire District Council you shall have regard to the seven principles of public life. Selflessness Holders of public office should act solely in terms of the public interest. Integrity Holders of public office must avoid placing themselves under

any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this. Openness Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty Holders of public office should be truthful.

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Leadership Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

These general principles are the underlying principles behind the rules of conduct set out below.

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3.2 Duties and Responsibilities

You must:

(a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;

(b) show respect and consideration for others;

(c) not use bullying behaviour or harass any person; and

(d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the authority.

3.3 Information

You must not:

(a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;

(b) prevent any person from gaining access to information to which that person is entitled by law.

3.4 Conduct

You must

(a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or the authority into disrepute;

(b) not make vexatious, malicious or frivolous complaints against other members or

anyone who works for, or on behalf of, the authority.

(c) comply with any request of the authority's monitoring officer or section 151 officer, in connection with an investigation conducted in accordance with their respective statutory

3.5 Use of your Position

You must not:

(a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;

(b) use, or authorise others to use, the resources of the authority—

(i) imprudently;

(ii) in breach of the authority's requirements;

(iii) unlawfully;

- (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;
- (v) improperly for political purposes; or
- (vi) improperly for private purposes.

3.6 Decision Making

You must:

(a) when participating in meetings or reaching decisions regarding the business of the authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by the authority's officers, in particular by-

(i) the authority's head of paid service;

(II) the authority's s.151 officer/ chief finance officer;

(iii) the authority's monitoring officer/ chief legal officer;

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(b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

3.7 Compliance with the Law and the Authority's Rules and Policies

(a) observe the law and the authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;

(b) comply with the authority's Gifts and Hospitality Policy;

(c) comply with any other policy (or part of policy) which sets out required conduct from Members, for example the Member/Officer Working Protocol and Planning Code of Good Practice for Members.

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4. Interests

4.1 Remember - breaches of the requirements of the Localism Act 2011 relating to Disclosable Pecuniary Interests can constitute a criminal offence.

Disclosable Pecuniary Interests

4.2 You have a Disclosable Pecuniary Interest if you, or your spouse or civil partner, have a pecuniary interest as defined by regulations made by the Secretary of State. The description of Disclosable Pecuniary Interests published by DCLG in their Guide for Councillors "Openness and Transparency on Personal Interests" is attached in Appendix A. Interests or your spouse or civil partner are included to ensure that the public can have confidence that councillors are putting the public interest first and not benefiting the financial affairs of themselves or their spouse or civil partner from which the councillor would stand to gain. For this purpose your spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

4.3 You must:

(a) within 28 days of taking office as a member or co-opted member, notify the Monitoring Officer of any Disclosable Pecuniary Interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

(b) ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your

Disclosable Pecuniary Interests.

4.4 Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the

authority's website.

4.5 If a function of the authority may be discharged by a member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with in the course of discharging that function, you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself).

Declarable Interests

- 4.6 You have a Declarable Interest in an item of business of the Council where:
- (a) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or your employer or a person or body with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward for which you have been elected or otherwise of the Council's administrative area; or (b) it relates to or is likely to affect any of the interests listed in the Appendix to this Code in respect of a member of your family (other than covered in the legislation) or your employer or a person or body with whom you have a close association; or

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(c) the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest; or

(d) the Interests of any person or body from whom you have received a gift or hospitality with an estimated value of at least £50 (or such other figure set in the Council's Gifts and Hospitality Policy). You need not disclose this interest if it was registered more than 6 years before the date of the meeting; or

(e) it relates to or is likely to affect any body of which you are a member or in a position

of general control or management which:

(i) you are appointed or nominated to by the authority; or

(ii) exercises functions of a public nature; or

(iii) is directed to charitable purposes; or

(iv) as its principal purposes includes the influence of public opinion or policy (including any political party or trade union) and that interest is not a Disclosable Pecuniary Interest.

5. Sensitive Information

5.1 A Disclosable Pecuniary Interest may not be published or made available for inspection where the nature of the interest is such that you and the Monitoring Officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if it is entered in the register of Interests. Copies of the register available for inspection and any published version of the register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011. 5.2 You must, within 28 days of becoming aware of any change of circumstances which

means that information excluded under paragraph 5.1 is no longer sensitive information,

notify the Monitoring Officer.

6. Declaring Interests at meetings

6.1 If you are present at a Meeting at which an item of business in which you have a Disclosable Pecuniary Interest is to be considered or is being considered you must a make verbal declaration of the existence and nature of the Disclosable Pecuniary Interest at the meeting at or before the consideration of the item of business or as soon as the interest becomes apparent. If the interest is not registered and is not the subject of a pending notification you must notify the Monitoring Officer of the interest within 28 days of the Meeting

6.2 If you attend a meeting at which any item of business is to be considered and you are aware that you have a Declarable Interest in that item, you must make a verbal declaration of the existence and nature of that interest at or before the consideration of

the item of business or as soon as the interest becomes apparent.

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7. Effect of Interests on Participation at Meetings

7.1 If you are present at a meeting of the council and you have a Disclosable Pecuniary Interest relating to any business that is or will be considered at the meeting, you must

(a) participate in any discussion of the business at the meeting, or if you become aware of your Disclosable Pecuniary Interest during the meeting participate further in any

discussion of the business, or (b) participate in any vote or further vote taken on the matter at the meeting.

7.2 The prohibitions at paragraph 7.1 apply to any form of participation, including speaking as a member of the public. In certain circumstances you can request a dispensation from these prohibitions from the Monitoring Officer.

7.3 If you are present at a meeting of the council and you have a Declarable Interest relating to any business which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest you must not participate in the discussion or vote on

the item, although you may speak as a member of the public.

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7.4 If you have a Disclosable Pecuniary Interest, or a Declarable Interest which is so significant that you must not participate, you must leave the room or chamber where the meeting is being held unless you have received a dispensation from the Monitoring

7.5 If you are leaving the room or chamber in accordance with paragraph 7.4 you may listen to any speeches from the public but must leave prior to the item being presented or in any other case, whenever it becomes apparent that that business is being considered at that meeting.

8. Dispensations

8.1 Section 33 of the Localism Act 2011 allows the Council in certain circumstances to grant a dispensation to permit a member to take part in the business of the authority, even if the member has a Disclosable Pecuniary Interest relating to that business. If you would like the Council to consider granting you a dispensation, you must make a written request to the Monitoring Officer, who has been authorised by the Council to make decisions on requests for dispensations.

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Appendix A

Description of Disclosable Pecuniary Interests (from DCLG Guide for Councillors "Openness and Transparency on Personal Interests" March 2013)

If you have any of the following pecuniary interests, they are your Disclosable Pecuniary Interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil

Employment, office, trade, profession or vocation

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Other payments received

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your Disclosable Pecuniary Interests following your election or re-election, or when you became aware you had a Disclosable Pecuniary Interest relating to a matter on which you were acting alone.

Contracts

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

under which goods or services are to be provided or works are to be executed; and

which has not been fully discharged.

Lamel

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Licences

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Corporate tenancies

Any tenancy where (to your knowledge) -

the landlord is your council or authority; and

 the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Securities

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

(a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and

(b) either -

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of

the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class

Exhibit 2

MEMBERS' INFORMATION NOTE

CHURCHGATE - GUIDANCE ON PRE-DETERMINATION REGARDING PUBLIC MEETING "TO OPPOSE AN EXTENSION TO THE SIMONS CONTRACT TO REDEVELOP THE CENTRE OF HITCHIN" TO BE HELD 22 JANUARY 2013

FINANCE, POLICY AND GOVERNANCE



MEMBERS' INFORMATION NOTE CHURCHGATE - GUIDANCE ON PRE-DETERMINATION REGARDING PUBLIC MEETING "TO OPPOSE AN EXTENSION TO THE SIMONS CONTRACT TO REDEVELOP THE CENTRE OF HITCHIN" TO BE HELD 22 JANUARY 2013

Summary of Advice

Attendance at a public meeting that has a clear purpose of opposing a particular course of action or proposal, and which includes at item 3 on the agenda a "vote", is very likely to be regarded as evidence of pre-determination of the matter.

Either attending the meeting as an 'observer or listener' and/or declaring at the start of the meeting that one is approaching the matter with an 'open-mind', could still lead to perceptions and allegations of bias and pre-determination, due to the current stated purpose the meeting.

The project team will contact the meeting organisers to see whether they are prepared to change the basis of the meeting to one of "To discuss an extension to the Simons Contract to redevelop the centre of Hitchin*. This may address the problem of perception of predetermination and allow Members to attend as observer or listener.

Risk

Members who choose to attend the public meeting on the 22nd January and who also participate in the decision making at the Council meeting, place the authority at risk of a legal challenge on the decision to be taken. This could lead to substantial legal costs, reputational risk to the Council and also potential complaints under the Code of Conduct for Councillors.

Background

The Monitoring Officer's guidance has been sought on whether Members should or should not accept the invitation to attend the public meeting organised by 'Keep Hitchin Special' on 22 January 2013.

The purpose of the meeting is clearly stated as 'To oppose an extension to the Simons contract to redevelop the Centre of Hitchin'. Members who choose to attend the public meeting (as it is currently being promoted), even as observers or listeners, are advised to withdraw from any relevant Council Committee and not participate in the decision making process. To do so, may put the Council at risk of challenge of the decision to be taken, on the grounds of bias and/or predetermination.

The legal position in relation to bias and predetermination is that a Councillor should not be party to decisions in relation to which he is biased (in the sense that he has a closed mind, and has pre-determined the outcome of the matter to be decided irrespective of the merits of any representations or arguments which may be put to him or her) or gives an appearance of being biased, as judged by a reasonable observer. The issue of attending a meeting promoted as "opposing" is that the perception will be that the Councillor has already predetermined to oppose the extension. Indeed, in spite of the careful wording of the resolution passed by Hitchin Area Committee, officers are already in receipt of emails from at least one member of the public indicating that "Hitchin Committee has voted overwhelming against this extension."

It is important to clarify that it is legitimate for a Councillor to be predisposed towards a particular outcome on the basis of their support of a general policy or position, as long as they are prepared to be open-minded and consider the arguments and points made about the specific issue under consideration. Section 25 of the Localism Act 2011 confirms that prior indications of view of a matter alone, should not be taken as approaching the matter with a closed mind.

It is the view of the Monitoring Officer and Deputy Monitoring Officer, however, that attendance at this public meeting (as it is currently being promoted), even as an observer or listener, because of its clear and unequivocal purpose, is very likely to go beyond what is intended by Section 25 of the Localism Act 2011 and relevant case law.

General Reminder

In matters of public controversy or where it is of a high public profile, Members must always be aware of any comments they make in the public arena (e.g. to third parties such as the press) that may place them at risk of an accusation of bias and/or predetermination. It could well mean that comments that they make earlier, may disqualify them from taking part in a committee meeting making a decision on that matter.

If you require any further advice on this issue please contact Anthony Roche, Acting Monitoring Officer, on 01462 474588 or anthony.roche@north-herts.gov.uk or Margaret Martinus, Deputy Monitoring Officer, on 01462 474268 or margaret.martinus@northherts.gov.uk

Exhibit 3

HANSARD EXTRACT - 15 JANUARY 2013

Local Government Standards Regime

[Mr Philip Hollobone in the Chair]

2.30 pm

Mr Philip Hollobone (in the Chair): As a local borough councillor myself, I am very interested to know what Mr Bob Neill is going to say about the operation of the new local government standards regime.

Robert Neill (Bromley and Chislehurst) (Con): Thank you, Mr Hollobone. I am delighted to see you in the Chair, not least because you were a borough councillor in my constituency before you moved to your current constituency. Most of us have had direct personal experience of local government over a number of years.

I sought a debate on this subject because the coalition agreement set out clearly the Government's intention to remove what, by common consent, I think, had become regarded as a top-heavy and excessive standards agime. It was debated at some length when the Localism Act 2011 went through Parliament—a process in which I had a certain personal involvement, if I might put it that way.

The Government's intention was crystal clear: although transparency in councillors' dealings and behaviour is rightly important, and should always remain so, and although it is important that every council has in place a code on members' conduct that is cognisant of the Nolan principles of public life, there should be flexibility within those parameters, with a view to councillors no longer being subject to the degree of inhibition that, intentionally or unintentionally, had grown up under the old regime through a mixture of the operation of the then standards regime and what many regarded as a gold-plating of the interpretation of the common law on matters such as predetermination. That was the objective; Parliament's intention in removing those inhibitions from councillors was crystal clear. It was in the interests of greater democratic involvement at local level and greater transparency. In fact, by and large the objective was uncontroversial on both sides of the House. We had disagreements over some details and means, but the objective was broadly supported.

My remarks today are not partisan. I want to put before the House certain concerns, which have come to my attention over the past few months, about how in some places the regime operates in a way that does not lways reflect the intentions the House expressed when the Act and subsequent secondary legislation went arough. Those concerns arise from local authorities of all political complexions; this is not a political issue.

Mr Peter Lilley (Mitchin and Harpenden) (Con): I congratulate my hon. Friend on securing the debate on an issue that deserves far more attention. He is bringing his great expertise to bear, so may I ask for his view on one of the many instances of heavy-handed interpretation of the rules that have arisen in my constituency? Councillors have been advised that if they attend a meeting held to protest about plans for redevelopment of the city centre in Hitchin, they may be deemed to have fettered their discretion, even if they announce when attending that meeting that they will not allow it to do so. Could be confirm that is absolutely not the intention of the legislation?

Robert Neill: I am grateful to my right hon. Friend for raising that case, which I have also come across. When I was the Minister responsible for signing off the regulations and the code, it was absolutely not the Government's intention that the code should be construed in that way. With respect to whoever gave the advice, it is frankly nonsense to interpret the legislation in that manner.

My right hon. Friend highlights one of my principal concerns, of which the House needs to be aware: the arying quality of interpretation of the code from one authority to another. He gives an example of a situation that most people with common sense would regard as nonsense. Rather than supporting local democracy, such cases undermine it. I am grateful to him for raising it, and I hope that my hon. Friend the

Minister can restate the Government's clear view that they do not intend the code to lead to that form of philbition.

My right hon. Friend's case parallels an instance I came across involving a councillor who was coming up for election. The big issue in their ward was whether a golf course in that ward might be subject to development. All the candidates were effectively advised that should they be elected, if they had turned up to a residents' meeting to consider that concern, they would be regarded as having predetermined any application that subsequently came before the council. It was the green lungs of that community—it was the big issue. People wanted to know where those standing for election from all parties stood on it, but the monitoring officer was giving advice inhibiting them from doing so. That was never the intention of a proper standards regime.

Exactly the same advice seems to have been given in my right hon. Friend's example, and it is worth dwelling on it, because I see that the councillor went back to say, robustly, "I've got my own legal advice, and it comes nowhere near that construction." We seem to be getting into a very dangerous state of affairs, where monitoring officers, perhaps through an abundance of caution—I put that charitably—come up with an interpretation of the law that clearly inhibits councillors from expressing a view. My right hon. Friend is right that the councillor was making it clear that they would go along, perhaps as an observer, and say, "I have come with an open mind." The monitoring officer came back and said, "Even if going as an observer, you will be taken to have predetermined the issue," because the title of the meeting started "Hitchin against" or "Save Hitchin from". Such stretching of the rules and the interpretation of the common law concept of bias brings the regime into disrepute.

I hope that this debate gives an opportunity for the Government to restate what has always been our contention: proportionate standards do not require that degree of micro-management. It does no service to councillors of any political persuasion in any community. That is one of a number of examples we have found in this field, and I was going to take the opportunity to deal with some of them today. Equally, there have been examples of real success under the new regime, and it is right and proper to recognise that.

Wiltshire, a big unitary authority, has adopted a regime that is accurately described as strong on transparency but light-touch on participation and voting. That is a sensible approach; provided council members have stated what their position is, there should be no fall back to the old idea that they must automatically be excluded from consideration if they have declared any potential interest on the record. Wiltshire has made the regime work well. Other authorities seem to have adopted a much more prescriptive and old-fashioned approach, which gets in the way of council members representing their constituents. We all know that this is a long-running problem, and it was clearly the intention of this House and Parliament as a whole to rectify it. Perhaps the difficulty is that, in some cases, the mindset of some, but not all, monitoring officers has not changed to reflect the localism agenda.

For localism to succeed, as we all wish it to, it requires two things; first, political will on the part of elected members to carry out the mandate their voters gave them; and secondly, intelligent and informed cooperation from their officers—not obstructing council members from carrying out that political will, but assisting them to do so. Sadly, we have seen the growth of a risk-averse culture in monitoring standards and the way in which councils transact important areas of business. That risk-averseness needs to be addressed.

It is sometimes difficult for an individual councillor—perhaps newly elected to a small authority or a back bencher in a large authority—to stand up, as my right hon. Friend's constituent did, and say that they have access to advice that frankly brings the monitoring officer's view into question. It is therefore all the more important that we make it clear that that sort of gold-plating is needless and unhelpful. There have been many such examples around the country, and I am happy for hon. Members to raise others during this debate, because I know that they are important and pressing.

The problem relates not only to an overly restrictive approach to the interaction of the code and predetermination, but to the approach taken towards councillors who do their public duty. That duty may sometimes involve saying controversial things about the operation of the authority itself, but it is wrong—as

it has been in some of the cases that I have seen—if, in effect, that is used to gag a member from speaking -out. I will happily give a few examples.

The first example was raised by Lord Tyler in the other place during the passage of the Localism Act. A member of Cotswold district council who had acted as a whistleblower found himself the subject of a complaint. Ultimately, the complaint was dismissed, but it was a trying and difficult process for that member. Members often find themselves alone, and as Lord Tyler put it—describing exactly the vice that we sought to avoid—councils have

"catered for-even encouraged-persecution of whistleblowers".

That is strong language to use. I do not know whether the word he used is appropriate, but that is sometimes the effect. Of that case, Lord Tyler said that

"one assiduous councillor, doing precisely what electors expect of him, has been proved right in identifying potentially illegal activity".—[Official Report, House of Lords, 14 September 2011; Vol. 730, c. 830.]

Instead of the whistleblower being encouraged or supported to bring information into the open, it seems that 'he Standards Board regime was used to bring a complaint against him, albeit the allegation was ultimately ruled to be unfounded. That is exactly the type of behaviour that we intended to end, but unfortunately that has not happened in all councils. I have already given the example of Wiltshire council adopting a proportionate and sensible approach, but there are examples of members having to fight very hard against the mindset of officers who want to retain, in effect, the whole of the old system, with the exception of the Standards Board for England regime, which has obviously gone.

A cabinet member of a district council in the home counties told me that they had been put under considerable pressure by officers to adopt a code that, in effect, simply transplanted the old regime and put it in place without any changes. It happens that that cabinet member is married to a senior partner in one of the leading local government law firms in this county, so they were able to go back to the monitoring officer and say robustly, "What you are advising me goes well beyond what is necessary. We are not obliged to rewrite all the old rules on predetermination and bring that into our code," but how many members would have been in a position to challenge the officer's advice, just as the constituent of my right hon. Friend the Member for Hitchin and Harpenden (Mr Lilley) did? That is a serious issue.

There is a serious question about the way in which monitoring officers sometimes operate. That job seems to 'tave grown. Many monitoring officers—those in my local authority, for example—are excellent; they do a noroughly good and professional job and it would be wrong to say otherwise. In other instances, however, the role is either amalgamated with other functions or, frankly, does not always seem to be held by somebody with any considerable degree of legal expertise, which is not satisfactory.

I have some examples from councils across the country. One councillor said that they suspect many monitoring officers are still attempting to control elected members—these are the member's words, not mine—and to frighten them into leaving the chamber on the very flimsy grounds of having interests to declare; and whenever important issues come up for debate, the councillor has found that a paper entitled "Monitoring officer guidance" is included with the agenda, and this tries to direct the members with veiled threats. Whether it is intended in that way, I do not know, but, inadvertently, heavy-handed guidance can certainly have the effect of inhibiting members who are confronted with it. It seems bizarre that every item of any significance should require monitoring officer guidance. That takes the regime well beyond the monitoring officer's real and proper role, which is to ensure that the council acts lawfully and intra vires, and appropriately to police whatever the code is.

It is worth looking at another county. South Norfolk district council adopted the very light-touch code that was issued, when I was still a Minister, by the Department for Communities and Local Government. That has worked well and entirely satisfactorily. Norfolk county council has adopted an extremely complex code, which is, in effect, the old-fashioned one by another name. We now have the bizarre situation of the leader

If the county council being subject to a complaint from the district council leader about what is essentially a sispute between county and district about the site of an incinerator. I do not make any comments on the merits of that dispute one way or the other, but the idea that a legitimate political debate should find itself up in front of the Standards Board is to use the old thinking and procedures, which it was the Government intention to remove.

Other councils have seen even more striking and worrying examples, and I particularly want to refer to the London borough of Tower Hamlets. That authority has a directly elected mayor. He is an independent, but it is well known that he has close connections with the Respect party. The mayor is supported by sufficient independent members to ensure that he has the blocking third to get the necessary budgets and mayoral policies through. However, throughout his time, there has been a history of vexatious complaints against members of the opposition Conservative and Labour parties—Labour is actually the largest party—made by members of the mayor's cabinet. Councillors appointed by the mayor to his cabinet have made complaints particularly against the leaders of the Labour and Conservative groups. Sometimes the complaints have not come to fruition; in other circumstances, they have. That causes real concern.

The monitoring officer of Tower Hamlets, Isabella Freeman, is also the assistant chief executive for legal services, and the monitoring officer is also the person who advises the mayor. There is now a situation in which the monitoring officer, who advises the mayor and polices the regime, regularly investigates complaints by a member of the mayor's cabinet. On the other hand, complaints against members of the group who support the mayor have not been taken forward for investigation, which inevitably raises concerns as to who monitors the monitoring officers in such cases. In that case, the monitoring officer is herself in dispute with her employer—the authority—and there is apparently an industrial tribunal case ongoing, but the monitoring officer still sits in and carries out her functions, even though they involve councillors who may be witnesses to those proceedings.

Tower Hamlets has reached the extraordinary stage of members from several parties passing a motion to have certain disciplinary steps taken in relation to the monitoring officer. We might have thought that the monitoring officer would have withdrawn from the meeting at that point; instead, she insisted on remaining, and noted what was said by every member, which hardly gives the impression of an unbiased, open and transparent approach. Freedom of information requests in relation to only two of the complaints have revealed that some £6,000 of public money was spent on investigating a complaint against the leader of the Conservative group and that some £12,000 was spent in relation to a complaint alleged against the leader of the Labour group. No such complaints have been taken forward in the same way against the group that supports the mayor.

That may be a particularly egregious example. At the same time, however, members raised complaints with the monitoring officer about a highly partisan publication, *East End Life*, which is the subject of great controversy, and the monitoring officer responded that everything that the mayor had put in that publication was in order. The same monitoring officer gave advice that the mayor was not obliged to answer certain questions from members in the council in relation to the exercise of his functions because that might infringe his human rights. That, frankly, brings the standards regime, which we all want properly and proportionately exercised, into serious disrepute. That is not in anyone's interests.

The matter that has arisen in relation to Tower Hamlets seems, on the face of it, to be frankly scandalous. It involves one important case that comes back to the whistleblower point. An opposition councillor raised an issue concerning an applicant for a senior post in the council, and it was demonstrated that that applicant's CV was inaccurate in an important and material respect. The applicant had been obliged to resign from a previous employment, and that was not placed on their CV. That achieved a degree of national and regional publicity, not surprisingly.

The result was a complaint by the same member of the mayor's cabinet, who was a frequent source of the complaints, against that member. That was investigated and the member set out in considerable detail their side of the matter. The hearing took place within weeks of the abolition of the Standards Board regime, and the member was not present. The upshot—I have to be careful what I say—was that within days of the

regime being swept away, rightly, by the will of Parliament, the standards committee, which, I understand, consisted predominantly of members who supported the mayor, referred the matter to the first-tier tribunal, where it remains. The purported view of that seems to be that in relation to a complaint that was some two and a half to three years old—never mind its the merits—there was a desire, frankly, to invoke suspension of a leading critic of the mayor. That was why it was being taken to the first-tier tribunal, which refused to entertain it. Now, I gather, there may be attempts to appeal that.

That sort of abuse of the system brings local government into disrepute. It is right to have that on the public record, because that is not how the system is intended to be used. I hope that the Minister will confirm that the Government's intention has been that, as of 1 July, the ability to suspend or disqualify a member should not be exercised in the standards regime, but that instead such a power is exercisable when the criminal offence of failing to disclose a pecuniary interest, which came into force on the same day, is committed. The case that I mentioned had nothing to do with a pecuniary interest of any kind; a councillor was doing what many people would regard as their duty by pointing out something that might have been seriously misleading in relation to an important and sensitive public appointment.

The fact that that member should have hanging over their head the prospect of defending themselves in legal proceedings before a first-tier tribunal—brought, of course, at public expense—when it is known, and was 'mown when the decision was taken, that the power to suspend was going to be removed, is an abuse of the system. I hope that we can make it clear and restate that it was never Parliament's intention that the transitional provisions that were brought into place when the Standards Board regime was abolished should be used in that way. That, too, is an important example of where we need to look more closely at how things work.

I want to refer to one or two other examples that illustrate the issues that need to be addressed, and again, there should be political consensus between us on this. My right hon. Friend the Member for Hitchin and Harpenden referred to the case that occurred with his constituent councillor and what was said in relation to the campaign group, and that is not the only case I have come across. I am aware of a council that resolved that councillors should not meet developers, full stop. It seems to me that that kind of blanket interpretation of the rules goes well beyond anything that Parliament intended. We all know that development applications have to be treated with great care and sensitivity, and it is important to ensure that proper process and probity are observed in all such instances, but the idea of such a blanket prohibition seems to me to be fundamentally wrong.

Richard Drax (South Dorset) (Com): I apologise for being late, Mr Hollobone. My hon. Friend is making an excellent speech and raising some important issues, which occur right across the country. As for councillors' involvement with local government, when I ask my constituents whether they have spoken to their local councillor, they say that they have but that the councillor cannot say anything—I suspect that many of my colleagues hear the same thing—either because the rules have been misunderstood, or because, in some cases, an anxious or over-zealous monitoring officer has put the fear of God into councillors. Clearly, there is a big misunderstanding in such areas, which should be cleaned up as soon as possible.

Robert Neill: My hon. Friend is absolutely right, and in a number of instances right across the piece, we have come across precisely that fear of God being put into members, many of whom are voluntary public servants, sometimes in quite small district or parish councils, where they do not necessarily have access to independent advice. A forceful expression of opinion, however questionable, by the monitoring officer can often understandably intimidate, whatever the intention. We need to deal with exactly that issue.

One of the things that we specifically did in the Localism Act 2012—again, it was not, of itself, a matter of controversy in the House—was to clarify the law in relation to predetermination. There is no doubt that the common-law rule had been seriously gold-plated in the advice that monitoring officers were giving, to the extent that, essentially, people were being told, "You really cannot say anything about this planning application, otherwise you will be taken to have predetermined it." That is wrong, and it is not what the case new ever was, but that is how it was interpreted in all too many cases.

I am grateful to my hon. Friend for highlighting that, because the fact that advice to that effect continues to be given demonstrates, despite the will of Parliament and despite the guidance clearly set out by my hon. Friend the Minister's Department, that that message is not always being taken on board by some monitoring officers. That is in danger of undermining the potentially good work that is being done by the legislation.

My right hon. Friend the Member for Hitchin and Harpenden quoted from the example of his councillor constituent, and I will read out the detail of the advice, because it also touches on the point made by my hon. Friend the Member for South Dorset (Richard Drax). It is worth reading it out to give you the whole flavour. It was headed "Members' information note", and it provides "Guidance on pre-determination regarding public meeting 'to oppose an extension to the Simons contract to redevelop the centre of Hitchin'".

That is all well and good, and it is an understandable matter of public concern. Under the heading "Summary of advice," the document states:

"Attendance at a public meeting that has a clear purpose of opposing a particular course of action or proposal, and which includes at item 3 on the agenda a "vote", is very likely to be regarded as evidence of pre-determination of the matter. Either attending the meeting as an 'observer or listener' and/or declaring at the start of the meeting that one is approaching the matter with an 'open-mind', could still lead to perceptions and allegations of bias and pre-determination, due to the current stated purpose the meeting."

The member went back on that advice and, as I say, rightly went along to the meeting.

Frankly, that advice was nonsense. If that sort of advice is being given, the sooner that it stops being given the better, because it is not legally sound and does not accurately reflect section 25 of the Act, which says:

"A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because...the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or...might take, in relation to a matter".

Simply turning up as an observer is certainly doing something, but it could hardly be regarded on any sensible interpretation of the statute as being an act that would tend to predetermine a councillor in relation to a decision.

Basically, bad legal advice is being given to members, and it undermines the proper purpose of the standards, which is to ensure probity, decency and honesty in the conduct of our affairs. When there is unsense advice of that kind—if I may put it that strongly—it makes it harder to enforce the system in the important cases where a proper red line has to be drawn in relation to members' conduct. I am afraid that the example that I have just given is one of a number that seem to exist.

Another issue that has concerned me considerably is the attitude of officers towards members at times. Again, I do not want to say that that attitude exists in all cases. In my experience, the majority of officers work sympathetically and constructively with their members. However, a district councillor in Surrey has written in strong terms. Again, it relates to a planning application and let us remember that one of the reasons that we got rid of the previous standards regime was that a vast number of the complaints—something like 60%-plus—turned out to be essentially vexatious. I think that only about 28% of the complaints ever got taken forward properly and many of those related to things such as disputes on the parish council or the fact that someone was aggrieved that a planning application went a particular way; they were related to things that really had no foundation.

In the case in Surrey, there was a controversial planning application and clearly the member had expressed a view; I do not know which way they went, or did not go, and perhaps it does not matter for the purposes of this debate. Nevertheless, it caused the aggrieved applicant to make a complaint to the Standards Board. Essentially, what happened was that an investigator was appointed by the monitoring officer; the investigator questioned the councillor for 10 and a half hours in two meetings, as well as e-mailing the councillor a large number of questions; and on the second occasion, there were another 56 questions, almost

as though everything that was being said by the complainant was being taken as read, without any attempt to apply any discretion about the merits of the case and whether it actually warranted that level of investigation.

The matter then dragged on for a number of months, the councillor rightly involved her MP and her conclusion was that

"The sword of Damocles is hanging above us and if someone says something the public don't like, the sword will fall."

It has never been the intention of Parliament that that should be the case or that any councillor should feel that way, regardless of their party and their views. The councillor in Surrey says that she has been a member for 16 years, having been returned about four times by her electorate, and for a member of that experience to feel like that indicates that something has gone wrong with the way in which the regime is being applied. The sad comment from the councillor is that:

"The Council were extremely bad with me throughout the entire investigation. They did not help or support. In fact the very opposite. The then CE—"

That is, the then chief executive-

"could not have been less kind or caring and made things worse."

In fairness, she also says that the current chief executive adopted a different approach, and it is right to say that as well. However, the fact that an experienced councillor has to write in those terms indicates that there is a problem, and reinforces the point made by my hon. Friend the Member for South Dorset that public servants are feeling inhibited from doing the right thing by their communities.

Richard Drax: My hon. Friend is being very generous in giving way, and again I must say that his speech is quite excellent. I want to raise another issue with him that I have certainly found in my constituency—again, I suspect that colleagues have also found it in their own constituencies—regarding planning applications.

Planning really is the most contentious area. In my experience both as an MP and as a former journalist—I was a journalist for some 17 years, sitting in on these planning committees—many of the councillors had not even been to the sites that they were considering, because they claimed that they were not allowed to go to hem. Yes, there is a drawing that shows what is intended, but that does not show what is around, the ouildings nearby, the proximity of perhaps an ancient monument—I do not know, whatever is around the site—so councillors get a completely false perspective and potentially often make the wrong decisions. Is there anything that we can do to stop that happening and perhaps introduce more common sense?

Robert Neill: What we can do to help my hon. Friend in that regard is to promulgate the good practice and what is perfectly permissible. I know from my time as a member of a planning committee that it was perfectly standard practice in many authorities, and it should be perfectly open anywhere, for site visits to take place. It is probably best that members of the committee and the officers go together. That is what is usually and sensibly done, so that they all go in a group, and because the officer is present, there can be no suggestion of improper contact between the members of the committee and—let us say—the applicant or an objector. That can be sensibly done; many authorities do it; and those authorities that do not do it, and think that it cannot be done, should be told that it can and should be done.

Frankly, most of us would hope that with the new approach to empowering members, officers would look for ways to say, "Yes, we will enable a site visit to take place if members wish it, with the proper safeguards in place to make sure that there can be no accusation of impropriety." It happens in many places, but the fact that it is not generally known that it happens is perhaps a real concern, as my hon. Friend suggests. Perhaps at is something that the Government need to think about doing, perhaps working with the Local Government.

Association and the local government community in general to ensure that that sensible good practice is olled out.

It is interesting that my hon. Friend raises the issue of planning, because it comes back to the point about members being told not to meet developers. One of the few things on which I agreed with the former Mayor of London, Ken Livingstone—there was not much on which we agreed, as hon. Members will know—was that he had a very sensible and proportionate approach to dealing with planning applications that came before him. By their very nature, they were very often strategic applications, potentially involving large sums of money and important social impacts.

When he was Mayor, Ken Livingstone met applicants under those circumstances, he did so with an officer present and everything was properly minuted. Although I have accused the former Mayor of various things over the years, nobody would ever have questioned the total integrity with which that process took place, and indeed it continues under his successor, Mayor Johnson. It was a sensible and proportionate thing to do; Mayor Livingstone was right to do it and Mayor Johnson has been right to continue doing it. However, if they had listened to the sort of advice that my hon. Friend the Member for South Dorset referred to earlier—the advice given to his colleagues, or that we have seen in some of the documents that I have referred to—they would not have done it and those meetings would not have taken place.

ctually, very often the involvement of members in planning applications can be constructive, provided that it is done with total probity. There are plenty of examples of how the engagement of the ward members has enabled a scheme to be refined or adjusted in such a way that what was potentially unpalatable to a community can be made palatable, and actually the application can be improved by the involvement of the local members. Consequently, such involvement is not only something that should not be obstructed but something that ought to be positively encouraged as a matter of good practice. So I am grateful to my hon. Friend for raising that point about planning.

The other issue that seems to have arisen recently, and that I hope my hon. Friend the Minister will be able to deal with when he responds to the debate, relates to pecuniary interests. I was rather surprised to see advice that is being given to a number of councillors, that they should be regarded as having pecuniary interests in effect because they are council tax payers. Again, that advice is all set out in legal documents, which I could happily quote, but if that advice is not nonsense then I do not know what is. Once more, I must say with a sense of frustration that that sort of advice or idea is exactly what I spent two and a bit years of my life as a Minister trying to get rid of, and I feel that perhaps I have failed and that perhaps it is my fault, because I did not make that message clear enough. I hope that that is not the case, but what I have lescribed today is happening in a number of local authorities. In addition, I regret to say that when I looked some of the e-mails that I have received on this subject, I see that such practice seems to be based on a view taken collectively by a number of monitoring officers.

Like most professions, monitoring officers are not without their collective bodies. They are worthy people; I met some of them on a number of occasions when I was a Minister. However, that does not mean that they always get these ideas right, and the idea that simply because someone pays council tax they should be regarded as having a pecuniary interest is another idea that I hope the Minister will make clear today was never the intention of Parliament. Hopefully, this debate will give us an opportunity to send out a message—to officers that such advice is wrong, and to members that they should not feel constrained by such advice. The idea that someone would have to get a dispensation for every member of a council in effect, so that they could vote on the council tax in their area, is a nonsensical interpretation.

John Glem (Salisbury) (Con): Reluctantly, I have to point out the situation in Wiltshire. A local Labour councillor contacted me saying they had received an e-mail from the ethical governance officer. It said that the current legislation referred to councillors having

'a disclosable pecuniary interest in any matter to be considered".

The reference to "any matter" was essentially used to justify people not voting on anything, which is utterly absurd. When I responded to the councillor, I said that common sense was required, and I do not think that my advice and input were welcome. However, it is ludicrous that the legislation has been interpreted in such an unhelpful way.

Robert Neill: My hon. Friend is absolutely right. It is a sad irony that Wiltshire, having got the structure right and achieved a sensible, light-touch, proportionate structure, seems none the less to have been giving out advice on a specific point that is clearly wide of the mark. That issue needs to be raised with monitoring officers generally.

Richard Drax: The mobile phone is a marvellous bit of kit: as my hon. Friend was talking, the leader of the Conservative group on Purbeck district council raised the same point with me. I asked him whether there were any points he wanted to raise, and he said that,

"under new rules we have to declare an interest to set the council tax."

Funnily enough, that is the very point that my hon. Friend has just raised, and the comment I have read out reinforces it.

Robert Neill: I am immensely grateful for my hon. Friend's presence, because he has allowed us to have a debate in real time, which is extremely useful. His point highlights the issue and takes well into double figures the number of instances I have come across of such advice being given out. As everybody in the room knows, that advice is clearly wrong.

That raises questions about the quality of advice monitoring officers sometimes give. We all know it is important to have a monitoring officer—something that goes back to the Local Government and Housing Act 1989. However, some of the mission creep that has come into the monitoring officer's role raises questions. I hope the Minister will be able to comment on what the Government see as the proportionate and appropriate use of monitoring officers to ensure probity without creating an industry via the back door. One complaint about the previous standards regime was that whatever its intentions, which were good, it created an industry that was expensive for the public purse and that had the effect—probably unintentionally, but this was the reality—of being something of an inhibitor of open public debate. The whole objective subsequently has been to put an end to that.

All too often, there seems to have been pressure on members simply to recast the old regime but give it a localist badge. An extremely restrictive interpretation of the legislation, which goes well beyond case law or statute, persists all too frequently. My hon. Friend the Member for South Dorset has given clear examples in relation to planning matters and the key issue of council tax. District monitoring officers also sometimes give such advice to parish councils in their area. Whatever the intention, if that advice lands on a parish councillor, who might have just a part-time clerk or something of that kind, it will be extremely intimidatory. I have had a number of e-mails from members across the country saying, "I'm wondering whether it's worth standing for my parish council again."

In a number of instances, the provisions on spouses' or civil partners' pecuniary interests have been misinterpreted. Initially, a flurry of advice seemed to suggest that council members would have to give the name and details of their spouse or civil partner. The Department sent out a letter—I may have written it myself—to all council leaders making it clear that that was not the case, and that the interests of the spouse or civil partner are regarded as the member's interests. Therefore, if a member's wife or partner owned a relevant property that should be declared, it was declared, but under the member's name; it was not necessary to give details about their wife or civil partner. The fact that misleading advice was given, and still seems to be given, indicates that the message might not have been fully taken on board. Under certain circumstances, such advice could deter worthwhile and valuable candidates from coming forward for election. That is disproportionate, and it is important that we get a sense of proportion back into these matters.

That brings me back to the quality of the monitoring officer and what their proper role should be. There is lexibility at the local level, and that should of course be the case. However, one councillor who has raised serious concerns with me states at the end of his e-mail that he was one of the first monitoring officers to be appointed under the 1989 Act—he had obviously retired and, having been a local government officer, decided he had not had enough, so he became a member instead, which is absolutely admirable. He said that, when he was a monitoring officer, he had done about one and a half hour's work a week as part of his other responsibilities. However, he said that the role in his district council had mushroomed and was becoming a full-time job, which was never the intention in a proportionate scheme. Obviously, the work load and the demands in a big authority will be greater, but all too often it seems to me and to many members who have contacted me that there has been an exponential growth in the monitoring officer role, which sometimes leads to advice that is not accurate or focused and to an attitude that can be intrusive. That is important, and I hope the Minister can give us some idea of the Government's thinking on making sure that there is clarity on the issue, and that councils do not feel the need to over-engineer a solution.

I also hope the Minister will be able to comment, in so far as one can where matters are potentially sub judice, about the extremely concerning situation in Tower Hamlets, where there does not seem to be the independence and transparency that one would wish for in the operation and governance of the council and in the monitoring officer's role within that. There is a risk of members being worn down by serial complaints against them that are not filtered out at an early stage.

Let me give just two more Tower Hamlets examples to conclude. One involves a complaint—I am glad to say that nothing came of it in the end, but it still took time and investigation—from Councillor Alibor Choudhury, the cabinet member for resources, who is a regular complainant, against the leader of the Conservative group, Councillor Golds. An interim chief executive had been appointed. In the council meeting, speeches were made welcoming that officer to their post. During the debate, Councillor Golds referred to the fact that he was looking forward to appointing a proper chief executive in due course. That was the subject of a complaint, on the basis that it showed disrespect to the acting chief executive, as well as bias. The acting chief executive actually wrote saying, "It does no such thing. I didn't feel in the least bit offended by that." It was pretty clear that Councillor Golds was referring to a substantive appointment being made in due course, which everybody would wish to see. The fact that the issue was dragged through the standards regime in Tower Hamlets suggests that not just old mindsets but questionable mindsets were being applied.

A further complaint was then raised-interestingly, three complaints were all made within about a month of each other, and the same cabinet member was a party in each case. In this case, the allegation related to the matter that is now working its way through the first-tier tribunal. A third complaint was then made, this time about a member's suggestion—it was made by the same leader of the Conservative group, as it happens that a ward be renamed. It is a sensitive issue locally whether the ward is called Spitalfields and Banglatown or Spitalfields, but the fact that it should trigger a complaint of racism is well beyond anything the provisions were intended to do. The complaint was ultimately taken no further, but a great deal of public money went into dealing with it. Any proportionate system of monitoring would surely have weeded it out at an early stage. As I say, the same council spent £18,000 investigating the two opposition party leaders. At the same time, the monitoring officer declined to investigate complaints against members of the party supporting the mayor. All those cases raise a specific matter in relation to Tower Hamlets. However, they also raise a specific, important point, which I hope the Minister will be able to clarify, about the use, or perhaps abuse, of the transitional provisions, which were intended essentially to enable members who might be involved in an outstanding complaint to clear their names by going to the first-tier tribunal. I do not know how many such instances, if any, we have on record of attempts to use the transitional provision in that rather extraordinary way, but it is clearly not what Parliament intended.

I hope that I have done enough to give a flavour of the areas of concern that I want to set before the House. I do that not in any spirit of criticism of the Government, because they have been doing the right thing and there was, broadly, a measure of consensus in the House about wanting to ensure that we have proper standards. Making sure that our public affairs at a local level are conducted honestly and transparently, having good quality candidates from all backgrounds coming forward for election, and enabling voters to

believe that their members can do and say things that make a difference are critical to the health of local democracy. All of that was clearly the Government's intention when we carried out the reforms and it was clearly Parliament's intention when the new arrangements were put in place.

I hope that we will be able to use this debate to reinforce and clarify the message that the new regime is about empowering members, not inhibiting them, and that advice to the contrary is incorrect and should no longer be given out. The Department should use its good offices, working with the Local Government Association and the local government world generally, to ensure that members are not subject to the kind of unintended and inaccurate pressure that undermines our shared objectives.

3.21 pm

Helen Jones (Warrington North) (Lab): It is a great pleasure to be here under your chairmanship, Mr Hollobone. I congratulate the hon. Member for Bromley and Chislehurst (Robert Neill) on securing the debate. He and I have often clashed across the Dispatch Box, but no one doubts his commitment to or interest in local government, in which he served with distinction for several years. I am sure that that experience is sadly missed at the Department for Communities and Local Government.

The hon. Gentleman raised some important issues this afternoon about how we maintain appropriate tandards of conduct in local authorities without imposing a burdensome and costly regime that encourages frivolous complaints. We have seen that in local government—we occasionally see it in the House—and it is something that I deprecate, because it brings politics into disrepute. Dealing with serious wrongdoing is one thing, but making frivolous and politically motivated complaints is something else entirely.

The hon. Gentleman hit on several important issues about the operation of the current regime that are worth considering. He is absolutely right that the best safeguard against wrongdoing is transparency. If people know a member's interests—just as in this House—and can then judge their vote accordingly, that is the best safeguard against anything going wrong. The hon. Gentleman is also right that members in local government are often given bad advice, and it is particularly difficult for those who are new or who do not have a legal background to challenge it. Part of the problem exists particularly in the planning system, where officers, especially monitoring officers, get frightened of big development firms and their lawyers. They sometimes seek to protect councillors from the effects of that, but they often go the wrong way about it. A firm in my constituency that wants to carry out a development that I oppose is, I think, working up attempts to try to intimidate me. I am not intimidatable. It is a waste of time. However, some councillors do find themselves in that position because of poor quality interpretation of the law.

We ought to say clearly that no standards regime should prevent an elected representative from talking to those who elect them or, as the hon. Member for Bromley and Chislehurst said, from talking to developers in an appropriate setting where an officer is present to minute what is said; and yet that often happens. The hon. Gentleman also mentioned complaints being made against whistleblowers, which is extraordinary and, again, not what the standards system was ever intended for. Although it is fair to say that none of us is nostalgic for the old regime, which he rightly said became an industry in its own right, we need to ensure that the current regime operates properly and that people are giving proper advice.

The hon. Gentleman discussed Tower Hamlets and the particular difficulty that arises when a monitoring officer wears two hats. If the Minister is able to comment on that, I am interested to hear what he says, because it is clear that the situation there is not conducive to good local government and to delivering the best service to those who elect us. The issue of monitoring officers going over the top on trivial complaints was also mentioned. I am not for one minute saying that they all do that, but the hon. Gentleman gave one example of a member being subjected to 10 and a half hours of questioning over something small and trivial. That is ridiculous. Any system must be proportionate.

The hon. Gentleman is quite right about wrong advice being given on the declaration of pecuniary interests.

Ay local authority's members have been told that if they are council tax payers, or if their spouse is a council tax payer, as it is their name on the bill they must all declare an interest when they set the budget,

and then apply for an exemption. He is also right that it is not only in big authorities that that happens. My usband is the leader of Culcheth and Glazebury parish council. I try not to let it go to his head but, ollowing a swing to Labour in our village, it is now a Labour-controlled parish council. Its members have been told that, before they set the parish precept, anyone who is a council tax payer or is the spouse or partner of a council tax payer must declare an interest and ask for an exemption. Of course they have an interest; they live within the parish. It is a parish council. People who are elected either come from within the parish or very near to it. Those are the rules. When people elect them, they know that. No one is suggesting that parish councils around the country are abusing their right to set the parish precept because they happen to pay it. Quite frankly, it is getting ludicrous and we need to look at how we can give councils proper advice and work with the Local Government Association to ensure that they get that advice.

I have one or two queries for the Minister about how the system is working in other ways at the moment. He will remember that the Government's original proposal was not to have a requirement for local councils to maintain a code of conduct. Following amendments in the other place, common sense prevailed and local authorities were required to maintain a code of conduct based on the principles of the Committee on Standards in Public Life. Councils can now decide for themselves whether they want to amend or replace the existing code. It has not been mentioned, but how they fulfil the duty imposed on them by the Localism Act 2011 of promoting and maintaining standards is important. Work needs to be done to ensure that all ouncillors, particularly new ones, are familiar with what is required of them, are adequately trained and take a sensible view of such things.

The 2011 Act also provided, as the hon. Gentleman said, for the registration of members' interests and for the appointment of an independent person to advise the council before it considers an allegation against a member. Will the Minister tell us how that is proceeding? Quite often—we have done it in this House—we believe that we must get an independent person in to advise on this, that and the other. It is as if there is a pool of people out there just waiting to jump in and do that. It would be interesting to hear from the Minister whether he is aware of any problems with councils finding people to undertake the role, which is, after all, purely advisory.

Before the regime came into operation last June, the Committee on Standards in Public Life, with which we are all familiar, expressed concern that a large number of local authorities were unprepared for the new system. The committee said that nearly half of those who had replied to its inquiries had yet to adopt a new code, and that four fifths had yet to appoint this mythical independent person that we are all to find from somewhere. I wonder whether that lack of preparation on the ground has in fact led to some of the problems that the hon. Member for Bromley and Chislehurst outlined. Will the Minister update us? How many nuthorities, if any, still do not have a code of conduct in place? How many have yet to appoint an independent person to advise them on complaints? If there are any such authorities, will the Minister tell us what his Department is doing to ensure that the law is observed in that respect, and what advice it is giving to councils?

The Committee on Standards in Public Life also—wrongly, I think, in this case—had concerns about the robustness of the new arrangements, and argued that the codes needed to be supported by independent scrutiny. I am not convinced by that argument, because I believe that as long as complaints and any decisions about them are dealt with openly and are open to public scrutiny, that is all we need. Such committees as this tend to overlook the fact that members are ultimately accountable at the ballot box for their conduct. There is the famous Hillary Clinton quote about Bill: "If you don't like it, don't vote for him," and it is as simple as that. Unfortunately, most of us do not have the charisma of ex-President Clinton, and we have to rely on other things to get us re-elected. It is important that members of the public understand the new regime and that steps are taken to inform them of how complaints are dealt with. I know, and I think that the hon. Member for Bromley and Chislehurst knows from his constituency, that there is often great confusion among members of the public about how to make a complaint against a councillor. It is members of the public that we are trying to cater for here; we are not dealing with cross-party allegations. A number of people have recently written to me because they are upset about a particular planning decision, in the belief that I can deal with complaints against local councillors and can somehow impose my will on them. I

have had to explain that there is a separate electoral mandate for councillors, and that complaints against them are dealt with differently. If the scheme is to work well, we need to address that confusion.

The Committee on Standards in Public Life made an important point, which relates to what the hon. Member for Bromley and Chislehurst said earlier about the need for guidance and training on the new system, and about the application of appropriate penalties if the system is breached. Will the Minister tell us how the need for training is being dealt with in local authorities, for those involved in the new standards regime? Does he know how many local authorities have provided such training for their members—not their monitoring officers—and does he have an indication of how well that is going?

I want also to mention sanctions. As the hon. Member for Bromley and Chislehurst rightly said, the 2011 Act makes it an offence for a member without reasonable excuse to fail to register or declare a pecuniary interest. That can be dealt with by a magistrates court and, in the most serious cases, a £5,000 level 5 fine can be imposed upon conviction. I do not believe that most of us would have a problem with that in really serious cases, but we all know that most cases are not like that, dealing, as they do, with less serious breaches of the code of conduct. Since suspension is not an option, is the Minister convinced that local authorities have enough sanctions available to them to deal with breaches of the code? If a member of the public makes a complaint and the complaint is upheld, that person needs to be satisfied that the complaint is being taken seriously and dealt with appropriately, and I am interested in hearing the Minister's views on that.

I was recently told of an independent member of a local authority who refused to sign the code of conduct. The legal advice given to the authority was that it had no way of making the person sign. The argument was that if he did not sign he was not bound by it. It is different with political parties, because they can impose on their members the necessity of signing the code—someone cannot be a member of the group until they do that. This is an interesting case, and if the Minister cannot tell me today how it should be dealt with, perhaps he would be kind enough to write to me, in order that the case might be resolved.

I accept that it is very early days, because the new system has been in operation for only six months or so, but although none of us wants to encourage frivolous or politically motivated claims that are not based on fact, it is important that the public have faith in the system and believe that their complaints will be properly dealt with. The vast majority of councillors, of all parties I think, simply want to do a good job for their local community, and they give up a lot of time and contribute a lot of effort. They too, therefore, need the protection of an appropriate standards regime and the assurance that breaches of the code of conduct will be dealt with. That is right for the public, but it is right also for the vast majority of councillors in this country who are honest and hard-working. Will the Minister undertake to consider over the coming year how the system is working, look into the problems that I and the hon. Member for Bromley and Chislehurst have mentioned, and report back to the House if action is needed?

We cannot take issues such as this lightly, and the hon. Member for Bromley and Chislehurst has made that clear today. Local councils are an important part of our democratic structure. They can, and often do, produce enormous benefits for their local communities, and they deal with serious and important matters—things that affect people's social and economic well-being—but it is precisely because of their importance that we need to ensure that the standards regime works properly, maintains public confidence and is not abused, and that councillors get the right advice to enable them to comply with what is required of them.

That is extremely important, and I hope that the Minister is able to assure us on those issues when he replies.

3.38 pm

The Parliamentary Under-Secretary of State for Communities and Local Government (Brandon Lewis): I am grateful to my hon. Friend the Member for Bromley and Chislehurst (Robert Neill) for providing this opportunity to have what is, in the light of what is going on, a hugely important debate. The debate is also timely because the Localism Act 2011 received Royal Assent more than a year ago—I enjoyed several months on the Public Bill Committee with my hon. Friend, as Minister, taking the

egislation through—and just over six months ago, on 1 July last year, the new standards regime came fully stream.

I pay tribute to my hon. Friend for the central part he played in doing what I think most people in local government—perhaps not monitoring officers—will for ever be grateful for; abolishing the old Standards Board regime, thereby fulfilling an important coalition agreement commitment, and overseeing the establishment of a new regime, which should be opening the way for councils to put in place their own new localist standards arrangements. I will be clear with the House on this: I am a fan of old-fashioned democracy and I believe there is a strong case to be made, as it was in the debates on the 2011 Act, that the most effective sanction for wrong behaviour is found in transparency, particularly through to the ballot box. We need to bear that in mind when we consider what the Standards Board regime, which we are moving away from, was at risk of becoming.

Every council should aim to have a simple process that ensures high standards of conduct from all members without imposing bureaucratic burdens or providing a platform for vexatious and politically motivated complaints that not only waste taxpayers' money but, as the hon. Member for Warrington North (Helen Jones) mentioned, damage the very fabric of both local democracy and democracy generally. That was the case with the old regime. As a councillor for a decade or so, I saw that regime develop. Since coming to the Iouse and taking my current office, I have found it worrying that, despite the change in regime, monitoring officers are expanding and developing as an industry, and changing the regime seems only to have brought that industry further in-house, rather than getting rid of it. The essence of the new regime is that, within a simple broad framework, the design of a council's standards arrangements is put into its members' hands. I stress that there is no detailed central prescription about conduct. Given what is happening, there is a temptation for us to start getting involved centrally, but I am wary of doing that because it would be a move away from local accountability. It is for individual councils to decide how best to promote and maintain high standards of conduct.

I will have a look the case and come back to the hon. Lady, but my instinctive response to the councillor who refused to sign a code of conduct is that if the council has adopted the code of conduct, it is, de facto, the council's code of conduct. I am not sure why it is necessary for every member to sign the code of conduct for it to take force. It is the council's code of conduct.

There is no central prescription for the process a council might follow. Beyond certain clear, basic, national rules—for example, that certain pecuniary interests must be disclosed, which I will return to, because I have seen far too many farcical cases of the type raised today—it is for each council to decide its own rrangements, to decide its code of conduct, to decide how to deal with allegations that that code has been breached and to decide how personal interests should be handled. That approach puts members in the driving seat and recognises the commitment of members across local government to serving their communities, to acting consistently in the interests of those they represent and to ensuring local taxpayers' money is well spent.

The new regime recognises the central importance and value of members' roles, which must be a priority, and their knowing what is right for their community and authority. Rightly, under the regime members can take ownership of all their council's standards arrangements and be satisfied that the arrangements are proportionate and appropriate to the circumstances of their authority.

The first six months of the new arrangements have seen councils and their members take a wide range of approaches in responding to the opportunities provided by our new standards regime. The Government have taken a number of steps to help members make the most of those opportunities. To assist councils, in April 2012 my Department circulated an illustrative text of a simple and straightforward code of conduct, as envisaged by the new regime. In June, my hon. Friend the Member for Bromley and Chislehurst wrote to local authorities about simple arrangements for handling misconduct allegations. We followed that in August with a plain English guide to openness and transparency on personal interests.

All those measures graphically illustrate how simple and straightforward, yet wholly effective, standards angements can be adopted by councils under our new regime. It is therefore disappointing and, to an Latent, worrying to hear that some local authorities have developed both a code and model arrangements for handling misconduct complaints that appear to be essentially a continuation at local level of the old Standards Board regime, and in some cases go further than the old regime. I have heard about too many cases of that in the past few months.

We have heard examples today, and I will respond to a few specific points. My right hon. Friend the Member for Hitchin and Harpenden (Mr Lilley) described a situation that simply should not be happening. The Localism Act makes it clear that a member can go to meetings, and even campaign on an issue, and still take part in the formal decision-taking process, provided they approach that decision with an open mind, as I am sure members do. There is no basis in law for a monitoring officer to give the type of advice about which we have heard.

Richard Drax: My hon. Friend is making an excellent speech. He says that a councillor may campaign, as long as he or she maintains a neutral state of mind, but if someone is campaigning, they are clearly campaigning either for or against something. For clarification, is the Minister saying that councillors can campaign for something? If councillors state that they are for or against something at a council meeting, they ight be accused of not having a clear mind. Does he follow my argument? I may have misunderstood him.

Brandon Lewis: Bear in mind that that is a decision for the individual member, as it is when we declare an interest in the House. Councillors must decide whether, at the point of a decision, they have an open mind, having heard all the evidence. If someone has been campaigning heavily against something, they may come to a meeting, hear all the evidence both for and against and then make a judgment about whether they have an open mind on the evidence. That is a matter for them. The key point is that the advice being given to councillors that they cannot do that is wrong. They can do it and, actually, that is how we represent our residents. That was one of the problems with the old regime.

On the point raised by my hon. Friend the Member for Bromley and Chislehurst, since 1 July 2012, when the new regime came into force, councils have had no power to suspend a member—absolutely none. A member convicted by a court for failing to disclose a disclosable pecuniary interest may be disqualified for up to five years by the court in its sentence. In addition, the law remains that any person sentenced to three months or more in prison is disqualified from holding the office of councillor for five years.

Robert Neill: I am grateful for the Minister's clarification. Were there to be any growth in litigation based an erroneous interpretation of the transitional provisions, would be consider what steps the Department and the Government might take to assist the courts in ensuring that a tribunal has access to the correct interpretation before coming to a decision?

Brandon Lewis: I will address the transitional arrangements in a moment, but, yes, we do have to consider that.

The advice in the Wiltshire case makes little sense. The advice refers to a pecuniary interest in any matter, but it focuses on the word "any," which is completely the wrong end of the stick, to use a colloquial phrase. The advice fails to define a disclosable pecuniary interest, which is the key point. The simple fact is that one cannot identify a disclosable pecuniary interest that relates to the setting of council tax. A beneficial interest in land is probably the nearest to that, but that interest is clearly not materially affected by the setting of council tax.

I have learned something today, and I am hugely impressed: I have never before heard of an "ethical governance officer," which is a fantastic new title. I am sure the title will be cropping up across the country, no doubt with people asking for pay rises. One of the things of which I have seen far too much, particularly parish councils, is organisations advising that, in setting precepts, all members have to declare a pecuniary interest, which implies that every councillor has such an interest, be they district councillors, county councillors or unitary councillors. Indeed, it could be argued that that goes all the way to us when we set the

Budget. That is farcical. That is not what the guidance sets out. We must make it clear to parish councillors at that is bad advice. It is wrong. That was not the intention.

Another example I have heard is how councils feel the need, under the transitional arrangements, to continue to investigate a complaint under the old regime, whatever its merits. That is absolutely not what the transitional arrangements require. Briefly, if a council considers a complaint unworthy of investigation and the resources that that would entail, it can bin the complaint. I stress again that that is a decision for the council—the members. Neither the monitoring officer nor any other officer has the power to make a decision and force or tell councillors to do something. The decision is in the hands of the democratically elected councillors.

Why is all this happening? Why is there an attraction to continue a Standards Board-type regime—a regime that was widely loathed in local government and ill-served citizens, taxpayers and councillors? As I hope I have stressed clearly, our new regime puts members firmly in the driving seat when it comes to deciding what a council's standards arrangements should be. They are for local councils to decide. In that role, it is right that members look to their officers for advice, as that is what officers are for, but I have to say that much of the advice being given to members is far from satisfactory. There are some very good monitoring officers out there, but far too much poor advice is being given, leading members to feel that they are being ullied by officers.

What I have seen often shows that, for whatever reason, officers have simply failed to grasp what the reform is about. It is about having arrangements that maintain high standards while avoiding bureaucratic burdens and doing away with all the petty, vexatious complaints that bedevilled the operation of the old regime. Whether because of excessive caution, bureaucrats' love of bureaucracy for its own sake, or a misplaced belief that they and not members should be in the driving seat on standards, officers often advise that something more or less akin to the old Standards Board regime should be continued.

One of the most worrying examples is the Public Law Partnership that provides legal advice to a number of councils, including Essex county council and, I believe, Brentwood berough council, where I was once a member. The partnership has prepared a model code and model arrangements for handling misconduct complaints that seem essentially to be a form of the old Standards Board regime. I see no need for a local authority to adopt a code of conduct based on such a model, or to put in place complaint-handling arrangements based upon the Standards Board regime. I see no need for a heavy, bureaucratic, gold-plated approach that has no place in the new localist standards arrangements, which should be driven by and for members.

send a clear message to council leaders and members that where they receive such advice, they should simply tell their officers to think again. They must challenge their officers to get it right. They should tell the officers that what they are saying is wholly out of step with the new regime and its aims as approved by Parliament, and instruct them to come forward with something different—something that is proportionate and that meets the needs of members under the new regime.

I know that members are trying to do the right thing and want to make the right decisions, and that the officers giving advice sound well informed and very much in control. It is easy for members to believe, "We must do this." I hope that today I have sent a clear message to councillors that the power is in their hands; they should exercise it and challenge their officers to come up with a light-touch scheme and approach. I know that leaders and members have the strength and capacity to do that. They should do it now, if they have not done so already. They should get on with it, using the comments made by all Members in this debate, including me, to challenge their officers. My message to monitoring officers and others who give that advice is to be professional and proportionate and to cut out the gold-plating. Let us see some common sense.

have heard of law firms offering advice—at a price rather than pro bono, I imagine—on the standards regime and how to operate it. It is, of course, for councils to decide what advice they need. Again, I suggest that members should consider carefully whether they need outside, paid legal advice when they have their

own officers. I find it hard to envisage circumstances in which seeking such advice can be genuinely 'stiffied. The new standards regime is about empowering councillors to deliver high standards of conduct; it is not about creating a new legal industry, whatever attractions that might have for some. My message to council members is at the very least to consider matters very carefully before deciding that it is necessary to involve a legal firm in the conduct of their council's standards arrangements.

Monitoring officers are there to provide professional advice, not to decide what is to happen or judge whether a member has a disclosable pecuniary interest. I hope that I have made that clear. It is the responsibility of the member concerned to make that judgment. Members need to have confidence in the expertise, professionalism and independence of their officers and to trust that they do not have an agenda or aim that might put their advice into a particular context. Again, I encourage members to challenge their officers appropriately and robustly.

The public expect high standards of conduct from local authority members, and the vast majority of local authority members conduct themselves in an entirely appropriate manner. Across our country, they work fantastically hard for their communities. There is simply no point in a local authority needlessly imposing a burden of bureaucracy on itself. Councils now have the opportunity to free themselves of the Standards Board regime and make a fresh start free of complicated codes of conduct and resource-intensive transpendents for complaint handling. This opportunity is too important to miss, and I hope that they will take advantage of it, guided particularly by the comments made in this debate. I congratulate my hon. Friend the Member for Bromley and Chislehurst again on securing the debate, which is welcome and, I hope, helpful for local authorities and councillors across this country.

Mr Philip Hollobone (in the Chair): I thank all Members who have taken part in this most interesting debate, and I congratulate Mr Neill on securing it. I am afraid that we will have to contain our anticipation of hearing Mr Bellingham until the Minister arrives at 4 o'clock.

3.55 pm

Exhibit 4

HITCHIN TOWN HALL - BACKGROUND & HISTORY





Morth Hertfordshire Museum and Hitchin Town Hall

Background to the Dispute

Hitchin Town Centre Initiative ("HTCI"), subsequently to become Hitchin Initiative ("HI") had been in discussion with North Herts District Council ("NHDC") with regard to taking over the management of Hitchin Town Hall (also known as The Mountford Hall) in 2005, but these negotiations had not been successful. The Town Hall consists of several rooms including the Lucas Room (suitable for a wedding ceremony) and the main hall and stage called the Mountford Hall.

In 2009 NHDC carried out a review of its museum provision and determined that the museums of Hitchin and Letchworth should be combined into a single building. They selected Hitchin Town Hall for this and instructed architects Buttress Fuller Alsop Williams ("BFAW") to prepare feasibility studies. Each of their proposals involved using the large Mountford Hall for the museum with a mezzanine floor inserted.

The local community united in its objection to this scheme and a large petition against it, with over 5,000 signatories, was presented to NHDC. An Action Group was formed to save the Town Hall and to try to ensure that the new museum provision met the needs of the District. HI were invited to attend their meetings and saw that a satisfactory scheme could be achieved by incorporating the adjoining building, 14 Brand Street.

A meeting was held with NHDC on 17th November 2009 which was attended by Morag Norgan, Kevin Morgan, Councillor F J Smith, John Campbell (Chief Executive, NHDC) and John Robinson (Strategic Director, NHDC) with a proposal tabled by HI to acquire the adjoining building and to pay the difference between the than NHDC scheme and the scheme to retain the Mountford Hall and Lucas Room for community use (the "Community Scheme").

HI secured an option on 14 Brand Street and Planning & Listed Building Applications were made on its behalf by BFAW, paid for by NHDC. HI would have preferred to have used a local firm of architects, paid for by HI, but this was not permitted by NHDC. Planning Permission and Listed Building Consents were granted in February 2011.

During the consideration of these applications, it became clear that 15 Brand Street could also be acquired, this made considerable improvements to the scheme, and in particular the frontage, and it was decided that it was worthy of serious consideration.

The first Development Agreement ("DA") between NHDC and Hitchin Town Hall Ltd (HTH) was entered into at a formal ceremony at the Council Offices on 15th October 2012.

Attached were a draft lease for a term of 125 years from completion of the refurbishment of the Town Hall in favour of HTH of the Town Hall, a draft Community Use and Management Agreement setting out each partner's rights and obligations once the refurbishment was complete, an Option Agreement (entered into on 15th October 2012) whereby HTH were able to acquire No. 14 Brand Street (and a small part of No. 15) from the Hitchin Property Trust Ltd ("THPTL") with vacant possession for £225,000.

(It should be noted that the terms of the Option Agreement had been negotiated for the partnership solely through the efforts of HTH).

HITCHIN TOWN HALL LTD Resident Charley No: 1146921



Also attached to the DA were HTH "Development Requirements", which incorporated a description of the uses which HTH proposed to carry out including, but not limited to, community lettings, public meetings, seminars, exhibitions, concerts, stage performances, the showing of films, the performance of weddings and catering for their receptions, Beer Festivals and like events and the operation of a café and bar open to the public.

The primary initial obligation of NHDC under the DA was to award formally the building contract and commence development.

The DA also recorded that the parties remained committed to the exploration of an expanded future scheme that would include the remainder of 15 Brand Street to form the Community Scheme. It was documented to consider a variation of the Development Agreement should this be possible with funding and agreed by the parties to be viable and achievable.

On the date that the DA was signed (15th October 2012), funding arrangements were put in place with the Adventure Capital Fund Ltd ("ACF"), to ensure that HTH were able to acquire 14 Brand Street and to contribute £490,000 towards the cost of the Town Hall refurbishment.

The facilities offered by ACF were a long term loan facility of £510,000 and a grant of £343,000. The loan was to be secured by way of a Debenture, a legal charge on 14 Brand Street, assignment of the Development Agreement and, on completion, a first legal charge over the Town Hall 125 year Lease.

It was apparent to all concerned that the incorporation of the remainder of 15 Brand Street into the scheme could produce both a far more attractive visual frontage to the building and a substantial addition to usable space within.

HTH commenced negotiations with both the freeholder of No. 15 Brand Street (THPTL) and, with the consent of THETL, with the tenant.

At the same time, HTH lodged (at its expense) a planning application and listed building application for the revised scheme, the permissions being granted on 26th February 2013.

The funding arrangements were renegotiated with ACF (now SIB), and THPTL agreed a new option arrangement with a sale price for No's 14 and 15 Brand Street combined of £390,000 with HTH paying an additional sum of £37,750 being the cost to THPTL of obtaining vacant possession of both properties.

THPTL agreed to leave outstanding £140,000 of the purchase price until 31st December 2030 at an interest rate of 2% per annum. The loan was to be initially unsecured but on completion of the 125 year Lease in favour of HTH, secured by way of a Second Legal Charge behind the prior mortgage of ACF on the Lease.

A second Development Agreement ("DAF") (replacing the first) was entered into between NHDC and HTH on 9th September 2013.

On the same date, THPTL granted the option to purchase No's 14 and 15 Brand Street on the terms set out above and ACF provided a letter of comfort to THPTL (subject to the





law and its duty of care to HTH points) such sum as should be certified as outstanding, not exceeding £140,000 in discharge of THPTL's Loan.

HTH completed the purchase no's 14 and 15 Brand Street on 12th September 2013 and the Legal Charge (and supplemental documentation) in favour ACF was concluded on that date.

NHDC awarded the building contract to Borras Construction Limited.

The same being recorded in an Agreement dated 6th February 2014 (a copy being supplied to HTH on that date), construction having commenced, it is understood, on 3rd November 2013.

There had never been an easy relationship between HTH and the officers of NHDC (but considerable support from the elected councillors). HTH were not treated as stakeholders who were introducing circa one million pounds into the project and would then be running it for the lease period of 125 years. There were numerous issues then be running it for the end product. The HTH business plan required income from relating to the quality of the end product. The HTH business plan required income from commercial events, seminars and weddings during the first 15 years while the borrowing was being repaid.

Various meetings took place with NHDC. HTH wanted to go through details of the proposals and raise various issues but it was never the right time to do so. It was feared that there would come a time that it would be too late and this is what eventually occurred.

When the building contract commenced, HTH were allowed accompanied site visits weekly. A number of concerns were raised during these, in particular the treatment of the retained sprung floor. The visits were terminated for a period on claimed health and safety grounds.

The acoustics of the Mountford Hall had been a particular concern to HTH, both the sound break out (which was one of the Essential Requirements) and the internal acoustics (which HTH had wanted to be one of the Essential Requirements but this had not been agreed to be included).

HTH appointed an acoustics consultant to advise them. He visited the site and found that the "removable stud partition wall" across the stage was being constructed in concrete blockwork (and that pallets of concrete blocks were being stored on the sprung floor).

The provision of museum stores at the rear of the stage had been the greatest concession made by the community groups supporting HTH but only on the basis that it could be removed at a later date. The agreed wording in the Listed Building application prepared by BFAW being "The second intervention is the addition of an acoustic screen to the stage – reducing its capacity and insulating the stage from the dwellings to the rear of the complex. This stud wall would be acoustically isolated, and ultimately reversible to recreate the full stage capacity".

HTH requested that work on this wall be stopped but this was not agreed to. A dispute arose between the parties. Ducts, plant and pipes have subsequently been installed behind the wall and its removal and the reinstatement of the stage would be a massive and costly exercise.

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As part of their business plan, HTH were to mount a fundraising campaign. Everything was in place for this, including the fundralsing team, strategy and logo, but it was impossible to proceed due to the dispute between HTH and NHDC.

It was apparent to the Directors/Trustees of HTH and the community groups, to whom the Directors/Trustees regularly reported, that the relationship between NHDC and its major stakeholder had broken down.

Accordingly, and with great reluctance, on 9th October 2014, HTH gave formal notice pursuant to section 8.3 of the Development Agreement that in their opinion the breaches of the Development Agreement by NHDC constituted a material breach and accordingly terminated the agreement.

By letter dated 23rd October 2014, HTH gave notice to exercise the 'Put Option' granted to it by Clause 11 of the Agreement in respect of No's 14 and 15 Brand Street, the purchase price payable being £440,000.

NHDC have not accepted that the Development Agreement was validly terminated and accordingly have refused to comply with the terms of the Put Option.

14-Aug-15

Updated at 21 October 2015

NHDC have now received a Certificate of Practical Completion from the architect Buttress and demanded the payment of £490,000. HTH have refuted this payment and all attempts to find a solution have been delayed, it is believed in the hope that SIB will make formal demand and put HTH into receivership.

NHDC maintain that the DM is still in existence but unfortunately do not accept that further breaches have occurred, the main one being that the roof of the Town Hall has not been replaced - see Appendix 'A'.

At a recent meeting between SIB and HTH, SIB stated that it was their preferred option to agree a solution. At this meeting HTH put a 'without prejudice' proposal on the table which, to date there has not been a satisfactory response other than postulation by NHDC - see Appendix 'B'

A crucial meeting took place on 28th February 2014 just after the start of the construction of the concrete wall, a material breach, and before any notice of breach had been served. The minutes of this meeting were never finalised since officers attempted to sanitise the record, what is attached is their version with HTH comments as a correction. A recording is also attached. David Parsley FRIC, led the meeting.



Appendix A -Further Breaches

- Contract with HTH The Development Agreement ("DA")
 - a. NHDC maintain that the DA is still in existence in spite of HTH serving notice of Material Breach. As such NHDC would be bound by the DA and the clauses therein? This poses the following questions
 - Because of the delay, since 9th March 2015 NHDC have been obliged to pay the principal and interest on the SIB loan £12,750 and £6,375 per quarter respectively, Clauses 9 & 10.
 - 1. This has not been paid? but is an obligation on HTM
 - II. Freedom of Information requests
 - Under Clause 15.1a these have to be advised in writing to
 HTH.
 - NHDC have posted redacted Project Board minutes on the website, without any communication with HTH?
 - III. Certificate of Practical Completion
 - The contract states that ATH have to be invited to inspect the work <u>BEFORE</u> the certificate is issued to discuss outstanding points.
 - HTH were never advised prior to issuance.
 - The certificate was issued even though work on the roof (see below) has not been undertaken.

2. Project Completion

- It would appear that the Buttress were aware of the problem which caused material breach:
 - On 10th March 2014 the architect stated at a Project Board meeting:
 - "the inclusion of the requirement for a stud wall by reference to the Design & Access statement appears to be a mistake. Otherwise, the logical conclusion would be that the parties (i.e. Borras & NHDC) intentionally entered into an agreement which is impossible to perform".

HITCHIN TOWN HALL LTD





- b. Another key requirement was the roof replacement
 - It was one of the "Development Requirements" under Annex 6
 of the DA.
 - All existing pitched roof finishes shall be stripped and replaced. The pitched roofs shall incorporate breathing sarking felt and insulation to at least current Building Regulation standards. As detailed in the architectural restoration specification page 53 and costs identified in the Cost Report, page 6, which identified pitch roof to town hall will be stripped and replaced.
- c. Under these circumstances HTH find it incredulous that a Certificate of Practical Completion be issued?
- d. The logical conclusion would be that the construction contract with Borras bore no resemblance to the requirements NHDC were obliged to deliver under the Development Agreement.

HITCHIN TOWN HALL LTD

Registered Charley Not 1145921



Appendix B -'without prejudice' proposal

Introduction

- 1. Hitchin Property Trust ("HPT") wish to ensure that Community Groups, not NHDC, benefit from its contribution by way of a long term loan to secure the Town Hall.
- 2. Hitchin Town Hall Ltd ("HTH") wish to comply with its objectives as a Charity so that the Community Groups benefit from the Town Hall.

Proposal

The following is proposed to enable North Hertfordshire District Council ("NHDC") to progress the Project in good time and incorporate 14 & 15 Brand Street, currently valued in excess of £600,000:

- HTH will transfer the freehold titles of 14/15 Brand Street to the Workmans' Hall Trust (managed by NHDC).
- NHDC to pay or takeover the SIB debt, either directly or via HTH. Capital and interest at say 30th September 2015 circa £295,000.
- NHDC to take over the HPT deferred subordinated debt. Capital and interest at say 30th September 2015 circa £146,000.
- NHDC to clear HTH debts totalling circa £70,000 of which £17,000 is due to NHDC i.e. cash payment = circa £53,000.
- NHDC to grant HTH a 125 year lease, as originally envisaged.
- HTH grants a peppercorn sub-lease back to NHDC for the first 5 years.
 - This is an important charity law consideration to fulfil the Charity Commission's requirements and community expectations.
- Both parties legal fees to be underwritten by NHDC.
- HTH Board to be expanded to include more community participation.

Summary

NHDC pays circa £494,000 and grants a 125 year lease on Town Hall in exchange for property worth £600,000

This enables NHDC, with a limited cash outlay, to operate the Town Hall as they think fit for 5 years with the prospect of the community management thereafter.

Note: This proposal does not involve repaying a £30,000 donation as it is felt that this solution would meet the aspirations of that donor.

SP - 12 August 2015

Exhibit 5

EMAIL TRAIL CONCERNING MR ROBINSON, 27-Feb-13

Introduction

This email trail commenced following a meeting with the Community Groups Monday 11-Feb-13 who whole heartedly supported the inclusion of 15 Brand Street. They agreed to put their support in writing but rather than have more delays with NHDC processes, it was felt appropriate to request what form of wording would be acceptable. The trail was started by Rosemary Read , Director responsible for Community liaison.

11-Feb-13 20:04

From: rosemary read [mailto:

To: John Robinson

Cc: Morag Norgan; David Morgan; Brent Smith; David Leal-Bennett; Stephen Pike

Subject: Stakeholder endorsement

John

We had a very positive meeting with the Hitchin community groups this evening, and they have confirmed their support for the inclusion of 15 Brand Street in the project. David Leal-Bennett also explained the need for an additional category of shareholder/debenture holder to assist with the additional financing required to purchase 15, and this was understood.

In order to save time and obtain the confirmation you require from the community groups, we would be grateful if you could let us have your preferred draft wording to forward to those concerned.

Kind regards Rosemary Read

13-Feb-13 12:05

Thanks for this update and apologies for the slight delay in getting back to you.

It is very encouraging that the community groups were supportive of the proposal for incorporating 15 Brand Street and for the changes necessary in your governance arrangements through the creation of an additional category of shareholder/debenture holder.

I do not think it is necessary to provide any further verification that you have secured the requisite support other than to receive your assurance that this has been on the basis that the proposal was outlined in its current form as clarified in our meeting last week - particularly that the proposal is not prescriptive about the internal layout of the building and that, at this stage, whilst NHDC and HTH Ltd remain committed to exploring the possibility of incorporating 15 Brand Street no formal decisions have yet been made on this.

When we met last week I did request that more formal reference to the beneficiaries was arranged by advertising the opportunity for them to become members of HTH Ltd prior to any such change and thereby providing the opportunity to them to endorse or oppose it. It is clearly not the Council's role to be directly involved in this but I do think we will want this assurance given the fairly significant change in financial arrangements being envisaged. I set this point out in my letter of 8th February 2013 and have replicated the appropriate extract below for convenience.

' You also indicated that it would be necessary to create a new category of shareholder or similar to accommodate those providing this funding and that you understood NHDC's request that, in order to maintain engagement with stakeholders/baneficiaries, this should be proceeded by an advertisement to invite beneficiaries to join Hitchin Town Hall Ltd to ensure transparency and accountability in respect of the proposed issue of long term loan notes prior to this happening. At the meeting you indicated that this should not be problematic and I would be grateful to receive your confirmation of this'.

I hope this helps but do let me know if you require any further clarification at this point.

Regards John

13-Feb-13 13:06

From: David Leal-Bennett

To: John Robinson

Oc: Morag Norgan; David Morgan; Brent Smith; David Leal-Bennett; Stephen Pike

Subject: Stakeholder endorsement

Dear All

Lets us be clear about this, and there will be confirmation shortly, but HTH DO NOT have to amend their Objects there is provision already to do what is being proposed. It is NOT a new category of shareholder but member category as defined.

There is clearly a lack of understanding and I explained to the Community Groups with simple examples that people could understand. This is NOT rocket science.

HTH will also advertise well in advance of the proposed AGM which we have to have to comply with our Objects

Regards

David

FROM THIS POINT ONWARDS ALL EMAILS WERE SENT TO ROBINSON IN ERROR - HE SHOULD HAVE INFORMED HTH AS SOON AS HE RECEIVED THEM. There was no further comment, he just watched and waited, what does that say?

On 13 Feb 2013, at 17:34, "rosemary read" < rosemaryread Dear all

I think he's moved the goalposts again. Even I can understand the debenture holder and membership category issue, and I think everyone in the community groups did as well. Shall I draft something for your approval incorporating his first 2 paragraphs for the groups to get signed, and tell him that if he expects us to run an advertising campaign while we're bogged down by his rules and boxes he can go take a running jump (or words to that effect?) I could ask when the copy deadline is for the next issue of his magazine which everybody reads but I can't remember the name of.

Guidance, please, as our Monday evening pals must be sitting with their pens poised! Regards Rosemary

On 13 Feb 2013, at 21:44, David Leal-Bennett < Rosemary

Don't worry he is being an idiot and does not understand so that means he is dangerous. Have spoken to DM and this will be covered in our response.

A non issue

Proffer L. Fred

Brent do you have that guys name who can fix Robinson for good!! :)

David Leal-Bennett

Sent from my iPhone

On 13 Feb 2013, at 22:53, Rosemary Read < rosemary read Good, but what do I tell the groups to do? Hold fire? Make wax models and buy pins?

I'm out all day tomorrow but will have phone.

Sent from my iPad

13-Feb-13 23:07

From dlb

Suggest we all calm down and forget this email trail some of which was said in the heat of the moment when we are all incredibly frustrated having worked long and hard.

Seriously we have got to be clear on what is the structure, which is pretty simple and does comply with our objects

It has the approval of the Charity Commission and ACF.

It will be set out so that John is able to report clearly to the council.

On the meantime I did explain in simple terms to the Community Groups who got the picture so I am sure they now understand.

As far as precise documentation is concerned this is again simple and has been done before.

Hope this helps and puts an end to this.

Dlb

dlb email to directors

Listen up guys. This trail now has to stop so please do not start it off again. It was copied to JR and I called him an idiot which I am prepared to defend. It is his actions and not him personally.

Rosemary I think he probably knows how you feel but there we are. I guess either me or Morag will need to talk to him tomorrow. DM anything libelous? Regards dlb

From: David Morgan

David

Not libellous (I am sure he calls you-and indeed all of us- far worse) but if JR found slumped in alleyway, you will be in frame! -- 'fix JR'?!

Agreed let's get on.

15-Feb-13

From David Scholes

David.

This is a brief note to place on record my significant concerns regarding the nature of a number of e mails that have recently been brought to my attention with content from HTH Directors making comments about NHDC staff. I am writing separately on this matter and in the meantime staff have been instructed not to respond directly to e mails and calls.

I am aware that we are still awaiting a response to our John Robinson's letter dated 8th February and we would welcome a response to which should be sent to myself and John.

Regards

David

From: David Leal-Bennett [mailto:

Sent: 15 February 2013 13:42

To: David Scholes

Oc: Morag Norgan; Brent Smith; Stephen Pike; Rosemary Read

Subject: Re: HTH proposals

Dear David

As you probably realise these were sent in error and we have taken legal advice on the content. I am surprised that this has been escalated.

I think it demonstrates the sheer frustration with events but thank you for advising me.

I am away for just over a week so please address to the Chairman Brent Smith.

The response to the letter should be with John today.

I do not believe that this should be used to hold up the process and would expect, in my absence, for matters to progress.

I have copied to the directors.

Kind regards

David

Sent from my iPhone

BACKGROUND INFORMATION NOTE

Development Agreement ("DA") signed 15th October 2012 Clause 4.7 states:

The Parties remain committed to the exploration of an expanded future scheme that may include the remainder of 15 Brand Street to form this community facility and agree to consider a variation of this Agreement should this be possible within the funding available at the time and is agreed between the Parties to be viable and achievable.

To progress the inclusion of 15 Brand Street HTH have:

- Met with Buttress Fuller Alsop Williams ("BF") to discuss concept and inclusion 3rd October 2012
- Received electronic drawings from BF 23rd October 2012
- Received additional drawings 5th November 2012
- Submitted revised drawings to Tom Rea 8th November 2012
- Follow up Design Review meeting with BF on 3rd December 2012
- Appointed architect
- Provided Full plans and discussed with NHDC planning
- Finalised Design, Access & Heritage Statement
- Initial planning permission application 11th December 2012
- Applied for Planning permission 2nd January 2013
- Negotiated with current tenant
- Agreed purchase option with John Ray
- Appointed lawyers
- Arranged finance and valuations
- Obtained 3 month extension from bankers ACF

The directors have always been totally committed to 15 Brand Street

NHDC have:

- Only progressed the original scheme.
- Mismanaged the tender process (allowed only 6 days over the holiday period for
- Now only 3 contractors who meet the technical and financial criteria
- Stated " that there are significant risks to the project particularly in whether the tenders returned could demonstrate best value, whether all tenders would be returned and whether this would breach ACF's conditions"
- Recommended, via a report to Project Board, on continuing with existing flawed and risky tender process

Last week HTH met with NHDC (The leader, John Robinson and others) to explore the way forward where every hurdle possible was put up to stop 15, it was a disgraceful performance by Robinson.

All hurdles, including costs, were countered by HTH who had taken legal and professional advice.

Nevertheless within 24hrs HTH had obtained a 3 month agreement to extend and wish to progress 15 but again every reason to not do it is being stated.

HTH consists of professional individuals but Officers appear to be so negative that the whole Project is now being questioned and whether NHDC are in breach of the DA.

If you require more information HTH will be pleased to supply.

Exhibit 6

LETTERS EXCHANGED
FOLLOWING EMAIL TRAIL CONCERNING MR ROBINSON, 27-Feb-13

1 F:170-1

Strictly Private & Confidential
Stephen Pike
Director Hitchin Town Hall Ltd
13 Bancroft
Hitchin
Hertfordshire
SG4 9RJ

Our Ref:

DS/sn

Contact Officer: Direct Line: David Scholes . 01462 474300

Email Date: david.scholes @north-herts.gov.uk

14th February 2013

Dear Mr Pike

Hitchin Town Hall Ltd & North Hertfordshire District Council

We are writing to you following the Council's receipt of emails during the course of yesterday concerning the ongoing negotiations under the terms of the Development Agreement to consider the incorporation of 15 Brand Street in to the project.

We are approaching you (rather than the lead Director or other Directors) on the basis that the emails contain matters of significant concern to us in which those Directors have displayed what we consider to be a fundamental breach of trust with the Council. We are concerned that the Council's obligations under the Development Agreement are being undermined by what appears to be an entirely unacceptable and unprofessional approach to the conduct of the negotiations. This is creating circumstances in which Council Officers are being subject to a level of personal criticism and there is apparent collusion with community organisations to unduly influence those negotiations.

The derogatory comments about, and threat against, Mr Robinson in particular is wholly unacceptable and clearly makes David Leal-Bennett's continuing involvement in this project untenable from the Council's perspective.

Mr Robinson has conducted himself in a professional manner throughout these negotiations and is acting not as an individual but as an Officer of the Council responsible for implementing its agreed policy. The email exchange suggests to us that many of your Directors fundamentally misunderstand his role but as an employer, the Council cannot and will not ignore the defamatory and threatening comments made in the email exchange. We urgently want to meet with you as the only Director who has not apparently involved himself in this debacle about how the project can moved forward from this point.

Whilst we appreciate Morag Norgan is not a Director of Hitchin Town Hall Ltd, you may wish to share this letter with her and invite her to the meeting as the person who initially made the proposal for the project on behalf of community organisations in Hitchin and also as one of those involved in the email exchange who did not implicate herself in what appears to be a considered attempt to mislead the Council as your development 'partner'. We stress that we take this matter extremely seriously and we think an urgent resolution is needed — not least because the Council has significant obligations under the existing Development Agreement which still require Hitchin Town Hall Ltd's co-operation in securing ACF agreement to

extend the deadline for the project. We expect that Hitchin Town Hall Ltd will use its reasonable endeavours to do this. Indeed we expect Hitchin Town Hall Ltd to act in a professional and reasonable way in conducting themselves in the delivery of the project more generally, something that we have a very low degree of confidence the organisation will do, given the evidence of this email trail.

We therefore request a meeting with you tomorrow, Friday 15 February, if this is at all possible. We will leave it to you to determine whether you extend this invitation to Morag Norgan which we would strongly urge that you do. If you are able to agree to this request please let us know as soon as possible and Jill Welshman, PA to Chief Executive will make the necessary arrangements.

In the meantime, we have instructed Mr Robinson and Council Officers not to enter in to any further dialogue with representatives of Hitchin Town Hall Ltd until we can agree a way forward.

Yours sincerely

Councillor Lynda Needham Leader of the Council David Scholes
Chief Executive



HITCHIN TOWN HALL LTD

t: +44 (0) 1462 442979 e; brent@wilden7.eu w: www.hitchintownhall.co.uk

Clir L Needham & David Scholes North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF



23rd February 2013

Pear Lynda and David

- NEW TON THE STATE OF

Hitchin Town Hall Ltd convened an emergency board meeting on Wednesday to discuss what should be done following the letter which you have sent to Stephen Pike, but rather bizarrely its contents could not be disclosed to us. Stephen tried to give us the gist of it without showing it to us or reading from it. I fail to see why you could not have written a letter that we could have considered in detail. However, we do understand the problem that has blown up. David Leal-Bennett was not present.

I am replying to you with the view of our board. We deeply regret the content of the e-mail that was inadvertently copied to John Robinson, but hope that you and he will accept that the comments were in jest but reflecting the stress which his latest requirements had put us under.

None of us, and this includes David Leal-Bennett, think that he is an idiot. On the contrary, he has been a powerful and resourceful adversary throughout this process. But therein lies the problem, we are a volunteer community group trying to save and run a community

ding. We are your partners not your opponents: We bring in expertise, commitment of funding. He has put up obstacles at every turn. Finalising the Development Agreement has been a (costly) high mare for us.

We found it duite difficult at the meeting held in Foreman Laws offices having him tell us that you had had no intention of pursuing what had been agreed regarding the possible inclusion of 15 Brand Street, despite him being aware of how important this is to us and the tortuous negotiations required to include it in the DA. Lynda may recall that I did suggest that he desisted in this by saying something like "you are in a hole—stop digging", but he continued regardless.

I can tell you that David Leal-Bennett has offered us his resignation and that we have declined to accept it. We feel that he is an indispensible member of our team (as his recent work in getting an extension to the date for our finance to cover the further delays has shown).

Rosemary Read recognises that it was her questions about how to deal with the nunity groups following the change in NHDC requirements, and her failure to notice

HITCHIN TOWN HALL LTD

that John Robinson was on the list of recipients, that elicited David Leal-Bennett's response. She has also tendered her resignation, which has also been declined.

You are probably aware that the correct etiquette when one receives a string of e-mails that they know is not for you is to notify the other parties. John Robinson has asked us to accept that at least half a dozen of his e-mails actually sent to us be withdrawn and we have agreed to this. All we have here is a clumsy indiscretion (complete with a "smiley face"). I suggest that he allows this e-mail to be withdrawn and forgotten about so that we can all get on with this important project.

I hope that this sorry episode can be put behind us and that we can get on with delivering the project. If John Robinson feels that he can no longer work with us, we would strongly recommend that the role of Project Executive be taken by another senior officer, preferably you, David:

We were delighted by the support and kind comments of your Planning Committee on Thursday night.

Yours sincerely



Brent Smith Chalman and Trusteer for and on behalf of Hitchin Town Hall Ltd. Strictly Private & Confidential

Brent Smith
Chairman & Trustee
Hitchin Town Hall Ltd
13 Bancroft
Hitchin
Hertfordshire
SG4 9RJ

Our Ref:

DS/

Contact Officer: Direct Line: David Scholes 01462 474300

Email:

david.scholes @north-

herts.gov.uk

Date:

28th February 2013

Dear Brent

Hitchin Town Hall Ltd and North Hertfordshire District Council

Before I respond to the substantive points you raise in your letter of 23rd. February, it is important I clear up any misconception you and your fellow Directors may have had about my original letter of 17th February 2013. As the letter stated, the reason for approaching Stephen Pike was on the basis that the emails in question contained matters of significant concern in which other Directors displayed, or were implicated in, what we considered to be a fundamental breach of trust with the Council. For the avoidance of doubt, I am agreeable for this letter and my earlier letter to be shared with the Board and I enclose a copy.

Turning to the contents of your letter I have a number of observations, which I set out below, starting with where the parties have reached on the project.

The Council has requested on a number of occasions within the last few weeks that HTH Ltd secure ACF's approval to an extension of time under the terms of the existing agreed scheme. Although you mention in passing that David Leal-Bennett appears to have secured '....an extension to the date for our finance to cover the further delays....' It is not clear whether there is any conditionality on that agreement, nor have we received written confirmation of it.

With regard to the requests, these include:-

- raised informally on 28th January 2013
- confirmed in writing on 29th January 2013
- requested again on the 1st February 2013.
- raised at a meeting with your Board on 6th February 2013
- in writing and as an item at Project Board on 11th February 2013.

I note your response of 16th February 2013 indicated that 'ACF are awaiting our report confirming the detail of, renegotiations of HTH Ltd and NHDC regarding the inclusion of 15 Brand Street.' I understand that HTH Ltd have all the necessary information. We look forward to receiving written confirmation of ACF's agreement to the additional time by return, as the current lack of confirmation causes the Council difficulties for reasons I shall explain.

Whilst I understand your Board's desire to incorporate 15 Brand Street in to the development, the Council maintains that this needs to be within the context of the obligations on both parties in delivering the agreed scheme. For the sake of clarity until we have ACFs confirmation regarding additional time we are under a legal obligation to appoint a contractor by 31st March, which as you are aware is a very tight timescale. The Council therefore has to protect its position under the DA by continuing with the process to appoint a contractor until we obtain acceptable written confirmation from ACF.

I note that John Robinson wrote to Morag Norgan on 11th February 2013 setting this out very clearly and the relevant paragraphs of that email appear below in italics as background for your Directors:

'As I have explained on a number of occasions and most recently at our meeting last week, the Council is obliged under the terms of the Development Agreement to meet the immediate end of March deadline to appoint construction contractors although contingency arrangements have been put in place to delay this by up to three months to allow retendering in the event that the conditions referred to in ACF's email are acceptable once these are known.

I requested clarification on the question of conditions in my letter of 8th February 2013 and an urgent response on this specific point would be appreciated.

The information requested in my letter of last week was requested to enable me to provide a comprehensive report to Council on HTH Ltd's proposal for 15 Brand Street. It is not, in my view, necessary for this to be the subject of debate at Project Board at this stage as HTH Ltd have yet to provide a settled position and the nature of decisions I need to make at this juncture are primarily about scheduling decision making - and this really is at the heart of the matter.

I am aware that in correspondence dated 8th February 2013 David Leal-Bennett stated that NHDC were in breach of the Development Agreement. Please can you confirm whether this represents Hitchin Town Hall Ltd's formal position and why it is considered to be the case? This suggestion is troubling and unhelpful to the working relationship. The Council does not believe that it is in breach of the agreement and indeed not proceeding with the tendering process would mean that no contractor would be appointed by the 31st March,

which would itself breach the agreement. This is why the Council needs clear confirmation of the additional time from ACF as a matter of urgency, so it can then hold off proceeding with the current tendering process.

With regard to the unfortunate email chain in question, I have been actively seeking resolution of this matter rather than resorting to a more formal mechanism that would undoubtedly delay, if not jeopardise the project, an outcome that I am sure none of us want. I note your explanation of the contents of the email chain, which I find to be less than convincing. The Leader and I had hoped that the opportunity for a discussion on these matters would have been more productive than reverting to correspondence and that still remains our view. I would reiterate the request for that meeting, however I wish to make the Council's position clear.

I have reviewed extensive correspondence between the Council and HTH Ltd. In my view Mr Robinson has consistently sought to move the project forward within very tight timescales, the parameters set out by Full Council and the terms of the Development Agreement. I would ask that you understand that, as Project Executive, Mr Robinson has a duty to protect the Council's interests. I can see no evidence to suggest that Mr Robinson has acted other than in accordance with the Project Executive role. Indeed, the varying requirements and changing negotiating position of HTH's representative has made this particularly onerous.

Councillor Needham and I wrote to Stephen Pike following receipt of the emails to alert him to the fact that we were in receipt of this e mail which I presume we were not intended to receive. More particularly however, we wrote to Stephen Pike to raise my concern with the contents of the emails which I do not believe can simply be brushed aside as a '....clumsy indiscretion'. It seems to me that we view the seriousness of such matters very differently and that is something that I would wish to explore further at the meeting I have suggested.

Your letter concludes by implying that Mr Robinson can no longer work with Hitchin Town Hall Ltd as the Council's lead on this project. It is not the case the Mr Robinson feels he can no longer work with your Directors. It is the case that the Council, who he represents, feels that the breach of trust by some of your Directors makes their involvement in dealing with the Council something we could not be expected to continue with. This is a fundamental position from my perspective in order that we can move forward positively to implement what we would all wish for as a wonderful scheme for North Hertfordshire residents.

I do hope that you will reflect on the contents of this letter so that the two parties can have a meaningful discussion about the future working arrangements for this project at the earliest opportunity given the fast approaching ACF deadline.

Yours sincerely

David Scholes Chief Executive

C.C Councillor Lynda Needham, Leader of the Council.

Exhibit 7

RESIGNATION LETTER HITCHIN TOWN HALL LTD - 21 MARCH 2013

PRIVATE & CONFIDENTIAL

1: +44 (0) 1462 441170

Thuristone House 26 The Avenue Hitchin SG4 9RJ

Brent Smith
Chairman
Hitchin Town Hall Ltd
2 Croft Chambers
11 Bancroft
Hitchin
Herts 505 230

March 21st 2013

Dear Brent

HITCHIN TOWN HALL & MORTH HERTS MUSEUM PROJECT

After a long and tortuous experience with this project and in particular the impossible working methods of NHDC, it is with great regret that I tender my resignation.

I will communicate my reasons direct with the Community Groups.

On my return from holiday I will be writing giving more details but, as one of a small group of dedicated individuals, who has given up so much to try to make this happen, I really must now concentrate on myself and Valerie. The thought of another two years or more "working" with NHDC is totally unpalatable.

NHDC, through their lead officer John Robinson, have put up barrier after barrier to prevent the community groups from achieving the agreed Council objective, very often with spurious reasons and always hiding behind their interpretation of rules and regulations and incorrect advice.

I am not prepared to go through more negativity and with our so called partners NHDC (led by Clir. Lynda Needham) who, in my opinion, have conducted themselves in an appalling manner and, in so doing, have cost the taxpayer many thousands of pounds.

I wish you and the team every success.

Kindest regards.

Yours sincerely.

David Leal-Bennett

cc Stephen Pike - Director, Hitchin Town Hall Ltd Rosemary read - Community Director, Hitchin Town Hall Ltd Morag Norgan - Director, Hitchin Initiative Ltd Caroline Forster - Deputy Chief Executive, The Social Investment Business

Exhibit 8

RESIGNATION LETTER MOUNTFORD LTD - 12 NOVEMBER 2013

PRIVATE & CONFIDENTIAL

t: +44 (0) 1462 441170

Thuristone House 26 The Avenue Hitchin sG4 9RJ

Brent Smith
Chairman
Mountford Ltd
2 Croft Chambers
11 Bancroft
Hitchin, Herts ses 130

November12th, 2013

Dear Brent

HITCHIN TOWN HALL & NORTH HERTS MUSEUM PROJECT

I have considered my position as a director of Mountford Ltd very carefully.

Whilst this company is a wholly owned subsidiary of the registered charity Hitchin Town Hall Ltd it is nevertheless set up to be a trading company, albeit for the benefit of its charitable parent.

You are aware that NHDC, through their lead officer John Robinson, have put up barrier after barrier to prevent and delay this Project, very often with spurious reasons and always hiding behind their interpretation of rules and regulations and in some case incorrect legal advice.

One of these barriers has been to insist that as a director/trustee and councillor I have a "disclosable pecuniary" interest, this being the advice of NHDC's Corporate Legal Manager & Monitoring Officer, Ms White. I have read the rules and absolutely do not accept this interpretation and have amended my register of outside interest accordingly. My issue is that my interest is not a 'pecuniary' one nor is it a 'beneficial interest' but rather just an interest as a trustee/director of a charity. This is important since the former obliges me to remove myself from any meeting relating to the Museum & Town Hall project.

My view is that this is absolutely the wrong interpretation and not what was intended under the Localism Act; I am challenging this with regard to my directorship of Hitchin Town Hall Ltd.

However as the project develops, especially in view of Mr Robinson's recent comment about corporate events, which could impact on the trading activities, I think it prudent for me not to be directly involved as a director with the commercial trading operational aspects.

In consequence I would ask you to accept my resignation as a director of Mountford Ltd.

Kindest regards.

Yours sincerely.

David Leal-Bennett

cc Stephen Pike - Director, Hitchin Town Hall Ltd Rosemary read - Community Director, Hitchin Town Hall Ltd Morag Norgan - Director, Hitchin Initiative Ltd

Exhibit 9

LETTER TO NHDC - 25 FEBRUARY 2014
RE BUILDING OF CONCREAT WALL ACROSS THE STAGE



TCHIN TOWN HALL

t: +44 (0) 1462 441170 m: +44 (0) 7973 816266 e: adminin hitchintownhall.co.uk w: www.hitchintownhail.co.uk

Without Prejudice

John Robinson Esq Strategic Director Customer Services North Herifordshire District Council District Council Offices Gernon Road Letchworth Garden City Hertfordshire SG6 3JF

th February 2014

Dear John,

North Hertfordshire Museum & Hitchin Town Hall Project Partial Demolition of Mountford Hell Stage and Breach of Development Agreement

We refer to your email of yesterday timed at 15:34 addressed to the directors, Morag Norgan, David Parsley and our legal representative David Morgan.

Thank you for your reply detailing the BFAW response to the matter. We find their comments largely irrelevant, planning matters are not the subject of our serious concerns. The relevant matters here are the Listed Building Consent and your obligations to us under the Development Agreement.

As you are doubtless aware even minor modifications are not allowed to Listed Building Consents, any variations have to be the subject of additional applications. No such applications in respect of the partial demolition works to the main stage have been made nor have HTH Ltd been advised of these proposed variations as required by the terms of the Development Agreement.

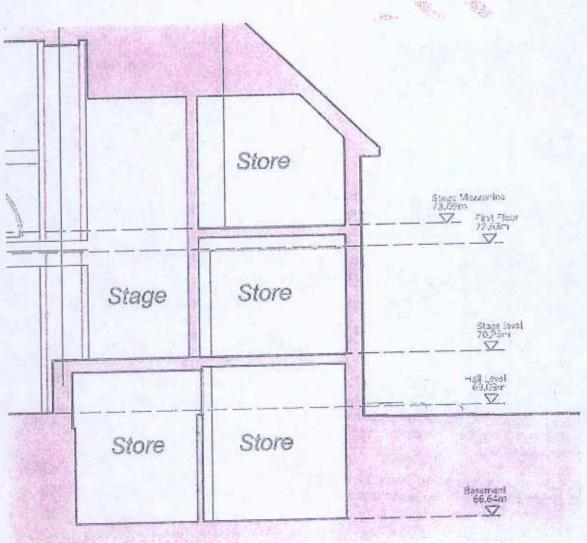
We would draw your attention to Page 12 of 93 of BFAW Design & Access Statement which forms part of the Approved Documents under the DA. The relevant extract is set out below:

STANCE OF THE PARTY OF THE PARTY.

Main Hall

There are two subtle changes to the main hall, the levelling of the balcony, and the reduction in stage size. The removal of the fixed seating to the balcony – considered unsafe and currently not accessible to the public, facilitates a new floor to be inserted to the gallery at the level of the doors to the rear. This allows the formation of a level gallery to the balcony. To protect the public from falling off this level gallery, a modern glass balustrade is proposed to sit above the height of the existing balcony front. This allows the balcony to be brought back into viable use, without enclosing the space as a separate room.

The second intervention is the addition of an acoustic screen to the stage – reducing its capacity and insulating the stage from the dwellings to the rear of the complex. This stud wall would be acoustically isolated, and ultimately reversible to recreate the full stage capacity.



Part drg no 7037(06)002T

There is no reference to the division wall being of concrete block construction. The key

"This STUD wall (our caps) would be acoustically isolated, and ultimately reversible to recreate the full stage capacity".

This reversibility is of crucial importance to HTH Ltd and to the community groups we represent.

We believe the works to cut through the stage to erect a blockwork wall would require Listed Building Consent and therefore suggest that you are in breach of the Listed Building Consent.

There is also no mention of the upper part of the stage being used for plant or the alterations which are shown on the tender drawings for ductwork. In this respect we see that there is a proposal to take ducts through the front of the stage, this will restrict the functionality of the hall and potentially user comfort.

In addition it will have severe limitations as a functioning ventilation system when the stage is extended. We believe this ductwork and the alterations necessary to accommodate it would also require Listed Building Consent and would again suggest that you are in breach of the Listed Building Consent.

The HTH Ltd board has taken legal advice this morning and are advised that NHDC are in legal breach of the Development Agreement.

Please take this letter as formal notification of a breach.

Please also take this letter as the formal request to immediately cease all works to the stage area of the Mountford Hall until there has been an urgent meeting of the parties including a full design team meeting at the earliest convenience - we propose Friday this week.

We consider this to be an extremely serious matter and not one we would wish to deal with by conference call. To summarise, we see the issues as being:

- Failure to make the sub-division of the stage reversible. You have been aware throughout the protracted negotiations between us that we were very rejuctant to accept the reduction of the stage and only did so on the clear understanding that the work would be reversible by us in due course, The BFAW response indicates that the wall has been constructed using concrete blocks for reason of economy.
- The carrying out of works without Listed Building Consent or contrary to the consent given. The stage has actually been cut through. This is an irreversible injury to the Listed Building.
- 3. Functionality. The divided stage would be backed by a concrete block wall with hard plaster finish, this must worsen the acoustics of the building. We fall to see how the proposed ventilation system will work when the stage is being used for performance. A visit to the site will illustrate how little benefit you get for this costly intervention to the building even if it is ultimately carried out in accordance with the consent.

participation of the Nation

 Failure to meet the requirements of the Development Agreement in respect of design consultation and notification of amendments.

We look forward to your immediate confirmation of receipt of this notice and to resolving this most unfortunate position as soon as is practically possible.

Yours sincerely

Brent Smith Chairman & Trustee

Exhibit 10

DRAFT MINUTES - 28 FEBRUARY 2014 MEETING ABOUT CONCREAT WALL

CONFIDENTIAL

NORTH HERTFORDSHIRE DISTRICT COUNCIL

Minutes of Meeting for North Hertfordshire Museum / Community Facility Design & Construction Team Meeting

Held on: Friday 28th February 2014 11:00am

Location: District Council Offices Committee Room 2

Present Name John Robinson Cllr Tony Hunter Steve Crowley Gavin Ramtohal Keith Gayner Sharon Nahal David Leal-Bennett Brent Smith Morag Norgan David Parsley David Morgan	Initials JR Cllr T SC GR KG SN DLB BS MN DP DM	Company North Hertfordshire District Council Hitchin Town Hall Ltd Hitchin Town Hall Ltd Hitchin Town Hall Ltd Legal Representative	Initials NHDC NHDC NHDC NHDC NHDC NHDC HTHL HTHL HTHL HTHL HTHL
David Morgan	DM	Legal Representative	BFAW
Neal Charlton	NC	Buttress Fuller Alsop Williams	

Apologies: None

Introductions

Introductions received from all attendees.

- 1.0 Communication / Confirmation from ACF
- 1.1 JR referred to the letter of dispute from HTHL dated 25th February 2014 which suggests NHDC are in breach of Listed Building Consent and legal breach of the Development Agreement between NHDC and Hitchin Town Hall Ltd.

JR asked HTHL if they had anything more to add.

1.2 DP advised that he does not have the history to the project as has just recently joined to the team at Hitchin Town Hall Ltd and stated he had reviewed the Approved Documents under Schedule 2. The Development together with the design drawings and specifications. DP made reference to Hitchin Town Hall Ltd development requirements which highlights a liaison process and appropriate input to the management process under a partnership working agreement under Annex 5 Project Team.

DP expressed concerns on how the project was being managed and questioned the lack of HTHL involvement in the partnership working arrangements post signing of the Development Agreement September 2013; and failure to comply with Prince 2 regarding the inclusion of a major stakeholder.

JR explained that regular Design Team meetings were held on a number occasions at which drawings were considered primarily on 3rd October 2012, 17th December 2012, 23rd January 2013, 7th May 2013, 6th June 2013, 27th June 2013, 30th October 2013 and 8th January 2014.

- 1.3 DLB stated he had a fundamental issue with the process in place and how the process is being managed. DLB stated the first set of drawings Hitchin Town Hall Ltd received were in November 2013, the drawings were dated November 2012. DLB insisted that weekly Design Team meetings should be held. DLB reported Hitchin Town Hall Ltd had been involved in the one meeting so far to discuss a variation relating to the ground floor cloakroom. JR again referred to the series of design meeting at which plans were considered and the offer of providing further details given.
- 1.4 DP referenced Schedule 2 the Development highlighting clause 1.3 "the Council notifies Hitchin Town Hall Ltd of the variations within 10 Working Days thereof and provides two sets of the relevant Approved Documents as revised from time to time".
- 1.5 DP referenced BFAW Design & Access Statement (Annex 6 of the Development Agreement) stating construction centres on the separation of the stage and the museum storage area with a stud wall which would be acoustically isolated, and ultimately reversible to recreate the full stage capacity; not a division wall built from concrete block construction.
- 1.6 JR stated he understood the point being made in respect to the Design Team meetings but noted that the Design Team had met on a number of occasions as designs were developed and additionally that arrangements for an Operational Team were now being agreed with Hitchin Town Hall Ltd as the project moved forward.
- 1.7 JR asked NC to provide his response with regards to the dispute. NC stated there are two ways of producing the two storey storage element to the rear of the stage. The first, to insert a steel frame to support the upper mezzanine floor. The second to utilise the existing block wall and to continue the wall up through the cut out section of the stage but keeping the stage structure and to generate the same sound buffer and separation. The intention is to create a wall of some substance due to the floor above it but needs to be a simple block work that is dismountable. The work currently being undertaken to the stage was within the principles of minimum intervention to the stage as per Listed Building Consent. NC stated a three storey steel structure would be more complex and JR confirmed more expensive.
- 1.8 JR made reference to NHDC's statutory duty to achieve the principles of Best Value and the need to demonstrate this in every spending decision. The Development Agreement acknowledged NHDC must act within its own decision making framework, including compliance with statutory requirements. DLB stated Hitchin Town Hall Ltd do not accept this argument.
- 1.9 NC made reference to the BFAW Design and Access Statement submitted with the first planning application to gain Listed Building Consent together with Planning Application and A1 scale plan drawings. DLB emphasised there are no references or statements that suggest the stage would be cut through. JR accepted this point but commented that this did not preclude this being acceptable.

- 1.10 DLB stated the Design and Access Statement defines the stud partition so why is it HTHL have not received a notice of variation. JR suggested the design approach had been evolving over a considerable period and that the 'variations' appeared to have been amalgamated in to the design without being highlighted by either party as being of concern. NC advised that at previous Design Team meeting drawings clearly displaying the wall has 'hatched' which is the British standard for a block wall. In addition, NC confirmed that BS and DLB had been given copies of the A1 drawings to take away with them so that they could provide further comments. NC also made the offer at that meeting for Hitchin Town Hall Ltd to contact him to request copies of any the plans as there were several hundred. NC displayed the current drawings identifying the stage area and method of construction.
- 1.11 Clir H, if the construction method used was steelwork and stud wall would you still have to cut through the stage. PD stated it is conventional and straightforward construction method and Hitchin Town Hall Ltd do not understand why it was not used, unless a cost factor.
- 1.12 JR stated that reversing the concrete block work to steelwork and stud wall this would result in unnecessary delay and additional costs to the project.
 - DLB stated that Hitchin Town Hall Ltd had asked NHDC previously to consider alternative museum storage space which offered a more practical solution. JR advised this suggestion had been considered a number of times but had not been fully worked through and was not affordable or practical.
- 1.13 NC stated that NHDC's Planning / Conservation Officer have been made aware of Hitchin Town Hall Ltd concerns, had visited the site that morning and had been asked to comment on whether we are in breach of drawings / access design consent. JR confirmed that as soon the Planning Officer has clarified the situation he would convey the outcome. Action: JR
- 1.14 DP again emphasised the importance of Hitchin Town Hall Ltd and their involvement in the process and participation at regular Design Team meetings. JR advised that Design Team meeting were required to be 'programmed' rather than 'regular' and that a number had been held between October 2012 and January 2014.
- 1.15 DP raised questions relating to the location of the ventilation plant/duct work in and around the stage area and the blowing of air directly on to the audience in the front rows.
- 1.16 NC confirmed that a number of options had been considered with regards to the ventilation system and that these had been considered by the Design Team. The front row of people will be sat further back from the stage.
- 1.17 DP the ventilation grills go right down to floor level.
- 1.18 DLB stated he had never seen the ducting / ventilation plans.

- 1.19 DLB asked whether there would be noise from the ventilation fans. NC confirmed that these were directly above the stage in a separate space there may be some sound and vibration.
- 1.20 DP stated by any stretch of the imagination not ideal.
- 1.21 JR confirmed that he will now need to consider the next steps and that a proposed approach from Planners and BFAW would be forwarded following advice ahead of Project Board. Action: JR
- 1.22 DP emphasised looking at the practical issues.
- 1.23 MM requested the planning advice to be provided in writing.
- 1.24 NC referred to intervention with regards to the balcony in the hail and requested that Hitchin Town Hall Ltd take a closer examination of the drawings. DP confirmed he had examined the drawing has no problem with the detail.
- 1.25 NC referred to the shared area and how this area will operate in conjunction with the museum design. NC asked HTHL to look at this area as a whole but structurally as per contract drawings.
- 1.26 DP stated that Hitchin Town Hall Ltd are not professional managers of community halls and would not have the expertise to offer advice on required services. DP confirmed HTHL have appointed an experienced events operator who will look at the service requirements to future proof the hall. JR advised that as previously offered, NHDC had a number of qualified and experienced facility managers and would be happy to provide assistance and that any additional Hitchin Town Hall Ltd requirements would need to be affordable within the current budget for the project.
- 1.27 NC confirmed that Borras Construction Ltd have appointed a mechanical and electrical service provider. DP stated Hitchin Town Hall Ltd would respond shortly. It was noted that any comments needed to be with NHDC within two weeks.
 Action: Hitchin Town Hall Ltd
- 1.28 JR confirmed he was happy to schedule meetings as required by the construction/design timetable. Action: JR
- 1.29 DM stated if Hitchin Town Hall Ltd do take the route of legal action Hitchin Town Hall Ltd will need to go back to ACF.
- 1.30 JR stated this was a very serious issue for NHDC with regards cost, risk and time and will need to be reported accordingly.
- 1.31 JR to call a meeting of Project Board as soon as practicable and hopefully early the following week taking on board advice from the Planning Officer.
- 1.32 DLB would like BS and DP to attend Project Board. Action: JR



1.33 DLB stated Hitchin Town Hall Ltd's position on this matter has not changed but will consider and take on board the Conservation Officer's advice.

2. Quotations of Additional Works

JR requested that Hitchin Town Hall Ltd ensure that any requests for additional works is presented fully to NHDC for consideration. Such items to do deviate BFAVV's time to the project and that of officers especially where quotations are being sought from Borras. NHDC is happy to consider any suggestions but it must be noted that this does have an element of time and cost implications to the project.

3. Site Visits & Protocols

JR reiterated that in line with the Development Agreement, Hitchin Town Hall Ltd have to provide reasonable notice to attend site and that there must always be a Council Officer in attendance at such visits.

It was noted that the recent request to visit on site only came a couple of hours before Hitchin Town Hall Ltd turned up on site and although this was considered reasonable because of the urgency, entering the site without officers present was not

DLB requested that a standing date and time be arranged on a weekly basis for Hitchin Town Hall Ltd to attend site. SC advised that he would look in to this but that it may be subject to change as it was dependent upon works currently underway on site.

Action: SC

In addition, SC requested that Hitchin Town Hall Ltd forward any photos they had taken whilst on site so that these could be approved by Borras.

Action: Hitchin Town Hall Ltd

Communications

JR advised that there had been a number of further instances where DLB had contacted senior Councillors and the Chief Executive on matters relating to the project often without copying him in. JR advised that Hitchin Town Hall Ltd needed to adhere to the liaison arrangements outlined in the Development Agreement and to ensure that any contact is through him or other approved officers in the first instance.

Close of Meeting 12:25 hrs

Minutes Taken By: Keith Gayner

Title: Parks and Open Spaces Officer - Contracts and Major Projects

Signed:

Exhibit 11

CORRECTED MINUTES - 28 FEBRUARY 2014
MEETING ABOUT CONCREAT WALL

CONFIDENTIAL

NORTH HERTFORDSHIRE DISTRICT COUNCIL

Minutes of Meeting for North Hertfordshire Museum / Community Facility

Design & Construction Team Meeting

Held on: Friday 28th February 2014 11:00am

Location: District Council Offices Committee Room 2

Present

Name	Initia	ls	Company Initials	
John Robin Clir Tony I Steve Crov Gavin Ram Keith Gayr Sharon Na David Leal Brent Smil Morag Nor David Pars David Mor Neal Charl	lunter vley ntohal ner hal -Bennett th gan sley gan	JR CIIr T SC GR KG SN DLB BS MN DP DM NC	North Hertfordshire District Council NHDC Hitchin Town Hall Ltd HTHL Legal Representative HTHL Buttress Fuller Alsop Williams BFAW	

Apologies: None

Introductions

Introductions received from all attendees.

a service experimentally of the discussion care.

1.0 Communication / Confirmation from ACF

- 1.1 JR referred to the letter of dispute from HTHL dated 25th February 2014 which suggests NHDC are in breach of Listed Building Consent and legal breach of the Development Agreement between NHDC and Hitchin Town Hall Ltd. JR asked HTHL if they had anything more to add.
- 1.2 DP advised that he does not have the history to the project as has just recently joined to the team at Hitchin Town Hall Ltd and stated he had reviewed the Approved Documents under Schedule 2. The Development together with the design drawings and specifications.

DP highlighted the Liaison Arrangements at Clause 16 of the Development Agreement and the wording of 16.1 which requires that 'The Council will manage the Development in accordance with the diagram appearing at Annex 5 to ensure that HTH Ltd has appropriate input into the management of the development ' DP referred to Clause 16.2b that states - 'if the matter relates to design and construction of the development, it shall be referred to the design and construction project team detailed in Annex 5

DP made reference to Annex 6 of the Development A being Hitchin Town Hall Ltd Development Requirements and annex 5 which highlights a liaison process and appropriate input to the management process under a partnership working agreement and Project Team

DP confirmed that under the Project Management described in Annex 5, the Design & Construction (Project Team) had not been constituted ,and the required 'programmed meetings' had not been arranged or held. The only meeting held since signing the agreement which considered design was that held on 8th January 2014 to agree changes to the cloakroom steelwork etc. HTH were not copied in with Minutes of Site Project Meetings held with the Contractor , they had not been provided with a Project Programme nor any information relating to design elements which are the responsibility of the Contractor. DP stated that NHDC were clearly not managing the Contract in accordance with Clause 16.

DP expressed concerns on how the project was being managed and questioned the lack of HTHL involvement in the partnership working arrangements post signing of the Development Agreement September 2013; and failure to comply with Prince 2 regarding the inclusion of a major stakeholder.

JR explained that regular Design Team meetings were held on a number occasions at which drawings were considered primarily on 3rd October 2012, 17th December 2012, 23rd January 2013, 7th May 2013, 5th June 2013, 27th June 2013, 30th October 2013 (note: no minutes supplied) and 8th January 2014. DP Questioned programmed meetings post signature as there have been none! DP asked is there a program of meetings?

1.3 DLB stated HTH had a fundamental Issue with the process of how the project has been handled and managed. DLB Stated the first set of drawings Hitchin Town Hall Ltd received were in November 2013, some of which were dated November 2012. DLB stated that it was important that we get the process sorted out now and that we have Design meetings and Project Board meetings. DP reported Hitchin Town Hall Ltd had been involved in the one meeting so far to discuss a variation relating to the ground floor cloakroom. JR again referred to the series of design meeting at which plans were considered and the offer of providing further details given.???

1.4 DP referenced Schedule 2 the Development highlighting clause 1.3 "the Council notifies Hitchin Town Hall Ltd of the variations within 10 Working Days thereof and provides two sets of the relevant Approved Documents as revised from time to time".

1.5 DP referenced the HTH Ltd Development Requirements document incorporated in the Development Agreement at Appendix 6.

Specifically the reference under the heading Sound Attenuation which states 'There is currently a problem with the break out of sound from the building(particularly the rear wall and roof)which limits its use for concerts and other events. Sound attenuation shall be provided to mitigate this problem as per the Design and Access Statement page 12, acoustic screen to be installed.'

DP noted that the BFAW 93 page Design and Access Statement states - 'The second intervention is the addition of an acoustic screen to the stage - reducing its capacity and insulating the stage from the dwellings at the rear of the complex. This stud wall would be acoustically isolated and ultimately reversible to recreate the full stage capacity '

DP then referred to Item 1.4 of Schedule 2 of the Development Agreement which states - 'The Development when built in accordance with the variation will still meet the HTH Limited Development Requirements '

DP stated that as the block wall did not accord with the requirements for a reversible acoustic screen as amplified and detailed by the BFAW Design and Access Statement , the building when built WILL NOT meet the HTH Limited Development Requirements and NHDC are therefore in breach of the Development Agreement signed between NHDC and HTH Ltd.

"The second intervention is the addition of an acoustic screen to the stage reducing its capacity and insulating the stage from the dwellings to the rear of the complex, this stud wall would be acoustically isolated and ultimately reversible to recreate the full stage capacity"

DP referenced BFAW Design & Access Statement (Annex 6 of the Development Agreement) stating construction centres on the separation of the stage and the museum storage area with a stud wall which would be acoustically isolated, and ultimately reversible to recreate the full stage capacity; not a division wall built from concrete block construction.

- 1.6 JR stated he understood the point being made in respect to the Design Team meetings but noted that the Design Team had met on a number of occasions as designs were developed and additionally that arrangements for an Operational Team were now being agreed with Hitchin Town Hall Ltd as the project moved forward.
- 1.7 JR asked NC to provide his response with regards to the dispute. NC stated there are two ways of producing the two storey storage element to the rear of the stage. The first, to insert a steel frame to support the upper mezzanine floor. The second to utilise the existing block wall and to continue the wall up through the cut out section of the stage but keeping the stage structure and to generate the same sound buffer and separation. The intention is to create a wall of some substance due to the floor above it but needs to be a simple block work that is dismountable. The work currently being undertaken to the stage was within the principles of minimum intervention to the stage as per Listed Building Consent. NC stated a three storey steel structure would be more complex and JR confirmed more expensive.
- 1.8 JR made reference to NHDC's statutory duty to achieve the principles of Best Value and the need to demonstrate this in every spending decision. The Development Agreement acknowledged NHDC must act within its own decision making framework, including compliance with statutory requirements. DLB stated Hitchin Town Hall Ltd do not accept this argument.
- 1.9 NC made reference to the BFAW Design and Access Statement submitted with the first planning application to gain Listed Building Consent together with Planning Application and A1 scale plan drawings. DLB emphasised there are no references or statements that suggest the stage would be cut through and a concrete block wall built. JR accepted this point but commented that this did not preclude this being acceptable.
- 1.10 DP stated the Design and Access Statement defines the stud partition so why is it HTHL have not received a notice of variation. JR suggested the design approach had been evolving over a considerable period and that the 'variations' appeared to have been amalgamated in to the design without being highlighted by either party as being of concern. NC advised that at previous Design Team meeting drawings clearly displaying the wall has 'hatched' which is the British standard for a block wall. In addition, NC confirmed that BS and DLB had been given copies of the A1 drawings to take away with them so that they could provide further comments.
 32:23

BS & DLB stated that they had never had full A1 drawings. NC also made the offer at that meeting for Hitchin Town Hall Ltd to contact him to request copies of any the plans as there were several hundred. NC displayed the current drawings identifying the stage area and method of construction. DLB stated that this was not the case and HTH were never were permitted to take A1 drawings away and NHDC were absolutely restrictive on disclosing documents and drawings.

1.11 Clir H, if the construction method used was steelwork and stud wall would you still have to cut through the stage. DP stated it is conventional and straightforward construction method and Hitchin Town Hall Ltd do not understand why it was not used, unless a cost factor.

NC accepted that steelwork was like Meccano and could be used and apologised that he did not have every iteration of all the drawings with him.

JR stated that he had some sympathy that the detail of that being stud wall or block work and that the discrepancy and the importance of that discrepancy wasn't clear to him as we collectively went through the detailed design reviews. It was a matter of fact that it wasn't picked out in any of the meetings, and from the NHDC side it wasn't pointed out as a significant change.

- 1.12 JR stated that reversing the concrete block work to steelwork and stud wall this would result in unnecessary delay and additional costs to the project. DLB stated that Hitchin Town Hall Ltd had asked NHDC previously to consider alternative museum storage space which offered a more practical solution. JR advised this suggestion had been considered a number of times but had not been fully worked through and was not affordable or practical.
- 1.13 NC stated that NHDC's Planning / Conservation Officer have been made aware of Hitchin Town Hall Ltd concerns, had visited the site that morning and had been asked to comment on whether we are in breach of drawings / access design consent. JR confirmed that as soon the Planning Officer has clarified the situation he would convey the outcome.

Action: JR

- 1.14 DP again emphasised the importance of Hitchin Town Hall Ltd and their involvement in the process and participation at regular Design Team meetings. JR advised that Design Team meeting were required to be 'programmed' rather than 'regular' and that a number had been held between October 2012 and January 2014.
- 1.15 DP raised questions relating to the location of the ventilation plant/duct work in and around the stage area and the blowing of air directly on to the audience in the front rows.
- 1.16 NC confirmed that a number of options had been considered with regards to the ventilation system and that these had been considered by the Design Team. The front row of people will be sat further back from the stage. 1.17 DP the ventilation grills go right down to floor level.
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1.19 DLB asked whether there would be noise from the ventilation fans. NC confirmed that these were directly above the stage in a separate space there may be some sound and vibration.

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- 1.20 DP stated by any stretch of the imagination not ideal.
- 1.21 JR confirmed that he will now need to consider the next steps and that a proposed approach from Planners and BFAW would be forwarded following advice ahead of Project Board.

Action: JR

- 1.22 DP emphasised looking at the practical issues.
- 1.23 MM requested the planning advice to be provided in writing.
- 1.24 NC referred to intervention with regards to the balcony in the hall and requested that Hitchin Town Hall Ltd take a closer examination of the drawings. DP confirmed he had examined the drawing has no problem with the detail.
- 1.25 NC referred to the shared area and how this area will operate in conjunction with the museum design. NC asked HTHL to look at this area as a whole but structurally as per contract drawings.
- 1.26 DP stated that Hitchin Town Hall Ltd are not professional managers of community halls and would not have the expertise to offer advice on required services. DP confirmed HTHL have appointed an experienced events operator who will look at the service requirements to future proof the hall. JR advised that as previously offered, NHDC had a number of qualified and experienced facility managers and would be happy to provide assistance and that any additional Hitchin Town Hall Ltd requirements would need to be affordable within the current budget for the project.
- 1.27 NC confirmed that Borras Construction Ltd have appointed a mechanical and electrical service provider. DP stated Hitchin Town Hall Ltd would respond shortly. It was noted that any comments needed to be with NHDC within two weeks.

Action: Hitchin Town Hall Ltd

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1.28 JR confirmed he was happy to schedule meetings as required by the construction/design timetable.

Action: JR

- 1.29 DM stated if Hitchin Town Hall Ltd do take the route of legal action Hitchin Town Hall Ltd will need to go back to ACF.
- 1.30 JR stated this was a very serious issue for NHDC with regards cost, risk and time and will need to be reported accordingly.
- 1.31 JR to call an emergency Project Board "very early part of next week" as seen as practicable and hopefully early the following week taking on board advice from the Planning Officer.

JR gave a synopsis:
Fallure to make wall reversible.
Failure to obtain listed building consent.
Trying to get some professional advice for the council so it understands what its options are.

DRAFT

BS referenced that words in the D&A were just some words to get consent and then NHDC can do what they like!

NC - Mentioned the gallery and screen front should be looked at, DP said he had identified this and his first pass is that it accords with everything that has been said.

NC - Mentioned the shared area and how cafe to operates plus the detail of intro to museum to fit our and design with the need to look at the space. i.e. that structurally and volume it is in line with what is being designed.

BS Front wall position and would like a presentation of what is happening which would be very useful, rather than going through the many drawings.

TH - Mentioned the positioning of the ducting in relation to the stage.

DP - Another area looking at is the services side and various containment routes. He was looking at the backbone requirements we have on board an acoustic and event operator and looking to future proof what is required.

NC If changes to be made now is the time DP We are on the case and in two weeks we can sit down and discuss the backbone.

DLB - Stated that o deal with these and other issues it is really important and that, going forward, we agree a set of structured meetings.

1.32 DLB would like BS and DP to attend Project Board.

Action: JR

1.33 DLB stated Hitchin Town Hall Ltd's position on this matter has not changed but will consider and take on board the Conservation Officer's advice but it was the breach of contract that was the important issues.

2. Quotations of Additional Works

JR requested that Hitchin Town Hall Ltd ensure that any requests for additional works is presented fully to NHDC for consideration. Such items to do deviate BFAW's time to the project and that of officers especially where quotations are being sought from Borras. NHDC is happy to consider any suggestions but it must be noted that this does have an element of time and cost implications to the project.

3. Site Visits & Protocols

JR reiterated that in line with the Development Agreement, Hitchin Town Hall Ltd have to provide reasonable notice to attend site and that there must always be a Council Officer in attendance at such visits.

It was noted that the recent request to visit on site only came a couple of hours before Hitchin Town Hall Ltd turned up on site and although this was considered reasonable because of the urgency, entering the site without officers present was not.

DLB requested that a standing date and time be arranged on a weekly basis for Hitchin Town Hall Ltd to attend site. SC advised that he would look in to this but that it may be subject to change as it was dependant upon works currently underway on site.

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DM restated the need for programmed meetings of the Design and Construction Project Team at which the essential contents of Annex 6 of the Development Agreement—HTH Ltd. Development Requirements—could be addressed in an endeavour to avoid a repeat of the present dispute in relation to other elements.

Action: SC

In addition, SC requested that, in future, Hitchin Town Hall Ltd forward any photos they take whilst on site and explained the reasoning, so that these could be approved by Borras.

Action: Hitchin Town Hall Ltd

4. Communications

JR advised that there had been a number of further Instances where DLB had contacted senior Councillors and the Chief Executive on matters relating to the project often without copying him in. JR advised that Hitchin Town Hall Ltd needed to adhere to the liaison arrangements outlined in the Development Agreement and to ensure that any contact is through him or other approved officers in the first instance. DLB Advised that HTH did not have a problem with JR talking with our community groups and that sometimes communication at a high level could be very useful.

Close of Meeting 12:25 hrs Minutes Taken By: Keith Gayner Title: Parks and Open Spaces Officer – Contracts and Major Projects Signed:

· 如果好什么如此只要是自体的情况的的心理或是可

Exhibit 11a

FILE NOTE OF

DAVID PARSLEY BSc, FRICS

RE MINUTES - 28 FEBRUARY 2014

I David Parsley ("DP") was asked to assist the HTH team in January 2014 and after a review of the documentation, plans and Contract information, I identified that far from being a joint venture of equals, NHDC had an agenda of its own and was determined to achieve it.

At the Project Meeting on 28th February 2014 I detailed how NHDC were in breach of the Development Agreement that they had signed with HTH.

It is useful to repeat the two main breaches - which have remained unaddressed and go to the heart of how the Project was managed.

BREACHES

Which were recorded as follows;

- DP highlighted the Liaison Arrangements at Clause 16 of the Development Agreement and the wording of 16.1 which requires that
 - o "The Council will manage the Development in accordance with the diagram appearing at Annex 5 to ensure that HTH Ltd has appropriate input into the management of the development"
- DP referred to Clause 16.2b that states -
 - "if the matter relates to design and construction of the development, it shall be referred to the design and construction project team detailed in Annex 5."
- OP confirmed that under the Project Management described in Annex 5, the Design & Construction (Project Team) had not been constituted, and the required 'programmed meetings' had not been arranged or held. The only meeting held since signing the agreement which considered design was that held on 8th January 2014 to agree changes to the cloakroom steelwork etc. HTH were not copied in with Minutes of Site Project Meetings held with the Contractor, they had not been provided with a Project Programme nor any information relating to design elements which are the responsibility of the Contractor.
- DP stated that NHDC were clearly not managing the Contract in accordance with Clause 16.

Minute Note 1.5 - DP referenced the HTH Ltd Development Requirements document incorporated in the Development Agreement at Appendix 6.

Specifically the reference under the heading Sound Attenuation which states:

 "There is currently a problem with the break out of sound from the building (particularly the rear wall and roof) which limits its use for concerts and other events. Sound attenuation shall be provided to mitigate this problem as per the Design and Access Statement page 12, acoustic screen to be installed."

DP noted that the BFAW 93 page Design and Access Statement states -

 "The second intervention is the addition of an acoustic screen to the stage - reducing its capacity and insulating the stage from the dwellings at the rear of the complex. This stud wall would be acoustically isolated and ultimately reversible to recreate the full stage capacity".

DP then referred to Item 1.4 of Schedule 2 of the Development Agreement which states -

"The Development when built in accordance with the variation will still meet the HTH Limited Development Requirements".

DP stated that as the block wall did not accord with the requirements for a reversible acoustic screen as amplified and detailed by the BFAW Design and Access Statement, the building when built WILL NOT meet the HTH Limited Development Requirements and NHDC are therefore in breach of the Development Agreement signed between NHDC and HTH Ltd.

It is sad to note that NHDC continued throughout the Project to fail to involve HTH in the decision making process and failed to provide an essential flow of information as would be expected to a fellow 'Stakeholder' No satisfactory response was ever provided on the wall to the stage.

DESIGN

NHDC selected a design practice who pride themselves on their Conservation credentials but in this instance they failed the building by being fee driven and producing the minimum of information and agreeing to focus solely on the Museum at the cost of the Hall.

PLANNING FAILURES

NHDC are required to submit any application for Listed Building consent on any building it owns - to the Secretary of State.

It failed to do so in the first instance when the original approval was awarded and also when the further application was made for the works

File Note: David Parsley BSc, FRICS

related to the services installation.

The apparent lack of interest shown by those in the Planning Department responsible for the conservation of this building to works being carried out without approval is astonishing.

COST AND TIME DELAY

The failure by the designers to show sufficient interest in the first instance to adequately designing for the complex services installation caused the later debacle when ceilings and floors were being ripped up late on in the Project and which caused consternation by HTH and the Groups.

The allowance of a retrospective approval (which should never have been allowed) gave the Contractor a major excuse for claims for extras and contract extensions.

THE OUTCOME

The people of Hitchin have a brand new Museum.

They still have a Town Hall - unfortunately its acoustics are still awful, the sound break out will still limit the operating Licence and restrict events.

The full stage they had has gone and that which is left will hardly host a trio.

The Hall has no new roof as promised. Many of its architectural features are gone.

The enthusiasm built up by volunteers to build an organisation to operate the Hall for the benefit of the Hitchin has evaporated and people are left with recriminations and blame.

An opportunity when the aims of Local Authority and Support Groups should have been aligned for the benefit for all has ended with Kangaroo Courts and secrecy.

David Parsley BSc,FRICS

Exhibit 12

LETTER OF COMPLAINT AGAINST MR ROBINSON



HITCHIN TOWN HALI

Registered Chavity No. 114921

t: +44 (0) 1462 441170 m: +44 (0) 7973 816266 e: Info@ hitchintownhall.co.uk w: www.hitchintownhall.co.uk

David Scholes Esq Chief Executive North Hertfordshire District Council District Council Offices Gernon Road Letchworth Garden City Hertfordshire SG6 3JF

25th March 2014

Dear David,

North Hertfordshire Museum & Hitchin Town Hall Project Partial Demolition of Mountford Hall Stage and Breach of Development Agreement WITHOUT PREJUDICE

We write with reference to the latest issue with this project whereby Hitchin Town Hall Ltd ("HTH") was compelled to issue a formal notice of breach of contract on 25th February 2014.

The decision to issue the notice was not done lightly, and by serving notice HTH was following the contractual dispute process; this should have halted work temporarily pending an agreed resolution, quite normal in construction contracts. The construction of a wall across the stage In concrete blocks was not time critical and was contrary to the Design & Access statement see Appendix 'A'. In spite of meeting with elected members, legal representatives and your team on 28th February 2014, Mr Robinson allowed the work to proceed.

This is but the latest problem in a litary of issues we have had with NHDC and in particular with the approach adopted by Mr Robinson; some of which have been raised directly with you. Some further examples of Mr Robinson's treatment of HTH are detailed at Appendix 'B'.

This project requires a collaborative approach to make both the Museum and the Town Hall viable. Over the past four years Mr Robinson has frequently shown his unwillingness to collaborate with the HTH team; a team that extends well beyond the four trustees/directors and compromises professionals and experts who have many years of relevant experience. The HTH team has spent many hours, weeks, months and years endeavouring to obtain the best for the Town Hall and associated Museum, for the benefit of the residents of North Hertfordshire. This should have been a rewarding and collaborative experience, unfortunately this has not been the case.

HTH signed the Development Agreement ('DA') in good faith based on the only detail available at the time: the lease plans. We have been requesting more detailed drawings ever since, including a copy of the tender document, with no success. The drawings were only made available to us in November 2013, despite being dated November 2012, and were so numerous and complex that it has taken significant time to consider them. In the meantime the work has proceeded without the consultation that was built into the DA, resulting in the very real danger that the HTH business model has already been seriously compromised.



A TOURNEY TO HARRY

We believe we have done all we can to enhance the Museum side of the project by bringing 15 Brand Street into the frame, but there has been no reciprocity on the part of NHDC. It is our opinion that we are being deliberately kept in the dark over the nature of the building we will eventually get to operate.

You will be aware that we have consistently had problems achieving resolution to issues that have arisen relating to the project with Mr Robinson. In our opinion, Mr Robinson has without our consent or input, taken on the role of sole adjudicator on all project matters. We had not anticipated that this would be the case and had assumed that we would be working in partnership with a team of NHDC experts, who would apply a rational and collaborative approach to the running of the project to protect and promote the interests of the residents of North Hertfordshire. These hopes have consistently been dashed - with the result that we now feel that there is no desire for cooperation on the part of NHDC as illustrated by the activities set out in our attachment. This is a most regrettable state of affairs, but in order for the project to achieve its aims we have come to the point where we are of the collective opinion that the conduct of Mr Robinson has been such, that we do not believe we can continue to work with him on the current basis.

We would ask that you consider appointing a replacement Project Executive, who is committed to achieve a viable Town Hall as well as a viable Museum. If this cannot be done we will have no alternative than to reconsider our position as trustees and directors.

It is extremely sad that we have reached this decision, which is supported by all of the Community Groups whom we represent.

We hope we can come to a workable arrangement and look forward working with you in the spirit of partnership cooperation.

Yours sincerely

Brent Smith Chairman & Trustee Rosemary Read Director & Trustee

Stephen Pike Director & Trustee David Leal-Bennett Director & Trustee Manager of the first first



Appendix A

Approved Documents Page 12 of 93 of BFAW Design & Access Statement

Main Hall

There are two subtle changes to the main hall, the levelling of the balcony, and the reduction in stage size. The removal of the fixed seating to the balcony - considered unsafe and currently not accessible to the public, facilitates a new floor to be inserted to the gallery at the level of the doors to the rear. This allows the formation of a level gallery to the balcony. To protect the public from falling off this level gallery, a modern glass balustrade is proposed to sit above the height of the existing balcony front. This allows the balcony to be brought back into viable use, without enclosing the space as a separate room.

The second intervention is the addition of an acoustic screen to the stage – reducing its capacity and insulating the stage from the dwellings to the rear of the complex. This stud wall would be acoustically isolated, and ultimately reversible to recreate the full stage capacity.



FIRE COST PARTIES UND



Appendix B

A selection of Project issues

Original Development Agreement of 15-Oct-12 Clause 4.7

"The Parties remain committed to the exploration of an expanded future scheme that may include the remainder of 15 Brand Street to form this community facility and agree to consider a variation of this Agreement should this be possible within the funding available at the time and is agreed between the Parties to be viable and achievable."

- Refusal to undertake any exploration to bring in 15 Brand Street for 4 months and only considered it after HTH stated that in not doing so NHDC were in breach of the DA.
- Actively discouraged HTH from applying for planning permission.

Tender process

- a. Poor management of the tender process, (allowed only 6 days over the holiday period for response) with result that only 3 contractors would meet the technical and financial criteria.
- b. Did not comply with NHDC's tender process re opening of tenders.
- Refused to let HTH have a copy of the Tender document to date this has never been provided.

Contractual

a. Following the signing of the Development Agreement on 9th September 2013 we requested a certified copy of the construction contract and up to date drawings, a legal requirement. This was eventually delivered to our lawyers with detailed drawings on 7th February 2014.

4. Full Council meeting of *8th August 2013.

a. Initially provided incorrect information to elected members. Following HTH's strong representation this necessitated an addendum to the report where the word 'material' was removed. In addition, against legal advice, the word "guarantee" was used which was a misrepresentation of the fact.

^{*} HTH also realised that the Architects had produced a scheme that would not look aesthetically pleasing, so with community support, HTH negotiated and purchased 15 Brand Street. Mr Robinson insisted that we should not apply for planning permission, something we did, at considerable expense, incurring his displeasure. This being evidenced by his report to Full Council on 8th August 2013 Appendix 1.

With the state of the state of



5. Refused to:

- a. provide **detailed drawings of the work being undertaken in the Town Hall.
- set regular programmed meeting of Project Board and Design Review meetings.
- program regular site visits.

*The provision of detailed plans were reluctantly provided on 1st November 2013 (287 files). Seeing the enormity of the task we approached a professional Project Manager who is a FRICS who, over the Christmas period, agreed to assist. Since that time he has been going through the myriad of detailed plans many of which are dated November 2012 and could easily have been provided sooner. Withholding such important information is not only contrary to the spirit of cooperative working, but in our opinion is a blatant attempt to ensure that HTH were unable to request any changes to the process.

Incorrect reporting of minutes of meetings:

- a. There are still some outstanding minutes (those of 15 July 2013) which were referenced at the Project Board on 11 December 2013 where the minutes, controlled by Mr Robinson state: "DLB did request that amendments to the minutes be made which reflected actions following the signing of the Development Agreement. However, as the minutes were an accurate representation of the discussion at that time, it was agreed that these would not be amended". This is false and the corrections to the minutes of meeting of 15 July 2013 (well before any signing) to which this referred have still not been amended.
- b. The minutes of meetings are being written for the file and do not represent what is actually said. By way of example the latest meeting on 28th February 2014, where lawyers were present and where copious notes were made, large amounts of critical information provided by our specialist concerning the Liaison Arrangements and areas where there had been a breach, were omitted.

Failure to hold a full design review.

- a. A promise was made to hold separate briefing meetings for councillors and the community groups and that there would be a full design review. This has never happened.
- b. We beve constantly been told that there would be an opportunity for input into the design process but this has never happened.
- c. We were promised that the aspects of the design which were of concern to us would be looked at after the signing of the second Development Agreement on 9th September 2013 but this never happened.

HTH have constantly requested information on what was being proposed for the Town Hall but Mr Robinson has always refused to let us have detail, insisting that his brief was to deliver what he considered "appropriate". To this end we fought (we do not use the word lightly) for the inclusion of our "Essential Requirements" which were watered down considerably.

Exhibit 13

SUPPORTING EVIDENCE EVIDENCE RELATING TO 14 SPECIFIC COMPLAINTS





1. Original Development Agreement of 15-Oct-12 Clause 4.7

"The Parties remain committed to the exploration of an expanded future scheme that may include the remainder of 15 Brand Street to form this community facility and agree to consider a variation of this Agreement should this be possible within the funding available at the time and is agreed between the Parties to be viable and achievable."

- Refusal to undertake any exploration to bring in 15 Brand Street for 4 months and only considered it after HTH stated that in not doing so NHDC were in breach of the DA.
- Actively discouraged HTH from applying for planning permission.



25 April 2014

LGA INVESTIGATION

INFORMATION NOTE - Project issues with Mr Rebinson

In the covering letter at Appendix 'B' is the list of the original seven specific complaints 1-7 below.

- Original Development Agreement of 15-Oct-12 Clause 4.7
- 2. Tender Process
- 3. Contractual
- 4. Full Council meeting of 8-Aug-13
- 5. Refusals
- Incorrect reporting of minutes of meetings
- 7. Failure to hold a full design review
- 8. Libellous email re our lawyers Foreman Laws

Appendix 'B' - This email, accused our legal representative Mr David Morgan of Foreman Laws, of delaying the project. Since this questioned the professional integrity of this prominent firm of lawyers, Mr Morgan resigned as he did not wish to have any further dealings with Mr Robinson. At an urgent follow up meeting, Mr Robinson endeavoured to exonerate himself by blaming an assistant who had sent the email on his behalf. Only later was Mr Morgan persuaded to rejoin the MTH team.

This caused considerable issues and was one of the early indications of the modus operandi of Mr Robinson.

9. 04-Mar-14 - NHDC, Hitchin Committee

Provided a positive report to elected members concerning the progress of the Project in spite of receipt of notice of breach of contract being received on 25-Feb-14. Following the report Cllr Judi Billing asked a question and Mr Robinson was obliged to state that he was unable to disclose information. Had the question not been asked the issue would never have come to light with councillors being unaware of the serious nature of the dispute.

10.08-Aug-13 Questioned the financial position of HTH necessitating the issuance of an amendment, see email to JR 08-Aug-14 10:12

Stated that there was a 'material' change in HTH's funding arrangement for the purchase of 15 Brand Street resulting in information being provided to Full Council that was inaccurate and questioned the financial viability of HTH. Addendum made after strong representation by HTH.

- 11. TUPE
- 12. Copyright
- 13. Breach
- 14. Prince II

NHDC Priorities - as approved by Full Council Working with our communities

WORKING WITH OUR COMMUNITIES

As a Council we need to listen to what people tell us is most important and a priority to them and tailor the services provided so that our limited resources are concentrated on the things that matter to our communities. This will inevitably bring challenges as there will be many different opinions about the allocation of resources and it will be difficult to steer a course through the competing opinions to deliver the outcome that is best for North Herts.

Projects to deliver the priority of Working with Our Communities The Council will continue to work with community facilities including those in the rural areas to support the management of them and their sustainability

Construct the North Herts Museum and Community Facility

 Design and build a new Westmill Community Centre as part of the John Barker Place regeneration

Delivery of identified projects in the Green Space Management Strategy.

Provide support to facilitate a number of community events in the District on

 Identify qualifying projects under the Rural Capital Funding and undertake capital works delivery programme

 Continue with further capital improvement funding as approved by Council for Baldock Town Hall against an agreed schedule of works

 Undertake a Citizens Panel exercise to obtain valuable views on service provision/levels/satisfaction

Pavid Leal-Bennett

From:

David Leal-Bennett [dlb@syssol.net]

Sent:

31 July 2013 16:37

To:

John Robinson'

Cc:

'david.morgan@ 'Morag@norgan 'rosemaryread 'stephen.pike@

Scholes'

Subject:

RE: ACF Response - URGENT

John

Actually there are not "fundamental differences" but rather a lack of understanding by someone who has not been involved in the ongoing discussions.

co.uk'; 'brant@walder'

Cllr Hunter T. (external)"; 'David

Before I respond I would like to make the point that HTH, as a Charity, are endeavouring to drive this Project forward in very difficult circumstances and have incredible support from the Community Groups and certain Donors & Benefactors not to mention the directors/trustees, the latter of whom have put in time and money. There has een little change other than the date extension for the signing up of the contractor (not something in the control of (TH) and the Put Option amount. We understand that you have to clarify for Full Council but would prefer to concentrate on the changes if we can.

I will take the points in turn:

- It was anticipated the acquisition price would be less than £180k but has been agreed at £190k, Correct but always subject to a joint valuation, HPT has been extremely generous in covering this additional sum.
- All the funding of the acquisition was anticipated to come from donations from benefactors (£60k each), but it would appear there is now only one donation of £50k with the remaining £140k to be financed by means of a loan from Hitchin Property Trust Ltd (HPT). Correct - as advised there has been a slight change.
- Do we know if the annual coupon is limited to 2% over the life of the Long Term Secured Loan Note? The original version of the memo suggested that the annual coupon would be limited to up to 2%. The coupon is 2% per annum for the life of the loan or part thereof (if any amount repaid early), this does not differ from what was originally suggested.
- It would appear HTH Ltd would be committed to repay the principal of £140k by the 31 December 2030 at the latest. Whereby it was previously suggested that any repayment of the donations would be an option for HTH Ltd. The repayment of the debt by a deadline clearly adds to the pressure on the financial model of HTH Ltd and as such would limit the potential investment back into the Community Facility over this period. Correct -It is an option for HTH to repay early but it has now been agreed that there will be an end date which gives sufficient leeway after the ACF loan has been satisfied. The ACF loan is repaid at £12,750 per quarter leaving an approximate 4 year period to repay the £1404. By my reckoning that is £35k per year or £8,750 per quarter, ergo the cash flow is better by £4,000 per quarter hence it does not add
- In light of the above debt repayment schedule, the planned repayment of the loan from NHDC for the repayment of legal fees, on top of the planned repayment of the £510k loan from ACF, can we have reassurance from HTH Ltd of the ability to meet their liabilities and continue to invest in the community facility? Your financial expert would not expect any categorical reassurance to this question because circumstances change. Whenever the directors/trustees of HTH have a board meeting they review the position of the Company/Charity, they are duty bound so to do. Because of the latest delays HTH have been unable to commence their fundraising but ACF have been very accommodating and supportive. As of today HTH can only look to their Financial Business model, including fundraising, which has been sufficient for ACF to provide a total of £850,000 towards this Social Enterprise.
- Given the request to increase in value under the Put option can we have a confirmed breakdown of the £440k to provide to Council Members so we can clearly understand the purchase price of both 14 and 15 Brand Street and also any other amounts which will then total the full acquisition cost? Various correspondance has included slightly different numbers so a confirmed breakdown would be helpful. Basically it is £250,000 for 14 (as per the last DA, a figure not disputed) and £190,000 for 15.
- The footnote to the revised Financial memo states that HPT will have a second call, behind ACF, over the assets of HTH. The loan from NHDC was awarded to HTH Ltd on the condition that it would repayed no later than the day when HTH Ltd receive the final loan and grant from ACF so it would seem NHDC should have

second call before HPT. See below but there is no change to the loan agreement with NHDC, HTH will make their final drawdown when the project is complete, estimated March 2015 in order to pay to NHDC on completion.

On a related note, HTH Ltd were due to make the first repayment of the loan from NHDC on the 3rd June 2013, as per the signed letter from HTH Ltd, and I am not aware that any payment has yet been made. The agreement was that NHDC would receive staged repayments at an amount that is affordable, but at a minimum of £1,000 per repayment. The agreement was provided to be flexible in terms of affordability, but we need to understand the revised intentions of HTH ltd with regards to the repayment of the loan. This date should have been amended as per every other date with this Project, if not we need to so change, I will get Stephen Pike to review and lialse with Tim/Norma.

I hope this assists and do let me know if there are any other points that require clarification.

Regards

David

addition to the same of



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From: John Robinson [mailto:John.Robinson@north-herts.gov.uk]

Sent: 31 July 2013 13:34

To: David Leal-Bennett ; david.morgan@hrjforemanlaws.co.uk; brent@walde Cc: Morag@norgane

; Clir Hunter T. (external)

rosemaryread@ Subject: FW: ACF Response - URGENT

David,

Slightly later than anticipated, a number of queries from our Accountancy Manager which I will need to report on could you let me have your response/confirmation on the highlighted points in red and anything else referred to where you disagree with the analysis? A response by tomorrow if you could please or let me know if this is not possible.

stephen.pike

Many Thanks

John

From: Tim Neill Semi: 31 July 2013 12:44

To: John Robinson

Subject: RE: ACF Response - URGENT

John,

Thank you for sharing this with me. I have a couple of questions and observations please as there does seem to be some fundamental differences to the Financial memo which was provided at the time of the April Council report:

It was anticipated the acquisition price would be less than £180k but has been agreed at £190k.

All the funding of the acquisition was anticipated to come from donations from benefactors (£60k each), but it would appear there is now only one donation of £50k with the remaining £140k to be financed by means of a loan from Hitchin Property Trust Ltd (HPT).

Do we know if the annual coupon is limited to 2% over the life of the Long Term Secured Loan Note? The original version of the memo suggested that the annual coupon would be limited to up to 2%.

It would appear HTH Ltd would be committed to repay the principal of £140k by the 31 December 2030 at the latest. Whereby it was previously suggested that any repayment of the donations would be an option for HTH Ltd. The repayment of the debt by a deadline clearly adds to the pressure on the financial model of HTH Ltd and as such would limit the potential investment back into the Community Facility over this period.

In light of the above debt repayment schedule, the planned repayment of the loan from NHDC for the repayment of legal fees, on top of the planned repayment of the £510k loan from ACF, can we have reassurance from HTH Ltd of the ability to meet their liabilities and continue to invest in the community

Given the request to increase in value under the Put option can we have a confirmed breakdown of the £440k to provide to Council Members so we can clearly understand the purchase price of both 14 and 15 Brand Street and also any other amounts which will then total the full acquisition cost? Various correspondence has included slightly different numbers so a confirmed breakdown would be helpful.

The footnote to the revised Financial memo states that HPT will have a second call, behind ACF, over the assets of HTH. The loan from NHDC was awarded to HTH Ltd on the condition that it would repayed no later than the day when HTH Ltd receive the final loan and grant from ACF so it would seem NHDC should have

second call before HPT.

On a related note, HTH Ltd were due to make the first repayment of the loan from NHDC on the 3rd June 2013, as per the signed letter from HTH Ltd, and I am not aware that any payment has yet been made. The agreement was that NHDC would receive staged repayments at an amount that is affordable, but at a minimum of £1,000 per repayment. The agreement was provided to be flexible in terms of affordability, but we need to understand the revised intentions of HTH ltd with regards to the repayment of the loan.

Kind Regards Tim

From: Sharon Nahal On Sehalf Of John Robinson

Sent: 30 July 2013 09:59

To: Tim Neill

Subject: FW: ACF Response - URGENT

Tim.

Please see attached ahead of our meeting this morning.

Regards

John

From: David Leal-Bennett [mailto:dlb@syssol.net]

Sent: 30 July 2013 09:40

Te: John Robinson

david.morgan@hrjforemanlaws.co.uk; brent@wald Cc: David Scholes; Morag@norgans

stephen.pike@ rosemaryread@

Gavin Ramtohal; Clir Hunter T. (external)

Subject: RE: ACF Response - URGENT

John

I have updated the Financing memo and for speed this is now attached.

I will discuss with David Morgan but do not expect there to be any changes.

have put two notes concerning the security and fully expect the charge over the DA to go away. However I have ndeavoured to clarify the situation between granting the Loan Notes and completing the second charge over the éase.

Regards

David



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From: John Robinson [mailto:John.Robinson@north-herts.gov.uk]

Sent: 29 July 2013 17:41

To: dlb@syssol.net brent@walden david.morgan@hr Cc: David Scholes; Morag@norgan Gavin Ramtohal; Clir Hunter T. (external)

; stephen.pike rosemaryread Subject: Re: ACF Response - URGENT

David

As you say, seeking clarity on the likely risks to the Council to help frame the report and answer the sort of questions that might be asked. This is a new request from HTH Ltd to increase the figure in the put option not confirmed when we met so a reasonable issue to raise.

I do need to emphasise that it is an absolute requirement that we have early sight of the actual wording of any charges on the option agreement, I am not questioning the accuracy of what you say but as a party (via the DA) to it, officers must be able to consider and report on this so we will look forward to receiving this from David.

Vinally, I am afraid I will also need an update on the financing memo you provided for the last report to Council (annex 1) - I assume if the second charge is being sought this will need to be reflected. If you need a copy of the .pdf you supplied Sharon can forward it.

Thanks

John

---- Original Message ----From: David Leal-Bennett <alb@syssol.net>

To: John Robinson

Co: David Scholes; < Morag@norgans < Morag@norgans; < david.morgan@hriforemanlaws.co.uk > rosemaryread@ hrent@walden

<a href="mailto: david.morgan@hriforemanlaws.co.uk; brent@ws k; Gavin Ramtohal; Steve Crowley; ><stephen.pike. <stephen.pike@M <rosemaryreac

Vaughan Watson; Keith Gayner; Cllr Hunter T. (external); Sharon Nahal

Sent; Mon Jul 29 15:51:30 2013

Subject: Re: ACF Response - URGENT

John

I am a little confused since you seem to be introducing some additional points by way of reassurance and clarity.

I will let David Morgan respond to the specifics but was under the impression that, apart from the Put Option and the timeframe

all else was pretty much agreed.

ny charges offered will be the same as those for ACF and rank behind them, I was not aware of any change to the words other than to define the area of 14/15 which is basically a drawing. Are there issues with this?

As for the Put Option the delivery is in the hands of NHDC not HTH, as such additional risk can be mitigated. HTH will always act reasonably and in accordance with the Objects of the Charity. The whole point of the DA is to ensure that where there might be issues that these are dealt with through the proper channels. To try to rehearse what is or is not reasonable now is not possible since none of us can predict what might occur. If HTH were to request a similar assurance from NHDC that you would use you best endeavors to build the Project that would presumably not be acceptable.

This is the whole reason why we have the DA.

Anyhow I am sure David Morgan will reply more eloquently.

I have just heard from ACF and the next scheduled EIC is in September but there is one tomorrow and they are hoping to add the request as an information note to the agenda.

I will speak with DM later and respond in more detail if required. I will be back in my office at 5:00 ish but am on my mobile.

Regards

Pavid

David Leal-Bennett

Sent from my iPhone

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intended recipient, any use, disclosure or copying of this document is wenthorised. If you have received this document in error please immediately

notify the sender and delete this email from your system.

On 29 Jul 2013, at 14:00, "John Robinson" < John Robinson@north-herts.gov.uk > wrote:

David.

Thank you for your email.

I didn't respond to your original email but, in part, will now do so as it is not accepted that the increase in the "put option" was missed. The report to Council will be from officers so your offer to provide input is not necessary thank you.

We are not yet in a position to decide what matters are reported to Council. I understand that we have yet to see the precise wording of the second charge on the Development Agreement though we understand that such a second charge may not be required. We will also need to see the wording of the ACF charge over the Development Agreement as I understand the wording will be updated to include 15 Brand Street. I need to emphasise that without the wording of these charge(s) it will not be possible to report a positive recommendation to Council which has provisionally been scheduled for Thursday 8th August. As said in my earlier smails the actual wording of this is critical can you please provide this by return together with confirmation as to whether the second charge is no longer required.

Whilst I note your position in respect of not retaining the £250,000 put option figure for 14 Brand St I think you can probably appreciate that this necessarily means a greater degree of risk would pass to NHDC. In this context I would like to include some reassurance in the Council report that HTH Ltd directors have committed not to act in a way that would represent unreasonable use of the trigger event (referred to in para 8.2) where you may cite a "material breach" by NHDC. This is open to very wide interpretation and, for example, it would not seem reasonable to me for HTH Ltd to exercise the put option if a material breach arose which did not prejudice completion of the development. Can you provide this reassurance?

Whilst I also note your belief that HTH will be in a position to sign the documentation on the 16th of August I do need to uphasise that NHDC will not be willing to sign the construction contract ahead of 5th of September (and the extract of the email from ACF earlier in this string, esks for our confirmation that we would be able to meet a "final deadline of the 7th of September"

p this regard.) The agreement of ACF to the change in date remains critical and we will be providing a letter for the external edit committee in due course. Presumably you have a date for this meeting - could you let me know when it is?

Regards

John

From: David Leal-Bennett [mailto:dlb@syssol.net]

Sent: 29 July 2013 10:06

To: John Robinson; David Scholes

Ce: Morag@norgane david.morgan@hriforemanlaws.co.uk; Cllr Hunter T. (external); brent@walder

r stephen.pike rosemaryread@

Subject: RE: ACF Response - URGENT

John

As far as the Put Option is concerned I endeavoured to make our position clear when I responded

" I believe that you only have to go to Full Council for the Put Option increase, I believe we can, or have, satisfied you on any impact on the DA regarding security - if there are any queries with this please let me know. With regard to the Put Option I would be please to draft some wording to assist so that a layman can understand, again it is important that we share the blame on this by stating that it was missed by all of us and is the norm, or something like that. Anyhow I am happy to draft some words by way of a simple explanation should you wish."

For clarification, HTH have been advised that, as a Charity, it should not take on board this risk which is not in its gift to control. Our advice is that when the additional property was incorporated the increase was implied and would follow once a valuation had been obtained. I believe these words were also used by David Morgan and have been echoed by Ward Hadaway. It is certainly standard process with transactions that I have undertaken over many years; nevertheless we appreciate that it was not spelled out specifically when you obtained Full Council approval.

If HTH were not a Charity then the directors, as mentioned at the meeting, would, for speed and partnership working, have been prepared for the figure to remain at £250,000 relating solely to 14 Brand Street and 'take our chance' of 15 Brand Street should there be an issue in the future. However as a Charity we are also trustees and have a duty of care to behave professionally or else we can suffer penalties. Any decision would, as per our advice, have to be "backed up with mitigations that are robust and defensible".

In extremis HTH could be in a situation whereby they have spend £440,000 to purchase the two buildings plus legal and other fees of some £50,000 plus. Should NHDC decide not to go ahead, as per NHDC proposed DA wording, we could only obtain £250,000 and have to recover any balance through the courts. At this point in time we would be exposed to a loan of £140,000 and, in all likelihood, a challenge from our Donor of £50,000. As a Charity we could not justify this decision even though we could presumably take NHDC to court for the balance, a costly exercise.

In consequence the figure at £440,000 must remain in the DA.

I repeat my offer to write a layman's guide as to why this is considered by external legal representatives to be "implied" and would also be prepared to offer an explanation by way of Public Participation at Full Council, should this help. HTH would be

pleased to put their explanation in writing to form part of your report, can you let me know what the deadline is for such a paper.

I believe that apart from this issue HTH will be in a position to sign the documentation on 16th August but as discussed are working closely with ACF to endeavour to arrange an extension. I will be discussing this again with ACF later today and thank you and david for organising the letter requested by ACF.

On this latter point it might be an idea to exchange a draft to ensure that it will satisfy for ACF's External Credit Committee's requirement.

Regards

David

David Leal-Bennett

(+44 (0)1462 441170

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From: John Robinson [mailto:John,Robinson@north-herts.gov.uk]

Sent: 26 July 2013 15:34

; David Scholes

Cc: Morag@norgans; david.morgan@hrjforemanlaws.co.uk; Cllr Hunter T. (external); brent@walder

net; stephen.pik rosemaryread Subject: Re: ACF Response - URGENT

David

Thanks, we will arrange for a letter to be prepared but will need the wording of the option agreement and the two charges before doing so please. The actual wording of these is critical and we will be unable to proceed without it.

As far as the Put Option is concerned, can you clarify what your position is? Following our meeting on 24 July you were going to confirm whether limiting this to 14 Brand Street and the £250k limit was acceptable. This is important given the clear views expressed by the Leader and Portfolio Holder which would need to be reflected in any Council report alongside my own advice.

Regards

John

---- Original Message --From: David Leal-Bennett <

To: John Robinson; David Scholes

; 'David Morgan' <david.morgan@hrjforemanlaws.co.uk>; Cllr Hunter T. Cc: 'Morag Norgan' \Morag@norgans Stephen Pike

: 'Rosemary Read' (external); 'Brent Smith' <brent@waldo

<stephen.pike

Sent: Fri Jul 26 14:46:35 2013 Subject: ACF Response - URGENT

Dear John & David

I have now had a response from ACF and detail below the points that relate specifically to NHDC, I will make comment at the end, the red text is also ACF's.

"Dear David

As promised an email to confirm the further information we require to be able to ask the Communitybuilders External investment Committee for approval to a further variation;

Extension of 16th August date

 A letter from NHDC's CEO confirming that they will be able to meet a final deadline of 7th September 2013 for the contract to be complete and in place, i.e. signed. The letter should also tell detail what progress has been made to date in procuring the contractor and the reasons for not being able to meet the previously agreed deadline, i.e. 16th August.

Given the numerous extensions that have been previously agreed we would also like NHDC to be aware that if our External Investment Committee does grant this extension this will be on the basis that NO further extensions will be forthcoming and the investment offer will be withdrawn. It is now more than two years (March 2011) since the original investment offer was made to HIH and Fred Worth, Chair of the Investment Committee is of the opinion that the Committee can no longer hold the offer open at the expense of other potential investees.

Other information required from HTH

In addition from HTH we would like further clarification on some of the information provided in the resource plan and variation request:

We would also ask that HTH confirm that they will be able to satisfy all pre-conditions by 7th September. For your information the following pre-conditions are still outstanding:

Written confirmation from North Herts District Council that all funding is in place for the project and that it would fund any cost over-runs so that Hitchin Town Hall Limited's contribution is limited to the agreed investment.

Need a copy of the Council's special resolution passed at their meeting on 15/10/12.

Written confirmation that the owner of 14, Brand Street will agree to delay the sale to Hitchin Town Hall Limited until August 2013.

Need a copy of the option agreement between John Ray and Hitchin Town Hall

Design, specification and award of contract for the refurbishment of the Town Hall all completed and in place by 16 August 2013.

Condition is subject to amendment as below for 7th Sept.

HTH will also need to ensure that their solicitor responds to Ward Hadaway on all outstanding questions on security. The security will need to be in place by any agreed extension date as we will not release any funds if the security is not in place. Julie has spoken to Simon Errington at Ward Hadaway who has confirmed that this is achievable assuming that your solicitor responds to all outstanding queries. Simon will also confirm how much the final legal bill is likely to be.

Please also note that bearing in mind that the financial projections supporting the proposal are now approximately 18 months old we will recommend that Committee includes a new condition that revised financial forecasts supported by full market research will be required for our review by the end of November 2014.

I hope this is all self-explanatory but please contact me if you have any questions. Please also note that Julie is on leave after today until the beginning of August so please reply to me direct but copying in Julie"

John & David

Perhaps I can take the points in order.

ACF have to go to External Credit and I think this could be done next week via an urgent process but there is a real deadline, I will get this clarified. There is of course no guarantee that they will agree to an extension but I am hopeful.

Clearly the Chairman is not best pleased and it is essential that they receive the letter from David Scholes as a matter of urgency plus the other requested documentation. Even though they are saying they will ask for 7th September (a Saturday) I think we should all work to get the documentation signed before 30 Aug leaving a few days to comply with the loan drawdown conditions and the actual notice serving, so that we purchase 14&15, assuming this works for the legals. What is clear is that there WILL NOT be any extension to this date, assuming they agree.

As far as explanations are concerned we do not want a blame culture, you seem to have been let down by the architect and if you need to say that then OK, but I think they do need some clarity and confirmatory assurance. I think the same should go for any report to Full Council.

HTH will let ACF have the additional information requested. I have not given you detail here but, with their support, we hoping to attract some additional funding to cover marketing and legal fees the latter of which have escalated from some £25k to over £55k. We have also provided ACF with a very detailed report of our structure and resource program, including ramp up.

Of the three tabled requests we will pass over the John Ray request (the exiting option expires on 31 Aug), which is inherent in the Option Agreement, yet to be signed, and would ask that you supply us with the other two requests which perhaps can form in annex to David's letter.

The comment about legal is not a criticism but just ACF making the point that there is a lot to do. David Morgan, who is the main contact with Ward Hadaway, always responds by return. We also have to be conscious of our legal costs so prefer to agree with NHDC and then pass over a complete document.

As far as the financial projections are concerned this is something we are doing in any event and will continue to report and liaise with ACF.

I believe that you only have to go to Full Council for the Put Option increase, I believe we can, or have, satisfied you on any impact on the DA regarding security - if there are any queries with this please let me know. With regard to the Put Option I would be please to draft some wording to assist so that a layman can understand, again it is important that we share the blame on this by stating that it was missed by all of us and is the norm, or something like that. Anyhow I am happy to draft some words by way of a simple explanation should you wish.

I apologise for the length of this but it is very important that we all understand what needs to be achieved and flag up any issues.

I hope I have covered most things and am always on the end of my mobile, much to the annoyance of my wife!

Best regards

David

David Leal-Bennett

(+44 (0)1462 441170

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John Robinson Esq Strategic Director Customer Services North Hertfordshire District Council District Council Offices Gernon Road Letchworth Garden City Hertfordshire SG6 3JF

14th January 2013

Dear John,

Hitchin Town Hall/Museum Project 15 Brand Street

As you are aware we have had discussions concerning the inclusion of 15 Brand Street with the Design Team and with Buttress Fuller.

We are aware of your concerns regarding timing and as such have been undertaking a considerable amount of parallel working to deliver this variation, in order that this might be part of the tender process option.

You have requested that we provide you with "clarity on financial and other arrangements" in order that you might assess the proposal with a view to taking this to Full Council.

Having discussed our proposal with our bankers Adventure Capital Fund ("ACF)" we are pleased to provide you with more details of in order that you can commence the process within NHDC.

Please therefore find attached our "Proposal Document" for your consideration. If there are any aspects that require further clarification let me or any of my colleagues know as soon as possible and we will let you have that additional information.

Yours sincerely

Brent Smith Chairman & Trustee

North Hertfordshire Museum & Hitchin Town Hall Community Project

Proposal for inclusion of 15 Brand Street

Introduction

The purpose of this note is to provide additional information to support the inclusion of 15 Brand Street into this Project. (This topic was first raised with NHDC in February 2011 and an email sent to Mary Caldwell in April 2011, since then there have been various discussions.)

During the negotiations between Hitchin Town Hall Ltd ("HTH") and North Hertfordshire District Council ("NHDC") provision was made to consider this option and, in recognition of the Social Benefit, HTH's bankers, the Adventure Capital Fund ("ACF"), specifically referenced this option in their Loan/Grant documentation.

When the Development Agreement ("DA") was signed on 15th October 2012 the Recitals and Clause 4.7 specifically deal with this provision as follows:

The Parties remain committed to the exploration of an expanded future scheme that may include the remainder of 15 Brand Street to form this community facility and agree to consider a variation of this Agreement should this be possible within the funding available at the time and is agreed between the Parties to be viable and achievable.

HTH acknowledge the "viable and achievable" aspect quoted above. However we are looking at a 125 year period and feel that we must do our utmost to deliver a scheme, of which the residents of North Hertfordshire can be proud. If this means a few months delay then it is the view of HTH that this is a price worth paying for the longer term benefit.

Since the signing of the DA, HTH has been working to deliver 15 Brand Street. Specifically HTH has:

- Met with Buttress Fuller Alsop Williams ("BF") to discuss concept and inclusion 3rd October 2012
- Received electronic drawings from BF 23rd October 2012
- Received additional drawings 5th November 2012
- Submitted revised drawings to Tom Rea 8th November 2012
- Follow up Design Review meeting with BF on 3rd December 2012
- Appointed architect
- Provided Full plans and discussed with NHDC
- Finalised Design, Access & Heritage Statement
- Initial planning permission application 11th December 2012
- Applied for Planning permission 2nd January 2013
- Negotiated with current tenant
- Agreed basis of option with John Ray
- Appointed lawyers
- Arranged finance and valuations

Purchase of 15 Brand Street

It is important that any funding arrangements do not impact any existing lenders e.g. ACF and NHDC either short or long term. The purchase of 15 Brand Street will not impact the current debt structure of HTH.

Financial Structure

The proposed structure will be by way of Grant (25%) and Capital styled Long Term Loan Notes ("LTLN") (75%), possibly with a nominal coupon; the LTLN would only be repaid once liabilities to ACF and NHDC have been completed. In effect the providers of the finance will be issued with quasi equity which may be redeemed at a future date or alternatively converted to a grant/donation with the added tax benefits for both parties. As a Long. Term Capital instrument this structure will not contravene existing loan covenants with ACF nor will it impact fundraising.

Ownership

It is proposed that the freehold be passed to the Trust on the same basis as 14 Brand Street.

Valuation.

HTH are arranging for an independent valuation, not least because, as a charity, we are obliged to obtain fair value. In discussions with the owner it is has been accepted that the valuation will be less than the agreed purchase price of 14 Brand Street. It has also been stated that there will be considerable flexibility to enable the purchase to proceed.

ACF Timeframe

ACF have advised that a decision to an extension of their deadline of 31st March 2013 and consent to the variation of the existing Development Agreement will be made at the next External Credit Committee on 5th February 2013.

Social Benefit

Following discussions with ACF, HTH believe that the advantages arising from this opportunity, over and above the agreed base case, relate to the social and financial returns available as follows:

- Improved quality of the facilities available for community use to stimulate more adventurous and worthwhile activities, particularly in the performing arts
- Increased opportunity to work in partnership with the catering faculty of the local college to provide opportunities for youth work experience in a quality venue.
- Increased visitor flow to a more attractive venue which is expected to contribute to the financial sustainability of the charity and the visitor experience. With a wider frontage people are drawn in to the museum.

- Increased visitor flow to Hitchin which is expected to benefit local businesses of a typical 'high street' nature rather than superstores and chains
- A significant enhancing architectural experience with the addition to an integral urban environment adding to its cultural heritage value.

Reference Fred's note Appendix 'A'

Concept

The details of the proposal have been discussed with NHDC and BF, and a planning application has been submitted, specifically the inclusion provides:

- A better scheme; details of this are set out in the Design, Access and Heritage Statement which accompanied the planning application.
- The future use of the community facility and the profitability of the café is made more secure by the formation of the new entrance.
- The new entrance gives the museum the prominence it deserves and provides an additional 56 sq m of floor space extremely economically.
- The additional frontage, which can be used for museum marketing, will provide a better experience and will draw in people.
- If NHDC chose to do so
 - o the Local Study Area can be located in better position
 - o the museum stores consolidated
 - o meaning that the exiting stage in the Mountford Hall will not have to be altered to provide storage space.

In addition and during better weather some cafe covers could extend to this area.

Legal

Our advice is that this should be very straightforward. It is proposed to use the existing DA as the base line and simply make changes to a few clauses as well as reference to revised drawings. All dates will need to be advanced by the same period.

Foreman Laws have now had an opportunity to discuss with Ward Hadaway who accept that the simplest way forward could be either by a Deed of Variation or to take the existing DA and incorporate the minor changes required, whichever would be the most cost effective.

The wording of the Option Agreement on 15 has now been concluded.

Tendaring Process

It is acknowledged that BF have already undertaken a considerable amount of work and are moving to produce the formal tender documents. It is felt that, in order not to disturb this process, that the tender documentation states that NHDC may incorporate 15 at a later stage thus giving potential contractors notice. A date of 15th February could be stated allowing time for additional BF work and for ACF extension approval. It can also be stated that at that time a revised date will be provided for the tender approval appointment process.

In essence HTH are proposing that a Parallel Working Process be incorporated as an option in Tender as "to be advised later".

Timescale

If the above process is adopted then in the unlikely event that ACF decline the project is no worse off, however if an extension is granted then this can be incorporated with minimal delay. It is anticipated that this should be no greater than three months which HTH believe would be acceptable to ACF.

Cost Implications

It is noted that NHDC are concerned about the cost implications and we believe these can be mitigated. It should also be noted that HTH are delivering a property worth approximately £200,000 to the overall benefit of the whole scheme.

HTH are prepared to reimburse to NHDC the reasonable costs of BF, these have been discussed and whist an initial figure of £30,000 was suggested if a new team were appointed, it is understood that this would be considerably less if the same team can be used.

HTH would like to adopt the same process as already provided for in the DA whereby costs are reimbursed at a much later stage in the project.

NHDC will have certain internal legal costs and may require other advice. It is hoped that NHDC can cover their internal costs but should other costs be incurred then HTH would be prepared to see if a solution could be found to cover such costs.

As far as HTH and ACF are concerned the financial structure will not impact either fundraising or repayment of loans to either ACF or NHDC.

Risk Benefit of Cost Overruns

If the structure and tender process is adopted a final decision on costs can be analysed well before the 31st March 2013 deadline. If an extension is agreed NHDC will know the new timeline and again a decision can be made.

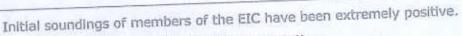
Should NHDC consider that there are additional risks then HTH will do its utmost to mitigate such risks. It is believed that any delay would be minimal, say maximum 3 months.

It is not the intention that HTH should be without risk although HTH acknowledge that cost overruns would be for NHDC. However, one known, HTH would be open to consider ways in which, over time, it can assist to mitigate.

Adventure Capital Fund

Whilst ACF have always been supportive it is clear that the inclusion could impact the existing timeline. ACF and their lawyers Ward Hadaway ("WH") were always of the opinion that the 31st March 2013 was very challenging but have always stated that provided they could see evidence of progress that any extension would be considered sympathetically.

HTH have now discussed in more detail and specifically the note at Appendix 'B' has been discussed. This has now been raised with the Deputy Chief Executive, Caroline Forster, who has agreed that the proposal can be presented to the External Investment Committee ("EIC") 5th February 2013, this being the first available date this year. A decision will be made on that date.



HTH are currently preparing for this presentation.

Conclusion

HTH are partners with NHDC in proving a building which will hopefully stand for the next 125 years - we believe we both have a duty to make it the best that we can. Our forefathers built a wonderful Town Hall for us, we should not let them or ourselves down.

Whilst there could be a slight time delay, HTH believe that with some parallel working with NHDC it is possible to deliver the inclusion of 15 Brand Street into the scheme and HTH, its advisors and the Community Groups will do everything they can to facilitate this process.

HTH Team

21 December 2012

Appendix 'A' - Briefing note to ACF dated December 2012

The purpose of this note is to provide the rational for ACF to agree to a request to extend the draw down date by [three] months. An opportunity has arisen to acquire 15 Brand Street. The Board of HTH is of the opinion that this acquisition will provide significant additional public benefit and social return.

The extension will allow sufficient time for additional costing work to be undertaken in partnership with the council. It is not envisaged that there will be any detriment to the agreed repayment schedule. Any additional funding will be found by the Board of HTH.

At this stage we are only seeking an in principle view (note ACF agreed to consider at External Credit

Committee on 8th February 2013) as to whether an extension could be made available. There is to be
no suggestion or inference that the original scheme will not progress as planned.

Briefly, the incorporation of 15 Brand Street into the project will significantly enhance the aesthetic
appeal of the building. It will transform the development into a landmark building which with the
potential to attract more visitors as a 'go to' destination.

Additionally, the acquisition will increase the floor space available and consequently the capacity of the building. It will improve visitor flow and consequently the enjoyment of the experience. It will avoid the need to detract from some of the planned internal facilities by providing alternative storage options which will improve the usability of the facilities.

The Board of HTH appreciates that the future success of community enterprises can be gauged by looking at the social return, financial return, business model and organisational capabilities. We believe that the advantages arising from this opportunity, over and above the agreed base case, relate to the social and financial returns available as follows:

- Improved quality of the facilities available for community use to stimulate more adventurous
 and worthwhile activities, particularly in the performing arts
- Increased opportunity to work in partnership with the catering faculty of the local college to provide opportunities for youth work experience in a quality venue
- Increased visitor flow to a more attractive venue which is expected to contribute to the financial sustainability of the charity and the visitor experience
- Increased visitor flow to Hitchin which is expected to benefit local businesses of a typical
 'high street' nature rather than superstores and chains

Prepared by Fred Payne 19 December 2012



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John Robinson Esq Strategic Director Customer Services North Hertfordshire District Council District Council Offices Gernon Road Letchworth Garden City Hertfordshire SG6 3JF

28th January 2013

Dear John,

Hitchin Town Hall/Museum Project - 15 Brand Street

We are writing to you as our joint partner under the principles of partnership working enshrined in the Development Agreement between us. Self-evidently we both want to deliver to the local community the most attractive and viable Town Hall and Museum facility for North Herts that we possibly can within the timelimits and budgets imposed upon us.

As you are aware we have a planning application in train to incorporate 15 Brand Street into the project, as permitted by clause 4.7 of the Development Agreement.

We acknowledge and understand that as agreed NHDC are due to go out to tender the project imminently but the HTH board regrets that following last weeks design meeting we still have major concerns.

Little attempt appears to have been made to incorporate the inclusion of 15 Brand Street in the documentation, despite the fact that all parties including BFAW have been aware for some time that this was our preferred option. If a genuine attempt has been made to incorporate 15 into the plans we would appreciate receiving copies of the relevant correspondence indicating this including a copy of your instructions to BFAW to this effect.

We are in agreement that externally the enhanced building is a huge improvement aesthetically but we do not appear to be in agreement that the inclusion of 15 will provide an interior that vastly improves the look and feel of the foyer area including substantial improvements to pedestrian flow, the shop and cafe area. We fervently believe and indeed have been professionally advised, that this addition to the project is cost effective, substantially improves the joint ventures ability to enhance the visitor experience within the museum and community facility and it is entirely possible to incorporate 15 within the tendering process if there is the true will from all parties to do so.

We are concerned council officers may well not be taking into account the full effects provided by the early incorporation of 15 Brand Street in the tendering process. Future incorporation would involve further tendering, unnecessary additional costs and significant time delay. The HTH board reiterates the offer made at the design meeting – we are happy to approach ACF to request a movement on the 31st March 2013 deadline in order that the partnership can incorporate 15 Brand Street into the tendering process. In addition and as speit out by Neal Chariton at the Wednesday 23rd January 2013 meeting any additional time would also assist NHDC and BFAW with the value engineering process that will ensure NHDC maximise value for money.



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The decision to continue to tender without the inclusion of 15 Brand Street is for NHDC not HTH and we understand from you that at present there are no Full Council decisions that allow you as lead officer to incorporate the enhanced scheme. The HTH board is hopeful that this letter will prompt the required discussions between lead officers and elected members for the benefit of all parties signed up to the Development Agreement and the ratepayers/ community we jointly serve.

Yours sincerely

Stephen Pike Director & Trustee

C.C. Portfolio Holder

Brent Smith - Director/Trustee Nitchin Town Hall Ltd

Bullet points for consideration

Before we begin I would like to express our grateful thanks to you all for attending tonight especially as there is an election in a few days.

The Development Agreement stated:

The Parties remain committed to the exploration of an expanded future scheme that may include the remainder of 15 Brand Street to form this community facility and agree to consider a variation of this Agreement should this be possible within the funding available at the time and is agreed between the Parties to be viable and achievable.

HTH have been working to include 15 Brand Street undertaking the following:

- Met with NHDC's architect to discuss inclusion 03-Oct-12
- Appointed HTH architect
- Finalised Design, Access & Heritage Statement
- Applied and received Planning permission 02-Jan-13

In the spirit of this joint working, and being cognisant of a very tight deadline of 31-Mar-13, we approached ACF who agreed an extension of time to 31-Jul-13 to permit the consideration of inclusion of 15 Brand Street.

Points to cover:

- Cost minimal in big scheme for 125 yrs £800 per year at today's prices
- Opportunity not to be missed
- . We were ready for 31-Mar-13

ACF funding letter extended their support to include 15 to 31-Jul-13

When we met with Councillor Needham and Brent Smith last week we did make it clear that we would continue to consider further potential changes to the layout as the design process continued. I accept, however, that the paragraph does not indicate a clear chronology and would be happy to make this clear to Council.





2. Tender process

- a. Poor management of the tender process, (allowed only 6 days over the holiday period for response) with result that only 3 contractors would meet the technical and financial criteria.
- b. Did not comply with NHDC's tender process re opening of tenders. Refused to let HTH have a copy of the Tender document - to date this has never been provided.



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Caroline Forster Deputy Chief Executive Adventure Capital Fund The Social investment Business 1st Floor, Derbyshire House St Chad's Street London WC1H 8AG

March 21st, 2013

Dear Caroline

The Communitybuilders Fund Offer Ref: 6769/7288

Thank you and Tom so much for meeting with us last week and for your continued assistance. It was refreshing to be able to have such an open and frank discussion concerning the considerable issues we continue to have with this project.

As you are aware we have serious concerns that, in NHDC's desire to meet a deadline, they have totally ignored their commitment to explore the inclusion of 15 Brand Street. Unfortunately, in adopting this approach they have breached their own, EU and best practice procurement rules. We were advised that they would be following EU rules albeit that the project is not large enough.

It is the rush to sign a contract at any expense, which causes us concern, since NHDC have already advised us in writing that they cannot guarantee value for money. It is highly likely that the project will need to be valued engineered to bring it within budget and, in our opinion, this will impact the Financial Model/Business Plan we have so carefully put together.

We have received advice from a suitably qualified surveyor to the effect that 30 days should have been allowed for contractors to respond to the notice asking for expressions of interest, or 10 days if a PIN notice had been issued. Weekends and Public Holidays would need to be added to the number of days. Under both UK and EU public procurement rules there must be a minimum of 5 bidders. Bidders must be given a minimum of 40 days to prepare their tender, and the Council must state in the Invitation to Tender the criteria for selection of the successful contractor. On 14th February 2013 we requested written evidence that these requirements had been met but to date have not received a response.

We believe that NHDC are in breach of the Development Agreement on several counts and a copy of our legal advice is attached, no doubt you will obtain your own advice from Ward Hadaway.

Our view is that that the current tendering process is flawed and, unless it is completely retendered, we would not wish to proceed with the project for the reasons stated above and our legal advice confirms our position. At the recent Project Board meeting our concern was clearly stated by our two director representatives; the appropriate extracts are shown at Appendix 'A'.

We have made many requests for the current tender process to be amended to incorporate 15 Brand Street but NHDC have not been inclined to take this forward in spite of the wording in the Development Agreement.

We consider the approach adopted by NHDC to be unacceptable and, should a contract be signed on this basis, we believe that our business model is likely to be impacted. Any reduction in the specification in the tender documents, for both the museum and/or Town Hall, will impact our business model. We do not believe that this is either desirable or acceptable nor a risk we would wish to take.

If NHDC intend to proceed to sign an agreement, we would have no alternative other than to serve formal notice of breach of the Development Agreement.

Yours sincerely

Stephen Pike

David L Leal-Bennett Director & Trustee

PS. Thank you for your email received today at 12:33 in response to an earlier draft of this letter. We can confirm that we, the full board of HTH Ltd, had a very productive meeting with the Chief Executive and Leader of NHDC.

We were able to discuss your email and they have assured us that, the deadline imposed of 31st July 2013, whilst tight, is obtainable by them.

There will be a Project Board meeting on Monday and we expect that it will recommended that the existing tender process be terminated and that a new tender commence along the line set out in your email.

Appendix A Project Board meeting of 11th February 2013 - Minute extracts

The recent tendering exercise of the construction contractor proved to be disappointing. Although seven companies expressed an interest only three met the PQQ evaluation criteria posing risks the Council may not achieve best value. The risk issues were discussed with representatives from NHDC and HTH Ltd on Wednesday 6th February with an aim to agreeing an extension from ACF, HTH Ltd fund providers Adventure Capital Fund (ACF) to allow time needed for NHDC to re-tender and explore further the cost of including 15 Brand Street.

Let the current tender complete - Option 2

Council allows the current tendering exercise to be completed this will give project team officers the knowledge if a tender meets our scheme requirements/project costs.

From the Council's perspective a tender that meets these requirements will ensure compliance with the Development Agreement and no extension of time would be required.

David Leal-Bennett suggested an alternative option 'procurement of expanded scheme' which would help to produce a true cost comparison with regards to the inclusion of 15 Brand Street.

Recommendation

Project manager recommends option 2 as this provides the least risk in terms of time and costs, however, there may be legal and quality risks, in particular, amendments to contractual documentation and Development Agreement if 15 Brand Street is included.

Rosemary Read stated the current tendering exercise has not achieved its objective with three tenderers and therefore should not continue.

John Robinson agreed that the procurement exercise was not satisfactory but stressed the £850k funding from ACF could be withdrawn if the target date for award of contract was not met.

David Leal-Bennett stated the tendering process is flawed and the procurement exercise cannot guarantee value for money. The tender does not comply with UK procurement rules and the reputation risk is considerable.

John Robinson thanked David Leal-Bennett for his comments, and acting on behalf of the Council, will take these comments on board. The Council needs to safeguard the £850k from ACF but also acknowledges the risk of this represents to securing VFM. The Council therefore intends to proceed with the three tenders awaiting receipt of formal consent from ACF for changes to be made to the process.

David Leal-Bennett and Rosemary Read wished to make it very clear that they do not agree on John Robinson's recommendation to continue with the procurement.

Appendix B - Email from ACF

From: Tom Young [mailto: Sent: 07 February 2013 15:00

To: dlb

Subject: Communitybuilders

7th February 2013

Dear David,

Following our conference call yesterday I write to confirm that the Communitybuilders Investment Committee met on 5th February and I was able to speak to members regarding the NHDC/HTH Ltd extension request.

The committee is naturally disappointed that the 31st March 2013 deadline can only be met with 'significant risk' to the project outcome in terms of value for money and deliverability however they are aware that the deadline imposed was tight and consider that it would be reasonable to consider a short extension subject to a number of additional conditions being met.

The committee was also interested in the improved community outcome that the inclusion of 15 Brand Street might bring.

I have been asked to review the revised proposal and make the appropriate recommendation which the committee understands is likely to include the extension of the investment schedule by up to 3 months provided that there is no detriment to the ability to service the debt. This will give Hitchin Town Hall Limited the time needed to fully explore and cost the inclusion of 15 Brand Street and to provide details of how any additional expenditure will be funded.

Perhaps you could update me by email where you are with this aspect particularly in relation to your meeting with NHDC yesterday.

I have been asked to report directly to the chair of the Investment Committee, Fred Worth who has been delegated the authority to deal with the proposed extension. As part of my report I will liaise with you to ensure that the financial implications to a delay will not adversely impact the financial model.

Please assure NHDC that ACF are committed to the delivery of a high class facility for North Hertfordshire and Hitchin.

With best wishes

Tom Young Investment Analyst Appendix 'C' - Proposed draft letter from ACF to HTH.

Following our recent meeting we understand that since the signing of the Development Agreement on 15th October 2011, HTH have made considerable progress for the inclusion of 15 Brand Street in accordance with Clause 4.7 which states:

The Parties remain committed to the exploration of an expanded future scheme that may include the remainder of 15 Brand Street to form this community facility and agree to consider a variation of this Agreement should this be possible within the funding available at the time and is agreed between the Parties to be viable and achievable.

Whilst our preference would be for the inclusion of 15 Brand Street we would wish to respond initially to the current NHDC request.

We understand that NHDC have continued to progress the original option of excluding 15 with a view to meeting the deadline of 31st March 2013. We have received NHDC's letter dated 1st February 2013, "to grant a short extension of 3 - 4 weeks" "to allow the procurement to be re-

We are concerned with the comments made in the letter concerning the current process where it is stated that;

"there are significant risks to the project particularly in whether the tenders returned could demonstrate best value, whether all tenders would be returned and whether this would breach ACF's conditions if an acceptable tender was not returned in time to let the contract by the end of March 2013."

You have also advised us of the latest letter dated 14th March 2013, which states:

"I am advised that whilst a re-tender of the contract for the agreed scheme should be capable of being accommodated within 11-16 weeks (respectively a very compressed or originally forecast period) the inclusion of 15 Brand Street into the development will take considerably longer. Excluding negotiation on terms, this is estimated at 30 weeks."

There appears to be a difference in the two letters concerning the period required for a retendering of the original schema?

We also understand there have been problems with the tender process and that one of the three respondents have requested a time extension, which has been given, with tenders now being received by Friday 15th March 2013 leaving 10 days for evaluation following which, we assume, there may well be further clarification.

In summary it would appear that the process has been rushed and has not complied with, what ACF would consider to be, a standard procurement process delivering Best Value. In addition ACF are not comfortable with value engineering tenders with contractors either before or after contract signature.

We can confirm that tenders which cannot guarantee Value for Money and which are not in accordance with standard UK and EU procurement processes do breach the terms of our finance conditions. In view of all of the issues raised we are, on the current basis, unable to support the Project.

However, in view of the considerable social benefits of incorporating 15 Brand Street, and the fact that the existing tender process is unacceptable, we are prepared to grant a three month extension to 30th June 2013 on the following conditions:

- NHDC to arrange for a parallel and/or two option tender process to incorporate
 - o 14 Brand Street, and
 - o 15 Brand Street
- Provide, through HTH, a two weekly update of the tender process
- Advised ACF in advance (two week's notice) of Project Board meetings every month, to enable a representative of ACF to attend.
- Advised ACF in advance (two week's notice) of Design and other tender/contract meetings with your architects and other experts, to enable a representative of ACF to attend.
- Any other points to ensure HTH and ACF are kept informed of progress.

Should you require us to communicate direct with NHDC or through our lawyers please advise. In the meantime we will progress your request for additional expertise to assist the process.

15 100 TO 188 E.

NOTE FOR FILE

Legal: Tender invitation was open 21st December to 7th January I believe - poor choice of dates in our opinion as majority of construction industry was closed down 24th December until 2nd January therefore only 3 working days to respond. Even if they did work between Christmas and New Year only 6 working days. If it hadn't been holiday period it would be 10 working days which is reasonable.

In our view good grounds for challenge to any contract award here as 3 days (or even 6) in a holiday period is unreasonable amount of time to assess tender opportunity and express interest. Most companies would not be able to do it.

ACF: Basically positive to consideration of a proposal that gives a better community outcome provided finances stack up. So we will need the revised model showing what it will do to the debt service cover - and ideally not a deterioration.

05-Feb-13 09:28

As agreed last week we are happy to meet and I see we are looking at Wednesday, I understood re 15 Brand Street as you originally suggested but the ACF extension discussion is ok, so long as this does not cause delay in getting our request to them.

Can you explain what ACF have said, and why re VFM? As far as I am concerned the current Development Agreement has dealt with all of that - are they wanting to become involved in a review of this? This seems most irregular and, if they do, I would like to see this in writing as we have existing obligations to HTH Ltd (largely determined by ACF) which we must stick with unless varied as per the Development Agreement. Or are HTH Ltd seeking a variation to this?

A response to this ahead of our meeting would help so I can brief the Leader in advance.

Regards John

04-Feb-13 20:04

CONFIDENTIAL

understood there was a potential problem decided against primarily because of the possibility of a challenge from those who had submitted expressions of interest in the first instance. We really need to bring the current procurement to an premature end and start (quickly) from scratch.

I assume ACR have some provision for dealing with urgent requests of this nature and a decision at the earliest point will allow us to minimise cost and delay.

Regards

John

04-Feb-13 16:44

I assume that this is the formal request from NHDC, since there is no address or logo on the paper, I would appreciate your confirmation that this is the case.

I will be discussing this in more detail with ACF tomorrow (HTH directors are meeting tonight) but you are aware that the deadline for a decision with the External Credit Committee has passed and I feel sure that ACF will not be able to give a definitive decision until their next meeting. However this is not to say that they will not be agreeable to an extension of time.

Might I suggest that the InterIm period is used to re-advertise, in anticipation of a positive outcome, during which time we can incorporate a reference to the inclusion of 15 Brand Street.

I will of course keep you posted. David

04-Feb-13 12:13 John

J.J. C. March

I think it is imperative that the directors (and Morag) meet with you and Lynda (acting portfolio holder) to discuss 15 and ACF extension process as matter of urgency.

I am also anticipating that ACF will require the plans for the Town Hall that will be in the tender document, please supply latest. They have also mentioned value for money.

Can Sharon try to coordinate diaries, suggest it be in David Morgan's office this week.

Notes: Contract Procurement Rules:

I set out below the relevant issues in respect of contract procurement rules for the Town Hall project and, in particular, those relating to the way on which the supervising architect undertakes the procurement of the main building contractor on NHDC's behalf.

The relevant extract from the Contract Procurement Rules under part H (Appointment of Consultants)

- 30.3 It should be a condition of contract with any consultant, agent or professional advisor who is to be responsible to the Council for the award or supervision of a contract on its behalf, that in relation to that contract they shall:
 - comply with these Procurement Rules as though they were an employee of the Council; and
 - produce on request all the records maintained by them in relation to the contract and award of contract; and
 - on completion of the contract, transmit all records that they have produced or received that relate to the contract to the appropriate Strategic Director.
- 30.4 Any letter of appointment or contract must set out the consultants legal obligations to the Council.

I can confirm that ButtressFullerAlsopWilliams are engaged on these terms and therefore required to comply with our rules.

Your specific query was about the amount of time required to be provided to potential contractors to return tenders and in this respect that I can confirm that the procurement rules do not specify a particular period. This is primarily because the construction contract value is below the EU threshold and in such circumstances NHDC (or it's agent) is free to determine any period it chooses.

As I mentioned at PLB, that is not to say that the outcome of the procurement process was satisfactory. We understand this and as a result have sought approval from ACF to allow the procurement to be re-run to provide mitigation against the risk that the council does not secure value for money from a narrow field. The original procurement timetable (which we are still having to work to pending ACF feedback) was entirely driven by ACF funding requirement to let the contract by the end of March 2013 and they have acknowledged the difficulties this has caused.

Confirmation that it was not a 'satisfactory' process says it all, and was exactly why ACF were concerned about the VFM, as were HTH Ltd.

The comment about seeking approval from ACF is completely irrelevant (procurement process has to be followed). However to the best of my knowledge ACF were never asked for the procurement process to be re-run on the existing basis. In fact all communication with ACF had to be conducted through HTH Ltd and our letter of 21st March 2013 clarifles the situation regarding the inclusion of 15 Brand Street.

From:

David Leal-Bennett

Sent:

27 June 2013 11:58

To:

Co:

'John Robinson'; 'Vaughan Watson' 'Cllr Hunter T. (external)'; 'Morag Norgan'; 'David Morgan'; 'Brent Smith'; 'Rosemary

Read'; 'Stephen Pike'

Subject:

RE: Tender/Design Process

John

We can speak, but HTH find this response totally unacceptable. We have signed a Development Agreement and our bankers are putting in £850,000 by way of loan and grant. HTH will be committing over £1m to the overall project.

We expect openness, we are not a service operator for NHDC we are your partner.

This is NOT an unreasonable request.

avid



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From: John Robinson [mailto:John.Robinson@north-herts.gov.uk]

Sent: 27 June 2013 11:33

To: David Leal-Bennett; Vaughan Watson

De: Clir Hunter T. (external)

Subject: RE: Tender/Design Process

This is one of the matters I would like to speak to you about. The documents are confidential and disclosure may result in potential difficulties in respect of our contractual relationship with BFAW and claims from contractors. I'll fill you in later.

Regards

John

From: David Leal-Bennett

Sant: 27 June 2013 11:09

To: John Robinson; Vaughan Watson

Cc: Cllr Hunter T. (external)

Subjeck: FW: Tender/Design Process

lohn.

do not appear to have received a response to this email sent a week ago.

Regards

David

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From: David Leal-Bennett [mailto:

Jent: 20 June 2013 17:12

To: 'John Robinson'; 'Vaughan Watson'; 'Clir Hunter T. (external)' Cc: 'Morag Norgan'; 'Brent Smith'; 'Rosemary Read'; 'Stephen Pike' Subject: Tender/Design Process

Dear John/Vaughn

I have been asked for an update from ACF as follows:

"Can you let me have an update on the tender/design process, please? As discussed, there is a requirement that this is provided every two weeks under the conditions of the investment."

The latest information I have is from the last Design meeting, where very little additional information was provided from the previous meeting. Can you please let me have an update as of today so that I may respond.

I am also conscious that HTH have not received anything concerning the preferred bidder and would appreciate sight of the following:

- Original Tender documentation is there anything in addition to that which you sent to Brent?
- Comprehensive tender report from the Design Team.

I am sure you appreciate that we need to keep our bankers informed.

Regards

David



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for viruses and it is your responsibility to scan the email and attachments (if any).

From: Sent:

David Leal-Bennett 28 June 2013 16:01

To:

'John Robinson'

Cc:

'Clir Hunter T. (external)'; 'David Scholes'

Subject:

RE: Comprehensive Tender Report

John

Thank you for sending this and as you can imagine this will be discussed with ACF when we meet with them.

Now for the real question - how can we have a meaningful discussion if we don't know what is in it?

Brent and I have thought carefully about your stance and about the point Tony made about a partnership and wanting to get on with the Project. It is fair to say that the two approaches do not seem to tally.

If we are a partner, and this document has been produced for the benefit of us both, and we as directors are putting urselves at risk by borrowing some £690,000, then why on earth won't you let us have a copy to review. We are all professionals and by virtue of the Development Agreement are bound by the clauses in that agreement relating to confidentiality.

I personally find it somewhat insulting that you are not prepared to let me personally have a copy of this document, in fact by so doing you are questioning my integrity.

Having reflected I am so incensed that I am copying this to David Scholes.

Regards

David



Value of the

This email is intended solely for the addressee, is strictly confidential and may be legally privileged. If you are not the addressee, or the authorized agent thereof, please do not read, print, store, disseminate, distribute, copy or otherwise act in reliance on it or any attachments. If you have received this email in error, please notify us Immediately and then permanently delete the message and any attachments from your computer systems. Please note that the sender does not accept any responsibility

for viruses and it is your responsibility to scan the email and attachments (if any).

From:

David Leal-Bennett

Sent:

02 July 2013 13:34

To:

'John Robinson' .uk': 'stepla

Cc:

Smith'; 'Cllr Hunter T. (external)'; 'Norma Atlay'; 'David Scholes'; 'Tom Young'

Subject:

RE: Comprehensive Tender Report

Dear John

Thank you for this, I confirm that I have passed your comments to Tom at ACF without any alteration.

Perhaps I can clarify why HTH and ACF require this information and it is nothing to do with impacting the Procurement Process.

We have requested sight of the Comprehensive Tender Report from BFAW as your "Partner" through the Development Agreement. We have not been privy to any of the negotiations, not even relating to the Town Hall or afe area, nor any of the detailed QS analysis following the tender process. It is therefore only reasonable that we nave sight of the report to review and to see what, if any, aspects have been value engineered.

Following the latest Design meeting, and as discussed, Brent provided everyone with a worked solution concerning the internal ramp, this was a very positive demonstration of our desire to find practical and workable solutions that benefit all parties. He also highlighted an issue with the whole foyer glass area.

This latter point is a very good example of why we need to have sight of the document since it would appear that what was originally proposed is not what BFAW have shown in their latest drawings. This begs the question why has this changed and who agreed to this change. In this particular example, how the foyer area turns out in quality, design and space usage is of paramount importance to the cafe and the whole experience, ergo if it is of a lesser standard than anticipated it will impact the financial model of HTH not to mention the expectation of Elected Members and the public. Going from the sublime to the ridiculous, if it an Apple Store style it would be amazing if it is a 60s frontage it would be appalling and both would have an impact on the numbers!

This is one example and naturally HTH is concerned there may be others that could impact, we just don't know until we see the document. We would like to have the ability discuss with ACF and NHDC; it is not an unreasonable to have sight of the document requested.

HTH have not had any documentation from BFAW, such as a brief report from their design team stating that the lowest tender was within budget without requiring the omission of any of the works included in the tender, which would give us some degree of comfort. Nor do HTH have any assurance that the Project has not been value engineered. These are reasonable concerns and we are your partner.

As has been mentioned before, HTH (with the support of ACF) are contributing over £1m to this Project and as your partner believe it is unreasonable that you, as the representative of NHDC, are referencing 'confidential' as a reason to withhold this document. HTH fully appreciate the confidentiality nature of the Procurement Process, but sending the document to ACF and then restricting discussion with HTH does seem a little worrying and probably raises more questions than it answers; the potential inference could be that you cannot trust your partner which we know is not the case.

John, there is a lot to do and HTH are committed to delivering this project. If there are some points that have had to be compromised then let's discuss positively for the benefit of all - we really want to continue working with you and ACF to deliver a spectacular Community facility of which we can all be proud. We have all, and I include all of your team, put in many many hours to deliver this project as a partnership and we hope that in the future we will all look back and say that whilst it was difficult it was worth it.

I think it important that this issue be aired today since I am sure it will be discussed tomorrow when we all meet with ACF.

I would respectfully ask that you, with your colleagues, reconsider your decision; as always, I am available to discuss or meet to drive the Project forward.

Kind regards

David

PS Out of courtesy I have copied this to David Scholes since he was copied on the original email. I have also copied Norma as contractually she may be able to proffer a workable solution to the 'confidentiality' aspect.



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From: John Robinson [mailto:John.Robinson@north-herts.gov.uk]

Sent: 01 July 2013 15:31

To: David Leal-Bennett

Cc: morage stephen

(external) Sulbject: FW: Comprehensive Tender Report Brent Smith; Clir Hunter T.

David.

As requested, I have set out below my response to the question posed in confidence by Tom Young for transmission to him. This should not be altered or edited without my express permission

'The Council has an obligation to deliver the Town Hall facility as specified in the Development Agreement. The primary risk in doing so lies with the Council and HTH Ltd's (and therefore ACF's) interests together with the Council's obligations, are set out in the Development Agreement. The Council has a contract with BFAW to manage the procurement process in line with the principles of the Council's Procurement Policy. The Council is paying for this service and BFAW is responsible for managing procurement processes and risks. It is a risk if commercially sensitive information is disclosed at this stage. The primary risk is that disclosure of this information could prejudice conclusion of the procurement. For these reasons, it is best procurement practice not to release commercially sensitive information at this time and the Council must follow best procurement practice in line with its Corporate Procurement Strategy. Also the Council must respect its contractual obligations to BFAW and allow BFAW to fully manage procurement processes and risks.

We are not clear what the purpose of the ACF's request is intended to achieve. Perhaps if we could have a clearer idea this could be provided via some other route.'

Your earlier enquiry from ACF about whether NHDC had achieved VFM was responded to in my email of 28th April, a further copy of this attached for reference.

Out of courtesy I have responded to Tom Young's email to acknowledge receipt and to indicate, at your request, I will channel my response to him via you.

Regards

John Robinson Strategic Director Customer Services

Direct Dial: 01462 474655 Mobile: 07789 650732 Fax: 01462 474432

North Hertfordshire District Council Council Offices Gernon Road Letchworth Garden City Hertfordshire SG6 3JF

iohn.robinson@north-herts.gov.uk www.north-herts.gov.uk

From: David Leal-Bennett
Sent: 28 June 2013 21:27
To: John Robinson
Cc: Clir Hunter T. (external); David Scholes
Subject: Re: Comprehensive Tender Report

Thank you

I am sure you appreciate the Banker / Client relationship.

Regards

David

David Leal-Bennett

ent from my iPhone

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On 28 Jun 2013, at 20:35, "John Robinson" < John.Robinson@north-herts.gov.uk > wrote:

David

My small below is not a response to the query raised by Tom in his e mail to me. As I said, I will provide a response to that however it is transmitted.

Regards

John

---- Original Message -----From: David Leal-Bennett <dlb@syssol.net> To: John Robinson Co: Cllr Hunter T. (external); David Scholes Sent: Fri Jun 28 19:41:43 2013 Subject: Re: Comprehensive Tender Report

John

You do not have the permission of HTH to engage with our bankers direct. Any correspondence MUST be routed through HTH.

I will pass the content of this email to them, should you wish to add anything then please let me know.

I will respond over the weekend or latest Monday when I believe you have requested a meeting.

Regards

David

David Leal-Bennett

Sent from my iPhone

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intended recipient, any use, disclosure or copying of this document is unauthorised. If you have received this document in error please immediately

notify the sender and delete this email from your system.

On 28 Jun 2013, at 17:24, "John Robinson" < John.Robinson@north-herts.gov.uk wrote:

David

The as we have discussed many times the responsibility and risk for managing the contract is wholly with NHDC. The Council is obliged to deliver the facility as specified. This is set out fully in the Development Agreement and HTH Ltd interests are fully protected by this.

The Council has a contract with BFAW to manage the procurement and I do not want to unnecessarily disclose information which could jeopardise this or be used to lodge a procurement challenge. You indicated FBE wanted this information to provide reassurance that their investment is secure...why then is Tom Young wanting to discuss it with HTH? Their interests, like yours are protected by the DA.

I will respond to Tom's e mail on Monday setting out the position in detail.

John

--- Original Message --From: David Leal-Bennett -To: John Robinson
Cc: Cllr Hunter T. (external); David Scholes
Sent: Fri Jun 28 16:00:40 2013
Subject: RE: Comprehensive Tender Report

John

Thank you for sending this and as you can imagine this will be discussed with ACF when we meet with them.

Now for the real question - how can we have a meaningful discussion if we don't know what is in it?

Brent and I have thought carefully about your stance and about the point Tony made about a partnership and wanting to get on with the Project. It is fair to say that the two approaches do not seem to tally.

If we are a partner, and this document has been produced for the benefit of us both, and we as directors are putting ourselves at risk by borrowing some £690,000, then why on earth won't you let us have a copy to review. We are all professionals and by virtue of the Development Agreement are bound by the clauses in that agreement relating to confidentiality.

I personally find it somewhat insulting that you are not prepared to let me personally have a copy of this document, in fact by so doing you are questioning my integrity.

Having reflected I am so incensed that I am copying this to David Scholes.

Regards

David

David Leal-Bennett

(+44 (0)1462 441170

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Any opinions expressed in this email are those solely of the individual. This email and any files transmitted with it are confidential and solely for the use of the intended recipient. If you are not the intended recipient or the person responsible



Project Issues

CONFIDENTIAL



3. Contractual

Following the signing of the Development Agreement on 9th September 2013 we requested a certified copy of the construction contract and up to date drawings, a legal requirement. This was eventually delivered to our lawyers with detailed drawings on 7th February 2014.

From:

David Leal-Bennett

Sent:

07 February 2014 15:33

To:

'John Robinson'

Co:

'David Morgan - Legal'; 'David Parsley'; 'Morag Norgan'; 'Brent Smith'; 'Rosemary Read';

'Stephen Pike'

Subject:

Borras Contract and documentation

John

Further to our telephone conversation of this morning I was very surprised that the contract with Borras was only signed yesterday, you alluded to the fact that BFWA have let you down and no doubt you will be taking matters up with them direct. For our part we have now received two bound documents plus a disc containing 199 files and these are held at the offices of Foreman Laws. Incidentally the disc was not marked with regard to date, origin but a copy was made at FL's office this morning and passed to our architect.

I emailed Gavin, but have not had a response, about the documentation in general, since I was concerned that whilst we have many PDF files we are not sure if they are all up to date, since there must have been changes. In addition here does not appear to be any version control with many dating back to November 2012.

Relating to the above, our architect has made the following comment which I would ask you to respond to as a matter of urgency, since we have already wasted a considerable amount of time trawling through the many files, many of which are just of the museum.

"Further to our meeting this morning I confirm the points discussed as follows;

 Can we please have the current drawing registers for all the Consultant team so that we can identify those that have been revised since the original schedule of drawings was issued.

We need to know that we are reviewing the current information .

2) The Contractor is also identified in the Contract to be responsible for several areas of the design and we need to be supplied with a set of the their drawings for review.

3)The Cost Plan - Iterm F of the Approved Documents is dated March 2011. Can we please have the updated Cost Plan which relates to the Contract Sum In the Contract.

4) The acoustic screen to the rear of the stage is to reduce noise break out to the rear of the Hall. I can find no Information to Indicate the basis for the design of this screen or its calculated db reduction to he problem. Can we be provided with this essential information.

I trust this is clear but If you have any queries please let me know."

As you are aware I am away for a few days but am contactable by phone and email. In my absence please ask your team to direct any queries to Stephen Pike and also ensure that I am copied on any exchanges

Thank you

David

is email is intended solely for the addressee, is strictly confidential and may be legally privileged. If you are not the addressee, or the authorized agent thereof, please do ot read, print, store, disseminate, distribute, copy or otherwise act in reliance on it or any attachments. If you have received this email in error, please notify us

From:

David Leal-Bennett

Sent: To: 03 February 2014 15:22

'John Robinson' 'David Morgan'

Cc: Subject:

Certified copy of the Building Contract

John

Are you able to advise please, when we met last Wednesday you indicated that it would be with NHDC later in the day? Gavin mentioned engrossment but nothing since?

Incidentally the documents that you sent over on a disk, arrived on 6th November 2013 containing 290 files, the rnajority of which were not indexed, nor were they version controlled. About a week later, 13th I believe, another 'correct' disk was received containing 156 files again, the majority of which were not indexed or version controlled. We did of course have the Christmas period, which did not help, but we continued to ask for the certified copy contract.

I appreciate that NHDC have been working on these for many months and may be familiar with the files but HTH are not and it has, and is, taking a considerable amount of time (plus cost) to go through, what we believe may well be out of date, documentation. Many of the files are dated 2012 with the remainder, save a few, August 2013.

The point I made when we met was that HTH have been requesting these documents for many many months and to suddenly bombard us with this number of files is not acceptable, especially as you are requesting information and decisions from HTH.

Even now we cannot be absolutely sure that we have the latest versions; it is particularly annoying since had these been provided earlier in 2012 or even mid 2013, or indeed had we been party to some of the discussions, then you would have had our input in plenty of time.

I think it is incredibly disappointing that you, for whatever reason, have chosen to operate in this way.

Nevertheless we will do our best to let you have our feedback as soon as we can, especially concerning the M&E and sound issues.

Regards

David



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From:

David Leal-Bennett

Sent:

07 October 2013 18:28

To:

John Robinson'

Cc:

'David Morgan'; 'Gavin Ramtohal'; 'Morag Norgan'; 'Brent Smith'; 'Rosemary Read';

'Stephen Pike'

Subject:

Development Agreement

John

Prior to your leave, you advised that it would be just a few days before we would receive a certified copy of the Building Contract (i.e. a set of contract documents incorporating a hard copy of all drawings, schedules and specifications). As you are aware this is required for HTH as well as ACF.

To date we have received nothing, please can you advise when we can collect these as we do not want to rely on the postal system.

On another point I understand from Sharon that, for some reason, a letter was sent to our registered office oncerning the case seating arrangements. I am not sure what this is but it cannot be the side letter we discussed at the signing, since any such document would need the agreement of both parties to form a binding amendment to the contract. Perhaps you can get your lawyers to send a copy of what you are proposing for our consideration.

Regards

David



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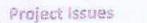


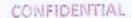


4. Full Council meeting of *8th August 2013.

a. Initially provided incorrect information to elected members. Following HTH's strong representation this necessitated an addendum to the report where the word 'material' was removed. In addition, against legal advice, the word "guarantee" was used which was a misrepresentation of the fact.

^{*} HTH also realised that the Architects had produced a scheme that would not look aesthetically pleasing, so with community support, HTH negotiated and purchased 15 Brand Street. Mr Robinson insisted that we should not apply for planning permission, something we did, at considerable expense, incurring his displeasure. This being evidenced by his report to Full Council on 8th August 2013 Appendix 1.







5. Refused to:

- a. provide **detailed drawings of the work being undertaken in the
- set regular programmed meeting of Project Board and Design Review meetings.
- c. program regular site visits.

**The provision of detailed plans were reluctantly provided on 1st November 2013 (287 files). Seeing the enormity of the task we approached a professional Project Manager who is a FRICS who, over the Christmas period, agreed to assist. Since that time he has been going through the myriad of detailed plans many of which are dated November 2012 and could easily have been provided sooner. Withholding such important information is not only contrary to the spirit of cooperative working, but in our opinion is a blatant attempt to ensure that HTH were unable to request any changes to the process.

HTH Ltd - Red

NHDC - Black

Comments Blue following meeting with JR 29-Jan-14

Note: This document has been created to monitor various issues with NHDC. It was compiled following two emails that Brent sent to JR and then I added the email sent by JR to me on 17-Jan-13. All NHDC text is in black and HTH red.

On 29-Jan-13 I handed a copy to David Scholes and later at my one-to-one meeting with JR, where we had a discussion for over an hour. JR is to revert on the points but I have put my comments of the meeting, plus action points, in Blue. We need to finalise the M&E plus acoustic specification as soon as possible.

David

-Jans14 Sent 27

Dear John

Acoustics

We have had a meeting with the consultants who are advising us on the acoustics of the Hall and the requirements of our sound system.

We tried to persuade you to allow us to include improvements to the acoustic performance of the Hall in our Essential Requirements but accept that this was ultimately not included.

The acoustics of the Hall are poor (we understand due to the hard curved ceiling and it focusing the echo along the centre of the Hall). We fear that it will not be fit for what we want to use it for (particularly concerts, live feed opera and weddings). The problem is not just music, its acoustics are poor for voice as well.

It will be possible for us to retrofit ceiling panels or hanging baffles after completion but these are a relatively poor solution and suffer from the additional drawbacks of being expensive and harmful to the appearance of the beautiful vaulted celling.

We are told that far and away the best solution is the application of an acoustic coating to the ceiling. This would be self finished and should last the lifespan of the building. 29-Jan-14 Who is paying for Acquistic painting material? HTH to provide Estimated Area and advise NHDC of cost of material, WDC will then advise BFAW on product and cost. I.e. HTH to obtain material amount plus cost to purchase i.e. we can work out the marginal cost. "HTH will establish area cost of materials and advise once received will seek BFAW advise and cost quotation."

Is it possible for this to be considered? Our consultants can obtain quotations for its application or could give a specification for your team to get such quotes.

Is it possible for us to know what the cost allowed is for the repair and redecoration of this celling&

Stores

Is it certain that you are proceeding with the construction of the stores at the rear of the stage? I had hoped that there could be a review of these stores but assume that the time for this is past. I still think that you could make out a good business case for taking the adjoining vacant storage above Argos and New Look to save spending money on Bury Mead Road. I remain available to show you or anyone from your team round this space at anytime. 29-Jan-14 Outside scope of Project, never had detailed costing from Brent. HTH can discuss alternative options at a later date.

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HTH Ltd - Red

NHDC - Black

Comments Blue following meeting with JR 29-Jan-14

Noise Break Out

Our consultants asked about the control of the break out of noise from the Hall (which is one of the agreed Essential Requirements) and felt that your team would struggle with the Listed Building requirement that this work be constructed to be reversible. 29-Jan-14 Is this a planning Permission issue? JR stated that it was the same as the design & access statement, NHDC to review and revert following advice from BFAW.

Have your consultants carried out the necessary sound tests and are they confident that the proposed solution will work?

I look forward to hearing from you. BS

Email re Moarding

Frontage

The differences are small but significant to us. It is mostly it being a bad drawing that makes it look so awful. When I looked in detail at it, the stone block sizes are similar to those on our design, the difference (and this is why I changed the wording of my draft) is in the illustration of them. In the BFAW visual it looks like a bog wall but in ours it looks like a stone panel.

Glazing

The important thing is the glazing. If we are getting what Neal Charlton indicated to me I think that it should be fine (I would like to see a sample asap). I think that the way in which it is shown on their visual may be down to use of standard software which can't show it properly.

29-Jan-14 NHDC to refer to BFAVI to confirm it is 'as per tender specification' which we ' have all seen'? Not floating Glass. Seme pleases of where else installed from BFAW requested.

Perhaps we could get some photographs of their proposed system (as well as the sample referred to above) and some addresses where we can see it. BS



email from JR re various items inc hoarding

17-Jan-13

When we met last week we agreed might be sensible for us to get together to run through a number of issues connected with the project and I have set these out below. Having reviewed the list it does seem that although each is critical, some things may have moved on so if we are able to deal with elements by email so be it.

Storage Area Design Changes - on the back of the agreed changes to the storage area we discussed last week, Brent has asked for a quotation to be provided as follows:

'You are providing the shaft and power etc for us to install this lift in the future. I hope that you will leave open the possibility of putting it in during the contract. It would be sensible for a scheme and quotation to be obtained for it from the contractor who carries out the installation of the main lift and the two platform lifts at the level changes. Will your architects be doing this?"

We will ask Borras for a quote but need to understand. WILLATH Ltd be providing the lift - if we can and if NHDC are not able to The most important thing is that the shaft and openings for the doors are constructed to suit a particular lift and that there are the correct points of support, electrical supply to the location of their panel and a telephone line.

; why Brent refers to the other platforms lifts at 'change of level' which are being provided already as part of the build and where electrical/telephone service provision is needed in adjacent to the shaft itself (I am supposing this depends on the model/type of lift being produced.) - NHDC are installing their main lift in the museum plus two platform lifts at the changes of level in the shared areas. Brent was merely suggesting that it would assist future maintenance if they are all from the same manufacturer.

29-Jan-14 This is very sensible and NHDC will revert with

1) Manufacturer,

2) Provide HTH with Name

3) HTH to advise of quotation, to be provided, from either Borras to fit during build or Affordability - if we can't provide finance will be done later but we will at least have services in correct place. at a later time by ATH.

We clearly demonstrated that it is not necessary to have the platform lift at the main entrance but this was ignored and we assume is a dead issue, albeit that it was a cheaper option.

Cafe Seating Layout - we have asked for an illustration of this to be provided by the Design Team however, finalisation of this is not programmed to be concluded (alongside other aspects of the internal layout) until the summer as part of the overall exhibition design in stage 2 subject to HLF approval.

Why on earth does this have to wait until then? How will the design of the museum effect the layout of the Foyer?

I know you are concerned that the layout could be 'business critical' but the protection in terms of the number of covers to be provided is embedded in the Development Agreement. It is business critical and more importantly is delaying negotiations which are now on hold. 29-Jan-14 HTH have to show a franchisee layout, HTH brought in 15. This uncertainty is causing HTH a problem, layout discussed below.

I have attached a further copy of the 'letter of comfort' as requested and would suggest if this does not provide sufficient clarity (it does not you have used the words intention but the DA is a legal document, you also chose to link this to 'further design work' which is difficult to understand, why has this not been commissioned? It is NOT dependant (in htt since NHDC have agreed to underwrite should the funds not be forthcoming), we could either: wait for the sketch layout from the designers of draw one out ourselves. We need certainty and this is not acceptable since we need to discuss layout with people who might wish to run this as a franchise and we are unable to progress until this is clarified.

29-Jan-14 NHDC are trying, with consultant, to provide and are 'looking for suggestions' on spill over area from HTH. Plans will be scanned and sent for HTH to comment. Sight lines important and need to integrate with museum exhibitions. Plans received and Brent to revert with Ideas, need to prefect our office entrance.

A further copy of the letter which was emailed to you on 21st October 2013, amended to include the correct address, is attached. Noted

Collection of Seating & Coat of Arms - we spoke on Friday about this and I forwarded correspondence to Brent Smith. I understand the Coat of Arms is now removed and the Museum Service are holding the seats for your collection. Correct. Brent is grateful for their assistance in saving the mosaic. 29-Jan-14 Borras requested about a lorry, HTM looking at alternatives.

Would be helpful to understand when your intentions in terms of programme of use and expectations about use of the foyer during museum opening hours and other times. It is not possible to advise you on this at the moment purely because we do not know what the final design will be, including the positioning of the cafe seating. We cannot be expected to provide this information until we know the detail; in addition we would like to have confirmation of the proposed museum opening hours, at one stage you were considering Sunday opening! - it would be nice to know what it is going to be like before we make detailed plans for its use.

Like HTH Ltd, the Council will be seeking to maximise income from events/space hire within the parameters of the Lease and Community Use & Management You mentioned this a little while ago and we expressed our grave concern at this statement, it was also raised with David Scholes since this was never mentioned in any of the discussions we have had over the past four years nor has it never been raised with ACF. You are fully aware of the events we have been proposing and there will undoubtedly by a conflict if we find ourselves in competition over the use of the first floor gallery; this was never raised and we need to clarify NHDC's intentions?

Agreement so, understanding your preferences/intentions at the earliest possible stage would help inform our planning or where there may be potential for conflict of use. We thought that we had been clear on this. We want it to be the break out space for conferences, seminars, weddings etc; use in connection with the Hall for various events (but not events like the Beer Festival); access between the Hall, Balcony and Lucas Room to the Rear Terrace and events like Cocktail Parties.

If NHDC are now considering competing with HTH then we need to address this now. Never has this been agreed in any discussions and we are not sure if it falls within the remit of the Museum Service, our funders will certainly be questioning why this has not been raised in the joint meetings that have occurred, since at no time has this been represented.

29-Jan-14 NHDC will be opening on Sundays, probably mornings 10:30 to 4:30. HTH to consider impact, Operational Team to discuss when they meet. 'Can't expect NHDC not to exploit its assets'. We have an issue here which needs to be resolved.

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Safe - I understand that you suggested the safe be kept on site during building works, but having looked at this in further detail, we do not believe this would be possible without impeding the contractor's work. Arrangements will need to be made to have this removed and stored off site by Hitchin Town Hall Ltd. - It was agreed some time ago that you would obtain the keys to this so that we could make a final decision, we await these and as soon as they are available we will advise. 29-Jan-14 Safe, keys? Now forget it, send for scrap. All HTH wanted was for this to be moved to our office which is not possible.

Arrangements for recharging energy etc use - it is some time since we looked at the principles to allow us to include this in the lease. Our intentions wherever possible to meter actual use and recharge units consumed but in some areas when subject to shared use (at the same time) this may involve complicated recharges on a pro rata basis. It would be useful to agree how this might be addressed with you. — When last discussed NHDC were going to progress the sub-metering of the various areas; this should not be too difficult. We have made it clear that we will be a low energy user compared with the museum so not on a pro-rata area basis (this has been accepted by NHDC).

29-Jan-14 To be discussed at Operational Team level part of M&E spec. DLB advised that Fred Payne would form part of this team for HTH. I also think David Parsley should be involved with this one.

Lighting Rig – the stage lighting rig has been retained as requested but it is far from clear that this would comply with current standards for installations of this type. No allowance has been made for its installation in the M & E Spec, do you require a quotation from Borras for this? – No matter what the condition of the lights we need a lighting rig and this is crucial to the use of the hall, it should have been in the original specification (which you consistently prevented us from seeing); its inclusion falls under the 'fit for purpose' requirement of the Development Agreement. There is no question of HTH paying for the M&E connectivity.

29-Jan 14 NMDC looking to charge HTH. DLB stated this is not acceptable as a requirement for Hall to be 'Fit for Purpose' We requested that rig be removed to protect it and HTH expect power to be provided. HTH have not seen any M&E plans. We expect it to be in place with adequate sockets and linkage for control of lights. We asked for it to be placed in safe keeping, ergo we wanted it to be functional. It is a Tewn Hall building and this is an essential part of the delivery by NHDC.

pata Points/Electricity Points and IT etc - Have you had the opportunity yet to review that M& E Specification and Drawings? We will be picking up a number of issues with BFAW and the M & E Consultants shortly and will need any feedback from you within the next week or two to feed in to that. - We are working on it. We have not had much time with the drawings which were only delivered comparatively recently. 29-Jan-14 HTH are now looking at this with our specialists and will revert ASAP.

HTH Ltd - 'brand' for the building....now confirmed as 'Hitchin Town Hall'
The site board is now being produced and we have left space for your logo
and funder's particulars. The dimensions are set out on the attached PDF.
We have discussed which we do not find acceptable, you have received a
detailed response. You will need to produce a panel to be affixed to the main
site board as soon as possible as expect this to be put up towards the end of
February early March (Current date is not known as this is dependent upon
Borras demolishing 14 and 15 Brand Street and erecting appropriate
scaffolding) (Note: now demolished and scaffolding down) - We are ready
but will tie our logo release with the fundralsing campaign, again towards the
end of February. 29-Jan-14 No logo release until HTH kick start funding end
February.

Kitchen Design - at the Design Review meeting on 30th October Brent indicated he would be speaking with Mather to help develop the design. I realise that some of this relates to the counters, servery, furniture etc but do need to stress that the food production area itself i.e. the kitchen and servery layout as detailed in your drawings are those that we are taking for the purposes of providing water, drainage and power in the 'first fix'. - we are not considering Mather for the kitchen design but may consider them for the Servery/Café BUT NOT UNTIL THE LAYOUT OF THE FOYER HAS BEEN ESTABLISHED - HOW COULD WE? We accept that you are basing the services on the layouts which we have provided.

29-Jan-14 JR raised compliance issues. Any such design would, of course, comply with Environmental Health with whom HTH will liaise.

HTH Ltd's own fundraising display board - do you know when this will be available and ready to fix an site - We assume there will not be a charge for this but if so we would need to know the cost to us before we instruct. It will need to be coordinated with our fundraising campaign. 29-Jan-14 For our sign HTH to measure up between two stanchions as there are slight differences in size. We need to progress this now we have our logo plus ACF's.

Signage also mentioned in front of Town Hall building where existing sign is above the doors - NTH to consider.

Operational Management Team to be established - I would like to agree an agenda/programme of work, membership etc for this group. It could probably be easier to talk this though. - So would we and await a response.

29-Jan-14 Noted

Certified Copy of Building contract - where is it plus latest drawings.

29-Jan-14 NHDC chasing BFAW contract.

Comments Blue following meeting with JR 29-Jan-14

29-Jan-14 DLB notes from meeting not covered above:

JR stated that there more asbestos had been found and showed some photos, difficult to understand exactly where. JR to advise but won't know until work started. (Transpires on adjoining wall to No.16)

DLB very concerned at the how process being conducted. Drawings received very late disk arrived in Nov or Dec, with myriad of drawings not indexed. M&E not clear as response required by NHDC in January, some drawings sent via email to assist but dated November 2012. Reality is that drawings could have been given months ago and saved HTH considerable time and money. JR to check providence of drawings.

DLB stated that HTH have been pushing for years to be involved but that JR had repeatedly refused to pass over basic plans and details - Not partnership working - JR withholding information and then releasing massive amount of information and requesting decisions - 'not how HTH do business and it is not acceptable'.

Requested that "if you have any more drawings then please let us have them urgently".

Still not received cert copy of contract, been let down by BFAW and repeatedly asked, been assured will be received today. Final drawings won't change substantially from tender documents. HTH is concerned about impact of value engineering.

Still some discretionary choices, also CCTV decisions

JR: Establishing Operational Team - HTH can't do much until we know what we are getting. HLF asking what income NHDC will receive from the building! JR listed following:

- 1. Room Hire
- 2. Education charge schools
- 3. Exhibitions charge
- 4. Retail shop
- 5. Events special events or exhibitions

No 5 gives HTH considerable cause for concern.

HLF need to understand how much NHDC will make and how much will save (revenue savings target assumed)? Cost reductions i.e. fuel efficiency, staff plus some revenue streams. HLF want to know projections.

JR stated that Foyer 'could be used every Friday' - shared space. HTH can't assume we have exclusive usage when museum closed! DLB stated that the area not for Museum Service to make money but there for Community Use - needs to be discussed at Operational Team meetings. NHDC need to make some assumptions. Acknowledge HTH Business Model needs certain income. e.g. if Foyer not being used on a Wednesday night then MS would need to use this space.

NHDC commercial use never discussed with ACF, big principle here, how is MS going to operate in the future, plus how will the building operate. DLB concerned at JR comment "If (Museum) Policy not explicit then we will change Policy" - [Point of Information - this is not actually his call, it is political.]

Planning for HTH very difficult, hopefully by summer any problems (asbestos, archaeological etc) will go away and then we can decide what is required re planning programs etc. e.g. HTH cannot ramp up weddings as uncertainty and reputational risk.

HTH Ltd - Red

NHDC - Black

Comments Blue following meeting with JR 29-Jan-14

Page 1

Need to know broad brush assumptions on usage and how much to incrementally plan forward - Fred Payne on Op Team.

Action: JR to draft an agenda for Op Team to discuss.

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Also mentioned that it was difficult working with JR, as he wants to run everything! He acknowledges that NHDC has to deliver a building 'Fit for Purpose'.

JR stated he would respond on all above note.

29-Jan-14

dlb





Incorrect reporting of minutes of meetings:

- a. There are still some outstanding minutes (those of 15 July 2013) which were referenced at the Project Board on 11 December 2013 where the minutes, controlled by Mr Robinson state: "DLB did request that amendments to the minutes be made which reflected actions following the signing of the Development Agreement. However, as the minutes were an accurate representation of the discussion at that time, it was agreed that these would not be amended". This is false and the corrections to the minutes of meeting of 15 July 2013 (well before any signing) to which this referred have still not been amended.
- b. The minutes of meetings are being written for the file and do not represent what is actually said. By way of example the latest meeting on 28th February 2014, where lawyers were present and where copious notes were made, large amounts of critical Information provided by our specialist concerning the Liaison Arrangements and areas where there had been a breach, were omitted.

HTH Ltd response to email sent by John Robinson on 21st January 2014 -CONFIDENTIAL

This is a response in some detail because, as I stated in my earlier email, the whole picture is NOT being conveyed to elected members.

NHDC - Email of 21-Jan-14

HTH Ltd Response 27-Jan-2014

1.

The draft layout of the site board was discussed at the Design Review meeting on 30th October 2013.

This is incorrect, and it was not discussed in any detail.

A black and white diagram of the site signboard was tabled at a Design team meeting for the purpose of being able to advise us of its size so that we could consider having our own board the same size. We were to be told the cost of this in the contract as a guide (I don't recall getting this information). It was not discussed at all and we were not shown any proposed layout of the various consultants or other boards/signs.

Since that date we have never been shown anything until your email was received.

Layout

What you are proposing is not the norm which

- Sponsors of the Project inc funders
- Picture of the Project
- Who is doing the work i.e. under the picture.

The decision of any branding had absolutely no bearing on this process since it was agreed that a space could be provided for inclusion at a later stage.

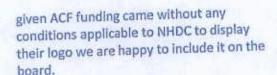
Incidentally Branding is not just a name it is far more than that.

At that meeting I stressed the urgency of coming to a decision on the 'branding' of Hitchin Town Hall Ltd to allow us to conclude design. Although you have now verbally confirmed that the building would be marketed as 'Hitchin Town Hall' I have yet to receive any graphics, logos or indeed your sponsor's logo for inclusion on the board.

We have, as promised, left a space for this and your sponsor's logo.

Whilst I acknowledge that ACF have made a significant commitment we are advised that HLF will expect their financial contribution to be reflected in the way illustrated and,

The contribution is significant, ACF £850k with HTH providing £190k i.e. over £1m in a £4.3m Project. Have HLF insisted on a certain percentage of space?



Correct, there was no conditionality but common courtesy dictates that they are given sufficient space to demonstrate their financial contribution, by comparison how much has the Lottery Fund actually committed to date? (because funding for the museum fit out has not as yet been sanctioned by HLF,)

The very least you can do is to give equal status to the two providers

You also have the opportunity to include their logo and acknowledge their funding on your own display board which we have agreed to be displayed outside the Town Hall as building works commence although again, I have yet to receive details of when it will be ready.

Any board we are permitted to display will be aimed at fundraising and of course we will give credit to ACF.

Timing of the display will tie in with the fundraising campaign.

C.

On a linked matter we are also waiting an update from you on any additional external permanent signage you are intending to install outside the Town Hall. This is not of prime concern at the moment but will be addressed in due course, at the moment we are working towards a contract completion of June 2015 although we understand that there could be further slippage.

D.

We commissioned the new graphic on the basis that you insisted we withdrew all printed materials, the image on the website and on other materials as you had not given your permission for its use.

Whilst I note you view this as we have again looked at the design and we are quite content with the image.

Incorrect and misleading again. HTH never insisted that you withdraw all material, this was an overreaction by you as you realised that you had made a mistake in not requesting permission.

The fact is that this was commissioned and paid for by HTH and you decided that you could use it without so much as a courtesy call.

I spoke with David Scholes about it and then sent you an email on 07-Oct-13 the text of which is produced below:

Dear John

I mentioned this to David briefly last week, and HTH will shortly be writing in an official capacity, but we are concerned that NHDC are using images without our permission. This might seem a little trivial but it is very important to HTH, our letter will explain in more detail.

In the meantime can you please:

- Advise me of what publications/presentations NHDC have used the picture(s)
- How many leaflets have been produced and to whom they have been specifically distributed or

displayed.

Let me know of what plans you might have concerning any future picture(s) usage.

I am sure that we can come to some arrangement for the future but in the meantime I would request that NHDC please refrain from using the pictures.

The specific pictures in question are attached, you will note that these versions are reduced in quality and have a copyright notice.

Thank you.

Kind regards

David

To the best of my knowledge we have never had a response to this email. In the event we did not think it appropriate to send a 'formal letter' and you were made aware that it was just permission that was required see penultimate paragraph above.

As I mentioned to David Scholes and yourself the whole point was that HTH would in all probability wish to use the picture for merchandising and fundraising purposes.

Let it be clear, at no stage did HTH insist that all existing material be withdrawn, we merely requested that if you did want to use it, that you gave some acknowledgement when it was used, such as reproduced by kind permission or copyright.

E.

On a general note, this is a relatively minor matter in comparison to some of the other outstanding issues which I notice you have not responded on

- and whilst we are trying our best to work in partnership, this does require a commitment from your side to deliver on the things you have promised, for example the removal items from the Town Hall in a timely way, confirmation of Town Hall branding etc.

I am afraid I do not agree since information is being placed on file which is incorrect and misleading.

It is interesting that you use the word 'partnership" because it does not feel that way.

To reference the removal of a few items and our branding are minor compared to the delays that have been caused by the lack of communication by NHDC.

It appears that you are yet again attempting to pass on any delay to HTH Ltd.

I am becoming concerned that the plan you have previously presented to 'ramp up' activities to ensure Hitchin Town Hall Ltd is in position to operate the hall on opening appears to be behind schedule and would like to add this to the agenda for our meeting to consider this in greater detail and determine whether this should be reflected in the Project Risk Register and to see if there is anything that can be done to mitigate the risk if that proves necessary.

I find this statement insulting and classic scaremongering to the recipients of your email.

To date this Project has been delayed considerable and even post signing of the Development Agreement we have moved from April to June 2015.

HTH are very concerned that there will be further delay and find it increasingly difficult to plan for a specific opening quarter, let alone month or day. With the latest delay we are not able to book any weddings in the summer of 2015, as originally envisaged, and there is concern that should we offer pre Christmas events that these may have to be cancelled, the reputational risk is considerable and as a charity is of great concern.

Specifically we have been kept in the dark for many many months and you refused to let us have sight of any drawings, albeit that these were available over a year ago. Some drawings did finally arrive on a disk in December 2103; those were dated NOVEMBER 20121 you then requested that we turn these around in weeks to fit in with your schedule.

To impose such a deadline when you have had these for well over a year is totally unacceptable. We have been asking for a certified copy of the building contract for months and to date have received nothing.

I would also quote from information sent to me by Brent:

At a Design Team meeting it was agreed that the architect, services consultants and technical staff from NHDC would hold an urgent meeting to go thought the comms requirements of the building. We were expecting a report from this review. We had made our requirements clear with regard to the importance of having proper fast bandwidth to be able to have five feeds form opera and other events and to be "future-proofed" as far as possible. There was debate as to whether the Town Hall would be freestanding as far as NHDC are concerned or a satellite of their main system (there was debate regarding security requirements).

Specifically we wish to have an update on the following, which have been requested on many occasions, since these all impact on our forward planning.

 Cafe seating – surely the layout of the Foyer can be progressed, hopefully including us in such development. We need to finalise our Servery layout but do not wish to do so until such time as the seating arrangement is established.

- Removable stage we are aware that you are not able to provide the sliding out stage which was suggested but we need to know what we will be able to have. We hope that you have given full consideration to being able to retain the existing stage depth. If this remains not possible, we would like to have the alternative stage blocks. These would need to have collapsible legs as we are already hard pressed on the storage available. When originally suggesting the projecting stage, Neal Charlton did say that the upper part of the under stage storage was not of much use to the museum. On this basis, would it be possible to form this into storage, accessed from panels in the front of the stage, for these stage blocks and for our tables?
- Hall black out arrangements as discussed during the negotiations leading to the Development Agreement, easily operated (motorised) black out is essential to our successful operation of the Hall.
- Toilets we would like to see the detailed design development of the toilets (particularly the Ladles) so that we can ensure that they have the necessary appearance for the type of events that we wish to operate

We have repeatedly requested regular meetings but this has been declined, unless there is something urgent.

We wish to work with NHDC, in "partnership", but your approach has and is making this extremely difficult.