

NORTH HERTFORDSHIRE DISTRICT COUNCIL

OVERVIEW AND SCRUTINY REVIEW OF HITCHIN TOWN HALL AND DISTRICT MUSEUM

MEETING HELD IN THE COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES,
GERNON ROAD, LETCHWORTH GARDEN CITY
ON FRIDAY, 2ND AUGUST, 2019 AT 10.00 AM

MINUTES

Present: *John Richardson (Chairman), Councillors Sam Collins, Ian Moody, Helen Oliver and Val Shanley*

In Attendance: *Melanie Stimpson (Democratic Services Manager) and Matthew Hepburn (Committee, Member and Scrutiny Officer)*

Also Present: *At the commencement of the meeting approximately 19 members of the public.*

Witnesses: Patricia Cowley, Brent Smith and David Scholes.

7 HEARING PROCEDURE

- The Chairman explained the format of the hearing and the purpose of the Panel.

8 WITNESS STATEMENTS

The following witnesses had been invited to attend Day 3 based on their written statement:

- Patricia Cowley;
- Brent Smith;
- David Scholes.

A. **Statement of Patricia Cowley – Session 1 – Audio Recording – 4.49**

The Chairman welcomed Mrs Cowley and explained the format and purpose of the panel.

Mrs Cowley gave a verbal presentation drawing attention to the following

- Her former role as a North Hertfordshire District Councillor and in particular as the Portfolio Holder for the Museum Service and Community Halls prior to and at the start of the Fundamental Service Review (FSR) of the museum service in 2004 and 2005.
- There had been two museums - Letchworth and Hitchin.
- The museums had not complied with the accessibility requirements and the layouts at both had been difficult to service and manage.
- The conclusion of the FSR was that one museum was required for the whole of the District. This was approved by Council.
- Hitchin Town Hall and Working Men's Hall and Gym were identified as being a suitable place for the museum.
- There was opposition to this decision in Hitchin.
- Hitchin Initiative came forward with a refusal of the plan and said they could obtain funding for the purchase of 14 Brand Street to enhance the entrance.
- A resident of Hitchin applied for the venue to be listed, which was granted, resulting in Hitchin Town Hall being a Grade II Listed building.

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- Hitchin Initiative set Hitchin Town Hall Ltd as a CCL Community Interest Company) in order to obtain funding from Association of Charitable Funds (ACF) / Social Investment Bank (SIB).
- HTH Ltd put forward a proposal to buy 15 Brand Street to improve the site and space of the entrance.
- A contractor was already in place - finance and the design had both been agreed;
- The process had been frustrating with HTH Ltd.
- At this point Project Board meetings with HTH Ltd became more difficult and tense.
- Demands from HTH Ltd increased.
- The directors of HTH Ltd were David-Leal Bennett, Brent Smith, Stephen Pike and Rosemary Read.
- HTH Ltd did not have the expertise needed to complete the project.
- There were occasions when HTH Ltd said it was a 'deal breaker' if demands could not be met.
- HTH Ltd issued comments to the press which criticised the contract and the Council. This undermined the progress of the build and the trust between the partners.
- Recommended that in the future it would be unwise to involve a newly-elected Councillor as a lead part in such a group. As well, the community group should have a larger group of directors with a clear set of skills and expertise.
- The accounts of the community group should be made available.
- Throughout the project, the Council were not given access to the HTH Ltd accounts.

Questions to Mrs Cowley were asked by the Panel:

John Richardson questioned:

- Do you know when HTH Ltd appeared and is it fair to say you were pleased?
- Do you remember anyone probing HTH Ltd to see if they were the right people for the job?

Patricia Cowley responded:

- She was pleased.
- Part of her role was looking at sustainable ways.
- The original proposal came from Hitchin Initiative.
- Hitchin Initiative had a good record of delivering things within Hitchin. HTH Ltd formed as it progressed.
- There was not an investigation because it was originally a proposal by Hitchin Initiative which evolved into HTH Ltd.
- Had initially believed HTH Ltd had the expertise because there was broad cohort of people across Hitchin who could sustain the project.

John Richardson questioned:

- Did your doubts about the expertise come on gradually?

Patricia Cowley responded:

- The doubts came on gradually and did not question anything at the beginning.

John Richardson questioned:

- As your doubts developed, did you feel that there was always an opportunity to resolve it?

Patricia Cowley responded:

- There were times when it was hard to resolve anything because of being so far into the project with the partnership.
- The atmosphere at the Project Board meetings made it difficult to challenge or question anything that was being said by HTH Ltd.
- HTH Ltd were fairly aggressive towards NHDC Officers.
- HTH did not think that Officers were capable of doing the job. However, had faith in the Officers.
- When anything was challenged, HTH Ltd would say it was a 'deal breaker'.

John Richardson questioned:

- Who was in charge of the project?

Patricia Cowley responded:

- John Robinson was in charge.
- John Robinson was accountable to the Leader of the Council and to the Chief Executive of NHDC.

Councillor Ian Moody asked:

- How far down the road were you with finances?
- How much money had the Council spent?
- When Hitchin Town Hall was decided as a suitable place for the museum, did you consult Hitchin residents?

Patricia Cowley answered:

- Quite a long way down the road with finances – plans had been drawn up.
- A substantial amount of money had already been spent as an Architect had been commissioned.
- We consulted Hitchin residents. The Museum, Arts and Heritage Forum held regularly meetings with residents.
- There were representatives from across the District.

Councillor Helen Oliver asked:

- Was there support for centralising the museum?

Patricia Cowley responded:

- From memory, there was definitely good support in Hitchin for the museum.
- The Letchworth museum was closing so potentially residents of Letchworth may not have been happy with the museum moving to Hitchin.

John Richardson questioned:

- One of the directors of HTH Ltd was a District Councillor. You mentioned that there was a conflict of interest; can you elaborate?

Patricia Cowley explained:

- We had reports which went to the Council and Part 2 papers on the progress of the museum.
- It's a conflict of interest being a director of a company and staying for Part 2 papers.

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- Mrs Cowley added that personally she would not be happy sitting on a Council and taking decisions about spending money on a company with whom she was directly involved.

John Richardson further asked:

- Councillors are involved with developing and upholding their community so there will always be a potential 'shared interest'. What made this different?

Patricia Cowley responded:

- It was not like supporting a community hall and applying for grants from the Council.
- This was a big project that evolved to £3.4 million.

John Richardson questioned:

- What happened with the stage?

Patricia Cowley responded:

- There was always going to be a division on the stage to make it smaller. However, this was temporary, and still is.
- The stage was used for storage of museum artefacts.
- She was not involved with the construction side.

John Richardson questioned:

- This had needn't been a 'deal breaker'?

Patricia Cowley responded:

- It should not have been a deal breaker.

Councillor Sam Collins questioned:

- Can you clarify who made the decision to change the material of the wall?

Patricia Cowley responded:

- Did not know who made this decision.

John Richardson questioned:

- Were the aims of the project met?

Patricia Cowley responded:

- She believes that the Museum and Town Hall are an asset to the District including the café.
- She was pleased that she had been involved with the project.

John Richardson questioned:

- On reflection, could friction have been avoided?

Patricia Cowley responded:

- There were some personalities that were difficult to handle however, when you start a project, no one knows what personalities will come out.
- One or two personalities, if they had been removed, maybe it would have been a more 'comfortable ride'.

John Richardson questioned:

- Would (different) mediation have helped?

Patricia Cowley responded:

- Mediation was offered at a later stage.
- The Chief Executive tried to mediate.
- Mediation could have been introduced earlier.

Councillor Val Shanley asked:

- In future, would it better if a project were to be run by a private company rather than in-house?

Patricia Cowley responded:

- We could have had a private Project Officer. However, we had the skills in house to deliver the project.
- The project has been delivered.
- A private Project Officer would have been an extra cost.

Councillor Helen Oliver asked:

- Did HTH Ltd continue to represent the beliefs of the community?

Patricia Cowley responded:

- Never made aware of what communication HTH Ltd had with the community.
- Never informed about what meetings HTH Ltd had with the community.

The Chairman thanked Mrs Cowley and informed her that the findings report of the Panel would be presented to the Overview and Scrutiny Committee.

At the conclusion of Mrs Cowley's presentation, at 10:34, there was a brief pause in the proceedings and the meeting resumed at 10:38

B. Statement of Brent Smith – Session 2 - Audio Recording – 0.40

The Chairman welcomed Mr Smith and explained the format and purpose of the Panel.

Mr Smith gave a verbal presentation drawing attention to the following:

- Retired Building Surveyor and was Chairman of Hitchin Initiative at the time of the project.
- The idea of adding 14 and 15 Brand Street into the project was his.
- Hitchin Initiative came close to taking over the Town Hall in 2006.
- NHDC appointed Architects in 2009 to prepare feasibility studies for establishing the new District Museum in the building.
- Their four proposals all had the museum in the main Hall.
- There was objection to their ideas and a group was set up to oppose the loss of the Town Hall.

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- Their petition to save it got about 6,000 signatures.
- Wanted the Town Hall to be retained for community use but also wanted the District Museum to be based in Hitchin.
- Keith Hoskins and Brent Smith attended one of the objectors' meetings where they agreed to represent the objectors to seek a resolution, which was when it was decided to incorporate 14 & 15 Brand Street into the scheme.
- Four examples of the problems working with NHDC: pettiness, control, NHDC using rules to suit them, and vindictiveness.
- John Robinson caused the problems that occurred on the project.
- A joint review of the project never occurred.
- Saving the Town Hall was important for the community.
- An anonymous donor lost £30,000.
- John Richardson questioned:
- Were you aware that there was a difference between Hitchin Initiative and HTH Ltd of which you were Chairman to both?

Brent Smith responded:

- For some reason, owing to the Bankers, Hitchin Initiative was not an appropriate body.
- They wanted to set up a Community Interest Company (CIC) but John Robinson did not like this so they set up a charity.
- Mr Smith was the shareholder but was advised by lawyers.
- There were regular meetings with the community.
- The community were happy with their representation.

John Richardson questioned:

- Were Hitchin Initiative and HTH Ltd two very different organisations?

Brent Smith answered:

- They weren't different – for the purpose of this contract, the bankers required a separate organisation.
- Mr Smith was still Chairman of both organisations and was reporting to Hitchin Initiative.
- In regards to publicity, formal publicity was required to attract members - needed to have approximately 32 members.

John Richardson questioned:

- You had a single share, what did this mean?
- Did you have liability?

Brent Smith responded:

- Got issued with a single share.
- Knew nothing about company law.
- Did not mind taking risks and financially backing companies.
- Prepared to take risks.

John Richardson questioned:

- What was your relationship to 14 and 15 Brand Street?
- Why was it a good idea?

Brent Smith responded:

- It was a bad idea to have a Chinese take-away and then a 5ft gap to a community facility.
- Knew a lot about the Workmen's Hall.
- Approached the owner (John Ray) of those buildings (14 & 15 Brand Street) and persuaded him to come into the scheme.
- The owner advised that the hairdresser (one of Mr Ray's tenants) had just renewed their lease so would not be prepared to sell it.
- Modified the scheme to just have 14 Brand Street.
- Mr Ray contacted Brent Smith and asked him to contact the hairdresser.
- The hairdresser wanted to move as they did not want to be there whilst construction work was underway.
- This was the reason that they only went for 14 Brand Street to start with.

Councillor Helen Oliver asked:

- Do you think NHDC and HTH Ltd had the same objective for the site?

Brent Smith responded:

- Found that NHDC was lacking enthusiasm and vision.
- The only support came from former NHDC Councillor Patricia Cowley and another NHDC Officer.

John Richardson questioned:

- Hitchin Initiative, HTH Ltd and NHDC all had a culture. Are these cultures reconcilable?

Brent Smith responded:

- Mr Smith briefed both HTH Ltd and Hitchin Initiative that the Council operated differently. He made it clear that this would not be changed.
- It was explained to both teams: *'never try and teach a pig to sing; it won't work and it will annoy the pig'*.
- Never try to change the Council – just had to try to work with them.
- Mr Smith said he felt that they were an annoyance to the Council.

John Richardson questioned:

- Any more comments on the wall?

Brent Smith responded:

- Agreed to have the stud wall removed.
- The two statutory consultees were English Heritage and Victorian Society.
- Victorian Society was not interested.
- The report from the English Heritage did not object but was critical.
- The Theatres Trust wrote a letter that objected to the wall and to the listed building application.
- There were lots of things that were a problem to the business plan but these things could be resolved.
- The wall was different and could not be resolved.
- Mr Smith had been excluded from the building on health and safety grounds.
- Mr Smith was allowed weekly visits.
- An acoustic expert from a local firm agreed to do an acoustic survey. The expert alerted Mr Smith to the wall.
- The wall was not stopped from being built.
- The wall is not removable.

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- It would cost a £1000 to remove the wall and ventilation. It was a breach of the Development Agreement.
- There was a paragraph in the agreement that stated the wall was demountable.
- It was difficult to explain the stage issue to community groups.
- Mr Smith explained to community groups that storage could be put into an adjacent building.

Councillor Sam Collins asked:

- Who made the decision to change the material of the wall?

Brent Smith responded:

- Did not know if it was the Architect or the Project Leader.

Councillor Helen Oliver asked:

- The wall splitting the stage, did this undermine Hitchin Initiative's Business Plan?

Brent Smith responded:

- It did not undermine the business plan.
- We had to have fundraising however, owing to the conflict that had arisen with the Council over the wall, fundraising could not morally continue.
- If the project were to fail, the money that had been raised would not be able to be returned.
- The Business Plan was detailed.
- Their weakness in the project was their love for Hitchin.
- No one made any financial gains – people were paying out rather than receiving any money.

John Richardson questioned:

- Was it a deal breaker?

Brent Smith responded:

- We have saved the Town Hall.
- He cannot see how things have improved.
- It is a 'white elephant' for the Council.

John Richardson questioned:

- What is your view on the museum?

Brent Smith responded:

- It is adequate.
- It is not outstanding.
- It is not as good as it could have been.

John Richardson questioned:

- Did you see the forklift truck?

Brent Smith responded:

- Did not see the forklift truck.

John Richardson questioned:

- Were you aware of the damp and mould?

Brent Smith responded:

- Was aware of the damp and mould.
- It could have been easily rectified.
- Surprised that the area affected by the damp is being used for museum storage.

Councillor Ian Moody asked:

- Who was your contact in the Council?

Brent Smith responded:

- Only attended Project Board meetings.
- Contact was with John Robinson via email.

Councillor Ian Moody asked:

- Why was the grant lost?

Brent Smith responded:

- The Development Agreement failed and NHDC did not get the money.

Councillor Helen Oliver asked:

- Do you believe that HTH Ltd felt they should have been treated as bigger stakeholder in exchange for their contribution?

Brent Smith responded:

- We were not treated as anything.
- There was no partnership or inclusion.
- Planning application was in Mr Smith's name however, Mr Smith was allowed to speak to the Architect (only) once during the whole project.

At the conclusion of Mr Smith's presentation at 11:33 the meeting was adjourned and was resumed at 11:44.

C. Statement of David Scholes – Session 3 – Audio Recording – 20 seconds

- The project came in light of the Fundamental Service Review in 2005/2006.
- Work was done internally about the nature of the museum service and external work was done on what Users wanted from the museum.
- First proposal to relocate the museum into the Hitchin Town Hall came in 2008/2009.
- There was a squeeze on financial resources after 2009/2010. It is therefore a testament to the Council that the project was delivered.
- The museum was not a statutory service but the Council put a great deal of emphasis on the project.

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- There was interest locally in preserving the building for community use.
- Hitchin Town Hall was listed as historically important.
- 15 Brand Street was not included in the initial scheme.
- The cost and detailed plans only included 14 Brand Street.
- It was acknowledged by NHDC that purchasing additional land would add cost to the project overall.
- In 2013, there was discussion of incorporating 15 Brand Street into the scheme.
- Procuring main construction contract put pressure on the project.
- Held more Extraordinary Council Meetings to consider prospect of 15 Brand Street which took place in April and August 2013.
- In order to keep to the timescales agreed by the lenders, the Chief Executive used Urgency Powers to ensure contracts progressed in a timely manner.
- Decisions on the project were made by Full Council.
- Project was managed under Prince2 Methodology – this was delegated to the Project Executive.
- The role of the Executive of the Council was solely the acquisition of 14 and 15 Brand Street.
- The Development Agreement (DA) was extensive.
- There were dispute resolution clauses in the DA.
- Social Investment Bank (SIB) had a seat at Project Board meetings.
- In March 2014, SIB approached Mr Scholes for a private meeting and informed that HTH Ltd would be required to go to external investment committee meetings.
- In August 2014, SIB contacted Mr Scholes and the Leader of the Council to inform them that no further funding would be given to HTH Ltd.

Questions to Mr Scholes were asked by the Panel:

John Richardson clarified:

- What are statutory responsibilities of the Council?

Mr Scholes responded:

- Museums are classed as 'discretionary services'.
- Museums are something the Council can take on, but it is not obliged to.
- Town Halls are Discretionary Services.
- Listed Buildings are controlled by Planning & Conservation Areas Acts 1990. The Council has a duty to consider applications to alter these buildings.

John Richardson questioned:

- Are there well-worn paths for dispute resolution?

David Scholes responded:

- Well-worn paths in contract law and common law.
- The contract had dispute resolutions clauses.
- The DA had extensive dispute resolution procedures – required certain actions to take place.
- HTH Ltd took the first of the actions which NHDC responded to.
- NHDC asked HTH Ltd if they were going to pursue – it was not pursued by HTH Ltd.

John Richardson questioned:

- Should the deal breakers have been resolved through normal dispute resolutions?

David Scholes responded:

- It should have been resolved through the dispute resolution procedures.

John Richardson questioned:

- You have experience of cultures within local authorities, community groups and locally interested people. Are there difficulties?

David Scholes responded:

- The project was complex.
- Many interest involved.
- Different interests had different profiles at various stages of the project.

John Richardson questioned:

- What do you mean by the Council?

David Scholes responded:

- Depends on the task.
- Full Council made decision on cost and progression of the project.
- The Project Executive managed the project within the parameters set by Full Council.
- Outside those parameters, it would be required to go back to Full Council.
- There were numerous reports back to Full Council, particularly in regards to obtaining 15 Brand Street.

John Richardson questioned:

- Was too much authority given to one person or a couple of people?

David Scholes responded:

- There needs to be clear lines of accountability and responsibility.
- The Project Board included Project Executive - John Robinson, Project Manager - Steve Crowley, Councillor Tony Hunter, Councillor Patricia Cowley, Social Investment Bank, ACF, HTH Ltd and other specialists as required.
- Project Board meetings took place as and when required – usually once a month.
- David Scholes attended several Project Board meetings.

Councillor Helen Oliver asked:

- What form of stakeholder were they considered to be?
- When big decisions had to be made, what weighting did it give to the decision-maker?
- Who got the final say on the construction of the wall?
- Was the wall meant to be demountable?

David Scholes responded:

- HTH Ltd was a partner in the project.

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- As soon as the issue with the wall was raised, there was an urgent Project Board meeting to deal with it.
- Understanding of the DA, that the wall could be removed but there was no DA arrangement for it to be removed.
- No one party had a say - it was the Architect's specification.
- There is a potential for the wall to be removed however, it would be expensive.

John Richardson questioned:

- When it was called a 'deal breaker', did this surprise you?

David Scholes responded:

- Yes it was a surprise.
- Always the potential the wall could have been removed but it was never a guarantee.

John Richardson questioned:

- What has it cost NHDC in the end?

David Scholes responded:

- Would be able to provide the figure at a later stage as does not have them to hand.
- The cost to NHDC would have been: the cost of the project as it was originally envisaged, plus obtaining 14 and 15 Brand Street, plus final payment on construction contract which was not paid by HTH Ltd.

John Richardson questioned:

- Was the budget exceeded?

David Scholes responded:

- The budget for the construction and fit-out were accommodated within budget tolerances.
- Additional costs from external sources have been borne by the Council.

Councillor Helen Oliver asked:

- Was it the planned property ownership model that the HTH Ltd would own 14 and 15 Brand Street?

David Scholes responded:

- No – if everything had gone to plan with the DA, the Council would have granted a lease of 125 years to HTH Ltd on the Town Hall.
- HTH Ltd would have passed 14 and 15 Brand Street to the Council

Councillor Helen Oliver asked:

- So was there a point in the project when NHDC would have to have decided that they would spend Council money on property that was not owned by the Council?

David Scholes responded:

- Yes and this was decided at Full Council.

John Richardson questioned:

- What was the rationale for this?

David Scholes responded:

- The best way to resolve the dispute

John Richardson stated:

- At one level, this could be considered irresponsible. At the other level, it could be considered wise planning.

David Scholes responded:

- HTH Ltd's funding had been withdrawn. Therefore, the best option was taken.

John Richardson questioned:

- Was the Council pleased with HTH's plan?

David Scholes responded:

- The Council was pleased.
- Was not directly involved at that stage as in charge of planning.

John Richardson questioned:

- Did you understand the difference between Hitchin Initiative and HTH Ltd?

David Scholes responded:

- Yes understood.
- It was far more appropriate to have a separate body to access funding and run project.

John Richardson questioned:

- Was it a disappointment that the relationship did not work?

David Scholes responded:

- Yes it was disappointing.
- Had regular meetings with ACF and SIB and emphasised on a number occasions that support would be given to provide additional resource.
- It was disappointing that ACF and SIB decided not to provide additional resources to HTH.

John Richardson questioned:

- Did you welcome the forming of HTH Finance Ltd?

David Scholes responded:

- It was a bolt from the blue.

John Richardson questioned:

- Could mediation have been introduced earlier?

David Scholes responded:

- Went through a mediation process.
- HTH agreed to mediation.
- The Council financed the mediation and sought a professional body to find a good mediator.
- It did not achieve what was hoped.
- Did not want to be swamped by technical documents or lawyers.
- HTH provided the mediator with 2 or 3 files containing historic documents about the project.

John Richardson questioned:

- Why has it taken so long – 3 reasons?

David Scholes responded:

- Complexity around how the Council wanted to proceed with its museum service. This was partly owing to the FSR.
- Complexity of the partnership arrangement – did not reach the point when we had Scheme Freeze to set time and cost parameters.
- Pursuing the agreed dispute resolution did not happen.

John Richardson questioned:

- NHDC has had its share of complex partnerships in the past. This project needn't have been complex?

David Scholes responded:

- That's correct.
- A framework was in place in the DA to resolve disputes.

John Richardson questioned:

- Are you pleased with the result of the museum?

David Scholes responded:

- Excellent museum.
- Better facilities compared to previous museums.
- Pleased it's being used by the community.
- Very pleased with the result.
- A shame that it was not finished 2/3 years earlier.

John Richardson questioned:

- Would you take on a project that involved Council Officers, community groups and business partners again?

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David Scholes responded:

- A necessary thing to do as an engaging and co-operative local authority.

Councillor Helen Oliver asked:

- Are there any lessons to be learnt regarding Conflicts of Interest?

David Scholes responded:

- The key is to have key lines of responsibility and accountability.
- Important to have procedures in place.
- Recognise when Conflicts of Interest arise and act upon them.
- We can take away things from the review panel and learn from them.

The Chairman thanked the 14 witnesses. He advised that the report would be presented to Overview and Scrutiny Committee, the date of which would be confirmed in due course.

The meeting closed at 12.29 pm

Chairman