

Hungate Ad-hoc Scrutiny Review

Record & Analysis of Information Gathered at Informal Information Gathering Sessions

Objective i - In light of the overall budget, to identify whether the initial budget set was correct i.e. that all the relevant factors had been identified and included for, including the volume of all fees both agreed and incurred

Information Gathered

1. The Project Director provided a table showing the original overall budget as approved by the Executive in October 2006, and giving details of the increases in the budget approved by the Executive in July 2007 and June 2008. Having considered the information, Members were unable to draw any conclusions in regard to the first objective for this review, as it was unclear which of the figures represented costs that were already fully committed and those which were not.
2. At the meeting on 12 January 2009, a revised version of the table was provided by the Assistant Director of Property Services, identifying the expenditure as of July 2008 against the different workstream elements. Members still were unclear and raised a number of queries around the true cost of the project, which in their view should have included interest earned on the sale of the current Council office accommodation, and additional rental and fuel costs to be incurred as a result of the delay in moving to the new office accommodation.
3. The Director of Resources agreed to provide a further detailed budget history which included the requested information, and this was presented at the meeting held on 27 January 2009.

Analysis

4. The Committee acknowledged that the overall increase in budget was approx 10%, and noted that recent press coverage had suggested that the figure was much higher, and that in the reasons for the two increases in the budget had been reported to the Executive and approved. Members agreed that the figures in the Press had been misleading and had not always compared like for like.
5. The Committee noted senior officers view that the postponement of the development may not necessarily result in a financial loss to the Council as it may now get more for its money due to the down turn in the building market.
6. The revised budget history presented on 27 January 2009, included additional information on leases and carbon costs etc but did not include information on the additional 2 year rental costs to be incurred for St Leonards or the additional interest likely to be earned on the money from the sale. Therefore, Members were still not confident that the information they had received to date, fully reflected the true position in regard to the actual expenditure, and committed and abortive costs. Following discussions with the Finance Officer at the meeting, Members requested a further update on the financial position, to be provided for this meeting. Unfortunately this information has not been provided in time to be published with this report, but it will be made available for circulation to Members and for publication on line, prior to this meeting (Annex B to follow).

7. Overall the Committee were not satisfied that the size of the council owned plot at the Hungate site, due to its inner city location next to an historic building, was ever going to suit the vision of an economic structure as first identified by Councillors and the resulting budget constraints. They recognised that had a plot on a business park been identified or had there not been a requirement to have everyone on one site, then it was likely that the Council would not have received the objections it did.

Objective ii - To understand the decision taken in respect of agreeing which part of CYC would act as internal 'client' and to understand the relationship between Planning and the client.

Information Gathered

8. The Committee were informed that in terms of project governance, as the Corporate Landlord resides within the Resources Directorate, ownership of the project had from the outset been placed with Resources. Project management arrangements were put in place and a Member Steering Group made up of the Leader, Executive Member for Resources and the Shadow Leader was formed to provide support and advice to the project team, and consider what decisions required Executive approval. Therefore, throughout the project, the Executive were responsible for all formal decisions made until July 2008, when the Chief Executive took the decision to withdraw the planning application.
9. The decision to proceed with the Hungate site proposal was made by the Executive following a site analysis by Donaldsons of a number of sites within the city centre. The master plan for the Hungate site designated the type of use for each plot of land on the site. Members were informed that the Council first issued a set of Heads of Terms to Hungate York Regeneration Ltd for the sale of the Hungate sites in December 2004. In May 2006, the Executive approved the selling of the freehold interest in a number of sites located within the Hungate Development area. The overall value of those sites was £960k and as part of the sale, HYRL were obligated to pay under a Section 106 Agreement the sum of £1m as a contribution towards the Foss Basin Transport Plan relating to the Peasholme Office site.
10. The sale was completed in December 2006, therefore the only council owned land designated for office use and available to the Council at Hungate, was the plot fronting on to Peasholme Green next to the Black Swan Public House. This plot was deemed acceptable as the initial site analysis had identified that the size of the plot, including land occupied by the Peasholme Hostel, would allow for 15,333 sq m of gross office space which was over and above the council's requirements. It was however recognised from the start that the planning risk was always going to be high and therefore this was identified within the project risk register and reviewed monthly throughout the life of the project by the workstream manager and project board, The Risk Management team provided training and access to the Council's risk register Magique to assist the project in managing all of the risks.
11. The planning application which was later withdrawn by the Chief Executive, was based on the revised design dated December 2007. In regard to the relationship between planning and the 'client', the Assistant Director of Planning & Design provided copies of all the objections received relating to the withdrawn planning application, together with a copy of an internal memo which outlined some issues raised by the planning team during the pre-application consultation stage. He also

confirmed that he had attended many of the pre-planning consultation meetings and that the letter of objection sent by English Heritage had come as a complete surprise to him having witnessed no sign of a strong objection to the revised design prior to its arrival. The Committee were also informed that at the time when the application was withdrawn, many of the issues flagged up within the internal memo and with the Architects had not yet been addressed, therefore it was not possible to say what the recommendation from the Planning Dept would eventually have been in regard to the application.

12. The Chief Executive confirmed that when he met with the English Heritage Advisor at a pre-application consultation event in March 2008, the comments made were very positive and therefore he too was surprised at the letter of objection they subsequently submitted.

Analysis

13. In regard to the site analysis, the Committee noted that English Heritage's views on a suitable size of building for that site did not match those of Atkins, and were unclear whether Atkins had ever consulted English Heritage during their site analysis or whether Atkins had taken into consideration the proximity of the council owned plot to the historic building. Members requested a copy of the Strategic Site Study report produced by Atkins (containing the brief) – see Annex C.
14. The Assistant Director of Property Services confirmed that Atkins had followed normal practice and consulted with the Council's planning officers about the site, and that the planning officers had previously consulted with English Heritage on the master plan for the site, but the master plan did not include the Peasholme Hostel plot. To alleviate the effect of the accommodation building on the historic Black Swan Public House, the decision was taken to situate the new accommodation building at the back of the plot away from the road. Members concluded that had the master plan included the hostel plot, the issue of the mass and scale of the new office accommodation may well have been highlighted at that very early consultation stage, and if it was not possible to overcome the concerns of the statutory consultees in regard to this issue, work need not have progressed, which in turn might have limited the amount spent on the project.
15. The Committee were also unclear whether the project management had been successful as minutes of meetings showed that some of the senior members of the Project Board were not always in attendance and therefore not party to issues arising and decisions being made. In response, officers confirmed that to ensure all the Directors were kept updated and their views sought, regular updates on progress were given to CMT via draft Executive reports, and verbal presentations with slides and diagrams. It was noted that following the decision to withdraw the Council's planning application for Hungate, the Chief Executive and Executive had given a clear commitment to greater ownership and support for the project and project team. This change in stance was deemed to be the best way forward to reach a successful planning approved design and led to a review of the structure and governance of the management of the project. The Director of City Strategy was subsequently nominated as the Project Champion and chair of the Project Board, and it was agreed that the Corporate Management Team would play a greater role in the governance and decision making within the project.

Objective iii - To identify whether the consultation process was conducted properly and whether due consideration was given to the responses received when deciding how to proceed

Information Gathered

16. The Committee noted that the notes/minutes taken at each pre-application consultation meeting were always presented at the next meeting for endorsement, thus allowing those consultees present, the opportunity to address any discrepancies in the meeting notes.
17. The Assistant Director of Property Services acknowledged that although the project team had provided lots of feedback when they had responded positively to comments from consultees, they could have done more to explain why they were unable to respond positively to other issues.
18. The Chief Executive explained the process that was followed when the letter of objection from English Heritage was received. Firstly, he held a meeting with key officers to discuss the seriousness of the letter and to seek their advice. He also consulted with the Group Leaders. The following day he and the Director of City Strategy held a meeting with English Heritage, at which English Heritage confirmed that although they liked the design, they could not support the planning application for that site due to the scale and massing of the proposed building.
19. The Committee queried whether the Chief Executive was fully aware of the financial consequences of the decision to withdraw the planning application. He confirmed that having considered all the views gathered and the options available, he together with the Director of City Strategy made the decision to withdraw the planning application drawing a halt to any further spending on the project and removing any further financial consequences. It was also made clear that technically, making the decision at the time, did not rule out a later re-submission of a revised planning application for that site.
20. The Regional Director of English Heritage expressed surprise at this decision as she saw the content of their letter as being up for negotiation and had not expected the immediate withdrawal of the planning application. She confirmed that English Heritage liked the design and would have accepted a significantly smaller version of it on that site. The Chief Executive was clear however, that a significantly smaller version of the building was not a viable option as it would not allow for everyone to be on one site. Therefore the business case pointed to withdrawal of the application.
21. The Director of City Strategy stated that any significant change to a planning application required its withdrawal and the submission of a new application, therefore the decision they took had been in line with best practice. Also, the view of English Heritage was that the impact of mass could not have been mitigated by a change in the architectural treatment and therefore there was no other option available. He also pointed out that planning permission already exists for that plot for a building of 110,000sq ft.

Analysis

22. The Committee accepted that the Project Team had recognised from the outset that the support of the statutory consultees was crucial to the granting of planning

permission and that therefore they had always sought to address any issues raised. For example, The Committee noted that the Chief Executive had been aware of the concerns of the Civic Trust and that the project team were engaging with them to address their concerns. The Regional Director of English Heritage informed the Committee that the English Heritage Advisor had raised a number of concerns with the Council's project team, in particular at a meeting held on 5 December 2007. The Project Team were able to evidence their production of some concept sketches showing changes that addressed those concerns. Notes taken at the next meeting (held on 20 December 2007) showed that English Heritage responded positively to those sketches. In fact, all of the notes/minutes of meetings held from 20 December 2007 onwards showed mostly encouraging comments from English Heritage. Those encouraging comments also appeared in the Minutes of meetings recorded by the Architects. The Committee concluded that whilst consultation procedures were followed flawlessly, the project teams commitment to the project led them to underestimate the impact on others of the growing murmurs of disapproval.

Objective iv - To identify whether best practice was followed throughout the process in seeking the views of statutory consultees and English Heritage specifically, and whether those views unduly influenced the decisions made

Information Gathered

23. The Committee were presented with evidence of a series of meetings held by the project team with the statutory consultees i.e. English Heritage, CABE, Civic Trust etc, as part of the pre-planning consultation process. Notes from those meetings were included in the information pack provided to the Committee. They recorded the views of the consultees and the Council's Planning Dept and showed how they had helped to inform the progress of the project. The issues identified were flagged with the Architects which in many cases, ultimately led to changes in the building design. For example following a debate on materials, an effort was made to soften the interface between the Council building and the public house next door.
24. The Assistant Director of Property Services confirmed that the project team were under no illusions that support from the statutory consultees would be key to getting planning permission and it was always expected that conditions would be attached. It was always recognised therefore that working closely with the statutory consultees to iron out as many issues as possible at pre-planning stage, was fundamental to a successful outcome. In his view, the letter of objection dated 8 July 2008 from English Heritage was unexpected, bearing in mind the amount of work which had gone into the pre-planning consultation stage, the resulting changes to the design and the encouraging comments received throughout the process from English Heritage.
25. In regard to the massing and scale of the building and its position next to the historic public house, the Committee could find no written evidence within the notes of the various pre-application consultation meetings, which specifically identified the efforts of the project team to address those concerns of English Heritage. Instead the notes suggest the focus at the meetings seemed to be on other elements of the design such as materials. In response, officers stated that the evidence of the concerns over massing being addressed, was apparent in the significant number of changes made to the building design prior to the submission of the planning application. The Project Director produced evidence of those

design changes by providing a full history of revised drawings and team meeting notes. They clearly showed the number of changes that had been made between March 2007 and April 2008.

26. The Regional Director of English Heritage informed the Committee that it was standard practice for an English Heritage Advisor to attend pre-application consultation meetings with developers, and to provide advice on the impact on the historic environment of any proposals and specific elements of the design, presented to them. Their Advisor would then as a matter of course, involve other specialist officers from English Heritage in carrying out their own internal review of the information provided, and where necessary provide feedback to the developer, either verbally or via email. The Regional Director of English Heritage confirmed that a 'Freedom of Information' (FOI) request would be needed in order to release any information / documentation produced as a result of their internal reviews. This was done in two parts. Initially a request was made on 2 December 2008 for copies of any notes taken at their internal 'Important Application Review' meetings since August 2007. This was followed up by a further request on 11 December 2008 for any other internal documentation and copies of any letters/ emails that English Heritage may hold relating to the Hungate development. English Heritage provided the requested information and copies of this were circulated to the Committee prior to the meeting on 27 January 2009.

Analysis

27. The Committee recognised that feedback from English Heritage's own internal processes, was imperative to identifying their ongoing view of the evolving project. The Committee were unable to find evidence of any such feedback from English Heritage's internal reviews in the information pack provided at the beginning of the review. They therefore acknowledged that this lack of feedback supported the evidence from the Assistant Directors of Property Services and Planning & Design, that the letter of objection sent by English Heritage had come as a complete surprise. To clarify whether any such feedback had ever been generated by English Heritage and sent to the Project Team, the Committee made the FOI requests referred to in paragraph 26 above.
28. Having considered the FOI documentation provided by English Heritage, Members raised a number of queries:
 - Bearing in mind the content and tone of English Heritage's letter of objection to the Council's planning application, the Committee did not understand the surprise expressed by the Regional Director of English Heritage at the decision to withdraw the application and her view that the content of their letter of objection was 'up for negotiation'
 - There were a number of inconsistencies in the comments recorded in the minutes of the 'Important Application Review Meeting' of 23 June 2008
 - The email from Alison Fisher to Helen Barnett dated 26 June 2008, in which Alison commented "We are not wholly convinced that it does achieve these objectives but will have a more clear view early next week" - Members queried what happened early the following week or at any time up to English Heritage sending the letter of objection, that provided them with further clarity as there was no documentation or correspondence relating to that period provided as part of the FOI request

- As there was no record of any discussions taking place between 26 June 2008 and 8 July 2008 or correspondence/documentation relating to that period, Members could not understand the correlation between the content of the letter of objection dated 8 July 2008 and the notes from English Heritage's last IAR meeting of 23 June 2008. Therefore, how was the content of the letter of objection from English Heritage arrived at and who authorised it?
 - It was noted that the letter of objection sent by English Heritage was copied to the Civic Trust & Conservation Trust. Officers pointed out that this was unusual and queried why it had occurred when there was no other evidence within the FOI documentation provided by English Heritage, that these organisations had been liaising or in communication throughout the pre-application consultation process.
 - In regard to the CABE letter dated 8 April 2008, Officers from the project team confirmed that although English Heritage may have taken their comments on board, the views expressed in the letter were not reinforced in any of the subsequent correspondence received from English Heritage after that date.
29. In order to seek clarity on the queries raised, Members agreed to:
- i) Invite the Regional Director of English Heritage to attend their next meeting scheduled for 10 March 2009– invitation sent via email on 28 January 2009.
 - ii) make a FOI request to CABE for copies of all their correspondence sent between April and July 2008 to English Heritage, the Council and others, in relation to the Hungate project - request made via email on 28 January 2008.