



**Notice of meeting of
Hungate Ad Hoc Scrutiny Committee**

To: Councillors Aspden (Chair), Brooks, Gunnell, Holvey,
Pierce and Taylor (Non-voting Co-opted Member)

Date: Tuesday, 10 March 2009

Time: 6.00 pm

Venue: Guildhall

AGENDA

1. Declarations of Interest

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Public Participation

At this point in the meeting, members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the committee's remit can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officer on the contact details listed at the foot of the agenda. The deadline for registering is Monday 9 March 2009 at 5.00pm.

3. Minutes

(Pages 3 -
6)

To approve and sign the Minutes of the meeting held on 27 January 2009.

4. Hungate Review - Interim Report

(Pages 7 -
24)

This Interim Report provides details of the information gathered at the informal consultation sessions and formal meetings and provides additional information requested by Members at the previous meeting on 27th January 2009.

5. Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officers

Catherine Clarke and Heather Anderson (job share)

Contact details:

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- E-mail: catherine.clarke@york.gov.uk and heather.anderson@york.gov.uk

(if contacting by e-mail, please send to both democracy officers named above)

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting Catherine Clarke & Heather Anderson (job share)

- Registering to speak
- Business of the meeting
- Any special arrangements
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- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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City of York Council

Committee Minutes

MEETING	HUNGATE AD HOC SCRUTINY COMMITTEE
DATE	27 JANUARY 2009
PRESENT	COUNCILLORS ASPDEN (CHAIR), BROOKS, GUNNELL, HOLVEY, PIERCE AND TAYLOR (NON-VOTING CO-OPTED MEMBER)

12. DECLARATIONS OF INTEREST

At this point in the meeting Members were invited to declare any personal or prejudicial interests they might have in the business on the agenda.

Councillor Pierce and Councillor Aspden both declared a personal non-prejudicial interest in Item 4 (Hungate Review – Interim Report) as they are both personal members of English Heritage.

13. PUBLIC PARTICIPATION

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

14. MINUTES

That the minutes of the meeting held on 12 January be approved as a correct record and signed by the chair subject to the following amendments being made:-

- Final Paragraph on Page 4 being divided to create two paragraphs with the second paragraph starting "The Head of Property Services responded....."
- First paragraph on Page 5 be amended to read " With regard to the consultation process the Head of Property Services confirmed that *Atkins had followed normal procedure and had consulted the Council's planning officers about the site. The Council's planning officers had previously consulted English Heritage about the proposals for the Masterplan for Hungate.*

15. HUNGATE REVIEW - INTERIM REPORT

Members considered an updated interim report, which provided background information on the review and included a record and analysis of information gathered at two informal information gathering sessions from key internal and external consultees who had been involved in the Hungate project. Members discussed and agreed amendments to both the interim report and the record and analysis of information (Annex A). The

Assistant Director of Property Services and Accommodation Project Director attended the meeting.

Members asked for clarification on who had been responsible for the decisions made. Officers confirmed that the Executive were responsible for all formal decisions made until July 2008 when the Chief Executive (following consultation with Group Leaders) took the decision to withdraw the planning application.

Members asked for clarification on how CMT (Corporate Management Team) were kept informed on decisions taken in relation to the project. Officers confirmed that in addition to CMT receiving copies of all Executive reports, verbal updates and presentations were also given.

Officers also confirmed that the planning application, which was later withdrawn by the Chief Executive, was based on the revised design.

The revised budget history (Annex B) which had been marked "to follow" on the agenda was circulated to Members at the meeting and the agenda had been republished online to include this information. The Technical Finance Manager presented the budget history, which included additional information on leases and carbon costs. Members noted that it did not include information on the additional 2-year rental costs to be incurred for St Leonards, or the additional interest to be earned on the money from the sale as previously requested. Therefore Members agreed that the information still did not reflect the true position with regard to the actual expenditure and committed and abortive costs and asked for a further update to be provided to the next meeting.

The Scrutiny Officer reported that she had received the information, which had been requested from English Heritage under the Freedom of Information Act and had provided Members with copies of this information. This information included copies of notes taken at internal IAR (Important Application Review) meetings since August 2007, other internal documentation and copies of letters and e-mails held by English Heritage regarding the Hungate development. Members discussed the information and made the following points:

- English Heritage did not express a strong objection to the revised design until the objection letter of 8 July 2008. For example, notes from English Heritage's IAR meeting held on 23 June 2008 included comments in support of the proposal.
- English Heritage were aware of CABE's (Commission for Architecture and the Built Environment) views as stated in CABE's letter of 8 April 2008, but at no time did the views of English Heritage appear to reflect the same view.
- The documentation sent by English Heritage in response to the Freedom of Information request did not contain any correspondence/documentation or record of any discussions taking place between 26th June and 8th July 2008. Members therefore struggled to understand what had taken place between these dates

to change English Heritages view, which resulted in the letter of objection being sent.

- English Heritage had full details of the application that was due to go to planning including 3D modelling of the site which showed massing.
- It was noted that the letter of objection dated 8th July was copied to the Civic Trust and Conservation Trust. Officers confirmed that this would not be normal practice and was thought unusual as there was no other evidence within the documentation sent by English Heritage that these bodies had been liaising during the pre-application consultation process.

Members recommended that in light of the information received from English Heritage and uncertainty over certain issues, Maddy Jago, Regional Director of English Heritage should be asked back to attend the next meeting of the Committee.

Members also agreed that it would be beneficial to see evidence of any correspondence relating to the Hungate project from CABE to either English Heritage, the City of York Council and other bodies and that a Freedom of Information request should be made for this information.

Members acknowledged that it would be necessary to extend the timetable for the review, as further meetings would be required in order to discuss the additional information that was being requested.

RESOLVED:

- (i) That further budget information (as below) be obtained as follows: ¹
 - Details of committed expenditure at July 2008 of the project
 - The cost of 2 years additional rent on the properties that had been sold and the interest earned on the sale of those properties.
- (ii) That a copy of the Strategic Site Study report produced by Atkins (containing the brief) be obtained. ¹
- (iii) That a Freedom of Information request be sent to CABE for copies of all their correspondence sent between April and July 2008 to either English Heritage, the City of York Council and other bodies in relation to the Hungate Project. ¹
- (iv) That Maddy Jago, Regional Director of English Heritage, be invited to attend the next meeting of the Committee scheduled for 10 March 2009. ¹
- (v) That the timetable for the review be extended to enable two further meetings to take place.

- (vi) That the next meeting would take place at 6pm on Tuesday 10th March and a further meeting would be arranged for approximately 3-5 weeks after that. ²
- (vii) That the interim report and Annex A (record and analysis of information gathered) be amended as agreed by Members.

Reason: To progress the review and ensure compliance with scrutiny procedures, protocols and work plans.

Action Required

- 1. Scrutiny Officer to: obtain additional budget information, and copy of brief and Atkins report; make Freedom of Information request to CABE; invite Regional Director of English Heritage to next meeting. GR
- 2. Democracy Officer to arrange March meeting and confirm by e-mail and to investigate possible dates for further meeting in April. GR

Councillor Aspden, Chair
[The meeting started at 5.00 pm and finished at 7.40 pm].



Hungate Ad-Hoc Scrutiny Committee

10 March 2009

Hungate Review – Interim Report

Background

1. On 8 July 2008 following consultation with Group Leaders, the Chief Executive withdrew the planning application for the proposed development of the Council's new office accommodation at Hungate. This followed receipt of a formal written response from English Heritage that although the proposed building was a very impressive, sustainable and fit for purpose civic building, they were concerned that the building, by virtue of its height and massing could not be developed without harming the setting of the cluster of historic buildings and spaces around it. In summary, they objected to the proposal.
2. Members of the public commented on this decision and previous decisions taken in regard to the Hungate development and as a result of the concerns expressed, Cllr Brooks submitted this topic for scrutiny review in order to fully understand those decisions and the costs involved to date.
3. A feasibility report was presented to Scrutiny Management Committee (SMC) on 15 September 2008, and having agreed to proceed with the review, an Ad-hoc Scrutiny Committee was formed and the following remit was agreed:
4. **Aim**
To clarify whether the correct strategy for the accommodation project was set and adhered to, in order to ensure any future council projects are delivered on time and on budget.

Objectives

- 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
- 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.
- 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
- 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

- v. To identify whether time was a factor in reaching the decisions made throughout the process e.g. in agreeing the design
5. On 10 November 2008 the Ad-hoc Scrutiny Committee met for the first time and agreed a timetable of meetings and a methodology for carrying out this review.

Consultation

6. The Ad-hoc Scrutiny Committee held an informal information gathering event on 26 November 2008 and the following internal and external consultees attended:

Assistant Director of Property Services & Accommodation Project Director	CYC - Project Management Team
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Maddy Jago	Regional Director of English Heritage
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Assistant Director of Planning & Design	CYC – Planning & Conservation
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Head of Risk Management & Accommodation Project Manager	CYC – Risk Management
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7. Prior to the formal meeting held on 12 January 2009, a further informal information gathering session was held and the following internal consultees attended:

Chief Executive
Director of City Strategy
Director of Resources
Technical Finance Manager

Information Gathered

8. The information gathered at the two informal sessions and at the public meetings held, is shown at Annex A together with an analysis of that information.
9. At the meeting held on 27 January 2009, Members requested further clarification on the financial position in regard to the actual expenditure, and committed and abortive costs, including information on the additional 2 year rental costs to be incurred for St Leonards and the additional interest likely to be earned on the money from the sale. The Technical Finance Manager present at the meeting, agreed to provide this information. Unfortunately this 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).

10. Members also requested a copy of the Atkins report containing the brief for the Hungate site. Due to the size of this document, it is not possible to attach this as an annex to the written report but it is available for viewing on line. A hard copy of the Annex (Annex C) can be viewed at council offices by contacting the Scrutiny Officer – see contact details below.
11. Members also agreed to invite the Regional Director of English Heritage to attend this meeting and agreed to make a 'Freedom of Information' 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. Both the invitation and FOI request were sent via email on 28 January 2008. A written response has subsequently been received from English Heritage declining our request to attend this meeting, and a letter received from CABE detailing the documentation they will be providing as a result of our FOI request is shown at Annex D. Their actual documentation is being provided hard copy and has not yet been received, therefore it has not been possible to include it as an annex to this report. As soon as it is received, copies will be circulated to Members and, depending on the size of the documentation pack, will either be published on line or made available to view at Council offices.

Options

10. Having considered the information contained within this report and its annexes, Members may choose to carry out further consultation by calling on additional witnesses or agree that no further information is required.

Implications

11. **Human Resources** – If having considered all of the information provided to date, members decide that further clarification is required, it will be necessary to hold further interim meetings requiring the involvement of members of the project team. This in turn will reduce the time they can spend on their ongoing work on the development.
12. **Financial** – Originally there were only limited financial implications associated with this review, based on officer time spent supporting the minimal number of meeting scheduled. It is recognised however, that the financial implications will increase as further meetings are arranged.
13. There are no equalities, legal or other implications associated with the recommendation within this report.

Corporate Strategy

14. The provision of the new accommodation and the consequential improvements in services to our customers will contribute to all of the Council's priorities and key change programmes.

Risk Management

15. SMC agreed with the view of Cllr Brooks that this review should be conducted quickly and in a minimum number of meetings, in order not to adversely affect or delay the ongoing work of the Project Team and to enable the findings and resulting recommendations to benefit their processes.

Recommendations

16. Having considered the aim and objectives for this review, and In light of the above options, Members are asked to:
- Identify if any further information is required, and if not;
 - Agree that all the relevant information has now been considered, and;
 - Identify any recommendations they would like to make as a result of the review

Reason: In order to ensure any future council projects are delivered on time and on budget

Contact Details

Author:

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Chief Officer Responsible for the report:

Dawn Steel
Democratic Services Manager

Interim Report Approved **Date** 24 February 2009

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

Feasibility Report dated 15 September 2008
Scoping Report & Information Pack dated 18 November 2008
Interim Reports dated 10 December 2008, 12 & 27 January 2009

Annexes:

- Annex A** – Record and analysis of information gathered at the two informal information gathering sessions
- Annex B** – Further financial information, as requested at the meeting on 27 January 2009 (to follow)
- Annex C** – Strategic Site Study report produced by Atkins - a hard copy of Annex C can be viewed at council offices, by contacting the Scrutiny Officer – see contact details above.
- Annex D** – Letter from CABA detailing their response to the FOI request (Documentation pack to follow)

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.

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Hungate Ad-Hoc Scrutiny Review

Committed Expenditure and Cost of Additional Rent on Properties Sold and interest earned

1. At Hungate Ad Hoc Scrutiny Committee on Tuesday 27 January 2009, Members requested:
 - Detail of committed expenditure at July 2008 of the project. i.e. expenditure that would have still been incurred even if the project had halted at July 2008 as it had already been confirmed to third parties.
 - Commitments which have produced assets and commitments which are not recoverable.
 - The cost of 2 years additional rent on properties that had been sold and the interest earned on the sale of those properties.

2. Table 1 shows the total expenditure at July 2008, the committed and total spend at July 2008, the projected future committed spend at July 2008 total and the spend not recoverable.

Table 1 – Committed Expenditure at July 2008 and Commitments / Costs contributing to an asset or not

Column No.	1	2	3	4	5	6	7
Workstream	June 2008 Exec report	Total Expenditure @ July 2008	Committed Expenditure @ July 2008	Total Expenditure & Committed Expenditure @ July 2008	Estimated Future committed Expenditure	Estimated Expenditure to an Asset or Development Work	Estimated Abortive Costs
Land Assembly							
Land Assembly Fees	£3,683	£3,683		£3,683	£3,683	£3,683	£0
Peasholme Hostel	£1,800,000	£735,597		£735,597	£1,800,000	£1,800,000	£0
Ambulance Station	£1,249,225	£1,249,225		£1,249,225	£1,249,225	£1,249,225	£0
Archaeology	£72,555	£47,555		£47,555	£72,555	£72,555	£0
Total	£3,125,463	£2,036,060		£2,036,060	£3,125,463	£3,125,463	Zero
Design & Construction							
Construction	£29,334,000						
Risk	£1,060,000						
Furniture	£1,500,000						
Fees	£2,805,000	£1,360,272	£265,000	£1,625,272	£1,625,272	£812,636	£812,636
Total	£34,699,000	£1,625,272	£265,000	£1,625,272	£1,625,272	£812,636	£812,636
Property Exit							
Property exit fees	£626,290	£333,675		£333,675	£626,290	£626,290	£0
Social Services Adaptations	£1,000,000	£99,198		£99,198	£1,000,000	£1,000,000	£0

Dilapidations	£1,250,000				£1,250,000	£1,250,000	£0
Repairs and Maintenance	£668,000				£668,000	£668,000	£0
Total Property Exit	£3,544,290	£432,873		£432,873	£3,544,290	£3,544,290	Zero
Other Costs							
Facilities Management	£101,994	£36,010		£36,010	£36,010	£36,010	£0
ICT	£861,540						
User Change Management	£326,274	£161,914		£161,914	£161,914	£161,914	£0
Project Management	£1,081,311	£535,016		£535,016	£535,016	£267,508	£267,508
Risk/contingency	£64,128						
Total	£2,435,247	£732,940		£732,940	£732,940	£465,432	£267,508
Total project budget	£43,804,000	£4,562,145	£265,000	£4,827,145	£9,027,965	£7,947,821	£1,080,144

3. The 27 January 2009 report to the Ad Hoc Hungate Scrutiny Committee included Annex B – Detailed Budget History – which stated “It is currently difficult to breakdown the costs incurred at July 2008 in table 1 into those which remain relevant to the administrative accommodation project going forwards and those costs which cannot be incorporated in to the revised building solution. This can only be determined once a new solution has been chosen. The Council is currently undergoing a procurement process which is at an early stage and therefore it is not possible to specifically identify which costs already incurred will be relevant to the further development.”
4. The statement above still holds true and the estimated costs in the table and description below are only a forecast estimation of the future committed expenditure that would remain relevant to the project costs and those that would potentially be abortive.
5. In Table ,1 column 2 shows the expenditure at July 2008 at £4,562,145. Column 3 shows the expenditure that had actually been committed at that time at £265,000. Column 4 shows the Total & Committed Expenditure at July 2008 at £4,827,145. Column 5 shows the projected future committed expenditure at July 2008 that was likely to be incurred going forwards even if the Hungate Administrative Accommodation project had not continued at £9,027,965. Column 6 details the Total & Committed Expenditure that is estimated that would be linked to an asset or development work at £ 7,947,821. Column 7 shows the costs that are estimated to be abortive at £1,080,144 and relate specifically to expenditure on the Hungate project which would not be transferable to a new scheme.
6. Column 4 – Total & Committed Expenditure at £4,827,145 is the information that was provided to the Hungate Ad-Hoc Scrutiny Committee in January 2009.
7. Column 5 – Estimated Future Committed Expenditure is estimated at £9,027,965. This is the cost that is estimate as at July 2008 that would still have been incurred even if the Hungate Scheme had not gone ahead.

8. Of this the Land Assembly, Project Exit Strategy, Facilities Management and the User Development Group elements do not include any abortive costs as the work outcomes are linked to either a capital asset or development work which can be transferred to any new scheme. These costs are not specific to Hungate and are estimated at £7,947,821 in column 6.
9. The Land Assembly estimate at £3,125,463 includes the Peasholme Hostel and works to the ambulance station. The Peasholme Centre provides a new facility and the costs of the ambulance station and archaeological investigations will have added value as a cleared site that is recoverable if sold at the right time on the open market.
10. The Property Exit Strategy is estimated at £3,544,290. All of the expenditure incurred on the property exit strategy should be relevant. The property exit fees includes renegotiated leases, disposals, professional and legal fees. Dilapidation, Repairs & Maintenance and Social Service adaption estimated costs will go ahead whether the move is to Hungate or an alternative location. The exit strategy remains the same whether the Council moves into an Office located in Hungate or to an alternative location.
11. Other Costs are estimated at £732,940. User Change Management expenditure could be partially relevant to the new offices, as costs have been incurred to develop user requirement and the change management processes of the business to make the new office accommodation increasingly efficient. This documentation collated will be relevant to the new building. The Project Management and Facilities Management costs have been incurred over the life of the project, of which most will be attributable to the administrative accommodation project going forwards. Much of the expenditure would have resulted from identifying the needs of the business, space awareness requirements, organisational change etc. These costs will be essential to future development and will continue to be relevant to the project.
12. Column 7 – Estimated Abortive Cost at £1,080,144 is very difficult to predict at this stage. It is suggested that half of the Project Management costs at £267,508 and half of the Design & Construction Fees £812,636 relate to the Hungate project and would not be transferable to the new scheme. It is currently not possible to do a detailed analysis of these costs and this estimate is a broad forecast of what the abortive costs could be.
13. St Leonard's Place is the only property that had been sold where 2 years additional rent would be incurred and also interest earned on the sale of the property.
14. Table 2 details the estimated cost of 2 years additional rent that would be incurred from the sale of St Leonards Place. The original Hungate scheme was modelled to October 2010 and the new scheme is modelled to December 2012. Therefore the additional rent for the 2 years is split over 2010/11 to 2012/13.

Table 2 – Estimated cost of 2 years additional rent on St Leonards Place

	2010/11 6 mnths	2011/12 Full Year	2012/13 8 Mnts	Total
St Leonards Place Rent	185,000	370,000	246,667	801,667

15. Table 3 details the estimated interest earned on the Sale of St Leonards Place. St Leonards Place was sold at the end of October 2006 and therefore interest earned has been calculated for approximately half a year for 06/07 and 2 full years for 07/08 and 08/09.

Table 3 – Interest Earned on St Leonards Place since 2006/07

	2006/07	2007/08	2008/09	Total
St Leonards Place	7,027,000	7,027,000	7,027,000	
Interest applied	4.90%	5.78%	5.51%	
Interest Achieved	127,566	406,316	386,905	920,787

16. Table 2 – Estimated costs of 2 years additional rent on St Leonards Place at £801,667 and Table 3 – Estimated interest earned on the Sale of St Leonards Place at £920,787 shows that the interest earned on the capital receipt for St Leonards Place is greater than the cost incurred by £119,120.
17. It should be noted that even though interest is earned on capital receipts and other surplus funds it is not the Council's policy to allocate interest to specific schemes. Capital receipts, borrowing and other sources of external funding are used to support expenditure incurred on capital schemes as they occur. Interest earned on all surplus funds is included in the treasury management budget, which is reported, in the Council's monitoring cycle to Executive.

25 February 2009

Melanie Carr
Scrutiny Officer
City of York Council
Library Square
York
YO1 7DU



Dear Ms Carr

Information request relating to the proposed development of new council office accommodation at Hungate, York

I am writing in response to your email of 28 January 2009, requesting copies of correspondence and documentation that relates to the proposed development of new Council office accommodation at Hungate in York. Your request has been dealt with under the provisions of the Freedom of Information Act (2000).

Please find enclosed copies of the following documentation that falls under the scope of this request:

- A print out of CABE's database notes relating to the scheme
- Cover letters and emails from RMJM to CABE dated 23, 25 & 29 October 2007 and 11 & 22 February 2008 setting out information submitted to CABE for review
- Email correspondence between RMJM and CABE regarding CABE consultation dated 16 January 2008
- A conflict of interest declaration from Paul Morrell, CABE Commissioner
- An agenda and extract from the notes of the Internal Panel Review meeting held on 28 February 2008
- An extract from the notes of the Desktop review meeting held on 4 August 2008
- Press cuttings relating to the scheme.

In addition to the information listed above, CABE holds information which we believe the Council already has as it is either correspondence between CABE and the Council, the Council's own documentation, planning application material or pre-planning application information which we assume the Council is in possession of

given they are the client for the scheme. We have not enclosed this information but have summarised it below. Please contact me should you require copies.

Information held but not enclosed for reasons outlined above

- Design brief for the Administration Accommodation Project, City of York Council, March 2007
- Pre-application drawings and plans from RMJM dated July 2007 and January 2008
- Planning application material relating to planning application ref 08/01201
- CABE's advice letters to RMJM dated 14 November 2007 and 8 April 2008, which were copied to the Council
- Consultation letter from City of York Council to CABE dated 30 May 2008
- Email correspondence between CABE and Amanda Oxley dated 20 November 2008 relating to an invitation to an informal consultation event
- A letter to CABE from the Council, dated 24 September 2008, thanking CABE for feedback to date and providing an update on progress
- Email correspondence between CABE and Cllr A Walker dated 1 and 5 October 2008
- Email correspondence from Janine Riley to CABE dated 14 September and 30 October 2007. The latter email includes an attached internal memo from Janine Riley to Mike Slater dated 26 October 2007.

CABE also holds information on a previous planning application dating from 2002 (planning application ref 02/03741). Further to our conversation, this information has not been included as I understand it does not fall under the scope of this request.

If you have any questions or concerns about the way in which your request has been handled please contact me and we will try to resolve them. If we are unable to resolve your concerns you may request an internal review. Details of this process are included in our complaints procedure (published on www.cabe.org.uk). Ultimately, if you have a concern which we are unable to resolve, you may refer the matter to the Information Commissioner (www.informationcommissioner.gov.uk).

Yours sincerely



Rachel Pittam
Head of Corporate Governance