



**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: Friday, 1 May 2009

Time: 5.00 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 Thursday 30 April 2009 at 5.00pm.

3. Minutes

(Pages 3 -
6)

To approve and sign the Minutes of the meeting held on 10 March 2009.

4. Hungate Review - Draft Final Report (Pages 7 - 32)

This covering report presents the draft final report arising from the Hungate Ad-hoc Scrutiny Review and asks Members to conclude that every effort has been made to seek all the relevant information pertinent to the review, and to agree the recommendations arising.

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:

- Telephone (01904) 551031
- 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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Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- 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 | 10 MARCH 2009 |
| PRESENT | COUNCILLORS ASPDEN (CHAIR), BROOKS, GUNNELL, HOLVEY, PIERCE AND TAYLOR (NON-VOTING CO-OPTED MEMBER) |

16. 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.

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

Councillor Taylor also declared a personal non-prejudicial interest in Item 4 (Hungate Review – Interim Report), as he is a member of York Civic Trust.

17. PUBLIC PARTICIPATION

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

18. MINUTES

That the Minutes of the meeting held on 27 January 2009 be approved as a correct record and signed by the Chair subject to the following amendment being made:

Page 5, second bullet point, second sentence, to replace the word confirmed with the word "stated": 'Officers *stated* that this would not be normal practice...'

19. HUNGATE REVIEW - INTERIM REPORT

Members considered an interim report of the Hungate Ad-Hoc Scrutiny Review.

In regard to the financial information at Annex B, the Head of Property Services reiterated that the estimated costs in the table were only a forecast estimation of the future committed expenditure and that any abortive costs would not be known until later.

Officers confirmed that:

- the costs included the demolition of the Peasholme hostel and the new hostel at Fishergate

- in regard to the demolition costs, the Hungate site was now a larger and more valuable site and that knocking down the Peasholme hostel had added to the value of the site. Also the Peasholme hostel was no longer fit for purpose therefore a new hostel needed to be built anyway
- the interest from selling St Leonard's was more than the rent
- it was likely that St Leonard's would still be in use by the Council in 2010, therefore the additional rent for that period had been included
- in relation to the additional fees paid to the consultant architects of £125,000, five models had been produced of which the Council had purchased one model subsequently, CABA were not happy with the model chosen so the Council decided to change their brief resulting in additional work for the architects
- information on the current procurement process for a new HQ would be available once the new site had been agreed

While recognising the increased value of the site, Members suggested that market variables should also be taken into account.

In regard to the strategic site study, Members noted that there was conflicting information from the consultant and English Heritage about massing and queried whether the issue of the adjoining public house had been taken into account. Officers confirmed that information had been taken from the Hungate Masterplan, that software models had been used to show the massing, and a massing study had been undertaken. It was acknowledged that the pictures in the strategic site study were stills and did not show everything.

Members considered the documentation provided by CABA as a result of their Freedom of Information request, and expressed concern at some possible gaps in the information provided. Members referred specifically to the CABA meetings held on 28 February and 4 August 2008 and requested that the Scrutiny Officer write to CABA¹ and to thank them for their response and to request copies of the full notes from those meetings. Members also expressed their disappointment at the decision of English Heritage not to attend the meeting and requested that a letter be sent urging them to attend the next meeting or respond in writing to the queries raised by the Committee at their last meeting. It was suggested that both the letters be copied to the Information Commissioner.

In regard to objective (i), officers confirmed that the initial budget set was sufficient for a basic office block as specified in the original brief given by Members. But, as the public's expectations for a civic building came to light, it became necessary to change the business case to enable a move from a standard office block to a 'reasonable building'. This in turn made the budget insufficient and resulted in a number of increases to the budget, totalling £8m. An audit trail of the decisions surrounding each increase had previously been provided.

After discussion on the information gathered under Objective ii, it was agreed that in understanding the decision taken in respect of agreeing which part of the CYC would act as internal client, and the relationship

between planning and client it was agreed that the separation of roles between the client and planning authority was right and proper.

On the issue of consultation, Members agreed that the pre-application consultation with staff had been exemplary, but held different views on the issue of whether public consultation had been sufficient. Community involvement was questioned as evidenced by the level of public interest and disquiet with the design expressed in letters to the local press. Officers confirmed that there had been huge community input into the Masterplan through community panels and other groups in York.

Concern was also expressed about the issue of a single council building with one main entrance, and of vulnerable children using this entrance. Members queried whether this had been considered at the start of the planning process, and officers confirmed that it had been raised with service departments and that the project team had responded to what the service providers had told them.

In seeking the views of statutory consultees, it was agreed that best practice had been followed throughout the process, but that these views had been received too late in the process. It was also felt that there were gaps in the information and some unanswered questions, and that publicly funded bodies needed to be sharper in their views on such projects.

Members agreed that it would be beneficial to invite York Civic Trust and Quentin Macdonald, former Councillor and Executive Member for Resources, to a private informal consultation session on 9 April 2009.

RESOLVED

- (i) That Annex A be updated in line with the findings from this meeting
- (ii) That further information be requested from CABE in relation to their meetings of 28 February and 4 August 2008
- (iii) That English Heritage be invited to attend the next formal meeting of the Committee or provide a response to the queries previously raised by the Committee
- (iv) That the Chief Executive of York Civic Trust and Quentin Macdonald, former Councillor and Executive Member for Resources, be invited to attend a private informal consultation session on 9 April 2009
- (v) That a draft final report be presented to the next formal meeting of the Committee
- (vi) That the Democracy Officer contact Members to arrange the next meeting

Action Required

1. Scrutiny Officer to write to CABE, and invite York Civic Trust and Quentin McDonald to the private consultation session on 9 April 2009. GR
2. Democracy Officer to arrange the date for the next meeting with Members. GR

Councillor Aspden, Chair

[The meeting started at 6.03 pm and finished at 9.10 pm].



Hungate Scrutiny Ad-Hoc Committee

1 May 2009

Hungate Review – Covering Report

Summary

1. The report presents the draft final report arising from the Hungate Ad-hoc Scrutiny Review and asks Members to conclude that every effort have been made to seek all the relevant information pertinent to the review, and to agree the recommendations arising.

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 Committee held a number of informal information gathering sessions and a number of formal public meetings. Information on all consultation carried out is shown in paragraphs 6-8 in the draft final report at Annex A.

Outstanding Issues

7. The Committee has previously identified a number of queries arising from the documentation provided as a result of a 'Freedom of Information' request made to English Heritage. Those queries are:
- i. Bearing in mind the content and tone of English Heritage's letter of objection to the Council's planning application, the Committee would like to understand the surprise expressed by the Regional Director of English Heritage at the meeting of this Committee on 27 January 2009, in regard to the Council's decision to withdraw the application and the view she expressed that the content of the letter was 'up for negotiation'
 - ii. Inconsistencies in comments recorded in the minutes of the 'Important Application Review Meeting' of 23 June 2008
 - iii. English Heritage email dated 26 June 2008, which included the comments "We are not wholly convinced that it does achieve these objectives but will have a more clear view early next week." - The query is, what happened early the following week or at any time up to the sending of the letter of objection, as the Committee received no documentation or correspondence relating to that period as part of their Freedom of Information request ?
 - iv. There was no record of any discussions/meetings taking place between 26 June and 8 July or any correspondence/documentation relating to that period provided as part of the FOI. Therefore, how was the content for the letter of objection based English Heritage's last IAR meeting of 23 June 2008 arrived, given the more positive nature of the documentation prior to that period ?

8. In order to seek clarification on the points listed above, the Committee has previously invited the Regional Director of English Heritage to attend a its meeting in March, but this offer was declined. A further invitation has subsequently been issued for the Regional Director to attend this meeting, and her response is shown at Annex D.

Options

9. Having considered the information contained within this report and its annexes, Members may choose to agree either that:
 - a. all efforts have been made to gather the relevant information (including a response from English Heritage to the queries listed above in paragraph 7), and therefore the Committee is now in a position to agree the recommendations arising from the review allowing the final report to be approved and presented to SMC and the Executive, or;
 - b. this review requires further investigation and therefore the draft final report shown at Annex A should be presented as an interim report to SMC, and the review concluded by this ad-hoc Scrutiny Committee in the new municipal year 2009/10.

Implications

10. **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.
11. **Financial** – Originally there were only limited financial implications associated with this review, based on the expectation that only a minimum number of meetings would be required. That limited number of meetings has already been exceeded and if further meetings are held there will be additional financial implications attached.
12. There are no equalities, legal or other implications associated with the recommendations within this report.

Corporate Strategy

13. 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

14. 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 that process. If no response is received from English Heritage in regard to the Committee's

outstanding queries, there is a risk that the recommendations arising will not be based on the fullest of information.

Recommendations

15. Members are recommended to agree:
- i. that every effort has been made to seek all the relevant information and that all the available information has been fully considered.
 - ii. the draft conclusions relating to each objective of the review (as shown at paragraphs 17, 26, 34 & 47 of Annex A).
16. Members are also recommended to amend and/or agree the draft recommendations arising from the review as shown in paragraph 54 of Annex A.

Reason: To enable the review to be completed in line with scrutiny working practices and protocols

Contact Details

Author:

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Tel No.01904 552063

Chief Officer Responsible for the report:

Dawn Steel
Democratic Services Manager

Interim Report Approved

Date 22 April 2009

Wards Affected:

All

For further information please contact the author of the report

Background Papers

Information on background papers and supporting documentation can be found and the end of the Final Report attached at Annex A

Annexes

Annex A – Draft Final Report

Annex B – Budget History

Annex C – Image provided by Civic Trust

Annex D – Response from English Heritage



Hungate Scrutiny Ad-Hoc Committee

1 May 2009

Draft Final 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

Maddy Jago Regional Director of English Heritage

Assistant Director of Planning & Design CYC – Planning & Conservation

Head of Risk Management & Accommodation Project Manager CYC – Risk Management

7. Prior to the formal meeting held on 12 January 2009, another informal information gathering session was held and the following internal consultees attended:

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

8. Finally, on 10 March 2009 a final informal information gathering session was held and the following external consultees attended:

Ex-Councillor Quentin Macdonald (past Executive Member for Resources & Member of Hungate Project Member Steering Group)

Peter Brown Chairman of York Civic Trust

Information Gathered

9. **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**
10. 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.
11. As a result, the Committee requested a detailed budget history which was subsequently provided by the project's Technical Finance Manager. This included 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.
12. The Committee therefore requested a further update on the financial position which was subsequently presented at a meeting in March 2009 – see Annex B. This identified:
 - Detail of committed expenditure at July 2008. 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 had produced assets and commitments which were 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

Analysis

13. 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 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.
14. 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.
15. 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.

Conclusion

16. The initial budget of 35.6m was sufficient for a basic office space as specified in the original brief. However, the public's expectations and aspirations for a civic building at the Hungate site, resulting in changes to the business case, made the budget insufficient as demonstrated by the approved budget increases.

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.

17. 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.
18. 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.
19. 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.

20. 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.
21. 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

22. 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.
23. 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.
24. 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.

Conclusion

25. The separation between the 'client' and Planning was right and proper, and in line with best practice.

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

26. 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.
27. 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.
28. 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.
29. 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.
30. 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.

31. 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

32. 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.

Conclusion

33. Both pre and post application consultation with statutory bodies, staff and service depts was exemplary. The committee remained divided on the adequacy of the consultation with the public. However it was agreed, that further attention could have been paid to the pre-application consultation with the public on design concepts, although due to the constraints it may not have made a difference.

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

34. 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.
35. 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.
36. 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.
37. At the informal session held in April 2009, the Company Secretary of York's Civic Trust, stated their concerns with the project in regard to the massing and scale of the building, particularly in relation to the Black Swan public house. He confirmed that the Civic Trust found some of the consultation imagery provided by the Architects misleading, as in their view it down played the bulk and mass of the building by showing the MAFF building in the background. He also provided an image given to them as part of a presentation by the Architects showing the relationship between the Council's proposed civic building and the Black Swan public house – see Annex C.
38. The Chairman of the Civic Trust commented on the Project Team's focussed approach to supplying the new civic building on brief and on budget and agreed that the pre-application consultation process had been 'textbook'. He did however criticise the level of attention paid to the feedback received, as the Civic Trust felt that no account had been taken of their first response, resulting in them having to respond more vigorously.
39. 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.

40. 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.

Analysis

41. The Committee recognised that feedback from English Heritage's own internal processes, was imperative to identifying their ongoing view of the evolving project, but 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. The Committee 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.
42. To clarify whether any such feedback had ever been generated by English Heritage and sent to the Project Team, the Committee made a 'Freedom of Information' (FOI) request. 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 held by English Heritage relating to the Hungate development.
43. The FOI documentation provided by English Heritage, generated a number of queries and therefore Members chose to invite the Regional Director of English Heritage to attend their next meeting. This invitation was declined and so the Committee made a further request to the Regional Director to attend its meeting in May 2009, which was also declined – see Annex D .
44. The Committee also made an 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. The documentation duly provided was considered by the Committee at their meeting in March 2009. Members queried the lack of notes/minutes provided in relation to their 'Internal Panel Reviews' held on 28 February and 4 August 2008. CABE subsequently clarified that it is their normal practice to produce an advice letter following a review meeting rather than meeting minutes, and a copy of the advice letter pertaining to 28 February 2008 had been included in the FOI documentation. In regard to the Internal Panel Review on 4 August 2008, no such advice letter was produced as the Council's planning application had already been withdrawn.

45. Finally, as the Committee saw a change in the views of some of the statutory consultees, but no evidence of the reasons behind it, they therefore agreed that publicly funded organisations have a duty to be clear, consistent and timely in the consultation responses they provide.

Conclusion

46. Best practice was followed in seeking the views of the statutory consultees, but the authoritative views from English Heritage were received too late in the process and were never received from CAGE.

Implications

47. **Human Resources** – In relation to recommendation (v), the Committee recognise that an increased level of involvement of the Chief Executive and Senior Directors may assist in a successful outcome for the ongoing new council offices project and are pleased to see that steps have already been taken to allow for this.
48. **Financial** – There will be a financial implication associated with recommendation (i). The degree of additional budget required for implementing the recommendation as part of a future project of this nature cannot be assessed at this stage and would need to be fully investigated as part of the lead up to project. On balance, the Committee felt the additional costs that may be incurred at that early stage could lead to an efficiency saving later on.
49. There are no equalities, legal or other implications associated with the recommendation within this report.

Corporate Strategy

50. 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

51. The risk associated with not dealing consistently with feedback on consultation and not providing the right level of senior management support to any project of the size and nature, is that the potential remains for a similar outcome on future projects with high levels of public uncertainty. However the Committee acknowledges that since withdrawing its planning application for Hungate, the council has already reviewed the leadership, project management process and the roles within the council and of its partners. And as part of that review, the Council has already considered 'lessons learnt' particularly those relevant to 'consultation' and has prepared future strategies for communicating and engaging the 'external audience'.

Recommendations

52. Having considered the aim and objectives for this review, and In light of the information gathered, The Hungate Ad-hoc Scrutiny Committee recommends that the Council:

- i. Carries out a degree of pre-project consultation before commencing on any project of this size and nature, in order to identify:
 - the level of public interest and the public's aspirations and expectations
 - a realistic budget
- ii. Continues with its best practice approach to pre-application consultation
- iii. Works with statutory consultees to ensure they provide clear, consistent and timely responses to consultation
- iv. Always provides full and consistent feedback no matter whether the Council is able to respond positively or negatively to the issues being raised
- v. Ensures consistent support be given to any project team throughout the life of the project, by the Chief Executive and Senior Directors

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

Contact Details

Author:

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Scrutiny Officer
Scrutiny Services
Tel No.01904 552063

Chief Officer Responsible for the report:

Dawn Steel
Democratic Services Manager

Interim Report Approved **Date** 22 April 2009

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

Topic Registration Form dated 16 July 2008
Feasibility Report dated 15 September 2008
Scoping Report dated 18 November 2008
Interim Reports dated 10 December 2008, 12 & 27 January, and 10 March 2009

Additional Documentation Considered By Committee:

Overview & Information pack provided by Hungate Project Team

- Admin Accommodation: Project Initiation Document & supporting annexes
- Planning Policy Statement 6: Planning for Town Centres
Meeting of the Executive 1st Feb 05: Accommodation Review – Site Option

- Appraisal & supporting annexes
- Meeting of the Executive 1st Feb 05: Committee Minutes
- Meeting of the Executive 22nd Nov 05: Business Case & 8 supporting annexes
- Meeting of the Executive 22nd Nov 05: Committee Minutes
- Hungate Master Plan Development Brief
- Hungate Master Plan - Maps
- Meeting of the Executive 10th Oct 06: Accommodation Project Update & supporting annexes
- Meeting of the Executive 10th Oct 06: Committee Minutes
- Meeting of the Executive 24th July 07 & 4 supporting annexes
- Meeting of the Executive 24th July 07: Committee Minutes
- Meeting of the Executive 17th June 08 & 2 supporting annexes
- Meeting of the Executive 17th June 08: Committee Minutes
- Contract Documents for the Office Accommodation Project dated Sept 2006
- Meeting of the Executive 13th Feb 07: Admin Accommodation Project Report & supporting annexes
- Meeting of the Executive 13th Feb 07: Committee Minutes
- RMJM Stage B Report: June 2007
- RMJM Stage C Addendum: March 2008
- RMJM Stage D Report: May 2008
- Corporate Asset Management Plan
- RMJM Consultation Process: Pre-Planning Application dated August 08
- Summary of External Feedback on Building Design: Dec 07 – Mar 08
- Pre Planning Design Exhibition – Staff Feedback
- Pre Planning Design Exhibition – External Feedback
- Staff Pre-Planning Design Exhibition Comments
- External Pre-Planning Design Exhibition Comments
- CMT Digest – 23rd Apr 08
- Project Board Meeting Minutes – 25th Apr 08
- Member Steering Group Meeting Minutes – 28th Apr 08

Strategic Site Study report produced by Atkins

Freedom of Information Documentation Pack from English Heritage

Freedom of Information Documentation Pack from CABE

Programme of Pre-Application Consultations

Documentation evidencing changes to design during pre-application process

Annexes:

Annex B – Budget History Information

Annex C – Image provided by York's Civic Trust

Annex D – Written Response from English Heritage

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

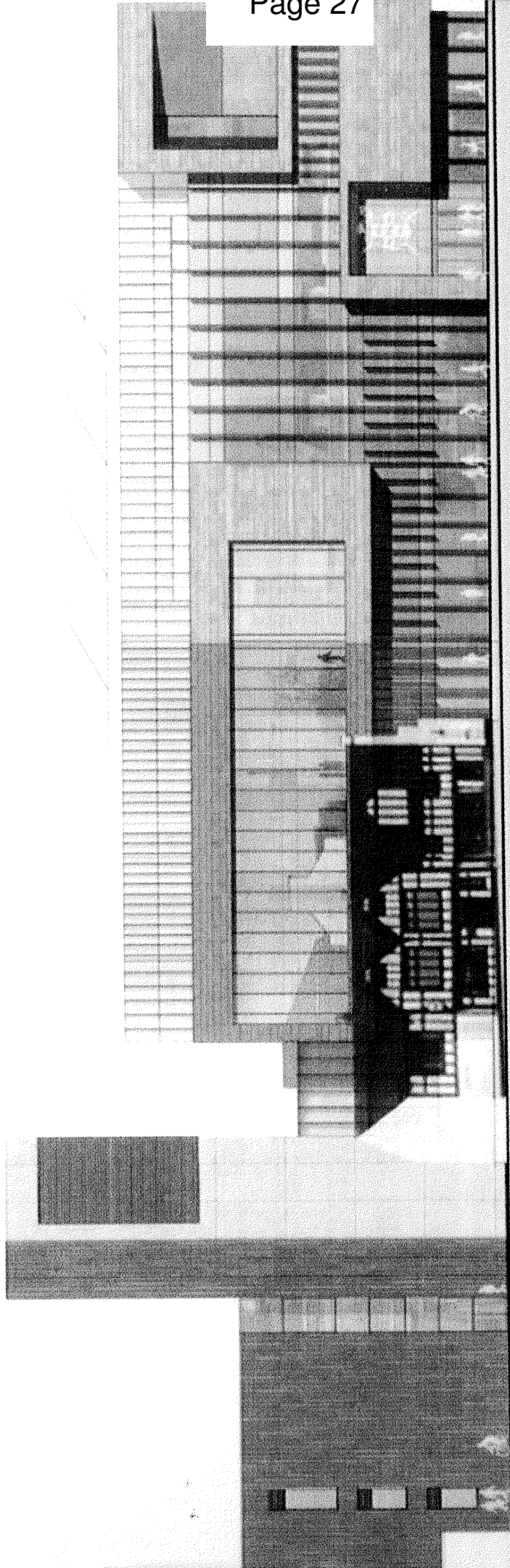
| | 2010/11 6 mnths | 2011/12 Full Year | 2012/13 8 Mnts | Total |
|-------------------------------|--------------------|----------------------|-------------------|----------------|
| St Leonards Place Rent | 185,000 | 370,000 | 246,667 | 801,667 |

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.



CYC HEADQUARTERS BUILDING

York Council's proposed headquarters in Peasholme Green, showing the relationship with the Black Swan public house.

(RMJM Architects)

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Carr, Melanie

From: JAGO, Maddy [Maddy.Jago@english-heritage.org.uk]
Sent: 27 April 2009 11:45
To: Carr, Melanie
Subject: RE: Hungate Scrutiny Review

Importance: High



position statement
April 09.do...

Dear Ms Carr,

We provided the attached statement to the media in response to the press release issued on behalf of the York Liberal Democrats late last week, which I hope provides final clarification of English Heritage's position. I can confirm that English Heritage will not be attending the final meeting of the Scrutiny Committee. We have already spent a considerable amount of time in going over the process that led to the Council withdrawing its development proposals, and we are now concentrating our staff resource on working with the Council on their new proposals.

Yours sincerely,

Maddy Jago
Planning and Development Regional Director
Yorkshire and the Humber
English Heritage
37 Tanner Row
York
YO1 6WP

Tel: 01904 601993
Fax: 01904 601997
Mobile: 07766 992608

-----Original Message-----

From: Carr, Melanie [mailto:melanie.carr@york.gov.uk]
Sent: 17 April 2009 13:20
To: JAGO, Maddy
Cc: Cllr. K. Aspden
Subject: Hungate Scrutiny Review

Dear Ms Jago,

The Hungate Scrutiny review which you have previously been involved in, is drawing to a close. The Committee however, believe their findings to be incomplete as they still have a number of unanswered queries relating to the Freedom of Information' documentation provided by English Heritage. Those queries are:

i) Bearing in mind the content and tone of English Heritage's letter of objection to the Council's planning application, the Committee would like to understand your surprise at the decision to withdraw the application and your view that the content of the letter was 'up for negotiation'

ii) Inconsistencies in comments recorded in the minutes of the 'Important Application Review Meeting' of 23 June 2008

iii) Email from Alison Fisher to Helen Barnett dated 26 June 2008, in which Alison comments "We are not wholly convinced that it does achieve these objectives but will have a more clear view early next week." - The query is, what happened early the following week or at any time up to you sending the letter of objection, as we have received no documentation or correspondence relating to that period as part of our Freedom of Information request ?

iv) if there is no record of discussions taking place between 26 June and 8 July or correspondence/documentation relating to that period, how did Alison Fisher arrive at the content for the letter of objection based on the last IAR meeting of 23 June 2008 as the Committee can see no correlation ?

Whilst the Committee understand the view you have previously expressed about moving forward and working together in the future etc, they believe that due to the level of public interest in this scrutiny review of the Hungate development and the new council offices in general, it would be in the best interest of all parties to have responded to all the issues arising from the scrutiny review. With that in mind, the Committee have instructed me to write to you to extend a further invitation to meet with them. Their next scheduled meeting is on Friday 1 May at 5pm.

If you still feel unable to attend a further meeting with the Committee, they would be pleased if alternatively, you could provide a written response to the queries listed above for their consideration at the meeting on 1 May 2009.

Naturally, the Committee are keen that their conclusions reflect the fullest possible facts. Therefore your further assistance in regard to the above queries is essential to this process and your co-operation would be gratefully received.

I look forward to hearing from you in due course.

Yours sincerely,

Melanie Carr
Scrutiny Officer
Scrutiny Services
City of York Council
The Guildhall
York
YO1 9QN

Tel No. 01904 552063

ENGLISH HERITAGE STATEMENT – HUNGATE REVIEW

We have always been supportive of the principle of this scheme but that support was dependent on securing some important design changes. We set out all the issues the Council should take account of and it would be disingenuous to emphasise only the support we gave and not the concerns we raised. There was no change in policy and our concerns should have been given due weight and not dismissed or seen as less important than our positive comments.

The final application had not gone far enough in addressing the issues we raised about height, massing and historic context, and in our formal advice we re-emphasised this. We also pointed out that more information was needed in the planning submission to clarify the impact of the development on important views across the site to and from York Minster. We were surprised and disappointed that they did not make modifications and re-submit the application. We clearly stated that we would have welcomed the opportunity to take it further.

We have been pleased to participate in the Council's review and help Members understand the application process and our advice. We have made all the information about our position available. Advice from English Heritage may often include both positive and negative points and both are important to note.

24 April 2009

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