



Notice of meeting of

Shadow Executive

To: Councillors Scott (Chair), Gunnell, King, Looker, Merrett, Potter and Simpson-Laing

Date: Wednesday, 6 May 2009

Time: 5.30 pm

Venue: The Guildhall, York

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. **Exclusion of Press and Public**

To consider excluding the press and public from the meeting during consideration of any exempt information relating to briefings on Executive business, as detailed on the agenda for the Executive meeting to be held on 12 May 2009, under Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order 2006.

3. **Minutes** (Pages 1 - 2)

To approve and sign the minutes of the Shadow Executive meeting held on 25 March 2009.

4. **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 Shadow Executive's remit can do so. The deadline for registering is Tuesday 5 May 2009, at 5.00 pm.

5. Briefings on Executive Business

To receive any briefings requested on Executive business for 12 May 2009.

[Please note that the reports relating to these items will be published on the Council's website on Friday 1 May 2009. The website address is **www.york.gov.uk** Copies of the Executive agenda and reports can also be obtained by telephoning Democracy Support Group on York (01904) 551088.]

6. Briefing Report on Property Guardians (Pages 3 - 8)

This report responds to the Shadow Executive's request for a briefing report on Property Guardians and how they could help local businesses keep buildings secure at low cost as well as offer extra low cost housing to people not on high incomes.

A representative from Ad-Hoc will be present at the meeting to give an overview of the Property Guardians concept and scheme.

7. Any Other Matters which the Chair decides are urgent under the Local Government Act 1972.

Democracy Officer:

Name: Jill Pickering

Contact details:

- Telephone – (01904) 552061
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For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

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If you would, you will need to:

- register by contacting the Democracy Officer (whose name and contact details can be found on the agenda for the meeting) **no later than 5.00 pm** on the last working day before the meeting;
- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
- find out about the rules for public speaking from the Democracy Officer.

A leaflet on public participation is available on the Council's website or from Democratic Services by telephoning York (01904) 551088

Further information about what's being discussed at this meeting

All the reports which Members will be considering are available for viewing online on the Council's website. Alternatively, copies of individual reports or the full agenda are available from Democratic Services. Contact the Democracy Officer whose name and contact details are given on the agenda for the meeting. **Please note a small charge may be made for full copies of the agenda requested to cover administration costs.**

Access Arrangements

We will make every effort to make the meeting accessible to you. The meeting will usually be held in a wheelchair accessible venue with an induction hearing loop. We can provide the agenda or reports in large print, electronically (computer disk or by email), in Braille or on audio tape. Some formats will take longer than others so please give as much notice as possible (at least 48 hours for Braille or audio tape).

If you have any further access requirements such as parking close-by or a sign language interpreter then please let us know. Contact the Democracy Officer whose name and contact details are given on the order of business for the meeting.

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Holding the Executive to Account

The majority of councillors are not appointed to the Executive (38 out of 47). Any 3 non-Executive councillors can 'call-in' an item of business from a published Executive (or Executive Member Advisory Panel (EMAP)) agenda. The Executive will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Executive meeting in the following week, where a final decision on the 'called-in' business will be made.

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

Who Gets Agenda and Reports for our Meetings?

- Councillors get copies of all agenda and reports for the committees to which they are appointed by the Council;
- Relevant Council Officers get copies of relevant agenda and reports for the committees which they report to;
- Public libraries get copies of **all** public agenda/reports.

City of York Council

Committee Minutes

MEETING	SHADOW EXECUTIVE
DATE	25 MARCH 2009
PRESENT	COUNCILLORS SCOTT (CHAIR), GUNNELL, KING, LOOKER, POTTER AND SIMPSON-LAING
APOLOGIES	COUNCILLOR MERRETT
IN ATTENDANCE	COUNCILLOR PIERCE

127. DECLARATIONS OF INTEREST

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

No interests were declared.

128. EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That the press and public not be excluded from the meeting as there was no exempt information relating to briefings on Executive business, as detailed on the agenda for the Executive meeting to be held on 31 March 2009, under Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006.

129. MINUTES

RESOLVED: That the minutes of the meeting of the Shadow Executive held on 14 January 2009 be approved and signed by the Chair as a correct record.

130. PUBLIC PARTICIPATION

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

131. BRIEFINGS ON EXECUTIVE BUSINESS

The Shadow Executive received briefings on the following items of business on the agenda for the Executive meeting on 31 March 2009:

- Corporate Strategy Refresh (agenda item 5)
- Local Area Agreement 2008/09 to 2010/11 (agenda item 6)

132. BRIEFING REPORT ON THE CITY CENTRE EXPERIENCE

This briefing report, responded to Members request for a report on innovative thinking to establish what kind of a city centre experience they wanted people to have. This was to take into account potential funding from Yorkshire Forward for the rejuvenation and regeneration of city centre areas and the report set out progress to date.

Members received a presentation from Officers of City Development on the proposals for a City Centre Action Plan, which would provide a 20 year vision and strategy for the City Centre.

Representatives of Visit York, the Retail Forum, the Minster Quarter and the City Centre Manager attended the meeting and were invited to participate in the discussion.

Officers confirmed that it was important to determine what resident's and the authority wanted out of the City Centre. Members pointed out that there was a need to examine bus and taxi penetration into the centre, making it more family friendly in the early evening and ensuring that Gateway Streets were better utilised with the introduction of trails. It was confirmed that public spaces should be available throughout the year and that investment was required in city activities.

Members thanked officers for preparing the report and the attendees for their constructive comments.

RESOLVED: That the briefing report be noted.

REASON: To inform and update the Shadow Executive and help shape the effectiveness of future action.

CLLR D SCOTT, Chair

[The meeting started at 5.30 pm and finished at 7.05 pm].



Shadow Executive

6 May 2009

Joint Report of the Housing Strategy Manager and
Head of Property and Asset Management

PROPERTY GUARDIANS

Summary

1. A representative from Ad-Hoc will be present at this meeting and will be better placed to give an overview of the Property Guardian concept and scheme. Rather than duplicate that overview, this briefing note focuses primarily on two aspects of the scheme. Firstly, the suitability of the scheme for council owned buildings that become vacant and secondly its potential to help address housing needs in the city.

Background

2. Alongside public sector buildings that may be suitable for property guardians (for example empty schools, hospitals, nursing homes) a lot of the properties cited in the Property Guardian publicity are in the private sector including offices, factories and hotels. Although the opportunities in York may be fewer than in larger cities there are clearly a number of buildings that, with their owners consent, would be suitable for this model of property protection. The former White Swan Hotel, the Fossway pub on Huntington Road, St. Barnabas School site, the Bull Nose building, Nestle and Terry's are a few that come readily to mind.
3. There are fewer examples of residential houses/flats/bungalows given in the literature of the Property Guardian companies including Ad-Hoc. The reasons for this are perhaps two-fold.
4. Firstly, the primary focus of the Property Guardian organisations is on securing buildings at risk from disrepair, vandalism, theft and squatters. The schemes do not tend to utilise empty space per se; there needs to be the "building at risk" element too. In essence, Property Guardians are a direct alternative to security grills and security guards.
5. Secondly, the model relies on the owners of the buildings paying a fee to the Property Guardian company (around £50 per week for a house and £250 per week for 100,000 sq ft of office/hospital). While this makes financial sense for larger commercial buildings (£1,000 per month for a property guardian or £7,500 for a 24 hr security guard), it is

less apparent that it stacks up as an attractive option for individual home owners with an empty property. This is explored in more detail later in this briefing.

Occupation of Vacant Council Owned Commercial Property

6. Council owned buildings are usually vacant either because
 1. They are surplus to requirements and are being sold
 2. They are being considered for other council service use
 3. (for the commercial portfolio) the previous tenant's lease has ended and the Council is looking to re-let.

In the second and third cases these are usually only short-term vacancies of a few weeks/months and even then there may well be work being carried out on the premises to make suitable for re-occupation. Therefore occupation by a third party would not be feasible either because, in the case of re-letting the period of vacancy is unknown and can be terminated at short notice as the new tenant will want occupation to fit-out or for re-use by another service then contractors will be in occupation.

Vacant Surplus Properties

7. When, as part of service rationalisation or asset management outcomes an operational property becomes surplus to requirements then this is reported to the Corporate Asset Management Group who consider:
 - any other service requirements (as highlighted in Service Asset Management Plans)
 - any community need or opportunity to co-locate/rationalise services (as highlighted in Area AMPs)
 - the need for a capital receipt (which involves considering planning uses and market conditions)

This work commences long before the building becomes vacant so that the vacant period is minimised. However in today's difficult market conditions it is becoming more common for a delay before the property is put on the market in order to maximise the receipt.

There is therefore opportunity to consider occupation by Property Guardians as one of the options for this vacant period along with looking at temporary occupation by community groups (such as at Manor) or demolition (being considered at Lowfields as property in too poor a state of repair for occupation).

8. Occupation by Property Guardians would have the following benefits:

- Occupation would be on an ad hoc basis – no tenancy rights are assumed to be created so maximum flexibility in regaining vacant possession. However, there are some concerns that tenancies could be created – see boxed text below.
- Occupiers are young working professionals with no families who have an income and also should 'look after' the property – i.e. not allow unauthorised access.
- Property Guardians inspect the site once a month to check that occupation is within guidelines – if not 2 weeks notice can be served
- Occupation will deter any unauthorised access to the site and vandalism/burglary

Licence to Occupy or a tenancy?

Although the Property Guardian companies stress that no tenancy is created by these schemes, it is worth noting this is not an opinion universally shared. Writing in Property Week in August 2008, Anne Waltham, head of real estate litigation at Wragge and Co, London queried the legal power in the UK to end the occupancy of a site by property guardians. She said that if the courts can be convinced that occupants have exclusive possession of a site then they would be seen as tenants. A site owner may not therefore be able to remove them when finished with the service. *'The bottom line is, whatever it says in the agreements, in law it will eventually be considered by what happens in practice. If in practice the occupier has exclusive possession, then, whatever the documents says it will be viewed as a tenancy'*.

Clearly this is a complex legal argument and the purpose of highlighting it here is not to dissuade support for the property guardian concept but simply to suggest that it will be prudent to seek independent legal advice prior to the council supporting a scheme.

9. There are some costs to the Council:

- Need to ensure there are adequate kitchen and bathroom facilities
- Responsible for all utility bills etc.
- Empty rates are also still payable (which would not be the case if the building is demolished or declared unsuitable for occupation)

The net cost to the authority is less than employing security guards and therefore is a realistic option to look at for future commercial/operational

buildings if they are to become vacant for a period of time say in excess of 6 months.

Conclusion

10. It is recommended that Ad Hoc (the name of the organisation that manages the Property Guardians) are considered as one of the options when looking at management of vacant buildings which will remain so for a period of time.

Current vacant buildings which could fall into the category include:

- Manor School – currently occupied by Global
- Lowfields School – in too poor a condition for occupation
- 56 Nursery Drive (former Holgate Family Centre) – possible occupation by Property Guardians as currently delay in sale due to market conditions and property generally in reasonable condition in residential area.

Therefore we will look at 56 Nursery Drive with Ad Hoc to see if it is suitable

Meeting Housing Need and Property Guardians.

11. In York there a very few long-term empty homes and those that are empty for a short period of time do not tend to attract vandalism or damage. Overall, It is difficult to see the attractiveness of this scheme to most owners of a short term empty property. As well as continuing to have an obligation to pay any mortgage on the property (and there are likely to be issues about mortgage lenders supporting this), council tax (in most circumstances) and utility bills, they would also be paying the Property Guardian company too. The money that the Property Guardian pays (a “fee”not a “rent”) also goes to the company and not the buildings’ owner.
12. Perhaps a more attractive scenario for home owners might be where they are leaving their home for, say, a year to go abroad/study etc and would like a house-sitter rather than simply rent their home for a period of time or leave it empty. However, it is doubtful if this would be considered suitable because it would be outside of the ‘building at risk’ criteria which is central to the property guardian concept and model. For the same reason, empty spaces above shops that are trading do not figure in the examples of properties on property guardian websites.
13. As stated earlier, property guardians would appear to have very limited legal rights to live in properties. They are not tenants but are granted a Licence to Occupy. The schemes are not designed to take households from the housing waiting list and the council could not discharge any homelessness duties by placing households into these

schemes. What the property guardians can and cannot do is quite restrictive including any or all of the following for example:

- No children or pets are likely to be allowed.
 - Smoking is not likely to be allowed.
 - Bathroom and kitchen facilities will probably be shared.
 - Parties won't be allowed, and guardians may not be allowed to have overnight guests.
 - The property will be inspected regularly, and additional copies of room keys may be held by the company.
 - Guardian's may need to give a commitment to being in the property frequently (not, for example, staying elsewhere at the weekends).
 - Guardians may be asked for extra initial payments - like a deposit and an administration fee.
14. The foregoing is not to suggest these schemes are without merit. As the feedback from property guardians themselves illustrates, for some people short-term and cheap accommodation is exactly what they need to fit in with their lifestyle and priorities and with weekly "fees" (not rents) being around £60-80 it's clearly a much cheaper option than renting in the private sector. But this is the basis on which they must be viewed; as another "housing" option for people who are self-selecting and fully aware of any restrictions that form part of the deal.

If the council has a role it is perhaps in assisting in bringing to the Property Guardian Companies attention possible suitable properties either in its ownership or owned privately.

15. A property guardian scheme in York would be a welcome and useful tool in providing short term housing for people who's lifestyle and circumstances suit this type of accommodation choice. It is not a scheme designed to address long term housing need or affordability but it clearly is a very good means of reducing vandalism, squatting and disrepair of buildings that are 'at risk'.

Recommendations

16. Shadow Executive Members are asked to note the contents of this briefing report.

Contact Details

Author:		Chief Officer Responsible for the report:	
Author's name: Philip Callow Head of Property and Asset Management Chief Executives Tel No. 553360		Chief Officer's name: Bill Hodson Title: Director of Housing & Adult Social Services	
Co-Author's Name: Paul Landais-Stamp Housing Strategy Manager Housing and Adult Social Services Tel No. 554098		Report Approved	<input checked="" type="checkbox"/>
		Date	22 April 2009
		Chief Officer's name Title	
		Report Approved	<input type="checkbox"/>
		Date	Insert Date
Specialist Implications Officer(s) <i>List information for all</i> <i>Implication ie Financial</i> <i>Implication ie Legal</i> Name Name Title Title Tel No. Tel No.			
Wards Affected: <i>List wards or tick box to indicate all</i>			All <input checked="" type="checkbox"/>
For further information please contact the author of the report			

Background Papers: None**Annexes:** None