

PART 1 – PUBLIC DOCUMENT

AGENDA ITEM No.

5

**TITLE OF REPORT: NORTH HERTFORDSHIRE MUSEUM & COMMUNITY FACILITY
HITCHIN TOWN HALL LTD: PROPOSAL FOR THE INCLUSION OF 15 BRAND STREET**

REPORT OF THE STRATEGIC DIRECTOR OF CUSTOMER SERVICES & PROJECT
EXECUTIVE

PORTFOLIO HOLDER: COUNCILLOR TRICIA COWLEY

1. SUMMARY

- 1.1 To consider a proposal submitted by Hitchin Town Hall Ltd (HTH Ltd) for the inclusion of 15 Brand Street into the existing project to renovate the Town Hall and create a new Museum for North Hertfordshire and determine whether Council wishes to proceed with this or continue with the agreed development.

2. RECOMMENDATIONS

Council is recommended to:

- 2.1 Consider and note the contents of the Part 2 report prior to consideration of recommendations 2.2, 2.3 and 2.4.
- 2.2 **Either** agree to the inclusion of 15 Brand Street into the development as described in the body of this report and on the draft Deed of Variation (Appendix 6) and if this is agreed to do so on condition that:
- 2.2.1 Significant changes to the layout from those illustrated at Appendix 3 will not be considered unless there was significant benefit to the Museum and that no significant additional costs or delay to the project would occur, and:
- 2.2.2 Any conditions required by ACF are achievable within the Council's assessed programme and financial estimates detailed in paragraphs 8.25 and 10 and, subject to this;
- 2.3 Further agree the necessary expenditure from the Capital Programme of £100,000 to finance the Council's contribution and delegate authority to officers to enter into the necessary legal agreements.
- 2.4 **Or** decline the proposal to include 15 Brand Street in to the development and proceed with the existing scheme in accordance with the approved Development Agreement.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To provide Council with the option of proceeding with the agreed development or accepting the variation incorporating 15 Brand Street.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 No alternative options were considered as the report deals with a specific proposal made by Hitchin Town Hall Ltd.

5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 5.1 The Portfolio Holder for Community Engagement & Rural Affairs has been consulted on the detail of this report and arrangements for informal scrutiny by and briefing to political groups has been offered to Group Leaders. A workshop for all Councillors to provide an opportunity to consider this report in detail has been arranged immediately prior to Council. Any significant feedback from these consultations will be reported verbally to your meeting.

6. FORWARD PLAN

- 6.1 As the proposal does not form part of the Council's overall policy framework for 2013/14 and because of the scale of the funding involved, this decision is presented to full Council and is therefore not a 'key decision' and has not appeared in the Forward Plan.

7. BACKGROUND

- 7.1 On 15th October 2012 Council agreed to enter into a Development Agreement with Hitchin Town Hall Ltd for the development of a new North Hertfordshire Museum and Community Facility at Hitchin Town Hall. In doing so it resolved:

- (1) *That a loan to Hitchin Town Hall Limited be agreed on the terms set out in Paragraph 4.10 of the report;*
- (2) *That the changes to the Development Agreement and associated documents set out in Paragraphs 4.7, 4.8, 4.9 and 5.6 of the report and other minor changes incorporated into the Development Agreement, Lease, Community Use and Management Agreement and Management Agreement between the Council and the Trust, be agreed; and*
- (3) *That Officers be authorised to enter into the necessary legal agreements.*

- 7.2 The decision making history of this project which stretches back 2005, is fully referenced in paragraph 17 "Background Papers".

- 7.3 The Development Agreement (clause 4.7) with Hitchin Town Hall Ltd requires that:

"The parties remain committed to the exploration of an expanded future scheme that may include the remainder of 15 Brand Street to form this community facility and agree to consider a variation of this agreement should this be possible within the funding available at the time and is agreed between the parties to be viable and achievable".

- 7.4 Hitchin Town Hall Ltd resurrected a proposal, first mooted in 2011 but not then taken forward, as part of the negotiating process on the Development Agreement in August 2012.

- 7.5 Officers have provided informal feedback to Hitchin Town Hall Ltd as the scheme developed at meetings between October 2012 and January 2013 and a formal proposal was received on 14th January 2013. Following receipt of this proposal further meetings to negotiate and clarify particular elements were held during the course of March and April 2013.
- 7.6 As it became apparent that negotiations would not conclude prior to the agreed date for the award of the construction contract for the agreed scheme, and with the agreement of HTH Ltd and Adventure Capital Fund (ACF) HTH Ltd's lenders, the Chief Executive authorised the delay of the award of contract to the end of April to allow:
- Hitchin Town Hall Ltd and NHDC to conclude negotiations on an amended Development Agreement to include 15 Brand Street for consideration by NHDC (full Council)
 - Preparation of a report for Council and the Gymnasium and Workman's Hall Trust together with the required public notice of the meetings to be issued
 - Consideration by both the Council and Gymnasium and Workman's Hall Trust of the proposal
 - Either: the development of a detailed timetable for delivery of 15 Brand Street for discussion with ACF if this is agreed, or: mobilisation of the successful contractor for the original scheme incorporating 14 Brand Street only.
- 7.7 This report provides an outline of the proposal submitted by Hitchin Town Hall Ltd together with an assessment of the relevant issues, any further approvals which may be necessary to expand the project and a request that Council determines whether to agree to this or proceed with the agreed scheme. The report does not provide a positive recommendation for either option as the new proposal is substantially different from that already approved.

8. PROPOSAL FOR THE INCLUSION OF 15 BRAND STREET: ISSUES

Summary

- 8.1 The proposal from Hitchin Town Hall Ltd is attached as Annex 1. Members are asked to note, however, that during the course of further dialogue with HTH Ltd a number of the elements were modified and a commentary on these changes and the proposals more generally is provided in the Annex. The key issues are detailed below:
- The incorporation of 15 Brand Street to enlarge the museum entrance would provide an improved architectural aesthetic and visitor experience. The proposal is strongly supported by Hitchin Town Hall Ltd and the Community Groups it is representing.
 - Hitchin Town Hall Ltd would be committed to invest an additional sum of up to £180k to acquire 15 Brand Street with vacant possession but, in addition:
 - In overall terms the proposal would require NHDC to make a further financial commitment of approximately £100,000 and, as such, is not "possible within the funding available at the time" in accordance with the requirements of the development agreement (clause 4.7) detailed in paragraph 7.3 above.
 - The proposal will entail a delay of approximately 4 months in delivery of the scheme and the forecast revenue savings to NHDC would not be achievable as originally projected from November 2014.

- The proposals would require design work and re-specification to bring them to the position where they could be used as the basis for implementation and a number of the associated procurement risks are detailed in the part 2 report.
- Hitchin Town Hall Ltd's aspirations to accommodate additional design changes to relocate museum storage and other elements may create additional risk as these aspirations have not been fully developed or agreed but are being promoted by a small number of local organisations, however:
- The formal proposal makes it clear that the internal layout of the extended museum entrance is a matter for NHDC to determine. The design, cost estimates, revised programme and draft amendments to the Development Agreement contained in this report have been based on this and are outlined in paragraphs 8.26 – 8.28.
- Confirmation of arrangements by ACF will be required before the proposal could be formally agreed and it is uncertain at this stage whether ACF would be prepared to grant an extension that would be acceptable to NHDC
- Whilst improving the appearance of the museum building, and increasing the functionality of the museum entrance, the broader additional "social benefits" are relatively minor
- If accepted, the proposals would entail acceptance of additional risk by NHDC in terms of financial scale of the project although in construction terms this would make the build more straight forward. Hitchin Town Hall Ltd too would be exposed to additional financial risk but would deliver a key community aspiration.
- Procurement of a construction contractor and exhibition designer has been completed in line with NHDC's obligations under the existing Development Agreement. Tenders meeting the quality and price criteria have been received and, as such, NHDC is in a position to proceed with the approved scheme.

Agreed Development

8.2 The agreed development project timescale appears below:

Stage four 10/12/03 - 28/03/13	Date completed
Construction contract	
Advertise contract	End of December 2012
Expressions of interest	7 th January 2013
Evaluate expressions of interest	18 th January 2013
Draft Tender document	17 th January 2013
Formalise Tender document	2 nd February 2013
Tender period	4 th February 2013 – 15 th March 2013
Evaluate Tenders	15 th March 2013
Award contract	28th March 2013 *
Exhibition designer	
Evaluate PQQ's	4 th January 2013
Produce specification and tender documents	18 th January 2013
Tender	28 th February 2013
Evaluate tenders	15 th March 2013

Next stage 01/04/13 – 31/07/13	Completed by
Construction contract	
Mobilisation	3 rd May 2013
Start on site	6 th May 20013
Exhibition designer	
Project Executive sign off	5 th April 2013
<i>Appoint exhibition designer</i>	<i>18th April 2013 *</i>
Mobilisation	2 nd May 2013
review collections	25 th July 2013

Note: * Appointment of construction and exhibition design contractors delayed pending consideration of this report

- 8.3 As outlined in paragraph 7.6, the award of contract to the successful construction contractor, which is valid and within budget, has been delayed by agreement of the parties by the Chief Executive under his emergency powers. Tenderers have been advised of the delay in the award of contract and, should Council decline the HTH Ltd proposal for the incorporation of 15 Brand Street, the obligation to proceed with the agreed development albeit with one month delay, remains.
- 8.4 The museum exhibition designer has now been chosen from a short-list of seven. The successful firm has been notified that there will be a short delay in the award of contract. Currently the aim is for the fit-out designer to work with NHDC officers to submit the Stage 2 Heritage Lottery Fund (HLF) bid by 5 August 2013, for decision at a meeting on 28th November 2013. Under current HLF rules, the latest date NHDC can submit the Stage 2 bid is 11th November 2013, for decision at a meeting on 6th March 2014.

Relationship to the Development Agreement

- 8.5 Clause 4.7 of the Development Agreement requires “*the parties (to) remain committed to the exploration of an expanded future scheme that may include the remainder of 15 Brand Street to form the community facility and agree to consider a variation of this agreement should this be possible within the funding available at the time and is agreed between the parties to be viable and achievable*” The Parties have remained committed to exploring this option and considerable effort has been expended in considering, negotiating and clarifying the variation suggested by Hitchin Town Hall Ltd.
- 8.6 Turning to the specific criteria detailed in 4.7 of the Development Agreement Council is advised:
- That the funding currently available within the approved budget would not be sufficient to cover the increased costs to the Council of approximately £100,000. Hitchin Town Hall Ltd have indicated that their costs are estimated at a maximum of £180,000 for the acquisition of 15 Brand Street and the compensation payment to the current tenant, would be secured from a combination of donations and loans.

- Officers consider that the proposal is viable as the physical amendments to the scheme are technically feasible, do not entail significant additional running costs and would enhance the appearance of the Museum entrance providing a more amenable customer experience and some additional display space for non sensitive items.
- The proposal may be achievable subject to the necessary funds being made available and the agreement of ACF to the terms and timescales acceptable to the Council. Achievability will also be dependant on Hitchin Town Hall Ltd's ability to secure £180,000 of donations/loans to finance the acquisition of 15 Brand Street within the timescales required to them.

Design concept

- 8.7 The Planning and Listed Building Consent applications for the inclusion of 15 Brand Street provided an illustration of the amended building frontage and this is reproduced in Annex 2. The worked up internal sketch plan by the Council's architect BFAW illustrating the internal layout appears in Annex 3. For comparison, the agreed layout for the approved development is illustrated by the lease plan (ground and first floors only) is attached as Appendix 4.
- 8.8 The inclusion of 15 Brand Street into the scheme would enhance the Museum by providing:
- Improved visual aesthetic resulting from the wider and more commanding frontage
 - Enlarged entrance area giving increased space for visiting groups, improved circulation space and appearance
 - Slightly larger first floor area, giving more scope for community exhibitions and displays outside the most secure museum space
 - A café which remains proportionate, viable and complementary to the main function of the building as a museum
- 8.9 The "social benefits" highlighted by HTH Ltd in their proposal are set out in Annex 1 and are accompanied by a commentary on each. In general terms it is not considered that the proposal provides significant "social benefit" as described other than a possibility that an expanded entrance to the museum will improve footfall.
- 8.10 Council is reminded that the purpose of this project was to provide a new museum for the district and a sustainable long term future for Hitchin Town Hall. Further changes from the design concept are likely to reduce the quality of the museum in terms of the visitor experience and reduce the overall space available for museum purposes.
- 8.11 As highlighted in paragraph 8.1 above, dialogue with HTH Ltd and a number of community organisations, the planning application and indeed the proposal itself have given the impression that the proposal would provide an opportunity to make significant changes to the internal layout of the museum storage facility and allow for the expansion of the stage, changing areas and café. Many of these changes were viewed to be incompatible with the design objectives incorporated in to the original scheme and HTH Ltd have confirmed that the internal layout is entirely a matter for NHDC to determine, albeit with input from HTH Ltd in line with the agreed liaison provisions.

- 8.12 HTH Ltd have, however, also made it clear that their ambitions for such changes remain and Council is advised that this continues to present a significant risk to the project as potential delays could be caused by efforts to re-negotiate or query the agreed approach. For this reason, if Council is minded to agree to the proposal it is recommended that this is on the basis that significant changes to the internal layout from those illustrated in Appendix 3 would not be considered unless there was significant benefit to the museum facility and no additional cost or delay to the project would occur. Additional commentary is provided at paragraphs 3.3 – 3.4 of the Part 2 report.

Design, Construction & Procurement

- 8.13 As part of the analysis of the 15 Brand Street scheme, Buttress Fuller Alsop Williams, architects for the project and Appleyard & Trew – Cost Consultants carried out a comparison with the scheme which incorporates only 14 Brand Street.
- 8.14 This analysis identifies an additional cost of £73,528 for the building works and would also require further design costs to bring a second scheme up to the level of detail required to allow it to be costed by a building contractor. Design costs are illustrated below.
- 8.15 The most significant changes to the second scheme is the additional space afforded by the incorporation of 15 Brand Street, this increases the street presence of the new entrance and would allow a small forecourt to be created by omitting the steps from in front of the building. Whilst this simplifies the external aspects of the scheme, it creates accessibility issues to both the entrance of the listed Town Hall, which no longer has a stepped and ramped entrance arrangement, but also pushes the change in level to the inside of the entrance lobby. Access in this scheme by a wheelchair or pushchair is reliant on a platform lift, increasing the maintenance burden of the project.
- 8.16 The internal foyer is far lighter and more airy as a result with more space for larger parties of visitors to congregate, but it is proposed that this function of this space is not altered. On the first floor an additional area is proposed. It was considered if this space could be used for the local studies centre, but the space is not big enough to house the study centre, and associated storage. As a result, the location of the study centre remains unchanged. The result is that the additional space accommodates a 21m sq display area.
- 8.17 HTH also hoped to rearrange the stage area, removing the reduced stage size and associated storage, but as their scheme as submitted for Planning and Listed Building consent did not accommodate this alteration of the internal arrangement and associated issues of sound impacts on local residents, and due to the inability to house this storage elsewhere in the scheme, consequently the increased stage has not been incorporated.

- 8.18 The costs associated with the incorporation of 15 Brand Street assessed by the Design Team, can be split down as follows:

Additional Building works	£41,985.00
Additional Services installations	£25,363.00
Drainage and Externals savings	-£7,920.00
Additional Scaffold costs	£5,000.00
Contingency	£7,000.00
 Inflation	 £2,100.00
 Additional Design Fees	 £20,000.00
Consultancy Costs incurred	£6,862.50
 Total	 £100,390.50

- 8.19 There are a number of risks involved in the incorporation of 15 Brand Street into the Scheme. The main ones identified by BFAW are:

- The additional time involved in the development of the scheme will delay the projected cost savings.
- The negotiation with a single successful contractor may not provide the cost benefits which are suggested.
- The party wall negotiations with the owner of 16 Brand Street may become more complex – incurring costs and delays which have not been accounted for.
- There is prolonged public confusion over which scheme is being developed.

- 8.20 The additional charge for developing the 15 Brand Street Scheme from the existing RIBA Stage C to the current position of the 14 Brand Street Scheme - RIBA Stage H is £20,000. It should be noted that the structure to the front entrance will have to be redesigned, services redesigned, and the bill of quantities re-written. In addition, time has been spent on the evaluation and costing of the 15 Brand Street Scheme costing £6,862.50 of consultants time to date.

- 8.21 The procurement issues connected with the inclusion of 15 Brand Street are set out in paragraphs 3.14 – 3.19 of the Part 2 report.

Gymnasium Workmans Hall Trust

- 8.22 It would be necessary to secure the agreement of the Gymnasium Workmans Hall Trust for this proposal to proceed.
- 8.23 The proposed transfer of 15 Brand Street or the site of 15 Brand Street will need the approval of the trustees and this will require independent property advice at an estimated cost of £500 - £1000.
- 8.24 Arrangements have been made for this advice to be provided and meeting of the administrators to the Trust (Cabinet Sub Committee) has been arranged for 22nd April 2013.
- 8.25 The management agreement between NHDC and the Trust would need to be amended to reflect the changes in the development agreement and associated documents should any proposal be accepted and is agreed by both parties.

Incorporating 15 Brand Street

- 8.26 If Council is minded to incorporate 15 Brand Street, the estimated revised project plan has been assessed as follows:

Task	Duration	Start	Finish
Council & Trust to agree 15 Brand Street	14 days	04/04/2013	23/04/2013
Negotiate new DA and legal approval	14 days	04/04/2013	23/04/2013
ACF to agree to extension and conditions	1 wk	24/04/2013	30/04/2013
BFAW lead in time	3 wks	01/05/2013	21/05/2013
2 weeks contingency	2 wks	22/05/2013	04/06/2013
Design	27.5 days	05/06/2013	12/07/2013
Review existing scheme for statutory compliance	0.5 wks	05/06/2013	07/06/2013
Develop revised areas to stage E	2 wks	07/06/2013	21/06/2013
Redevelop affected adjoining areas to stage E	0.5 wks	21/06/2013	25/06/2013
Develop revised areas to stage F	2 wks	26/06/2013	09/07/2013
Redevelop affected adjoining areas to stage F	0.5 wks	10/07/2013	12/07/2013
Revise Bill of Quantities	2 wks	12/07/2013	26/07/2013
Negotiate with preferred contractor	3 wks	26/07/2013	16/08/2013
Contractor Mobilisation	5 wks	16/08/2013	20/09/2013
Start in site	0 days	20/09/2013	20/09/2013
Construction period	55 wks	20/09/2013	10/10/2014
fit out works (community)	4 wks	10/10/2014	07/11/2014
Museum fit out	12 wks	10/10/2014	02/01/2015
object insulations	8 wks	02/01/2015	27/02/2015
2 weeks contingency	2 wks	27/02/2015	13/03/2015
Public opening	1 day	13/03/2015	16/03/2015

- 8.27 These dates have been built in to the draft Deed of Variation appended to this report. It should be noted, however, as detailed elsewhere, that the inclusion of 15 Brand Street increases the complexity and therefore the risk of not adhering to this timetable which is subject to agreement by Hitchin Town Hall Ltd's funders, ACF.
- 8.28 The Project Team envisages a four month extension is likely to be required to make arrangements to include 15 Brand Street in the scheme. To accommodate this extension, the Deed of Variation to the Development Agreement (attached in Appendix 6) would add four months to all relevant timescales. In particular, the target completion date would be 16th March 2015 instead of 14th November 2014. Changes would also be required to documents appended to the Development Agreement to ensure they include reference to 15 Brand Street.
- 8.29 The key changes to the Development Agreement would be as follows:
- 8.29.1 The scope of the development would be expanded to include 15 Brand Street in the scheme.
 - 8.29.2 The Council would have until 30th September 2013 to procure the main building contractor. Within 10 working days after this date, HTH Ltd would complete the purchase of 14 Brand Street and the Council would formally award the building contract. Both events would occur simultaneously.
 - 8.29.3 Documents annexed to the Development Agreement such as Leases, option agreements and plans would be updated to include 15 Brand Street.

- 8.29.5 The Planning Permission for 15 Brand Street was granted in February 2013 and the Development Agreement would include reference to this planning permission.
- 8.30 A significant amount of legal resource has been allocated to prepare a draft Deed of Variation to the Development Agreement and review associated documents. Legal resource would also be needed for making arrangements to include 15 Brand Street, in particular to formalise contractual arrangements.
- 8.31 If the project is extended, Museum staff will continue their work on the collections, particularly the many thousands of items stored at the Burymead Resource Centre. A delay would allow more items to be photographed and catalogued for inclusion on e-Hive, the forthcoming digital database, as well as giving time for research. There is an ongoing programme of cleaning, auditing and re-packing the museum objects, which would continue.

Adventure Capital Fund Agreement

- 8.32 Hitchin Town Hall Ltd have advised that ACF would need to provide formal agreement to the variation of its loan agreement with ACF and such conditions may include , stipulations about the amount of time it would allow for the completion of any amended scheme. As noted in paragraph 8.6 and 8.26, it is important that such conditions and, in particular timescales, are acceptable to the Council in accordance with the outline programme and financial constraints set out in this report and this is reflected in the recommendation should Council wish to accept Hitchin Town Hall Ltd's proposal. ACF will be asked to comment on whether the Council's assessed timescale would be acceptable and a verbal update will be provided at your meeting.

Conclusions

- 8.33 The offer put forward by Hitchin Town Hall Ltd is undoubtedly a generous one. Hitchin Town Hall Ltd would be prepared to commit approximately £180,000 of expenditure to improve the aesthetic of the new museum building and provide improved functionality for the entrance and expanded display space. The project would provide for a more straight forward construction and improved opportunities for a range of activities in the expanded gallery for both NHDC and Hitchin Town Hall Ltd. Finally, the proposal is consistent with the Gymnasium & Workmans Hall Trust objectives and would vest ownership of the expanded element of the building to the Trust.
- 8.34 However, the proposal would increase the amount of time necessary to conclude the building and simultaneously increase costs and delay the achievement of forecast savings. The Council would need to accept a greater degree of risk not least that arising from potential dissatisfaction with the internal layout and procurement issues more fully detailed in Part 2.
- 8.35 In overall terms the proposal to incorporate 15 Brand Street is, subject to the risks outlined in this report, achievable but a fully designed and agreed original scheme is at an advanced stage of procurement and is capable of being delivered at no additional cost or risk.
- 8.36 The Council is therefore requested to consider both options as being viable, although not directly comparable, and this is reflected in recommendations outlined in paragraph 2.

9. LEGAL IMPLICATIONS

- 9.1 Cabinet has responsibility for agreeing policies and strategies other than those reserved to Council. Strategic decisions relating to Museums and Halls are not reserved to Council but in this case because of the potential capital expenditure involved, and in accordance with previous decisions, this matter continues to be presented to Council.
- 9.2 The General Power of Competence contained within the Localism Act 2011 came into force on 18 February 2012 and effectively replaced the previous wellbeing powers. The statutory General Power of Competence gives a local authority the power to do “anything that individuals generally may do”. Section 1(4) of the same Act confirms that in using such power the local authority may do so for the benefit of the authority, its area or persons resident in its area. This power is relevant when confirming that the Council has power to enter into the Legal Agreements set out in detail in this Report.
- 9.3 The Public Libraries and Museums Act 1964 and the Local Government (Miscellaneous Provisions) Act 1976 confirms the Council’s statutory power to operate a Museum. S111 of the Local Government Act 1972 confirms that a local authority has power to do any thing (including in relation to finance and property) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.
- 9.4 When considering the proposed Lease, Section 123 of the Local Government Act 1972 gives a Local Authority the power to dispose of land provided that it does so for the best price reasonably obtainable. The consent of the Secretary of State is required for any disposal where the consideration is less than the best that can reasonably be obtained, and the Secretary of State has issued a general consent in this regard (the General Disposal Consent 2003). Under the general disposal consent a Local Authority can dispose at less than best consideration if:
- a) The local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or all or any persons resident or present in the area;
 - i) The promotion or improvement of economic well-being;
 - ii) The promotion or improvement of social well-being;
 - iii) The promotion or improvement of environmental well-being; and
 - b) The difference between unrestricted value of the land to be disposed of and the consideration for disposal does not exceed £2,000,000

10. FINANCIAL IMPLICATIONS

- 10.1 As reported previously to Members the current approved project is included as a scheme in the approved capital programme. The total estimate for the construction of £4.23 million reflects estimates available at the time of Council approval in November 2010. There is a risk that building costs will have increased since November 2010. Efforts have been made to mitigate this risk when tendering for the construction contract by making allowable changes to the specification to control spend within the budget. The financial regulations allow the Project Executive to authorise spend above the budget by £25,000 or 10% (whichever is the lesser). If it is anticipated project costs will exceed this overspend a further report would need to be submitted to Members.

Risk	Risk Likelihood	Range of Risk Value	% Allowance	Assessment of Risk Value
The Council pulls out from the project before completion	L	£0k - £40k (HTH Ltd costs) & £154k - £2.5 million (project costs to be funded from Council resources)	0	0
The facility is not ready for opening on the agreed date in the Development Agreement	H	£20k - £50k (per quarter – HTH Ltd costs)	50%	£18k* (per quarter)
HTH Ltd do not repay the loan for legal fees	M	£0K - £20k	25%	£5k*
The HLF stage 2 application is not successful	M	£0k - £831K	25%	£208k
When tendered the construction and fit out costs are higher than expected and the project cannot be completed within budget	M	£0k - £850k (higher value represents a 20% overspend)	25%	£213k
Procurement Challenge leading to a delay in completion and legal costs.	L	£20k - £50k (per quarter – HTH Ltd costs)	0	0
Total		£224k - £4.75 million		£444k

- 10.2 As at the end of March 2013 the Council has spent a total of £245k on the project since work began in 2009/10. Should for any reason the scheme not proceed to completion any costs incurred cannot be funded from capital sources and would need to be funded from the general fund.

- 10.3 The financial risks of such a complex project are numerous but the following table (as provided to Members in October) attempts to summarise the key elements in the current scheme using the Council's method of assessment for known financial risks used in the budget setting process. When setting the Council's budget for 2013/14 the risk value of £444k was included as part of the General Fund minimum fund balance recommendation. A low risk is defined as 'unlikely', medium as 'possible' and high as 'likely'. This compares to a total balance for known financial risk of £890k in 2012/13. Officers have endeavoured to mitigate risks within the terms of the Development Agreement where possible but it is clearly not possible to provide absolute certainty on this point.
- 10.4 It is anticipated the additional direct cost to the Council of incorporating 15 Brand Street would be £100,000. Hitchin Town Hall Ltd have indicated that their additional costs are estimated at a total of £180,000 for the acquisition of 15 Brand Street. This will be funded by benefactors by way of a donation and long term unsecured loans to be repaid at the end of the ACF loan period at the discretion of HTH Ltd. The total estimated project cost of the revised scheme incorporating 15 Brand Street would be £4.81 million. The source of funding of this revised scheme and the current scheme are demonstrated in the following tables:

Current Scheme:

Funding Source	Amount £'000	% of Total Estimated Project Cost
Council Resources (Capital Receipts / Prudential Borrowing/section 106)	2,606	57%
Section 106 (estimated)	120	3%
HLF grant (stage 1)	123	3%
HLF grant (stage 2)	831	18%
Total Council Funding	3,680	81%
Adventure Capital Fund Grant and Loan)Community Builders Grant/Loan	550	12%
Total Estimated Project Cost	4230	
HTH Ltd Purchase of 14 Brand Street (Adventure Capital Fund Grant and Loan)	300	7%
Total Estimated Project Cost	4,530	100%

Proposed Scheme Including 15 Brand Street:

Funding Source	Amount £'000	% of Total Estimated Project Cost
Council Resources (Capital Receipts / Set Aside Receipts)	2, 706	57%
Section 106 (estimated)	120	2%
HLF grant (stage 1)	123	3%
HLF grant (stage 2)	831	17%
Total Council Funding	3,780	79%
HTH Ltd contribution (Adventure Capital Fund Grant and Loan)	550	11%
HTH Ltd Purchase of 14 Brand Street (Adventure Capital Fund Grant and Loan)	300	6%
Unsecured loan/donation to HTH Ltd	180	4%
Total HTH Ltd Funding	1,030	21%
Total Estimated Project Cost	4,810	100%

- 10.5 The financial risks (as summarised in 10.3) will remain if Members are minded to adopt the proposed scheme incorporating 15 Brand Street. The proposed scheme is a larger project (the estimated spend is 7% higher) which will, therefore, have an inherent larger financial risk in terms of potential overspend. The other changes to the existing financial risks are around the potential delay in the delivery of the new facility beyond the current project plan. This will delay the delivery of the Council's running cost savings and may potentially increase the likelihood of the Council having to pay the ACF loan interest, holiday interest and capital loan repayments and reasonably and properly incurred operational expenses by HTH Ltd, as described in the Development Agreement.
- 10.6 The largest assumed source of funding for this project is from the use of Council resources, either via useable capital receipts or set aside capital receipts. The impact of using set aside receipts (which are not replenished with more receipts) is to reduce the amount of cash available for the Council to invest. There is, therefore, a general fund cost resulting from capital expenditure which is funded by this means, as the amount of interest received on investments reduces. Each capital scheme must be individually assessed on its own merits and business case but the overall affordability of the capital programme remains under review. This is done by reviewing the Capital Financing Requirement in the Treasury Strategy and making sure an appropriate level of adjustment is reflected in the general fund estimates. This scheme is anticipated to result in annual revenue savings in excess of the resulting reduction in income from cash investments. Members will need to approve the commitment to spend an estimated additional £100k on this project if mindful to opt for the scheme incorporating 15 Brand Street.

11. RISK IMPLICATIONS

- 11.1 The risks associated with the agreed development are managed by Project Board and contained in the project Risk Register.

11.2 Additional risks or those which would significantly change should 15 Brand Street be incorporated are detailed in the body of this report and in the accompanying Part 2 paper. These can be summarised as:

- Difficulties in reaching and maintaining an agreed position on the incorporation of 15 Brand Street (para 7.6 and Part 2 Para 3.3)
- Hitchin Town Hall Ltd's continuing aspiration to incorporate further design changes after any revisions may be agreed (Para 8.10, 8.11, 8.19, 8.34 and Part 2)
- Financial, Legal and Procurement risks arising from the increased scale and complexity of the project Para (8.1, 8.20, 8.28, 9, 10 and Part 2)
- Conditions which may be sought by ACF (Para 8.1, 8.32, Part 2 Para 3.12 – 3.32)
- Design and construction risks in respect of complexity, timescales, contract variations and party wall matters (Para 8.19)

12. EQUALITIES IMPLICATIONS

12.1 The Equality Act 2010 came into force on the 1st October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5th April 2011. There is a General duty, described in 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.

12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

12.3 The proposal made in this report, to include No 15 Brand Street into the overall scheme and by doing so to expand the foyer/entrance area available fulfils the authority's statutory disabled access requirements, provided that level, ramped or assisted access i.e. by lift or platform lift, is included within the final design.

13. SOCIAL VALUE IMPLICATIONS

13.1 As the recommendations made in this report do not constitute an additional public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at paragraphs 12.

14. HUMAN RESOURCE IMPLICATIONS

14.1 There are no direct Human Resource implications arising from this report other than those associated with adequately resourcing the project team which may face an increased workload at a point when many of those involved are also supporting other key corporate projects.

14.2 Museum staff will continue work on the collections, particularly those items stored at the Burymead Resource Centre. The ongoing programme of cleaning, auditing and re-packing museum objects would continue, as would photography, cataloguing and research of items for inclusion on e-Hive, the forthcoming digital database. Any extension would enable staff to plan future exhibitions and museum events earlier than expected.

15. APPENDICES

- 15.1 Appendix 1 Proposal from Hitchin Town Hall Ltd
- 15.2 Appendix 2 Illustration of Amended Building Frontage
- 15.3 Appendix 3 Internal Layout Plans
- 15.4 Appendix 4 Lease Plan Existing Scheme
- 15.5 Appendix 5 Lease Plan incorporating 15 Brand Street [to follow]
- 15.6 Appendix 6 Draft Deed of Variation [to follow]

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17. BACKGROUND PAPERS

- 17.1 Report to Cabinet 23rd August 2005 on the Findings of the Review of the North Herts Museums Services.
- 17.2 Report to Cabinet 27th January 2009 on the Future of Museums Services.
- 17.3 Cragg Management Services report on the possible relocation of North Hertfordshire Museums to Hitchin Town Hall- Annex 2, Cabinet 19th May 2009
- 17.4 Report to Council on 3rd December 2009: Hitchin Town Hall Museum Feasibility Study Outcomes and Actions Arising
- 17.5 Report to Council on 11th February 2010: Hitchin Town Hall/Museum Community Group Proposal
- 17.6 Report to Cabinet on 28th September 2010: Hitchin Town Hall/ Museum Proposals
- 17.7 Report to Council on 10th November 2010: Hitchin Town Hall/ Museum Proposals
- 17.8 Verbal update to Council on 7th April 2011: North Hertfordshire Museum & Community Facility at Hitchin Town Hall
- 17.9 Report to Cabinet on 26th July 2011: North Hertfordshire Museum & Community Facility: Project Update
- 17.10 Report to Council on 10th May 2012: North Hertfordshire Museum & Community Facility
- 17.11 Report to Council: 15th October 2012 North Hertfordshire Museum & Community Facilitynnex

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