

No	Hitchin Town Hall Ltd Proposal (Submitted on 14.01.13)	Hitchin Town Hall Ltd Revised Position at 10.03.13	Issues
1	<p>The purpose of this note is to provide additional information to support the inclusion of 15 Brand Street into this Project. (This topic was first raised with NHDC in February 2011 and an email sent to Mary Caldwell in April 2011, since then there have been various discussions.)</p> <p>During the negotiations between Hitchin Town Hall Ltd ("HTH") and North Hertfordshire District Council ("NHDC") provision was made to consider this option and, in recognition of the Social Benefit, HTH's bankers, the Adventure Capital Fund ("ACF"), specifically referenced this option in their Loan/Grant documentation.</p>	No change.	
1.1	<p>When the Development Agreement ("DA") was signed on 15th October 2012 the Recitals and Clause 4.7 specifically deal with this provision as follows:</p> <p>The parties remain committed to the exploration of an Expected 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</p>	<ul style="list-style-type: none"> • No change – existing Development Agreement obligation 	<ul style="list-style-type: none"> • NHDC have actively contributed towards the exploration of an expanded future scheme and agreed to the delay in the award of contract of the approved scheme to allow negotiations to reach a settled position now reflected in this report.

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1.2	<p>HTH acknowledge the "viable and achievable" aspect quoted above. However we are looking at a 125 year period and feel that we must do our utmost to deliver a scheme, of which the residents of North Hertfordshire can be proud. If this means a few months delay then it is the view of HTH that this is a price worth paying for the longer term benefit.</p>	<ul style="list-style-type: none"> No change 	<ul style="list-style-type: none"> Refer to paragraph 8.6 for an analysis of whether the scheme is viable and achievable. Additional funding would be required from NHDC if it were to accept the inclusion of 15 Brand Street and this is detailed in the body of the report.
1.3	<p>Since the signing of the DA, HTH has been working to deliver 15 Brand Street. Specifically HTH has:</p> <ul style="list-style-type: none"> Met with Buttress Fuller Alsop Williams ("BF") to discuss concept and inclusion 3rd October 2012 Received electronic drawings from BF 23rd October 2012 Received additional drawings 5th November 2012 Submitted revised drawings to Tom Rea 8th November 201 	<ul style="list-style-type: none"> Not Applicable Not Applicable Not Applicable Not Applicable 	<ul style="list-style-type: none"> NHDC commissioned BFAW to carry out further feasibility work and met jointly with the supervising architect and Hitchin Town Hall Ltd on 3rd October. It is important to be clear that in the proposal to incorporate 15 Brand Street, Hitchin Town Hall Ltd have confirmed that the internal layout is a matter for NHDC to determine albeit in liaison with Hitchin Town Hall Ltd in line with the liaison provisions within the Development Agreement

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	<ul style="list-style-type: none"> Follow up Design Review meeting with BF on 3rd December 2012 Appointed architect Provided Full plans and discussed with NHDC Finalised Design, Access & Heritage Statement Initial planning permission application 11th December 2012 Applied for Planning permission 2nd January 2013 Negotiated with current tenant Agreed basis of option with Hitchin Property Trust (HPT) Appointed lawyers 	<ul style="list-style-type: none"> Not Applicable Not Applicable Not Applicable Not Applicable Not Applicable Not Applicable Not Applicable Not Applicable Not Applicable 	<ul style="list-style-type: none"> The Planning and Listed Building Consent Applications were submitted by Hitchin Town Hall Ltd without further reference to NHDC and details contained within them do not necessarily reflect formal proposal now being considered. Final agreement not yet secured Valuation of 15 Brand Street to be determined by a Surveyor jointly appointed by Hitchin Property Trust and Hitchin Town Hall Ltd

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	<ul style="list-style-type: none"> Arranged finance and valuations 		<ul style="list-style-type: none"> Confirmation of financial arrangements for the acquisition of 15 have been received but confirmation of valuation has not. Financial arrangements are detailed in the Part 2 report under Annex 1. Maximum estimated acquisition costs of £180k
2	<p>Purchase of 15 Brand Street</p> <p>It is important that any funding arrangements do not impact any existing lenders e.g. Area Committee and NHDC either short or long term. The purchase of 15 Brand Street will not impact the current debt structure of HTH.</p>	<ul style="list-style-type: none"> Hitchin Town Hall Ltd have confirmed that the 'Area Committee' will not be a lender. 	
3	<p>Financial Structure</p> <p>The proposed structure will be by way of Grant (25%) and Capital styled Long Term Loan Notes ("LTLN") (75%), possibly with a nominal coupon; the LTLN would only be repaid once liabilities to ACF and NHDC have been completed. In effect the providers of the finance will be issued with quasi equity which may be redeemed at a future date or alternatively converted to a grant/donation with the added tax benefits for both parties. As a Long Term Capital instrument this structure will not contravene existing loan covenants with ACF nor will it impact fundraising.</p>	<ul style="list-style-type: none"> Funding will now be provided by a new 'benefactor' membership class for individuals or organisations who wish to donate or make long term loans available to Hitchin Town Hall Ltd 	<ul style="list-style-type: none"> Under the terms of the ACF loan, Hitchin Town Hall Ltd are not permitted to make contributions towards repaying such instruments until the ACF facility has been paid in full. Hitchin Town Hall Ltd have confirmed this would also apply to the loan facility granted by NHDC. In the event that a coupon for the full 2% attaches to such equity papers, Hitchin Town Hall Ltd would be committed to paying £2,400 a year which is within the tolerance of their financial model. Further detail is contained in the Part 2 report, Annex 1.

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4	Ownership It is proposed that the freehold be passed to the Trust on the same basis as 14 Brand Street.	<ul style="list-style-type: none"> No change 	This will require the consent of the Gymnasium & Workman's Hall Trust.
5	Valuation HTH are arranging for an independent valuation, not least because, as a charity, we are obliged to obtain fair value. In discussions with the owner it has been accepted that the valuation will be less than the agreed purchase price of 14 Brand Street. It has also been stated that there will be considerable flexibility to enable the purchase to proceed.	<ul style="list-style-type: none"> Hitchin Town Hall Ltd currently quote an acquisition price of approximately £180,000 maximum but anticipate that the figure will be less than that. 	<ul style="list-style-type: none"> Confirmation of the independent valuation has not yet been received from Hitchin Town Hall Ltd. The Gymnasium and Workman's Hall Trust will need to have an independent valuation carried out .
6	ACF Timeframe ACF have advised that a decision to an extension of their deadline of 31st March 2013 and consent to the variation of the existing Development Agreement will be made at the next External Credit Committee on 5th February 2013.	<ul style="list-style-type: none"> Superseded by ACF's agreement to extend the deadline to the end of April 2013. 	<ul style="list-style-type: none"> Formal confirmation from ACF that a proposal to incorporate 15 Brand Street will be sought following Council's decision. Any conditions that may be attached by ACF to such a variation must be capable of being accommodated within the Council's assessed timetables and costing.

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7	<p>Following discussions with ACF, HTH believe that the advantages arising from this opportunity, over and above the agreed base case, relate to the social and financial returns available as follows:</p> <ul style="list-style-type: none"> Improved quality of the facilities available for community use to stimulate more adventurous and worthwhile activities, particularly in the performing arts Increased opportunity to work in partnership with the catering faculty of the local college to provide opportunities for youth work experience in a quality venue. Increased visitor flow to a more attractive venue which is expected to contribute to the financial sustainability of the charity and the visitor experience. With a wider frontage people are drawn in to the museum. 	<ul style="list-style-type: none"> No change No change No change 	<ul style="list-style-type: none"> The increase in floor space would not appear to provide significant opportunities for 'more adventurous' activities or the 'performing arts' other than in the extended gallery space above the proposed extended entrance. The opportunity to work in partnership with the local college would exist in the agreed scheme as well as the proposal being considered. It is not considered that increased visitor flow can be accurately predicted based on the extension of the frontage and foyer of the museum. It is possible, however, that additional space within the museum could provide the opportunity for increased activity by both the museum and Hitchin Town Hall Ltd as this is a 'shared use' area.

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8	<p>Concept The details of the proposal have been discussed with NHDC and BF, and a planning application has been submitted, specifically the inclusion provides:</p> <ul style="list-style-type: none"> Increased visitor flow to Hitchin which is expected to benefit local businesses of a typical 'high street' nature rather than superstores and chains A significant enhancing architectural experience with the addition to an integral urban environment adding to its cultural heritage value. Reference Fred's note Appendix 'A' A better scheme; details of this are set out in the Design, Access and Heritage Statement which accompanied the planning application. 	<ul style="list-style-type: none"> No change No change No change No change 	<ul style="list-style-type: none"> See third bullet point above re visitor flow. It is acknowledged that from an aesthetic point of view the architectural experience would be enhanced and that improved functionality in terms of museum entrance and circulation together with expanded space on the first floor would be available. The additional first floor gallery space is not, however, suitable for sensitive or valuable parts of the collection so there are some limitations on its use. See note at bullet point 10 in para 1.3 above. The Planning and Listed Building Consent Applications were submitted by Hitchin Town Hall Ltd without further reference to NHDC and details contained within them do not necessarily reflect formal proposal now being considered.

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	<ul style="list-style-type: none"> The future use of the community facility and the profitability of the Café is made more secure by the formation of the new entrance. The new entrance gives the museum the prominence it deserves and provides an additional 56 sq m of floor space extremely economically. The additional frontage, which can be used for museum marketing, will provide a better experience and will draw in people. 	<ul style="list-style-type: none"> No Change No change No change 	<ul style="list-style-type: none"> Hitchin Town Hall Ltd's financial model and the Council's own financial assessment of the business case demonstrated that the café was already capable of producing significant profit to allow Hitchin Town Hall Ltd financial security based on existing numbers. This maintains the principal that the café is ancillary to the main function of this part of the building as a museum. The additional floor space would form part of the museum building but is proposed to be utilised as a 'shared space' in line with the uses outlined in the existing Development Agreement. It is not considered that increased visitor flow can be accurately predicted based on the extension of the frontage and foyer of the museum. It is possible, however, that additional space within the museum could provide the opportunity for increased activity by both the museum and Hitchin Town Hall Ltd as this is a 'shared use' area.

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	<ul style="list-style-type: none"> • If NHDC chose to do so <ul style="list-style-type: none"> ○ the Local Study Area can be located in better position ○ the museum stores consolidated ○ meaning that the exiting stage in the Mountford Hall will not have to be altered to provide storage space. <p>In addition and during better weather some cafe covers could extend to this area.</p>	<ul style="list-style-type: none"> • This remains Hitchin Town Hall Ltd's view. • No change 	<ul style="list-style-type: none"> • Hitchin Town Hall Ltd initially indicated that their proposals would deal with these matters although on submission they did not. The proposal does not contain any detail about how such matters could be incorporated in to the design and would effect significant elements of the approved scheme and would require redesign, costing and potentially additional planning permissions. As stated , the proposal from Hitchin Town Hall Ltd is that the internal layout of the extension would be entirely a matter for NHDC to determine. The risks associated with this are set out in the body of the report. • This would need to be within the overall cap of 40 café covers unless this was varied by mutual agreement and would be subject to any necessary approvals via the Management Agreement

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9	<p>Legal</p> <p>Our advice is that this should be very straightforward. It is proposed to use the existing DA as the base line and simply make changes to a few clauses as well as reference to revised drawings. All dates will need to be advanced by the same period.</p> <p>Foreman Laws have now had an opportunity to discuss with Ward Hadaway who accept that the simplest way forward could be either by a Deed of Variation or to take the existing DA and incorporate the minor changes required, whichever would be the most cost effective. The wording of the Option Agreement on 15 has now been concluded.</p>	<ul style="list-style-type: none"> No change 	<ul style="list-style-type: none"> Deed of Variation is prepared and attached to this report. However, ACF's legal representatives have yet to confirm this is acceptable.
10	<p>Tendering Process</p> <p>It is acknowledged that BF have already undertaken a considerable amount of work and are moving to produce the formal tender documents. It is felt that, in order not to disturb this process, that the tender documentation states that NHDC may incorporate 15 at a later stage thus giving potential contractors notice. A date of 15th February could be stated allowing time for additional BF work and for ACF extension approval. It can also be stated that at that time a revised date will be provided for the tender approval appointment process.</p> <p>In essence HTH are proposing that a Parallel Working Process be incorporated as an option in Tender as "to be advised later".</p>	<ul style="list-style-type: none"> Not Applicable 	<ul style="list-style-type: none"> This aspect of the proposal is no longer applicable and was not achievable without jeopardising the achievement of the Council's obligations under the Development Agreement to award the construction contract by the end of March 2013.

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11	<p>Timescale</p> <p>If the above process is adopted then in the unlikely event that ACF decline the project is no worse off, however if an extension is granted then this can be incorporated with minimal delay. It is anticipated that this should be no greater than three months which HTH believe would be acceptable to ACF.</p>	<ul style="list-style-type: none"> Not Applicable 	<ul style="list-style-type: none"> See 10 above.
12	<p>Cost Implications</p> <p>It is noted that NHDC are concerned about the cost implications and we believe these can be mitigated. It should also be noted that HTH are delivering a property worth approximately £200,000 to the overall benefit of the whole scheme.</p> <p>HTH are prepared to reimburse to NHDC the reasonable costs of BF, these have been discussed and whilst an initial figure of £30,000 was suggested if a new team were appointed, it is understood that this would be considerably less if the same team can be used.</p>	<ul style="list-style-type: none"> The total acquisition price is now described as a maximum of £180,000. Now withdrawn 	<ul style="list-style-type: none"> Acquisition price includes valuation fees, tenant compensation and purchase price. NHDC would be required to pay for additional design and supervision costs.

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	<p>HTH would like to adopt the same process as already provided for in the DA whereby costs are reimbursed at a much later stage in the project</p> <p>NHDC will have certain internal legal costs and may require other advice. It is hoped that NHDC can cover their internal costs but should other costs be incurred then HTH would be prepared to see if a solution could be found to cover such costs.</p> <p>As far as HTH and ACF are concerned the financial structure will not impact either fundraising or repayment of loans to either ACF or NHDC.</p>	<ul style="list-style-type: none"> • Now withdrawn as above • No Change • No change 	<ul style="list-style-type: none"> • No longer applicable • No firm proposal
13	<p>Risk Benefit of Cost Overruns</p> <p>If the structure and tender process is adopted a final decision on costs can be analysed well before the 31st March 2013 deadline. If an extension is agreed NHDC will know the new timeline and again a decision can be made.</p> <p>Should NHDC consider that there are additional risks then HTH will do its utmost to mitigate such risks. It is believed that any delay would be minimal, say maximum 3 months.</p>	<ul style="list-style-type: none"> • Not applicable • No change 	<ul style="list-style-type: none"> • This aspect of the proposal is no longer applicable and was not achievable without jeopardising the achievement of the Council's obligations under the Development Agreement to award the construction contract by the end of March 2013. • NHDC risks and timescale estimate are detailed in the body of the report.

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	<p>It is not the intention that HTH should be without risk although HTH acknowledge that cost overruns would be for NHDC. However, once known, HTH would be open to consider ways in which, over time, it can assist to mitigate.</p>	<ul style="list-style-type: none"> No change 	<ul style="list-style-type: none"> NHDC risks are detailed in the body of the report. No firm proposals to help NHDC mitigate risk at this stage
14	<p>Adventure Capital Fund</p> <p>Whilst ACF have always been supportive it is clear that the inclusion could impact the existing timeline. ACF and their lawyers Ward Hadaway ("WH") were always of the opinion that the 31st March 2013 was very challenging but have always stated that provided they could see evidence of progress that any extension would be considered sympathetically.</p> <p>HTH have now discussed in more detail and specifically the note at Appendix 'B' has been discussed. This has now been raised with the Deputy Chief Executive, Caroline Forster, who has agreed that the proposal can be presented to the External Investment Committee ("EIC") 5th February 2013, this being the first available date this year. A decision will be made on that date.</p> <p>Initial soundings of members of the EIC have been extremely positive. HTH are currently preparing for this presentation.</p>	<ul style="list-style-type: none"> No change Completed 	<ul style="list-style-type: none"> Superseded by ACF's subsequent agreement to extend the timescales to the end of April 2013. Should Council agree to the incorporation of 15 Brand Street ACF approval to revised timescales would still be required.

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15	<p>Conclusion</p> <p>HTH are partners with NHDC in proving a building which will hopefully stand for the next 125 years – we believe we both have a duty to make it the best that we can. Our forefathers built a wonderful Town Hall for us, we should not let them or ourselves down.</p> <p>Whilst there could be a slight time delay, HTH believe that with some parallel working with NHDC it is possible to deliver the inclusion of 15 Brand Street into the scheme and HTH, its advisors and the Community Groups will do everything they can to facilitate this process.</p>	<ul style="list-style-type: none"> • No change • No change 	

APPENDIX 1