

## PROJECT BOARD MINUTES

**Project:** North Herts Museum & Community Facility

**Date:** 11<sup>th</sup> February 2013

**Classification:** Confidential

**In Attendance:** Councillor Lynda Needham, John Robinson Strategic Director Customer (Project Executive), Steve Crowley, Ros Allwood, David Leal-Bennett (Hitchin Town Hall Ltd), Rosemary Read (Hitchin Town Hall Ltd)

**Circulation:** Those attending, Vaughan Watson, Project Librarian,  
Publication on the web following the next meeting by the Project Librarian

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### **1 Apologies**

None.

### **2 Exception Report Number 1 (Dated 8<sup>th</sup> February 2013)**

- 2.1 David Leal-Bennett wished to register his disapproval with regards to the exceptionally short notice of the meeting, taking receipt of the agenda on Friday 8<sup>th</sup> February to attend Project Board on the 11<sup>th</sup> February.
- 2.2 Rosemary Read also complained of the short notice and highlighted no mention was made to a Project Board during their HTH Ltd representatives meeting on Wednesday 6<sup>th</sup> February.
- 2.3 John Robinson apologised for the short notice and explained that under Prince2 Project Management principles exception reporting may necessitate the need for urgent meetings to be arranged. John went on to outline recent issues with the tendering of the construction contractor.
- 2.4 The recent tendering exercise of the construction contractor proved to be disappointing. Although seven companies expressed an interest only three met the PQQ evaluation criteria posing risks the Council may not achieve best value. The risk issues were discussed with representatives from NHDC and HTH Ltd on Wednesday 6<sup>th</sup> February with an aim to agreeing an extension from ACF, HTH Ltd fund providers Adventure Capital Fund (ACF) to allow time needed for NHDC to re-tender and explore further the cost of including 15 Brand Street.
- 2.5 John Robinson confirmed he had instructed BFAW to produce detailed plans and costings with an indicative layout relating to 15 Brand Street following receipt of Hitchin Town Hall Ltd's proposals. The exercise is expected to take 6-10 days to complete and will bring the design stage for 15 Brand Street up to the same RIBA design stage as the existing scheme for consideration.

- 2.6 Cllr Lynda Needham raised concerns regarding the email from David Young dated 7<sup>th</sup> February and the conditions being imposed by the ACF on the extension request. At the meeting on the 6<sup>th</sup> February officers were informed by HTH Ltd that the extension request had been approved by ACF. The email clearly states this is not the case as the decision had not yet been made and was subject to unspecified conditions.
- 2.7 David Leal-Bennett wished to reassure Project Board Executive that approval has been reached with ACF and the extension period will be authorised offering up to 3 months.
- 2.8 David Leal-Bennett confirmed that he has been asked to review the financial debt ratios to demonstrate there is no detriment to HTH Ltd ability to service that debt. This is not a problem for HTH Ltd despite the possible £25k financial impact HTH Ltd may have to incur. The financial debt ratios will be reviewed and sent to ACF within a couple of days who will then authorise the extension of the investment schedule.

### **3 Project Boards Consideration and Approval**

- 3.1 Steve Crowley referred to the exception report and the three options identified for Project Board to consider.
- 3.2 Include 15 Brand Street – Option 1
  - 3.2.1 Project team officers believe it would not make sense to include 15 Brand Street on the basis it will take more than three months to develop the scheme, with the potential of significant delays arising from numerous actions that have to be considered and agreed.
  - 3.2.2 The Council would be required to consent and approve the development of the scheme, amendments would be required to the Development Agreement, leases and management arrangements, and the production of revised designs which include 15 Brand Street.
- 3.3 Let the current tender complete – Option 2
  - 3.3.1 Council allows the current tendering exercise to be completed this will give project team officers the knowledge if a tender meets our scheme requirements/project costs.
  - 3.3.2 From the Council's perspective a tender that meets these requirements will ensure compliance with the Development Agreement and no extension of time would be required.
  - 3.3.3 Steve Crowley highlighted at this point that the Council may wish to consider option 1 relating to 15 Brand Street providing HTH Ltd fund additional costs on variations relating to the Contractor and Lead Architect leading up to the contract award stage.
  - 3.3.4 John Robinson emphasised this approach would require negotiations with the Contractor and Lead Architect which may become a potential risk item to the Council in not meeting our own Contract Procurement Rules.
  - 3.3.5 David Leal-Bennett suggested an alternative option 'procurement of expanded scheme' which would help to produce a true cost comparison with regards to

the inclusion of 15 Brand Street.

3.4 Stop the current tender process – option 3

3.4.1 Steve Crowley referred to option 3 and stated if NHDC were provided with an approved three month extension from ACF this would allow the current tendering exercise to be stopped, allowing our Lead Architect to invite other companies into the process at the PQQ stage using the same specification. New companies that pass the PQQ evaluation stage would join the three current companies that have started the tender process, and would be asked to complete a tender.

3.4.2 Steve Crowley identified the tolerances set against each option leading up to his recommendation.

If option 1 is approved it is currently estimated that this will provide a delay on the project of more than the three months proposed.

If option 2 is approved there will currently be no time delays on the project on the proviso an acceptable tender is received. If then the Council decide to go with Option 1 there may be challenges from the successful Contractor and financial consequences for the Council. Therefore, consideration should then be given to negotiating the addition of 15 Brand Street with the successful contractor on the proviso this is acceptable

If option 3 is approved it is anticipated that this would have a 4-5 week delay on the project.

3.5 Recommendation

Project manager recommends option 2 as this provides the least risk in terms of time and costs, however, there may be legal and quality risks, in particular, amendments to contractual documentation and Development Agreement if 15 Brand Street is included.

If however, ACF conditions are clarified and an estimated 4-5 weeks extension can be provided with out condition regarding 15 Brand Street it is advised that option 3 is considered.

3.5.1 John Robinson stressed that the Funders ACF had not made it clear whether this option would be acceptable.

3.5.2 Rosemary Read stated the current tendering exercise has not achieved its objective with three tenderers and therefore should not continue.

3.5.3 John Robinson agreed that the procurement exercise was not satisfactory but stressed the £850k funding from ACF could be withdrawn if the target date for award of contract was not met.

3.5.4 David Leal-Bennett stated the tendering process is flawed and the procurement exercise cannot guarantee value for money. The tender does not comply with UK procurement rules and the reputation risk is considerable.

3.5.5 Cllr Lynda Needham, in considering dates to report to Council what we have received from ACF is not precise enough to stop what we are doing. We are

also working to a timeline driven by Hitchin Town Hall Ltd's funders ACF. An approved extension period would help to eliminate risk and their wording in the second paragraph of the email would imply ACF want to act reasonably.

- 3.5.6 John Robinson thanked David Leal-Bennett for his comments, and acting on behalf of the Council, will take these comments on board. The Council needs to safeguard the £850k from ACF but also acknowledges the risk of this represents to securing VFM . The Council therefore intends to proceed with the three tenders awaiting receipt of formal consent from ACF for changes to be made to the process.
- 3.5.7 John Robinson will check with the Council's Legal and Procurement officers with regards to the comments raised.
- 3.5.8 David Leal-Bennett and Rosemary Read wished to make it very clear that they do not agree on John Robinson's recommendation to continue with the procurement.

#### **4 15 Brand Street**

- 4.1 John Robinson emphasised that the current project centred on an approved scheme with key dates and no additional tolerances.

There is a desire to get 15 Brand Street done as soon as possible which would require revisions to key documents emphasising that the Development Agreement would need to be bottomed out within the next month to go to Council for approval. The Council will also need cost certainty between the existing scheme and the new scheme. BFAW are already working on detailed drawings to provide the information required.

- 4.2 John Robinson made reference to stakeholders and the wide range of interested parties which include District Museum / Arts Museum, Heritage Forum, political interest from 49 Councillors and outlined potential arrangements for possible consultation on the 15 Brand Street proposals. .
- 4.3 John Robinson is keen to portray an accurate picture on 15 Brand Street and what will be provided, being aware of recorded evidence relaying a false perception of the scheme.
- 4.4 Discussion centred on the timing/sequence of potential Council meetings in particular two Council meetings, first week and last week in April 2013 to seek agreement on the principals and any agreed amendment to the Development Agreement . John Robinson highlighted the possibility of using a single meeting of the Council to consider the proposal: this would require a settled position on terms and would allow a revised scheme to move forward quickly at the end of March beginning of April. This would provide a fair opportunity to make comparisons to cost analysis and RIBA D design stages
- 4.5 Cllr Lynda Needham raised a query relating to 16 Brand Street and whether this property will come into the purchase. It was confirmed not, the property has been mentioned but with reference to access issues only.
- 4.6 David Leal-Bennett mentioned properties 14 and 15 Brand Street both of which have cellars. The inclusion of 15 Brand Street would be a cost advantage from a engineering / construction perspective which would help reduce the need for

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excavation works.

**5 Project Board Executive agreed to the following decisions:**

**5.1 Exception Report**

- Proceed with 3 tenders until/unless ACF confirm 3 month extension (note 3/4/5 weeks only needed) - to meet NHDC Development Agreement obligations and not to jeopardise ACF funding.
- Note Hitchin Town Hall Ltd will provide ACF with information as a matter of urgency to comply with conditions and if agreed;
- Re-start procurement for construction contractors to improve shortlist - to ensure VFM is achieved

**5.2 15 Brand Street**

- Note BFAW have been commissioned to re-draw, cost 15 Brand Street to feasibility stage - to obtain firm costing/design data to present to Council
- Await Hitchin Town Hall Ltd's response to letter requesting further details - to allow cost/risk/use implications to be reported to Council for decision
- Agree provisional 'timescale to report to Council (prior to completion of either tender referred in 1 above) by 1st week April 2013.

[Note: all decisions subject to NHDC Legal, Financial and Procurement etc advice]

**Close of Meeting.**

Minutes Taken By: Keith Gayner

Title: Parks and Open Spaces Officer – Contracts and Major Projects

Signed:

