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03 November 2016

To: All Members of the Overview and Scrutiny Committee

Dear Member,

Overview and Scrutiny Committee - Tuesday, 8th November, 2016

I attach a copy of the following reports for the above-mentioned meeting which were not available at the time of collation of the agenda:

- 6. CALL IN OF CAB 88: RECOMMENDATION OF A PREFERRED
BIDDER TO SECURE THE FUTURE OF HORNSEY TOWN HALL
(PAGES 1 - 20)**
 - a. Report of the Monitoring Officer
 - b. Report of the Director of Regeneration, Planning and Development

Yours sincerely

Felicity Foley, Principal Committee Co-ordinator
Principal Committee Co-Ordinator

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Report for: Special Overview and Scrutiny Committee
8 November 2016

Title: Monitoring Officer's Report on the Call-In of a Decision taken by the Cabinet on 17 October 2016 relating to Recommendation of a preferred bidder to secure the future of Hornsey Town Hall

Report authorised by : Bernie Ryan, Monitoring Officer

Lead Officer: Bernie Ryan, Monitoring Officer

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:** N/A

1. Describe the issue under consideration

To advise the Overview and Scrutiny Committee on the call-in process, and in particular whether the decision taken by Cabinet on 18 October 2016 relating to the "recommendation of a preferred bidder to secure the future of Hornsey Town Hall" is with the budgetary or policy framework.

2. Cabinet Member Introduction
N/A

3. Recommendations

That Members note:

- a. The Call-In process;
- b. The advice of the Monitoring Officer and Chief Financial Officer that the decision taken by the Cabinet was inside the Council's policy and budget framework.

4. Reasons for decision

The Overview and Scrutiny Committee is expected to take its own decision with regard to whether a called-in decision is outside or inside the budget/policy framework when considering action to take in relation to a called-in decision.

5. Alternative options considered
N/A

6. Background information

Call-in procedure rules

- 6.1 Once a validated call-in request has been notified to the Chair of OSC, the Committee must meet within 10 working days to decide what action to take. In the meantime, all action to implement the original decision is suspended.
- 6.2 If OSC Members determine that the original decision was within the policy/budget framework, the Committee has three options:

- (i) to not take any further action, in which case the original decision is implemented immediately.
 - (ii) to refer the original decision back to Cabinet as the original decision-maker. If this option is followed, the Cabinet must reconsider their decision in the light of the views expressed by OSC within the next five working days, and take a final decision.
 - (iii) to refer the original decision on to full Council. If this option is followed, full Council must meet within the next 10 working days to consider the call-in. Full Council can then decide:
 - to either take no further action and allow the decision to be implemented immediately, or
 - to refer the decision back to the Cabinet for reconsideration. The Cabinet's decision is final.
- 6.3 If the Overview and Scrutiny Committee determine that the original decision was outside the budget/policy framework, the Committee must refer the matter back to the Cabinet with a request to reconsider it on the grounds that it is incompatible with the policy/budgetary framework.
- 6.4 In that event, the Cabinet would have two options:
- (i) to amend the decision in line with OSC's determination, in which case the amended decision is implemented immediately.
 - (ii) to re-affirm the original decision, in which case the matter is referred to a meeting of full Council within the next 10 working days. Full Council would have two options:
 - to amend the budget/policy framework to accommodate the called-in decision, in which case the decision is implemented immediately, or
 - to require the decision-maker to reconsider the decision again and to refer it to a meeting of the Cabinet, to be held within five working days. The Cabinet's decision is final.

The Policy Framework

- 6.5 The Policy Framework is set out in the Constitution at Article 4 of Part Two (Articles of the Constitution):

Policy Framework. *These are the plans and strategies that must be reserved to the full Council for approval:*

- *Annual Library Plan*
- *Best Value Performance Plan*
- *Crime and Disorder Reduction (community safety) Strategy*
- *Development Plan documents*
- *Youth Justice Plan*
- *Statement of Gambling Policy*
- *Statement of Licensing Policy*
- *Treasury Management Strategy*

Any other policies the law requires must be approved by full Council.

Such other plans and strategies that the Council agrees from time to time that it should consider as part of its Policy Framework:

- Housing Strategy

- 6.6 The policy framework is intended to provide the general context, as set by full Council, within which decision-making occurs. In an executive model of local authority, the majority of decisions are taken by the executive – in Haringey’s case this being the Cabinet/Leader/Cabinet member. It is not expected that every executive decision taken should satisfy every individual aspect of the framework, but they should not be outside the framework. Case law also makes it clear that it would not be a proper use of a full Council approved plan or strategy to seek to make it a means for full Council to micro-manage what ought to be executive decisions.

Current Call-In

- 6.6 Two valid call-in requests have been received in relation to the Cabinet decision on the recommendation of a preferred bidder to secure the future of Hornsey Town Hall. The first did not claim the decision was outside the budget/policy framework. The second call-in did claim it was outside the policy framework, and this report focuses on the points raised in that second call-in. Neither call in has claimed that the Cabinet decision is outside the budgetary framework.
- 6.7 A key concern in the second call-in is that the decision taken by Cabinet was predicated on fulfilment of a scheme that had already received planning consent. In essence, it is argued that the approved scheme is unsatisfactory in fulfilling the Council’s ambitions around the provision of affordable housing, as set out in the Corporate Plan and the policy framework.

Monitoring Officer’s Assessment

- 6.8 The Call In Procedure Rules require that:
“The [Overview and Scrutiny] Committee shall consider any report of the Monitoring Officer / Chief Finance Officer as to whether a called-in decision is inside or outside the policy / budget framework. The Overview and Scrutiny Committee shall have regard to that report and any advice but Members shall determine whether the decision is inside or outside the policy/ budget framework.”
- 6.9 The Monitoring Officer’s assessment of whether the decision was outside the policy framework is below.
- 6.10 The call-in request made the following points:
- a. That the “decision delivers an outcome outside of the policy framework Priority 5 of our Corporate Plan ‘creating mixed and inclusive neighbourhoods’”;
 - b. That the “decision was taken in contravention of [a] key policy objective within the Housing Strategy” – specifically the objective to “put mixed communities at

the heart of our approach... focusing new affordable rented housing as much as possible in places where it is currently scarce”;

- c. That the decision was “taken in contravention of Corporate Plan policy outcome ‘value for money’” – “we will get better value of every pound spent”;
- d. That the decision was “taken in contravention of Local Plan Policy SP2” – Housing.

Consistency with the Corporate Plan

- 6.11 There are two points raised to assert that the current decision is not consistent with the Corporate Plan – first, on its commitment to creating mixed communities, and second in relation to securing value for money.
- 6.12 As a starting point, it should be noted by the Committee that the Corporate Plan is not part of the Policy Framework, as defined by the Constitution. The Corporate Plan was approved by Cabinet, rather than the full Council. The current, 2015-18 Corporate Plan was agreed in February 2015. The consistency of this decision with the Cabinet’s Corporate Plan is irrelevant when considering whether the decision was within the Policy Framework.
- 6.13 While the question is not relevant, I am satisfied in any event that the decision taken by Cabinet does not contradict the quoted extract of the 2015-18 Corporate Plan: *“achieve a step change in the number of new homes being built... to provide greater numbers of affordable housing... supporting low and middle income residents to get on the housing ladder”*.
- 6.14 The second quote from the Corporate Plan is a commitment to *“get better value out of every pound spent”*. This introduces an argument that there is no clear evidence that the proposal of Hornsey Town Hall site make financial sense or is the best or only financial option available.
- 6.15 Value-for-money is inherently subjective, and ultimately for the Cabinet to satisfy itself with. The Cabinet decision followed a rigorous procurement process. There is no evidence presented in the call-in that the decision taken by Cabinet provides value-for-money or not. The procurement exercise that led to this decision included an emphasis on the financial aspects of the various bids, and the Cabinet report highlights the financial aspect of the successful bid contributed to its preference over the unsuccessful bid.
- 6.16 In either case, I do not agree that the rather broad statements of general policy in the Corporate Plan are contradicted by this specific decision. It is very much a matter of judgment for the Cabinet how they should be applied, and these statements cannot in any event be read as dictating or constraining decisions about individual sites or projects of this nature.
- 6.17 I also note that the Cabinet report referred to the priorities in the Corporate Plan and the decision was clearly taken in a way that reflected, on balance, the priorities contained within the Corporate Plan.

Housing Strategy

- 6.18 The Housing Strategy is part of the policy framework, and is adopted by full Council. At the Cabinet of 18 October, a new Housing Strategy was formally endorsed by Cabinet for recommendation to full Council at its meeting of 21 November. Until that new Strategy is adopted, the extant version is the Housing Strategy 2009-29, which was approved by full Council in July 2009.
- 6.19 The call-in form includes the following quote from the Strategy, which it claims the decision is inconsistent with:
"[Haringey Council will] put mixed communities at the heart of our approach. Not just a mix of homes across the borough, but a mix within each neighbourhood... in Haringey this means focusing new affordable rented housing as much as possible in places where it is currently scarce".
- 6.20 The call-in goes on to argue that the development at Hornsey Town Hall provides an opportunity to deliver against this objective, noting that Crouch End is an area where social and affordable housing is scarce.
- 6.21 The quoted section above is from the draft of the Housing Strategy published in 2015 for consultation. The specific commitment around focussing new affordable rented housing in areas where it is currently scarce does not feature in the version that was approved by Cabinet on 18 October. It also does not appear in the extant 2009-19 Strategy.
- 6.22 That said, the 2009-19 Strategy includes a commitment to *"deliver new housing in line with Haringey's Housing Supplementary Planning Document, and in so doing contribute to the creation of mixed and balanced communities"*. The specific decision of the Cabinet in this case does not contradict the broad commitment to the creation of mixed and balanced communities set out in the extant Housing Strategy which is the relevant policy at present.
- 6.23 The Housing Strategy that was approved by Cabinet on 18 October includes the following:
"Haringey needs a wide range of homes, to meet the diversity of current and future needs and to obtain the mix in our communities that lies at the heart of our vision for housing in the borough. This cannot just be a mix of homes across the borough; it needs to be mixed as much as possible within each neighbourhood, offering diversity in the type and size of home, the tenure and the value."
- 6.24 It should be noted that both the version approved by Cabinet and the earlier draft quoted in the Call-in form include the qualification "as much as possible". The pragmatic formulation in the revised Housing Strategy makes clear that this ambition of the policy framework is not expected to be met in all circumstances. It is also not asserted as a site by site imperative but instead as a neighbourhood-by-neighbourhood one. I do not consider that the Cabinet decision is outside either the general and qualified statements of policy made in either the current Housing Strategy or the proposed Housing Strategy or indeed the version quoted in the call-in.

Local Plan Policy

6.25 The Local Plan is part of the Development Plan documents that are included in the Policy Framework. Haringey's Local Plan is currently being revised, and a revised version underwent the Examination in Public process but has not yet been adopted by full Council. The extant version, for the purposes of the policy framework, would be that of March 2013, which includes a borough-wide affordable housing target of 50%.

6.26 The call-in form includes two quoted paragraphs from a draft of the revised Local Plan Policy that was published in February 2015:

"The need for affordable housing outstrips supply, with a shortfall in provision of 11,757 homes over the period 2015 to 2031. As a proportion of the total net housing requirement for all tenures (20,172) over the same period, this equates to 59%.

Subject to viability, sites capable of delivering 10 units or more will be required to meet a borough wide affordable housing target of 40%, based on habitable rooms."

6.27 The Local Plan is used in the consideration of planning applications, rather than a procurement decision of the Cabinet, which is the subject of the call-in. It is a statutory plan required pursuant to the planning legislation. The Local Authority (Functions and Responsibilities) Regulations 2000 indicate that full Council is the appropriate forum for decision-making in certain circumstances. These include where the Cabinet is intending to take a decision which is contrary to a policy agreed by the Council in relation to the particular "function" proposed to be exercised by the Cabinet. The Local Plan is not adopted in relation to procurement or landowner "functions" of the Council. Rather it is adopted in relation to planning functions of the Council. That means it is only directly relevant in relation to the discharge of a local authority's planning function, and not its executive functions, including when the authority is acting as a landowner.

6.28 In any event this Cabinet decision does not fall outside the Local Plan policies of either the existing or proposed Local Plan policies necessitating a decision by full Council. It should be borne in mind that the reference to the borough-wide target has meant that the site's contribution to the borough's target should be considered, rather than the application of the target to the specific site. There is also the clear qualification that this would be subject to viability. It is not an absolute or compulsory provision.

6.29 Ultimately, a planning application has been made and decided for this site and the planning permission has already been implemented. The Council granted planning permission in 2010 for refurbishment of the town hall and an associated development on the car park to the rear of the Town Hall comprising 123 residential units. This new build element and extensions and alterations to the Town Hall were justified in order to cross subsidise the repairs and refurbishment of the Listed Building. The planning decision is not the subject of this call-in.

6.30 While there is an approved and implemented planning application in place for this site, neither the existing approval nor the decision taken by Cabinet that is

subject of this call-in precludes a further planning application being made in future

6.31 Cabinet's decision related to its responsibilities as a land-owner and in pursuit of a sustainable future for Hornsey Town Hall. The evaluation criteria did not refer to affordable housing, as the implemented planning consent already dealt with the number of affordable units that were required as part of that consent.

6.32 In conclusion, I am satisfied that this Cabinet decision is not outside the policy framework.

7. Contribution to strategic outcomes

N/A

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance and Procurement

Article 4.01 as written in the Council's constitution states that the meaning of the budget includes "the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits. The determination of the Council Tax Base is delegated to the Chief Finance Officer in consultation with the Cabinet Member for Finance and the Cabinet Advisory Board."

Whilst there is no claim by either call-in that the decision is outside the budgetary framework, the Chief Financial Officer has confirmed that the decision is not outside the budget framework.

Legal

The Monitoring Officer's views are set out above.

Equality

N/A

9. Use of Appendices

N/A

10. Local Government (Access to Information) Act 1985

N/A

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Report for: **Special Overview and Scrutiny Committee on 8th November 2016**

Title: **Further information in response to “Call-in” of decision of Cabinet of 18th October 2016 for Preferred Bidder to Secure the Future of Hornsey Town Hall**

Report authorised by : **Lyn Garner, Director Regeneration, Planning & Development**

Lead Officer: **Jon McGrath, Assistant Director Property & Capital Projects**

Ward(s) affected: **Crouch End**

**Report for Key/
Non Key Decision: Key**

1. Describe the issue under consideration

- 1.1** The purpose of this report is to provide further information to support the Committee’s scrutiny of the issues raised in both of the “Call-ins” of the Cabinet decision of 18th October 2016 in respect of Hornsey Town Hall recommendation of the preferred bidder.

2. Cabinet Member introduction

- 2.1** The Cabinet’s most recent decision on the future of Hornsey Town Hall has been referred to the Scrutiny Committee. Officers have carefully gone through the issues raised in the two call-ins and have set out a full response in this report, so I will not get into detail on these issues here.

- 2.2** As the Cabinet Member responsible, I want to make the following three broader points:

- a) Members of Scrutiny must keep in mind the history of this building and the lessons it teaches us about how challenging it is. The council has been trying for ten years to find an organisation to take on the Town Hall and give it a secure future. Despite huge amounts of hard work by the council and the community, all plans to date have failed because of the cost and complexity of bringing this historic building back into use. Mountview Academy of Theatre Arts worked solidly for four years on an exciting proposal to turn the building into a new home for their theatre school. Unfortunately the sheer cost of restoration and refurbishment was beyond what could be afforded and they had to withdraw in January 2015.

It was not clear that any scheme could be made to work, so the Cabinet having a financially sustainable proposal from FEC being recommended to it represents a really good future for the Town Hall.

- b) Members of Scrutiny should also keep in mind the widely communicated priorities for the building. The strong desire expressed by local groups and people in Crouch End has been to see this crumbling building saved for future generations, for it to be publicly accessible and for it to have community use, focused on the arts, so that everyone can enjoy it. The recommended bid does exactly that – it offers significant external investment in the building, the lease will guarantee public access to the square and to key parts of the building and the bid proposes a community arts centre to ensure residents can make use of the Town Hall.

I am aware that some councillors want to see more community use, and/or more affordable housing, however, Scrutiny Committee members need to be clear that the recent competition has proved that it is impossible to secure investment in the heritage building, more community use and affordable housing. The Cabinet paper agreed in summer of 2015 set out clearly what the priorities were, and in advance of Cabinet these priorities were communicated at a public meeting, three workshops with Crouch End community organisations and in a public exhibition at Hornsey Library. We have good, clear priorities, the recommended bid meets delivers these – we need to press and get the restoration and opening of the Town Hall going as soon as possible.

- c) It is important to remember the very detailed and rigorous process that the Council has been through. Bids were assessed by a range of expert panels, made up of senior officers from across various council departments, external procurement advisors and Crouch End residents from the Hornsey Town Hall Creative Trust.

Bidders were repeatedly challenged through the competitive dialogue process and subjected to intense scrutiny, including by independent lawyers and independent financial advisors. At the end of this process, FEC was found to have scored the highest marks, and in fact scored 15.6% higher than the unsuccessful bidder.

- 2.3** In conclusion, the process has been tough, robust, fair and objective. We set out to find a plan that combined meaningful community use with financial sustainability and we have achieved that with an excellent plan that saves the Town Hall for the future while opening it up to generations of Crouch End residents. Finally, as set out by officers in this report, this is an exciting plan that is in line with the Council's policies.

3. Recommendations

- 3.1** Committee are asked to note and consider all details contained within this report when making a decision on the most appropriate course of action for the Hornsey Town Hall decision.

4. Reasons for Call-In

4.1 “We believe that the proposal put forward at the Cabinet meeting is not the best option for Hornsey Town Hall.” (Call-in 1)

This reason for call-in has no context or explanation for why this is not the best option and therefore appears to be a subjective opinion, which does not consider the wider objective of the Hornsey Town Hall site.

In June 2015 Haringey’s Cabinet approved the OJEU regulated public procurement as the best and most transparent route to securing a long term sustainable future for Hornsey Town Hall and agreed the following underpinning objectives:

- Restore Hornsey Town Hall in a way that respects its Grade II* listed building status and safeguard its future by providing financially sustainable spaces fit for purpose.
- Facilitate cultural, community and other activities in the Town Hall, provide public access to the building and make a positive contribution to the local economy.
- Remove the Council’s ongoing liability for the building.
- The Town Hall square will be improved by integration into the final scheme, retaining public use.

This decision was debated at Full Council on 23rd November 2015, with the key challenge being that community use must be secured. It was communicated by the Lead Member and Ward Councillors that community use was a mandatory minimum requirement of any tender and bidders were encouraged through the evaluation mechanism to provide an enhanced community offer (this was the highest scoring element of the evaluation).

These agreed objectives have not changed, the procurement process has now concluded and the Cabinet Report from October 18th 2016 sets out how the above objectives have been met. The preferred bidder scored 15.6% higher than the unsuccessful bidder (key areas where the successful bidder scored higher are set out within the Cabinet Report), demonstrating this is the best option for the future of Hornsey Town Hall taking into consideration the objectives agreed at Cabinet.

4.2 “We are concerned that at the final stage there were only two bidders for the Town Hall site.” (Call-in 1)

A robust procurement process has taken place, which has been moderated by external legal, technical and financial advisers and overseen by Haringey’s Procurement team.

Three bidders were taken through to Final Tender stage, as these were the only bidders to meet and pass the relevant evaluation criteria and also continue

to have an appetite for the project. Following the result of the EU referendum, one of these bidders withdrew from the process leaving two bidders.

Having two bidders at final tender stage is not untypical in such circumstances (bidding organisations are constantly evaluating the risk/reward profile attached to their bid costs and as a result bidders often withdraw part way through).

4.3 “We are concerned that the council has recently allocated millions of pounds for a new corporate office/HQ whilst it has been stated the council does not have the money to repair Hornsey Town Hall.” (Call-in 1)

As set out above, the June 2015 Cabinet approval was for the OJEU regulated procurement route to go ahead, which was based upon the Council not funding refurbishment works for the Town Hall. The Council granted planning permission in 2010, which has since been implemented for refurbishment of the town hall and an associated development on the car park to the rear of the Town Hall comprising 123 residential units. This new build element and extensions and alterations to the Town Hall were justified in order to cross subsidise the repairs and refurbishment of the Listed Buildings. Effectively the Council has thereby foregone a substantial capital receipt in order to fund the Town Hall refurbishment.

It is incorrect to say that the council has allocated millions for new office building.

The council will require new office premises as part of the development of council owned sites in Wood Green many of which are now unfit for purpose and costing substantial amounts to maintain. The decision taken by Cabinet recently was to purchase a local site for that purpose and ask the Haringey Development Vehicle bidders to include costs of re-provision in their bids to be determined later this year.

4.4 “We are concerned that public access to the Hall, Square and Green are dependent on the preferred bidder sticking to the terms of the agreement and that no details have been provided as to a break clause or other consequences to the bidder if they fail to allow public access.” (Call-in 1)

The lease will contain a specific obligation to secure public access to the Town Hall, Square and Green and this obligation will be guaranteed by the parent company guarantor. Any failure to comply with this obligation at any time during the lease term therefore, as with any of the other lease obligations, would result in the tenant being at risk of losing the whole of their investment in the Town Hall. The Council is entirely confident therefore that the lease obligations and consequences of any breach will be sufficiently robust to ensure such public access will be maintained.

4.5 “This decision agreed the sale of the Hornsey Town Hall site to Far East Consortium.” (Call-in 2)

This is incorrect; the Council will be entering into a long lease (as set out within the Cabinet Report), it will not be selling the freehold interest of site.

4.6 “Haringey Council, being the owners of the Hornsey Town Hall site, had unfettered opportunity to apply for new planning permission after the agreement with Mountview fell through.” (Call-in 2)

Haringey had no reason to apply for a new consent when:

- a. There is an existing consent, which is active and therefore could be implemented at any time (a new consent does not replace an old one).
- b. A new consent would not have enhanced the delivery of any of the Cabinet’s agreed objectives for Hornsey Town Hall, nor would it have added any financial value to the asset.
- c. A new consent would have cost the Council substantial revenue and would have further delayed the delivery programme.
- d. The details of the future scheme were unknown and unknowable until the procurement had been run therefore it is unclear what a new permission would be for.
- e. There is no guarantee that a new application would have received consent.

4.7 “Underpinning the decision to sell is an expectation – or an intention – that only 4 units of affordable housing will be built on this site.” (Call-in 2)

It is important to be clear that the council is not selling the freehold interest of the site. This option was considered and rejected. Instead the Council is proposing a long lease, which gives the Council greater control over the use of the building.

Affordable housing is important to Haringey and we recognise the importance of building more of this type of housing in the borough. However HTH has been recognised as a challenging project because of the responsibility of carrying out the necessary extensive works to improve a dilapidated Grade II* listed building (including bringing it off the “Heritage at Risk” register) and finding a financially sustainable long term operation for the building has significant cost implications.

In addition to this, the project has other requirements such as facilitating community access and use, making this a very unique project where heritage restoration and community activity have been prioritised over additional affordable housing. The Site Allocation for the Hornsey Town Hall site in the draft Site Allocations DPD allocates the site for restoration of the existing Listed Building with enabling residential development on the car parking areas.

Any increase in the amount of affordable housing within the scheme will impact on the viability of the project and if a new planning application is brought forward this viability will be assessed to determine the level of affordable

housing that can be secured. The mechanism for controlling this is through planning.

The Cabinet Member for Housing, Regeneration & Planning has discussed the scheme twice recently with the Deputy Mayor for Housing at the GLA. We will discuss with the GLA and the bidder whether it would be possible to increase the amount of affordable, but this is a separate discussion. And, given the live planning consent, this is something we can discuss, but cannot impose.

4.8 “The decision delivers an outcome outside of the policy framework Priority 5 of our Corporate Plan “Creating mixed and inclusive neighbourhoods.” (Call-in 2)

Please see the Monitoring Officer Report, which responds on this statement.

4.9 “The decision is taken in contravention of the key policy objective within the Housing Strategy.” (Call-in 2)

Please see the Monitoring Officer Report, which responds on this statement

4.10 “Decision taken in contravention of Corporate Plan policy outcome “Value for money.” (Call-in 2)

Please see the Monitoring Officer Report, which responds on this statement

4.11 “Decision taken in contravention of Local Plan Policy SP2.” (Call-in 2)

Please see the Monitoring Officer Report, which responds on this statement

4.12 “The report consists of a number of inconsistencies that the Cabinet may have relied upon when coming to its decision.”

The planning related references within the Cabinet Report were clarified by Councillor Strickland to Cabinet Members at the Cabinet meeting (as set out within the minutes) and therefore the incorrect reference within section 2.5 of the Cabinet Report was rectified. Cabinet did not rely upon any perceived inconsistencies when coming to its decision.

For absolute clarity:

- There were three key areas where the unsuccessful bidder scored less than the successful bidder and these included planning strategy (it should be noted that there was a total of 5% available for the planning question - bidder's scores are confidential).
- The planning question within the tender asked bidders to set out their proposed planning strategies and these were assessed with specific regards to risks associated with the planning strategy.
- The evaluation was undertaken by a panel of evaluators and moderated by external legal advisers. The Council is confident that that all of the scores achieved were fair and correct.

- The unsuccessful bidder proposed a higher risk strategy because of the increased density on the site and the assessment of this was based upon the strategy of dealing with the proposed changes from the existing consent. It should be noted that the Leader explained in the Cabinet meeting that objections to the original planning permission were based on the scale of the new build residential therefore any increased mass on site poses a risk.
- This does not mean there are no planning risks attached to the successful bid, however the unsuccessful bidder set out a strategy that was considered to be riskier because it increased height and which therefore scored less marks. Committee should be reminded again that the scores were moderated by external legal advisers.
- The route for a new scheme (if section 73 or new consent) will be determined through future pre-application meetings as the necessary route is subject to confirmation of the detail proposed.

The detail for the call-in states that at the Cabinet meeting “it was explicitly said the planning strategy of the preferred bidder had no risk...”, which is incorrect as this was not said at the Cabinet meeting and Cabinet did not make its decision on this basis.

5. Variation of Action Proposed

5.1 “The local community or a community led organisation, takes on the Town Hall ensuring public access... (Call-in 1)”

Any party within the EU was free to participate in the process at the start of the OJEU Competitive Dialogue procedure. The Council did not receive any applications from community-led organisations at this stage. The Council subsequently shortlisted parties through the course of the process in accordance with the published evaluation criteria.

In any case this proposed action goes against the Cabinet decision obtained in June 2015 and does not meet the Council’s objectives for this project and should therefore not be considered further by Committee.

As set out in section 4.1 one of the Council’s objectives for this project is to remove the Council’s on-going liability for the building and this proposed solution for HTH would not meet this objective, which is why it was not implemented prior to the June 2015 Cabinet decision. A community led organisation would find it very difficult to legally commit (in the ways required to demonstrate this objective is met) to covering all on-going costs for the building.

As set out in section 4.1 one of the Council’s objectives for this project is to restore the Town Hall and this proposed alternative course of action would not meet this objective. A condition placed on the existing planning consent links the refurbishment of Hornsey Town Hall to the residential development to prevent occupation of the residential new blocks on the site until the listed building has been refurbished. This places restrictions on any land sale to a developer as they are tied to the programme for the main Hornsey Town Hall works (in this situation the risk would be too high for the Council to be legally

responsible for the Town Hall works being completed). In addition to this, the aspiration behind this project is not to only complete minimal repair works, the building needs to be safeguarded and to ensure maximum utilisation it needs to be enhanced as this is not a short term project, it is long term.

As set out in section 4.1 one of the Council's objectives for this project is to secure improvements to the square and this proposed alternative course of action would not meet this objective.

5.2 "The Council uses funds from the capital budget to renovate the Town Hall..." (Call-in 1)

There is no available funding for this from the Council's capital budget. As stated above, the Council is effectively foregoing a receipt in order to secure the restoration and sustainable future of a much loved heritage building while protecting community access. Following assessment of the various options available, the Council's Cabinet confirmed their position in June 2015 that this OJEU procurement route was the best option to secure a long term future for the Town Hall site.

5.3 "The bidding process for Hornsey Town Hall reopens." (Call-in 1)

It is unclear what is being proposed here. The Council cannot abandon the current procurement process, not least because it would open itself up to the prospect of legal challenges.

The current procurement has concluded and the final tenders have been evaluated in accordance with the published evaluation criteria. There is no rational basis for the Council to "reopen" the process. Any change to the Council's existing evaluation criteria would also be subject to a procurement challenge.

It is also unclear whether "bidding process" is being equated with a new procurement procedure; if so, then in addition to the above points (both of which remain valid), there is the further concern a new procedure will not achieve a better outcome and could in fact result in a considerably worse outcome. It will also inevitably result in significant delay, which is entirely contrary to the Council's objective for the Town Hall.

The procurement has been run in line with the June 2015 Cabinet approval and demonstrated that the objectives have been met so as set out above there would likely be a legal challenge if the criteria is now changed and another procurement commences (Committee should note there is no budget available for an additional procurement or delay).

5.4 "To agree that the agreement to sell to the preferred bidder is predicated upon an expectation that only 4 affordable units will be built on the Hornsey Town Hall site." (Call-in 2)

The Cabinet reports make clear that the freehold of the Town Hall is not being sold. This option was considered but rejected. Instead, a long lease is being proposed which offers some greater control for the Council over use of the building.

This does not appear to be a valid proposed course of action and therefore should not be considered further by Committee.

As set out in section 4.6, this is an existing planning consent, which has been implemented and it was clear in the June 2015 Cabinet Report that there are only 4 affordable units within the consent.

5.5 That the Council deciding to build only 4 affordable units on the Hornsey Town Hall site falls outside of the policy framework of (Call-in 2):
i. The Corporate Plan; and/or
ii. The Housing Strategy; and/or
iii. The Local Plan

As set out in 4.8 and 4.10, Haringey's Corporate Plan does not form part of the policy framework therefore it cannot be considered that the decision falls outside of the policy framework in this regard.

As set out in 4.9, the Housing Strategy quoted has not yet been adopted and therefore is not within the policy framework therefore it cannot be considered that the decision falls outside of the policy framework in this regard.

As set out in 4.11, the Local Plan sets out Borough wide targets and these are targets for the whole borough on an aggregate basis rather than requirements for each individual site therefore the outcome of the decision does not fall outside of the policy framework in regards to the Local Plan (as confirmed by Haringey's Chief Planning Officer).

It is crucial that Member understand that the search for a partner has already taken over a decade and involved failed plans, and this bidding process saw a bidder pull out because of the economic uncertainty created by Brexit. A new bidding process would add several years to finding a partner, add significant costs to the Council of funding a procurement and covering running costs of the buildings and given the context it would be a very high risk approach,

5.6 "To agree that – since this is a decision taken outside of the policy framework – there are insufficient guarantees that the expected mitigations used to justify taking this decision can be delivered." (Call-in 2)

As set out within this report and the Monitoring Officer Report, the outcomes of the decision do not fall outside of the policy framework.

5.7 “To refer the report back to the Cabinet or Full Council as it wishes and we ask the Committee (Call-in 2):

- **To instruct the Cabinet to renegotiate levels of affordable housing...**
- **To instruct the Cabinet to add a clause to the contract that confirms exact details of the community offer...**
- **To instruct the Cabinet to add an additional condition to the contract to ensure the preferred bidder keeps to their word with regards to height and density...”**

Committee is not able to instruct the Cabinet, however it is able to make suggestions, however based on the justification and evidence presented in this report it is strongly advised that the Cabinet decision is approved and not subject to any further delay.

In reference to the specific points set out in this proposed course of action we can confirm:

- a) It is not possible to renegotiate levels of affordable housing associated with an existing consent, which was obtained outside of this procurement. Any new planning applications will be assessed on viability and be in the context of the other priorities for this project.
- b) A separate Community Use Agreement will be signed with the preferred bidder that will confirm the parameters for community use and access, in a manner that is consistent with and builds upon the proposals submitted through the course of the competition.
- c) Height and density is a planning matter and the scale of the residential on site has been set by planning. Any proposed amendments to this would need to be reviewed by the Local Planning Authority (as would be the case for any planning application brought forward for the site) and this cannot be guided by a clause within a contract.

6. Background information

6.1 The Cabinet Report from June 2015 acts as background information for the decisions taken by Cabinet when it was agreed the OJEU procurement could commence and the Cabinet Report from October 2016 sets out the details of the procurement process that has been undertaken and the outcomes of this process.

6.2 The Monitoring Officer Report addressing call-in number two is to be read in conjunction with this report.

7. Contribution to strategic outcomes

N/A

8. Statutory Officers comments

8.1 Comments of the Chief Finance Officer and financial implications

N/A

8.2 Comments of the Assistant Director of Corporate Governance and legal implications

N/A

8.3 Equalities and Community Cohesion Comments

N/A

8.4 Head of Procurement Comments

N/A

9. Use of Appendices

N/A

10. Local Government (Access to Information) Act 1985

N/A

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