

Ayshe Simsek,
Principal Committee
Co-ordinator

020 8489 2929

020 8881 2660

ayshe.simsek@haringey.gov.uk

11 November 2016

To: All Members of the Cabinet

Dear Member,

Cabinet - Tuesday, 15th 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:

7. MATTERS REFERRED TO CABINET BY THE OVERVIEW AND SCRUTINY COMMITTEE (PAGES 1 - 60)

This report sets out the outcome of the Overview and Scrutiny Committee's consideration of the Cabinet decision of 18 October 2016 'Recommendation of a Preferred Bidder to Secure the Future of Hornsey Town Hall', following its referral to the OSC under the Call-In process (as described in Part 4 Section H of the Council's Constitution).

22. NEW ITEMS OF EXEMPT URGENT BUSINESS (PAGES 61 - 65)

To consider the exempt part of the Cabinet report on a Preferred Bidder to Secure the Future of Hornsey Town Hall', previously considered on the 18th of October 2016.

Yours sincerely

Ayshe Simsek,
Principal Committee Co-ordinator

This page is intentionally left blank

LATE BUSINESS SHEET

Report Title: Matters referred to Cabinet by Overview and Scrutiny

Committee: Cabinet

Date: 15th November 2016

Reason for lateness and reason for consideration

The 18th of October Cabinet decision on a preferred bidder for Horsey Town Hall was subject to a call -in and the decision was considered by a special meeting of the Overview and Scrutiny Committee meeting on the 8th of November.

At this meeting, the Overview and Scrutiny Committee considered a report from the Monitoring Officer on whether the decision was inside or outside of the policy framework, a report from the Director for Regeneration, Planning and Development, the public and exempt parts of the Cabinet report on the preferred bidder for Hornsey Town Hall, as well as representations from councillors and the public.

The Overview and Scrutiny Committee determined that this Cabinet decision was within the Policy and Budget Framework and further agreed under part 4, rules of procedure – Section H - Call in procedure rules paragraph 10 section [b] that the decision on a preferred Bidder for Hornsey Town Hall be referred back to Cabinet along with some additional recommendations for the Cabinet to consider.

The Call-in Procedure rules require the Cabinet, as the decision maker, to reconsider the key decision by 5 working days. Considering the Overview and Scrutiny recommendations and Cabinet report on a preferred bidder for Hornsey Town Hall, including the exempt information considered by Cabinet on the 18th October 2016, as items of late urgent business at item 7 and 22 will allow this constitutional requirement to be met.

This page is intentionally left blank

Report for: Cabinet 15 November 2016

Item number: 7

Title: Recommendation of a Preferred Bidder to Secure the Future of Hornsey Town Hall – Outcome of Call-in to Overview and Scrutiny Committee.

Report author: Councillor Charles Wright, Chair of Overview and Scrutiny Committee

Ward(s) affected: N/A

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

1. Describe the issue under consideration

This report sets out the outcome of the Overview and Scrutiny Committee's consideration of the Cabinet decision of 18 October 2016 'Recommendation of a Preferred Bidder to Secure the Future of Hornsey Town Hall', following its referral to the OSC under the Call-In process (as described in Part 4 Section H of the Council's Constitution).

2. Introduction

The Overview and Scrutiny Committee considered the Cabinet's decision at a special meeting on 8 November. The Committee heard from a deputation from representatives of Hornsey Town Hall Appreciation Society, and from the lead signatories of the two call-in requests received.

It is rare for decisions of the Cabinet to be called in, and it is rarer still for there to be more than one call-in request in relation to one decision. Aware of the level of interest in this Cabinet Decision, the Committee were keen to give it our full attention. We are grateful to the Cabinet Member and his officers for their helpful participation in the scrutiny process, to the deputation and the callers-in, and to all attendees at what was a long session.

The Committee did not find that the decision reached fell outside the Budget or Policy Framework, and we are not referring it back to Cabinet under that process.

The Committee also took the view that it would be most appropriate, for the purposes of allowing detailed further consideration of matters raised in the Call-Ins, for the decision to be referred back to the Cabinet, as the executive decision-maker in this case, rather than to the Full Council.

Following full discussion, the Committee therefore proceeded to agree to refer the matter back to the Cabinet, as decision maker, to reconsider its decision of 18 October before taking a final decision, as set out in paragraph 10(b) of the Call-In Procedure rules set out in Part 4 Section H of the Council's Constitution.

To assist with this, the Committee makes a number of recommendations to Cabinet, as follows.

3. Recommendations

The Overview and Scrutiny Committee makes the following recommendations in respect of the decision taken by Cabinet on 18 October to “agree to the selection of Far East Consortium International Ltd as the preferred bidder for the HTH site based on the scoring set out in Appendix E [of the Cabinet Report] and to enter into a Development Agreement for the HTH site with either Far East Consortium International Ltd or a special purpose vehicle set up by Far East Consortium International Ltd and the grant of long leases with such appropriate tenants as agreed with FEC based on the main terms set out in paragraph 6.27 of [the Cabinet] report; and that delegated authority be given to the Director of Regeneration, Planning and Development after consultation with the Assistant Director of Corporate Governance to agree the final terms of the Development Agreement, long leases and all associated legal agreements”.

- a) That the Cabinet consider imposing a legal covenant guaranteeing free public access to the square, running with the land in perpetuity;
- b) That the Cabinet Member explores in conversation with the preferred bidder increasing the amount of affordable housing offered on the site, noting that an increased level of affordable housing cannot be imposed;
- c) That the Cabinet Member for Housing, Regeneration and Planning continues to explore possible support from the Mayor of London for increasing the amount of affordable housing offered on the site;
- d) That the Cabinet consider ring-fencing the capital receipt obtained from the transaction for affordable housing, or foregoing a proportion of any capital receipt in order to increase the amount of affordable housing offered on the site;
- e) That the Cabinet consider ring-fencing any overage monies to provide additional affordable housing;
- f) That the Cabinet consider offering a tailored package of support for businesses currently located at Hornsey Town Hall that will be displaced by the proposed development;
- g) That the Cabinet ensure the community is engaged with as soon as possible after an agreement is made with the preferred bidder to ensure the community can be as fully involved as possible. This engagement should not be delayed until the building is reopened;
- h) That the Cabinet confirm in its negotiations on final terms with the preferred bidder how the community use of the building, including the arts centre, be ensured, particularly in mitigating against potential financial obstacles and the impact of shortfalls or assignment;
- i) That the Cabinet agree an active method of policing the lease and the use of the building. This could include a requirement for the Cabinet Member and officers to provide an update to Cabinet on the progress of the project, compliance with legal requirements, at least annually and in the event of any proposed material changes;

- j) That the Cabinet seek to ensure a high standard of design and accessibility in the development of the site, alongside compliance with planning requirements in respect of density, massing and height levels.

4. Background

The papers considered by the Overview and Scrutiny are attached to provide the background to this paper. They are:

- Copies of the two Call-In requests
- Excerpt from the draft minutes of the Cabinet Meeting held on 18 October 2016
- Report to Cabinet 18 October 2016 – Preferred Bidder to Secure the Future of Hornsey Town Hall
- Report of the Monitoring Officer
- Report of the Director of Regeneration, Planning and Development

This page is intentionally left blank

'CALL IN' OF DECISIONS OF THE CABINET

This form is to be used for the 'calling in' of decisions of the above bodies, in accordance with the procedure set out in Part 4 Section H.2 of the Constitution.

TITLE OF MEETING	Cabinet
DATE OF MEETING	18/10/2016
MINUTE No. AND TITLE OF ITEM	Item 15-Recommendation of a preferred bidder to secure the future of Hornsey Town Hall

1. Reason for Call-In/Is it claimed to be outside the policy or budget framework?

It is not claimed to be outside the policy or budget framework.

Hornsey Town Hall is a wonderful listed building and should be preserved for future generations to enjoy with full public access to the Hall, Square and Green.

Reasons for call-in:

1. We believe that the proposal put forward at the Cabinet meeting is not the best option for the building.
2. We are concerned that at the final stage there were only two bidders for the Town Hall site.
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.
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.

2. Variation of Action Proposed

To call a halt to the current proceedings and ensure one of the following options for the future of Hornsey Town Hall is adopted with the community option being examined first:

1. The local community or a community-led organisation, takes on the Town Hall, ensuring public access to the Hall, Square and Green. The land to the rear of the hall being sold for suitable development purposes such as housing, with proceeds being used to pay for essential repairs to the Town Hall
2. The council uses funds from the capital budget to renovate the Town Hall ensuring public access to the Hall, Square and Green. The council would sell the surplus land at the rear of the building for housing or other suitable development with the money contributing to the cost of the repairs to the Town Hall.
3. The bidding process for Hornsey Town Hall reopens.

Signed:

Councillor: Gail Engert (Please print name): GAIL ENGERT

Countersigned:

1. Councillor: Martin Newton (Please print name): MARTIN NEWTON

2. Councillor: Clive Carter (Please print name): CLIVE CARTER

3. Councillor: David Beacham (Please print name): DAVID BEACHAM

4. Councillor: Bob Hare (Please print name): BOB HARE

Date Submitted:

19/10/16

Date Received:

19/10/16

(to be completed by the Democratic Services Manager)

Notes:

1. Please send this form to:

Michael Kay (on behalf of the Proper Officer)
Democratic Services and Scrutiny Manager
5th Floor
River Park House
225 High Road, Wood Green, London N22 8HQ
Tel: 8489 2920
Fax: 020 8881 5218

This form must be received by the Democratic Services and Scrutiny Manager by 10.00 a.m. on the fifth working day following publication of the minutes.

2. The proper officer will forward all timely and proper call-in requests to the Chair of the Overview and Scrutiny Committee and notify the decision taker and the relevant Director.
3. A decision will be implemented after the expiry of ten working days following the Chair of Overview and Scrutiny Committee's receipt of a call-in request, unless a meeting of the Overview and Scrutiny Committee takes place during the 10 day period.
4. If a call-in request claims that a decision is contrary to the policy or budget framework, the Proper Officer will forward the call-in requests to the Monitoring Officer and /or Chief Financial Officer for a report to be prepared for the Overview and Scrutiny Committee advising whether the decision does fall outside the policy or budget framework.

'CALL IN' OF DECISIONS OF THE CABINET

This form is to be used for the 'calling in' of decisions of the above bodies, in accordance with the procedure set out in Part 4 Section H.2 of the Constitution.

TITLE OF MEETING	Cabinet Committee
DATE OF MEETING	18 th October 2016
MINUTE No. AND TITLE OF ITEM	88 ITEM 15 Preferred Bidder to Secure the Future of Hornsey Town Hall

1. Reason for Call-In/Is it claimed to be outside the policy or budget framework?

<p>This decision agrees the sale of the Hornsey Town Hall site to Far East Consortium.</p> <p>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. The Council took a decision not to do so prior to engaging with the procurement process.</p> <p>Underpinning the foundations of the decision to sell is an expectation – or an intention – that only 4 units of affordable housing will be built on this site.</p> <p>Consequently, we the undersigned contend that the decision to sell the Hornsey Town Hall site to Far East Consortium with the expectation that only 4 units of affordable housing will be built upon it, falls short of policy goals espoused within the Corporate Plan, the Housing Strategy and the Local Plan.</p> <p>The decision delivers an outcome outside of the policy framework Priority 5 of our Corporate Plan "Creating mixed and inclusive neighbourhoods"</p> <p><i>"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 ..."</i></p> <p>This policy springs from a manifesto commitment to build mixed communities "across the borough". Whilst there is much land and many sites available in the centre and east of the borough, in order to deliver that policy in the west of the borough, sites like Hornsey Town Hall need to be utilised. As well as failing to deliver an appropriate level of affordable housing, the Cabinet decision regarding the sale of Hornsey Town Hall contained no safeguards whatsoever to ensure that the properties that were built would be marketed to the people of Haringey, before being available for purchase by anonymous overseas investors. There is negligible affordable housing, no provision for social housing and no guarantees for local people that they can buy the flats being built.</p>

The decision is taken in contravention of key policy objective within the Housing Strategy

"[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 ..."

Located in the heart of Crouch End, Hornsey Town Hall provides a vital opportunity for Haringey to deliver on this key objective within the Housing Strategy. The Town Hall and car park are both in the Council's ownership and Crouch End is an area where both social and affordable housing are scarce.

In order to achieve the Housing Strategy's objectives and enable the development of mixed communities, the Council has deliberately prioritised facilitating more market-rent homes and homes for sale in areas which are currently dominated by affordable rented housing. In Tottenham, for example, there is the new Spurs development, and the proposed tower blocks at Apex House and Wards Corner.

The Council has been prepared to reduce the social and affordable housing percentage in developments in the east of the borough to facilitate these mixed communities. It should be equally willing to deliver more affordable housing units in the west of the borough.

The housing proposed within the Hornsey Town Hall development presents a rare opportunity. The Strategy expects us to redress the existing local imbalance and deliver those same mixed communities we are creating in Tottenham, in the west of the borough as well. The Housing Strategy expects us to build a significant number of affordable housing units on the Hornsey Town Hall site.

Decision taken in contravention of Corporate Plan policy outcome "Value for money"

"We will get better value out of every pound spent"

Nowhere within the report upon which this decision is based is there clear evidence that the proposed sale of the Hornsey Town Hall site for the restoration of Hornsey Town Hall makes financial sense, or is the best or only financial option available.

The decision offers poor value for money for Haringey Council Taxpayers to whom this building ultimately belongs. When considering the proposed cost to refurbish the Town Hall and the potential profit to be made, the Council has substantially undervalued the land and the premium to be paid to the Council is well below what might reasonably be expected given land values in this area.

Option D in the report was never seriously considered as to whether this would provide a more cost effective route to renovate the Town Hall. When taken on its own merits, the Hornsey Town Hall car park site is perfectly capable of delivering a housing development 40% of which is affordable. No evidence was available within the report to challenge the belief that the viability of such a development would also allow for the regeneration of the Town Hall. There was neither a viability report requested, nor a viability report submitted that argued that this site could not deliver closer to the 40% of affordable housing that the policy required and renovate the Town Hall. There were no costings in the public report regarding the value of the land, and no clear justification for the £27m cost to renovate the

Town Hall.

Decision taken in contravention of Local Plan Policy SP2

The procurement was predicated upon a decision taken in direct contravention of Local Plan Policy SP2, placing the Executive in direct conflict with its own planning and development management department. The Council intends for only 4 affordable units to be built on this site. If the Council does not respect its own policies, how can it legislate to ensure others will? Irrespective of when this decision was taken, it was still in contravention of policy and was the foundation underpinning all further actions leading to the decision to sell.

Haringey's Local Plan Policy SP2 – Housing - states

“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.”

This site belongs to the Council and changing the planning consent was within our gift. Consequently, it was an overt act to ignore the existing planning policy – at that time a 50% affordable housing requirement. This decision has caused loss to the people of Haringey who are in need of affordable housing. Furthermore, there is no certainty as to whether or not the community aspect of the proposal can be delivered to justify the decision to deprioritise the provision of affordable housing and to deprioritise receiving the best financial return.

We contend that the decision to sell fails to deliver within the four above policy frameworks, though it does achieve part of Priority 4, with regards to the regeneration of Hornsey Town Hall.

However it is not logical to meet one policy objective at the cost of all others. For the council to prioritise one policy objective over another there must be a clear benefit and clearly defined deliverables attached with this.

Furthermore, if the council contends that it is acceptable to deliver on one policy by breaching another, then it is incumbent upon the Council to prove its assertions that the former policy can be delivered in full.

The report placed “an unprecedentedly low score” for the financial offer (18%), whilst prioritising the Community Offer (21%). However, the report does not set out any clear process for communicating and agreeing that offer with the local community; fails to describe what that offer would look like or how that community offer would be delivered.

Finally

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

The report highlighted the fact that the preferred bidder could deliver their proposals using the existing planning consent [a scorable part of the bidding process]. During the Cabinet

meeting, it was explicitly said that the planning strategy of the preferred bidder had no risk, and that this was one of the deciding factors in their success.

However, then the report (6.29) asserts that the successful bidder will require "planning amendments" to deliver their aspirations - without fettering the scale or scope of that planning application. In addition, the report and Cabinet members are simultaneously asserting that the Council was bound by the existing planning consent which it used as the basis for the original procurement.

If the preferred bidder can apply for new planning consent, why could the Council not do so? Nowhere within the report does it contradict the assertion that the existing planning consent can be changed. And nowhere within the report does the Cabinet express a desire to do so.

There was also a differing view amongst experts as to whether the existing planning consent was suitable for the running of a hotel, however, since the report talks about "planning amendments", one could assume that it is not.

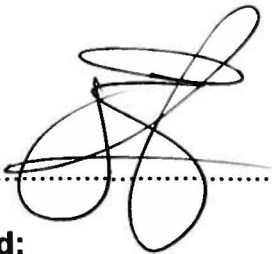
This is, at a minimum, confusing and inconsistent. A report on such a vital issue should be clear and transparent regarding these matters.

2. Variation of Action Proposed

We are asking the Overview and Scrutiny Committee:

1. 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
2. That the Council deciding to build only 4 affordable units on the Hornsey Town Hall site falls outside of the policy framework of:
 - i. The Corporate Plan; and/or
 - ii. The Housing Strategy; and/or
 - iii. The Local Plan
3. 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
4. To refer the report back to the Cabinet or Full Council as it wishes and we ask the Committee:
 - to instruct the Cabinet to renegotiate the level of affordable housing to be built on the site, increasing it to AT LEAST 30% (by habitable room) before completing the sale, because it will not be possible to do so afterwards.
 - to instruct the Cabinet to add a clause to the proposed contract that confirms the exact details of the community offer within the Town Hall; clarity about public access to the building (including the chamber), the piazza and the green prior to the completion of the sale.
 - to instruct the Cabinet to add an additional condition to the contract to ensure that the preferred bidder keeps to their word with regards to the height and density of the proposed housing development. At the Cabinet committee, it was asserted that the ultimate choice of the preferred bidder was in large part predicated upon them being able to deliver the project using the existing planning consent “without increased massing”.


Signed:


Councillor:  (Please print name): EJLÓFOR

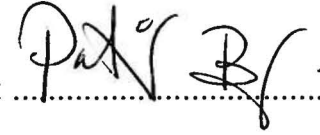
Countersigned:

1. Councillor:  (Please print name): ZENA BRAZON


2. Councillor:  (Please print name): M SLAKE

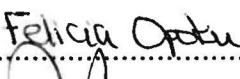
3. Councillor:  (Please print name): GORDON BULL

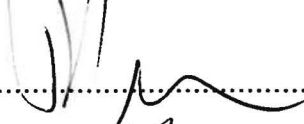
4. Councillor:  (Please print name): CHARLES ABJE


5. Councillor:  (Please print name): PAT BERRYMAN


6. Councillor:  (Please print name): ANNE STEUNSTI

7. Councillor:  (Please print name): KISOROS DIAKIDES

8. Councillor:  (Please print name): FELICIA OPORU

9. Councillor:  (Please print name): NOAH TUCKER

10. Councillor:  (Please print name): REG RICE

11. Councillor:  (Please print name): VINCEVIC CARROCCI

12. Councillor: (Please print name):

Date Submitted: 24 October 2016

Date Received: 24 October 2016
(to be completed by the Democratic Services Manager)

Notes:**1. Please send this form to:**

**Michael Kay (on behalf of the Proper Officer)
Democratic Services and Scrutiny Manager
5th Floor
River Park House
225 High Road, Wood Green, London N22 8HQ
Tel: 8489 2920
Fax: 020 8881 5218**

This form must be received by the Democratic Services and Scrutiny Manager by 10.00 a.m. on the fifth working day following publication of the minutes.

- 2. The proper officer will forward all timely and proper call-in requests to the Chair of the Overview and Scrutiny Committee and notify the decision taker and the relevant Director.**
- 3. A decision will be implemented after the expiry of ten working days following the Chair of Overview and Scrutiny Committee's receipt of a call-in request, unless a meeting of the Overview and Scrutiny Committee takes place during the 10 day period.**
- 4. If a call-in request claims that a decision is contrary to the policy or budget framework, the Proper Officer will forward the call-in requests to the Monitoring Officer and /or Chief Financial Officer for a report to be prepared for the Overview and Scrutiny Committee advising whether the decision does fall outside the policy or budget framework.**

This page is intentionally left blank

MINUTES OF THE MEETING OF THE CABINET HELD ON TUESDAY, 18TH OCTOBER, 2016, 6.30pm

PRESENT: Councillors: Claire Kober (Chair), Peray Ahmet, Jason Arthur, Eugene Ayisi, Ali Demirci, Joe Goldberg, Alan Strickland, Bernice Vanier and Elin Weston

Also in attendance: Councillors: Wright, Engert, Newton, Jogee, G Bull, Carter, M Blake.

83. DEPUTATIONS/PETITIONS/QUESTIONS

The Leader advised that a Deputation request had been received from the Hornsey Town Hall Appreciation Society in relation to item 15, Preferred Bidder to Secure the Future of Hornsey Town Hall, and invited Mr Tibber, the lead spokesperson, to put forward his Deputation to Cabinet.

Mr Tibber then came forward and handed a petition to the Leader which had been collated in response to the Cabinet report proposals and, within a week, attracted over 2300 signatures. The Deputation was further requesting the Cabinet consider the petition/report from the Hornsey Town Hall Appreciation Society and defer decision making on the preferred bidder for Hornsey Town Hall for one month.

Mr Tibber focused the Deputation's presentation on challenging the recommendation based on the three key aspects where the successful bidder scored higher than the unsuccessful bidder, as set out within the report.

The Deputation contested the following:

- Whether the preferred bidder carried a lower planning risk and contended that a fresh planning application would be needed to take forward the preferred bidder's plans for a Hotel and it could not be done under a S73. Mr Tibber explained the Appreciation Society has received its own planning advice to this effect.
- That the guarantees required by the Council on the development work and ongoing operation of the building and community access would be difficult to enforce as the successful bidder was based in the Cayman Islands. Mr Tibber questioned why a bidder would offer a guarantee.
- The legality around the special purpose vehicle being set up for the project, as this is currently not in existence.

Mr Tibber continued to refer to there not being a need for a Hotel in Crouch End and further emphasised the overseas status of the bidder which he claimed went against

recent mayoral announcements on tackling the sale of domestic assets to overseas investors.

The Deputation asked the Cabinet to consider the employment impact of moving 74 businesses, located in the Town Hall, and highlighted the issues currently being experienced with relocation.

The Deputation concluded by asking Cabinet to consider the impact of the decision which could incur expensive legal challenges and the proposed decision being inconsistent with the Council's Community Strategy. Mr Tibber asked Cabinet to pause and further consult on the proposals before making a decision on the future of Hornsey Town Hall.

The Leader thanked Mr Tibber for his Deputation and asked Cabinet Member colleagues to put forward their questions to the Deputation party.

Councillor Arthur, Cabinet Member for Finance and Health and a ward Councillor for Crouch End, questioned the concerns raised on planning risk, as the planning strategy put forward, within the tender submission of the unsuccessful bidder, was scored as providing a greater risk to the Council; with the preferred bidder scoring better on the planning strategy they put forward in their bid. Cllr Arthur asked for the response to be within the context of the public procurement and assessing the bids put forward.

Cllr Arthur asked the Deputation whether the petition put forward to the community fully reflected the preferred bidder's proposals as contained in the Cabinet report.

Councillor Arthur asked the Deputation to also elucidate on the community use of the current Arts centre and the value of continued Arts related uses.

The Deputation explained that the report set out that the unsuccessful bidder would require a new planning application and the report was not referencing planning risk. The Leader pointed to section 6.25 of the report which clearly set out that the planning strategy of the unsuccessful bidder held a greater planning risk.

The Deputation then referred to paragraph 2.5 which set out the advantages of the preferred bidder over the unsuccessful bidder, which included the unsuccessful bidder requiring a new planning permission and the successful bidder working within the existing planning arrangements, and they contended that this assessment was incorrect and would likely be challenged. In their experience and planning knowledge, a new planning application for the Hotel would be needed, requiring new consultation and in turn providing a higher planning risk. Even if a S73 was appropriate, it was claimed it would require consultation, therefore not correct to say the preferred bidder would work within the existing arrangements.

The Deputation party advised that the people who had signed the petition did not know very much detail and the petition had been compiled and launched as a measure to instigate a public response and allow fuller information to come forward about the Hotel plans before a decision was made on the future of the Town Hall. Particular reference had been made to the Hotel proposal which was felt would not be

acceptable to the Crouch End Community and it was reasonable for the community to have more information on the plans for the Hotel before a decision was made.

The Deputation party elaborated on the popular use of the current Arts centre located within Hornsey Town Hall. They felt that this was self evident, with 74 businesses and 130 people employed in the last 18 months. Also there was increased use of Hornsey Town Hall by local groups including the Crouch End Festival. The Town Hall building interiors had attracted interest with a number of people visiting on a daily unplanned basis to appreciate the interior of the buildings and visit the Arts provisions.

In light of the Deputation's references to the second bid, the Leader questioned whether the Deputation party had a preferred bidder or were not in favour of any of the proposals put forward as part of the procurement process.

In response the Deputation party explained that they were not a political group and did not specifically support any of the bidders. They had, as a group, spoken with the interested parties to gauge their proposals and the Appreciation Society exists solely to safeguard community access and use for the building, square and the green for the community. The Deputation advised that they also want the Festival to continue, the businesses located in the building to remain, the building to be restored and then returned to being an arts centre.

A Deputation party member of the Hornsey Town Hall Appreciation Society stated to Cabinet their preference for the unsuccessful bid as it came closer to the aspirations of the community. However, this preference could also equally apply to the other bids which did not reach the final procurement round.

Councillor Strickland, Cabinet Member for Housing, Regeneration and Planning responded to the Deputation, acknowledging the strong community interest and concerns for the future of the Town Hall. Councillor Strickland highlighted the background that the project had been progressing for many years and a further delay would not be of benefit. Councillor Strickland confirmed the lengthy and onerous procurement process had been completed in line with OJEU requirements and with an agreed criteria and assessment panels.

In response to the particular planning concerns expressed, it was the planning strategies of the final two bidders that had been assessed and the assessment panel included both planners from the Council and external planning advisers, and they had concluded the proposed change in use carried a lower planning risk but the unsuccessful bid proposed increased development which carried a higher planning risk. It was important to note that, within the context of the overall procurement scoring, planning only made up 5% of the score and the overall difference between the two bids, at the end of the process, was 15%.

Cllr Strickland confirmed the legal advice received sets out the preferred bidder's guarantee is enforceable. Assurance was provided that the Hotel proposition had been through a thorough assessment process, with expert Hotel industry advice sought, as part of the procurement assessment process.

The experience and expertise of FEC on Hotel provision was evident in the assessment process and was reflected in the number of Hotels they held around the world so this also provided further assurance.

Councillor Strickland responded to concerns about community use and provided a reminder of the Council's instigation of the interim use of the Town Hall as an arts centre and this was because of the Council's sustained commitment to keep the Town Hall in community use. Councillor Strickland confirmed the Council had always been very clear that the current arts centre is a temporary use of the building. The Council would continue to work with businesses and are advancing discussion with a local organisation interested in operating workspaces in the library.

The Cabinet Member for Housing, Regeneration and Planning concluded by emphasising the detailed and objective procurement process undertaken which had included a whole range of stakeholders including representatives from the Hornsey Town Hall Creative Trust (on the community assessment questions) and in his view had been a fair and robust process.

The Council and local stakeholders wanted to see the continued use of the building, by the community, which was why providing community use was mandatory category and also the highest scoring question. The preferred bidder was very willing to work with the community, will be setting up a community steering group with representatives from residents, alongside providing a viable future a diverse range of uses.

88. RECOMMENDATION OF A PREFERRED BIDDER TO SECURE THE FUTURE OF HORNSEY TOWN HALL

The Cabinet Member for Housing, Regeneration and Planning introduced the report which set out the tendering process which had been undertaken to select a bidder that would be able to provide a financial and sustainable future for Hornsey Town Hall.

The Cabinet Member continued to provide some context for the decision going forward, with a reminder of activity undertaken by the Council and local stakeholders, including the Hornsey Town Hall Creative Trust, over the last 10 years, and reiterated the Council's commitment to community access which required the highest scoring category in the process. He referred to the Mountview proposals, which had disappointingly not eventually proved financially viable.

The Cabinet Member emphasised that a solution for Hornsey Town Hall had to be commercially viable. He drew attention to the lengthy, detailed and robust procurement process which he had politically overseen and had been completed effectively, in line, with procurement requirements. Given the high running costs of the building and high restoration costs, the preferred bidder provided a balanced solution, maintaining community access. Therefore agreement was sought from Cabinet for the Far East Consortium International Ltd ("FEC"), the highest scoring bidder, to be appointed as the preferred bidder for HTH.

The Cabinet Member for Housing, Regeneration and Planning referred to section 2.5 of the report, which had briefly tried to summarise the report and was not the basis of

the recommendation to Cabinet. Instead section 6.25 clearly sets out that following an assessment of the planning strategy of the bidders, the preferred bidder put forward a proposal with lower planning risk. The Cabinet Member re-iterated that the advice of independent planning advisers had been sought when making this decision.

The Leader also reminded the meeting of some of the background to Hornsey Town Hall, in particular the Planning Committee meeting decisions in July 2010, where the main objections had been concerned with the scale of the residential development, including concerns on daylight as well as other considerations which arise from having large residential areas.

The Leader invited questions firstly from non Cabinet Members and the following information was provided in response to questions/concerns:

- Cabinet were making a decision on the procurement process which was triggered in 2015 and not on the parameters of the existing planning consent given by Committee in 2010. The number of affordable units had been set at 4 units due to the high cost of restoring the building.
- There was no information to hand on the exact square metres for use for the Hotel. However the preferred bidder was keen to have a presence in and around the Town Hall to answer detailed questions from residents and discuss detailed plans as they are developed with the community.
- The Leader referred to the Cabinet report in 2009 where residential development was seen as an enabler to refurbish the building. Knight and Frank advice on affordable housing was 70% private and 30% affordable. However, in 2010 when going to planning committee and while working with Creative Trust on a community solution, it became clear that there would need to be more private housing with 123 units and only 4 would be affordable. This was accepted because the planning gain was the community and cultural offer and restoration of the building rather than affordable housing provisions and even with this reduced level of affordable housing there was still a funding gap. Then in 2011 Mountview proposed using the capital receipt from the residential development to refurbish the building but even with the residential enabler there was still not a viable scheme.
- Change in the housing market – although house values had gone up, so had construction costs and further building deterioration had also occurred to the Town Hall building during this time which also needed to be considered. The Cabinet procurement decision was working to the Planning permission given in 2010 and this was still a ‘live’ planning permission.
- The heritage aspects would be restored, including the committee rooms. It was further clarified that it was the previous car park space at the back of the building being used for the housing development.
- Finance issues raised by the MP for Wood Green and Hornsey, Catherine West had been discussed with Council lawyers and the Chief Operating officer. The Cabinet Member was assured that the due diligence process had been

conducted including financial advisers and they were reported no concerns about the preferred bidder. The bidder's intention was to set up special purpose vehicle which will be UK based.

- In relation to boutique Hotel, no presumption had been made for the building use. The Council had always been clear that they could not make promises on what uses could be taken forward in the Town Hall and this was based on the project objectives, set out in paragraph 1 of the report, agreed by Cabinet in 2015, including community use. It was important to note that this was a building in constant need of funding due to its age and maintenance requirements and there was a recognised need for a part commercial solution. The experience of the preferred bidders in the Hotel industry provided assurance that this was a viable solution to take forward.
- The Leader provided a reminder of the Creative Trust Plans from 2008 which would have succeeded if the car park was the basis to fund the restoration of the building and despite working hard for a solution the finance viability could not be met.
- Public access was guaranteed to the Square and the Green, which currently have limited budgets available for their upkeep and the community wanted to see more investment to further improve use which the bidder was happy to do. There are no plans for significant development in these areas.
- There had been detailed Planning discussions regarding the bids therefore not a need to speak with external planning organisations to seek advice.
- Emphasised that the planning strategies submitted by the bidders were assessed and one of these strategies was judged to have risk.
- Although the London political context had changed, the Town Hall's continued maintenance and restoration needs have not altered over the years and this financial aspect has not changed so the need to restore the building and enable meaningful community use is still needed and the decision had to be seen in this context. If a new application including increased affordable housing was put forward by the preferred bidder they would have further financial liability.
- TA costs - important to emphasise, the reason for lower level of affordable housing was to enable the restoration of the building. If TA was placed on the site, this would bring additional cost.
- Important to secure the future of the Town Hall which will be bound by a lease and a contract. It was also a positive consideration to have attracted this overseas investment in the borough.
- The Cabinet cannot take a view on the nationality of the bidders and will be mainly concerned with ensuring the procurement process was robust.

The Leader sought Cabinet Member comments and questions who responded as follows:

- The Hotel would be in a good place to activate the space at the front of the building,
- It's been over 10 years since the Hornsey Town Hall Creative Trust started the community solution and then brought through Mountview solution which was disappointingly not financially viable.
- Important to bring the building back into full use and protect the footfall into the area and not delay the decision.
- Accessible public square part of the procurement objectives. There will be public access to the Hall and Square and this has always been a priority and these areas need to have additional investment which the bidder has promised to do.
- It was made very clear that Haringey is not against overseas investment in the borough and this investment should be viewed as a positive thing.
- Preferred bidder keen to involve the community in the square issue, and on community access, when the building opens. There will be a substantive community working group to oversee the community access to the building. Clear commitment in writing on this community steering group.
- The preferred was bidder keen to engage with residents on their proposals. If the Cabinet agreed the preferred bidder, they would create a community steering group once the building is open.
- Cabinet Member for Finance and Health - provided a reminder of the current financial context and reiterated that the Council does not have the financial capacity to bring the building up to standard and continue maintenance. Cllr Arthur acknowledged that the community: wants access to the Town Hall building and square, cherishes its arts activity, want to have some role in its ongoing development of the town Hall and have a stake in the building. The Cabinet Member felt that the proposal meets the requirements of the community as it delivers what people care about i.e. arts centre, access to building and improved square built into contract and the Council will look at how the existing businesses can be relocated. Cabinet will continue to work with the community and preferred bidder to release information and share information on the Arts centre and what will happen to the businesses.

The Leader referred to the petition which did not mention the mixed use nature of the scheme.

The Cabinet considered the recommendations in the exempt part of the meeting.

The Leader clarified that the recommended bidder be referred to as Far East Consortium International Ltd.

Cabinet unanimously RESOLVED

To agree to the selection of Far East Consortium International Ltd as the preferred bidder for the HTH site (shown edged red on the plan included in Appendix A) based on the scoring set out in Appendix E and to enter into a Development Agreement for the HTH site with either Far East Consortium International Ltd or a special purpose vehicle set up by Far East Consortium International Ltd and the grant of long leases with such appropriate tenants as agreed with FEC based on the main terms set out in paragraph 6.27 of this report; and that delegated authority be given to the Director of Regeneration, Planning and Development after consultation with the Assistant Director of Corporate Governance to agree the final terms of the Development Agreement, long leases and all associated legal agreements.

Reasons for Decision

The Cabinet decision in April 2011 declared the site surplus to the Council's requirements and agreed the principle for a partner to enter into a 125 year lease to operate the building, with the Council retaining the freehold.

The Listed building is on English Heritage's Buildings At Risk Register therefore a solution is required to undertake restoration work to the building and the Council does not have funding available to undertake these works itself.

Options Appraisal work identified that one developer for both the HTH site and building is a preferred approach as it secures both the restoration works and a long term operator for the building and is likely to bring the building back into use at the earliest opportunity. In addition to this a Developer would expect to have control over the works in the town hall as residential units cannot be occupied until essential heritage works have completed in the town hall because of the existing planning condition which links the two elements.

A public sector procurement of this scale must legally be governed by the public procurement regulations; therefore an OJEU process had to be carried out to secure a future for the dilapidating building. Professional advisors and the Council's Legal & Procurement team advised that an OJEU compliant Competitive Dialogue process is the best way to achieve this outcome and this has been undertaken in accordance with the Public Contract Regulations 2015 (as amended) ("Regulations").

To ensure the town hall building remains open and in use in the long term a partner, with a long term sustainable business plan needs to be appointed.

A timely decision on the future approach to the HTH project is required in order to engage with and exchange contracts with the bidder while they have a strong appetite to progress with the project, avoid further deterioration to the listed building, remove the ongoing liability of the building to the Council at the earliest opportunity and address the longstanding frustrations of the local community at the timeframe for securing a sustainable future for the Town Hall.

Alternative options considered

The alternative options that had been considered for the Hornsey Town Hall project can be defined as follows:

- Option A - Do nothing: Without taking any action to secure a future use and developer/operator for the Town Hall the building condition will continue to deteriorate. The Council remains responsible for the on-going liability for the building and any use of the building by the local community will be limited.
- Option B - Conditional land sale: The Council could sell the HTH site via a conditional land sale agreement, however the Council would have limited control in this option to enable and enforce community access and use.
- Option C - Freehold sale of the site: Sale of the site without retaining any interest would mean the Council is unable to secure community access and use as there are no lease mechanisms to enable this. The Council was not prepared to pursue an option that did not guarantee community access or provide the Council with enough control to ensure that Hornsey Town Hall can support community cohesion and economic dynamism in Crouch End.
- Option D - Dispose of land at the rear and use receipt to refurbish the building: In this scenario it is not expected that the land sale receipt would fully cover all the costs to refurbish and fit out the building for use, the Council's on-going liability for running costs and maintenance is not removed and a sustainable operator and future use is not secured for the Town Hall.

102. EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED:

That the press and public be excluded from the remainder of the meeting as the items below contain exempt information, as defined under paragraph, 3 and 5 Part 1, schedule 12A of the Local Government Act 1972.

103. RECOMMENDATION OF A PREFERRED BIDDER TO SECURE THE FUTURE OF HORNSEY TOWN HALL

As per item 88.

This page is intentionally left blank

Report for: Cabinet 18 October 2016

Item number: 15

Title: 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 Securing a financially sustainable future for the iconic Hornsey Town Hall is a key priority for the Council. For a number of years, the Council supported Mountview Academy of Theatre Arts to develop a major proposal to transform the Town Hall into a new premises for the theatre school. Unfortunately, Mountview were not ultimately able to make this proposal financially viable and withdrew in January 2015. In addition, an interim arts centre in the Town Hall has proven popular but does not cover the running costs of the building nor contribute to restoration costs. A long term, financially sustainable solution is needed to secure the future of the Town Hall. This is why in June 2015 the Council's Cabinet agreed an OJEU compliant competitive tendering process could commence for the Hornsey Town Hall (HTH) project, in order to secure a long term partner to maintain and operate the site. In July 2015 the Leader of the Council agreed the OJEU route would be a 'Competitive Dialogue' process.

1.2 Cabinet approved the following objectives for the project, which would need to be implemented by the final preferred bidder following the tendering process:

- Restore Hornsey Town Hall in a way that respects its Grade II* listed building status and safeguards 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.

1.3 The following parameters were set for the procurement, which focus on delivery in line with the objectives:

- a) The Council is offering a long leasehold interest in the site for a term of 125 years.

- b) LBH would prefer not to have any future stake holding in, nor carry any liability for the town hall.
- c) LBH does not desire an on-going role in the development process or operation of the site (beyond its statutory role) after selection of the preferred developer.
- d) The Town Hall square will be included in the development, given appropriate provision for public use and access.
- e) The Council must achieve best consideration for its asset and is happy to consider both revenue and capital payment structures in order to facilitate a suitable solution in light of its broader objectives.

1.4 The OJEU Public Contract Notice (PCN) was published in November 2015. The project received a good level of interest from the market and a competitive dialogue tendering process commenced; further details on how the tendering process was carried out are set out within section 5 of this paper.

1.5 This paper outlines the tendering process which has taken place and seeks agreement from Cabinet for the Far East International Consortium Ltd (“FEC”) to be appointed as the preferred bidder for HTH.

1.6 The recommended consortium is proposing a mixed-use scheme, which includes residential at the back of the site which remains in line with the existing planning consent, a small element of residential within the back wings of the HTH building although the area of residential units inside the building has decreased from the consented scheme, a hotel which is mostly concentrated in the areas of less historic interest and an arts centre which will allow access and use of most of the areas of significant historic interest.

1.7 A decision is now required by members to approve the preferred bidder for the HTH site so the project can progress to award of contract stage.

2. Cabinet Member introduction

2.1 Hornsey Town Hall is an iconic building right at the heart of Crouch End which must be restored and preserved for future generations of Haringey residents. Finding a plan for the Town Hall which restores the stunning historical features, opens up the building to the public, enables community use and gives the building a sustainable financial footing for the first time are absolutely vital.

2.2 I'm delighted that after a long and thorough bidding process, we are able to recommend a consortium of organisations to the Cabinet. This bidding process has involved council staff, external advisors and Crouch End residents from the Hornsey Town Hall Creative Trust. I am grateful to everyone who has worked so hard to scrutinise, test and challenge the various bids we received.

2.3 I am particularly pleased that public access, community use and creative activity are an important part of the recommended bid. Creative use has been a high priority for residents, so the proposals for an arts centre in the restored town hall are very welcome. I'm delighted that the temporary arts centre, operated for the Council by the organisation ANA, has proven so popular. However, it's clear that continuing the arts centre alone is simply not a viable option. Even with this excellent interim use, the Town Hall still falls well short of meeting its running costs and makes absolutely no contribution to restoration costs.

- 2.4** To secure the future of the Town Hall, it's clear that a mix of uses will be needed. The recommended bid proposes a boutique hotel, a café/restaurant and new homes which will be vital to funding the ongoing maintenance of this listed building. The proposed scheme will create much needed jobs and important additional footfall for Crouch End businesses. This mixture of uses promises to bring the building to life, with local residents, cafe customers, hotel guests, event participants and others all using the building in a way that will bring activity to all parts of the site.
- 2.5** This proposal from FEC has a number of important advantages over the second bidder. Importantly, the bid not being recommended proposed higher residential buildings to the rear, requiring a new planning application and did not involve the developer being involved once works and homes were complete, leaving uncertainty about the future and an inability to guarantee ongoing community use. The bid being recommended aims to work with the existing planning arrangements and provides clear guarantees about community use and access.
- 2.6** Central to the successful transformation will be effective engagement with the community. If a bidder is agreed at Cabinet, that organisation can start to develop more detailed plans for the Town Hall and to discuss these with the community. The Crouch End community is rightly very proud of the town hall and I know from all of the engagement meetings and workshops I've attended just how passionately people feel about the building. That's why I'm pleased that the recommended bidder has made clear commitments to engaging the community on an ongoing basis and as a Council we will be working with them to help ensure this takes place.
- 2.7** If Cabinet approve the report, the recommended bidder has committed to creating a Community Hub as soon as possible to provide staff at the Town Hall to answer questions from residents and to discuss more detailed proposals with the community as they emerge. The bidder has also committed to setting up a Community Steering Group to involve residents in overseeing community use and access for the Town Hall and Town Hall Square, which is very welcome.
- 2.8** Hornsey Town Hall is in need of major restoration and refurbishment, and a new, financially sustainable purpose which secures it's future. After an objective and robust procurement process, I hope Cabinet will agree the recommendations in this report to select a bidder with a strong proposal to secure this.

3. Recommendations

3.1 Members are asked to:

3.1.1 Agree to the selection of Far East Consortium Ltd as the preferred bidder for the HTH site (shown edged red on the plan included in Appendix A) based on the scoring set out in Appendix E and to enter into a Development Agreement for the HTH site with either Far East International Consortium Ltd or a special purpose vehicle set up by Far East International Consortium Ltd and the grant of long leases with such appropriate tenants as agreed with FEC based on the main terms set out in paragraph 6.27 of this report; and that delegated authority be given to the Director of Regeneration, Planning and Development after consultation with the Assistant Director of Corporate Governance to agree the final terms of the Development Agreement, long leases and all associated legal agreements.

4. Reasons for Decision

4.1 The Cabinet decision in April 2011 declared the site surplus to the council's requirements and agreed the principle for a partner to enter into a 125 year lease to operate the building, with the Council retaining the freehold.

4.2 The Listed building is on English Heritage's Buildings At Risk Register therefore a solution is required to undertake restoration work to the building and the council does not have funding available to undertake these works itself.

4.3 Options Appraisal work identified that one developer for both the HTH site and building is a preferred approach as it secures both the restoration works and a long term operator for the building and is likely to bring the building back into use at the earliest opportunity. In addition to this a Developer would expect to have control over the works in the town hall as residential units cannot be occupied until essential heritage works have completed in the town hall because of the existing planning condition which links the two elements.

4.4 A public sector procurement of this scale must legally be governed by the public procurement regulations, therefore an OJEU process had to be carried out to secure a future for the dilapidating building. Professional advisors and the Council's Legal & Procurement team advised that an OJEU compliant Competitive Dialogue process is the best way to achieve this outcome and this has been undertaken in accordance with the Public Contract Regulations 2015 (as amended) ("Regulations").

4.5 To ensure the town hall building remains open and in use in the long term a partner, with a long term sustainable business plan needs to be appointed.

4.6 A timely decision on the future approach to the HTH project is required in order to engage with and exchange contracts with the bidder while they have a strong appetite to progress with the project, avoid further deterioration to the listed building, remove the ongoing liability of the building to the Council at the earliest opportunity and address the longstanding frustrations of the local community at the timeframe for securing a sustainable future for the Town Hall.

5. Alternative options considered

5.1 The alternative options that have been considered for the Hornsey Town Hall project can be defined as follows:

- Option A - Do nothing: Without taking any action to secure a future use and developer/operator for the Town Hall the building condition will continue to deteriorate. The council remains responsible for the on-going liability for the building and any use of the building by the local community will be limited.
- Option B - Conditional land sale: The council could sell the HTH site via a conditional land sale agreement, however the council would have limited control in this option to enable and enforce community access and use.
- Option C - Freehold sale of the site: Sale of the site without retaining any interest would mean the council is unable to secure community access and use as there are no lease mechanisms to enable this. The council was not prepared to pursue an option that did not guarantee community access or provide the council with enough control to ensure that Hornsey Town Hall can support community cohesion and economic dynamism in Crouch End.
- Option D - Dispose of land at the rear and use receipt to refurbish the building: In this scenario it is not expected that the land sale receipt would fully cover all the costs to refurbish and fit out the building for use, the council's on-going liability for running costs and maintenance is not removed and a sustainable operator and future use is not secured for the Town Hall.

6. Background information

6.1 The Council appointed a professional team to advise on and manage the tendering process. The team includes professional advisors GVA and legal advisors Sharpe Pritchard to advise and manage the tendering process to find a preferred bidder for HTH.

6.2 The preparation of all community elements of the tendering documents was done in conjunction with the Hornsey Town Hall Creative Trust who were a part of the evaluation panel for the community use questions. The scope of the tendering process and the key stages are set out below:

Document Preparation

6.3 Following Cabinet approval in June 2015 the project team, comprising both internal and external Procurement, Legal and Property professionals agreed what the key stages of the procurement would be and these are set out in more detail below. The team commenced procurement document preparation in accordance with the Regulations. Compliance at this stage and throughout the process was governed by Haringey's Construction Procurement Group and external lawyers Sharpe Pritchard, who were appointed to act on behalf of the Council.

6.4 The Descriptive Document which is a part of the tender documents and acts as a brochure for bidders was reviewed by Haringey's Communications team and all other procurement documentation was signed off by Haringey's Construction Procurement Group.

- 6.5 In line with the Regulations, as much information as possible would be made available to the market at the point the Public Contract Notice (“PCN”) was released.

Prior Information Notice (PIN)

- 6.6 As the HTH project had evolved over a number of years and different strands of soft market testing had taken place, it was agreed that a PIN would be issued approximately a month in advance of the PCN. The purpose of the PIN was to flag up to potentially interested bidders that the opportunity to secure a long term partner for this project would shortly be released, therefore allowing them to factor this into their pipeline of bids.

- 6.7 The PIN was issued on 14th October 2015 in accordance with the Regulations and therefore potential bidders had an equal opportunity to see the published PIN.

Public Contract Notice (PCN) & Pre-Qualification Questionnaire (PQQ)

- 6.8 The public PCN was issued via the Delta e-sourcing portal on 11th November 2015 in accordance with the Regulations. Potentially interested bidders were able to access the PQQ and supporting documents in the portal via a link and in total 71 organisations accessed the PQQ.
- 6.9 The final deadline for PQQ submission was set as 14th December 2015 and in total nine bidders/consortiums responded to the PQQ. A schedule is included at Appendix B which sets out which organisations submitted a PQQ stage.
- 6.10 The PQQ contained relevant standard PQQ compliance questions which included providing full company registration details, insurance thresholds, criminal backgrounds etc and also a financial check (Dun & Bradstreet). The PQQ questions Appendix C.
- 6.11 Of the nine companies who submitted the PQQ, one company did not meet the financial criteria and therefore was removed from the tendering process on this basis.
- 6.12 In addition to the standard and financial questions, the PQQ contained some more technical questions asking for bidders to set out experience relevant to the HTH opportunity and the team had intended to take five organisations through to the next stage of the tendering process. The PQQs were evaluated independently by an Evaluation Panel consisting of representatives from Haringey’s Property, Legal and Finance teams and external Property and Legal advisers (“Evaluation Panel”). A moderation session was then held and a moderated score for each question was agreed.
- 6.13 Following the moderation the moderator confirmed that six organisations should be taken through to the next stage as the fifth and sixth ranked bidders received very similar overall scores. The scores can be seen in Appendix E which is the exempt Part B of this report.
- 6.14 One of the six bidders withdrew from the tendering process and therefore five bidders continued to ISDS stage.

Invitation to Submit Detailed Solutions (ISDS)

- 6.15** A draft of the ISDS information was available for bidders to review at PCN stage. This information was optimised and finalised throughout the course of the PCN and PQQ stages and the ISDS was issued to selected bidders on 15th January 2016. A series of dialogue meetings and site visits with the selected bidders took place over the following months, during which stage one further bidder withdrew from the process due to other resourcing commitments leaving four bidders in dialogue.
- 6.16** The ISDS evaluation criteria had an overall price/quality weighting of 30/70% (as set out in the Cabinet Report in June 2015); the Council has been very clear with bidders that finding a solution which meets all of the Council's key objectives is the driver for this procurement and therefore a relatively unprecedented low score weighting for price was adopted. The broad questions and weightings were as follows and more detailed questions can be seen in Appendix D:

Evaluation Criteria			Overall weighting
Mandatory Requirements	Yes/No	Community access	Mandatory requirement
Price	30%	Financial offer	18.0%
		Commercial narrative justification / evidence	5.0%
		Overage offer	2.0%
		Securing funding/finance	5.0%
			30%
Quality	70%	Masterplan	5.0%
		Heritage	5.0%
		Sustainability	2.0%
		Method Statement/Delivery Plan	6.0%
		Qualified Team	4.0%
		Planning	5.0%
		Stakeholder Engagement	2.0%
		Business plan	11.0%
		Community Use	21.0%
		Legal	9.0%
			70%

- 6.17** The questions and weightings clearly demonstrate the emphasis placed on community access and use of the town hall with the following minimum criteria being set for the project in this regard and a further question on enhanced community use scoring a possible 21% and therefore being the highest weighted question:
- improvements should be made to the Town Hall Square and open public access and use secured; and
 - an open front door policy should be adopted to ensure public interaction with the building.

- 6.18** As can be seen in the table included in 6.16, a highly weighted question was included on the business plan to ensure the Council's key objective for finding a long-term solution could be met.
- 6.19** A detailed evaluation of the four received bids was carried out in April/May 2016 by the Evaluation Panel (as set out in 6.12) and three bidders/consortiums progressed through to the Final Tender stage.

Invitation to Submit Final Tenders

- 6.20** The team continued to dialogue with the three shortlisted bidders who were invited to submit their final tenders by Friday 22nd July 2016. However during this period of dialogue and final tender preparation it was confirmed that Britain had voted to leave the European Union and this created greater uncertainty for developers on land values, sales values and construction costs and as a result one bidder withdrew from this stage of the process leaving two bidders.
- 6.21** The evaluation criteria remained mostly the same with minor tweaks to provide clarity on some of the more detailed descriptions of information expected to be provided in bidder responses.
- 6.22** The Final Tender submissions were evaluated independently by members of the Evaluation Panel. Moderation meetings were held in August 2016 and the moderated scores for both bidders can be seen in Appendix E which is the exempt Part B of this report. The bidder with the highest score was a Far East International Consortium Ltd and CoPlan Estates Ltd (its delivery partner) (“

Preferred Bidder

- 6.23** The preferred bidder is proposing a mixed-use scheme, which includes residential at the back of the site which remains in line with the existing planning consent, a small element of residential within the back wings of the HTH building although the area of residential units inside the building has decreased from the consented scheme, a boutique hotel which is mostly concentrated in the areas of less historic interest, an arts centre which will allow access and use of most of the areas of significant historic interest and restaurant/cafe provisions at ground floor level.
- 6.24** FEC have yet to secure an operator for the Arts Centre, however they have named ANA Arts Projects Ltd who currently operate an Arts Centre in HTH as their preferred operator. ANA have provided a letter expressing their interest in working with this bidder, they have looked at an initial plan of how the spaces can be used and at announcement of preferred bidder these discussions can become more detailed.
- 6.25** The scores set out in Appendix E (the exempt Part B of this report) show a 15.6% difference in the scores of the two bidders, demonstrating there is a clear preferred bidder. The key areas in which the unsuccessful bidder scored significantly lower than the successful bidder were:
- Financial offer – the unsuccessful bidder had a lower overall financial offer, the financial offer proposed by the preferred bidder is included in Appendix E which is the exempt Part B of this report.
 - Planning – the unsuccessful bidder was proposing an increased scale of residential new build on the site which carried greater planning risk.
 - Legal – the unsuccessful bidder was not providing a guarantor for the on-going operation of the building, therefore there was no guarantee the

town hall would be open to the public or in use at all. The Developer's involvement would cease once works are completed and homes sold, which did not provide any security over the long term viability of the town hall

6.26 The recommended preferred bidder has demonstrated within their final tender proposal that they can meet the project objectives, which are set out as follows:

- Restore Hornsey Town Hall in a way that respects its Grade II* listed building status and safeguards its future by providing financially sustainable spaces fit for purpose – the bidder has included about £27m for HTH development works (net of finance) and has provided a draft cost plan which has been reviewed by our independent Cost Adviser who believes adequate allowances have been made within their cost plan to undertake the essential restoration works to protect the heritage of the building.
- 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 – the bidder is proposing an arts centre will occupy a substantial area within the building including the assembly hall, council chamber and committee rooms and this will not only provide public access but it will encourage the public to use the spaces within the building. Once the town hall opens they will set up a steering group, which will meet regularly to review the arts centre progress and ensure it is meeting the needs of the community. This group will include representation from key local stakeholders including community organisations and ward councillors.
- Remove the Council's ongoing liability for the building – the Council will enter into a lease with the organisation who is operating the hotel in the building and the Council will therefore have assurances through the lease that they will maintain the building and maintain public access. FEC under the Dorsett brand has a proven track record in operating hotels. This includes successfully converting and running the Dorsett Shepherd's Bush Hotel, which sits in a Grade II Listed building. The preferred bidder has used their experience in the preparation of their bid and appears to have included a sufficient allowance within their business plan to cover the likely on-going costs.
- The Town Hall square will be improved by integration into the final scheme, retaining public use – on-going public use of the square is a minimum criteria set out within the procurement document and at no point in this process did a bidder express an interest in restricting public use of the square. The preferred bidder has demonstrated they understand this is a public square, they are proposing to invest a significant amount into improving it and will sign up to legal clauses contained within the Development Agreement and Lease which will ensure on-going public access to the square at all times (excluding when works are taking place).

6.27 The key terms of the Development Agreement include the following:

- Haringey will enter into a Development Agreement with a Special Purpose Vehicle (SPV) formed by Far East Consortium International Limited and the obligations for the SPV under the Development Agreement will be guaranteed by Far East Consortium International Limited.
- The long leases terms will be 125 years each for all parts of the site and will be full repairing, obligating the tenant to put and keep the property in good and substantial repair and decoration.
- The minimum premium to be paid to the Council for the site will be that which is set out in Appendix E the exempt Part B of this report.
- There will be a mixed-use scheme implemented on site which will include community activities, a boutique hotel and residential accommodation.
- The key special provisions of the Development Agreement will include:
 - Improvements to the Town Hall Square and open public access and use
 - An open front door policy to the town hall to ensure public interaction with the building

6.28 The preferred bidder does not include workspaces as a part of their scheme for HTH, therefore the Council is actively looking for alternative locations for those currently hiring space in the building. There may be an opportunity to look at how some of the underutilised space in Hornsey Library could be used for this purpose and the Council has already been approached by a local organisation interested in operating workspaces in the library.

Programme

6.29 The programme for the next steps at HTH is dependent on several factors including finalising the contract, obtaining necessary planning amendments and refurbishment/construction progress. The Council intends to exchange contracts with the preferred bidder by early 2017, which should enable works on site to start as early as Autumn 2017. Works on site are expected to last about three years, therefore the doors of the newly refurbished town hall building could be open by 2020.

Costs/ Budget

6.30 In June 2015 Cabinet approved a total budget of £1.48m for the project, which has been sufficient to this point and is likely to cover the future costs until practical completion of the works on site.

7. Contribution to strategic outcomes

- 7.1** The regeneration of the Hornsey Town Hall complex site is set within the context of the Council's Corporate Plan 2015-2018: Building a Stronger Haringey Together. Proposals for the redevelopment and future use of the Hornsey Town Hall site have been assessed in the context of the Corporate Plan to ensure such proposals address the Council's priorities.
- 7.2** The Hornsey Town Hall project has the potential to play a key role in the council delivering its Corporate Plan priorities, particularly priority 4 (Drive growth and employment) and priority 5 (Create homes and communities).
- 7.3** In relation to priority 4, the project can drive growth and employment through any end use of the building with the potential to create jobs both through the redevelopment of the site but also via any long term commercial use for the building.
- 7.4** In relation to priority 5, the existing planning consent and the preferred bidder's proposals include provision for new residential development on the site which will create new desirable homes and via preservation of the heritage and by providing a long-term sustainable operation of the building this will ensure the proposals support the local area and community.
- 7.5** The wider strategic context of Hornsey Town Hall being listed on English Heritage's Buildings at Risk register also highlights a broader strategic context and driver for the project.

8. Statutory Officers comments

8.1 Comments of the Chief Finance Officer and financial implications

- 8.1.1** Hornsey Town Hall is recognised as a valuable surplus asset, however the holding and security costs are a drain on Council resources. Savings in these costs following expected disposal of this property were not included in the 2015 to 2018 medium term financial strategy but will be considered for future budget savings within the context of the whole of the Corporate Property budget.
- 8.1.2** The procurement detailed in this report describes a tendered process designed to achieve the required best consideration taking into account the desired community and regeneration outcomes.
- 8.1.3** The total remaining cost of this project is expected to be in the region of £750k. This will be funded from the capital budget for Hornsey Town Hall. The capital receipt resulting from the disposal will be used by the Council to finance approved capital projects.

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

8.2.1 The competitive dialogue process has been carried out in accordance with the Regulations. Members should note the terms on which the disposal will take place including the condition precedents that would need to be satisfied.

8.2.2 The Hornsey Town Hall Site has been appropriated for planning purposes and as a result the Council must dispose in accordance with section 233 of the Town and Country Planning Act 1990. The Council must secure the best use of that land; or secure the construction of any building, which is necessary for the proper planning of the area; and obtain best consideration. Best consideration means obtaining the highest amount of money that can be obtained on the open market. If best consideration is not being achieved then the consent of the secretary of state is required.

8.2.3 If the site includes any open space the Council must advertise its intention to dispose for two consecutive weeks in a newspaper circulating in the area and consider any objections to the proposed disposal.

8.2.4 Where the Council is contracting with any foreign registered companies the Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009 (SI 2009/1917) must be complied with and the necessary due diligence must be carried to safeguard the Council's position.

8.2.5 This is a key decision and the Service has confirmed it is on the Forward Plan.

8.2.6 The Assistant Director confirms there are no legal reasons preventing Members from approving the recommendations in the report.

8.3 Equalities and Community Cohesion Comments

8.3.1 This procurement process has set public access to the town hall and town hall square as a minimum requirement for the preferred bidder. This has been set out clearly within the tender questions, which can be seen in section 6.16 and 6.17 of this report.

8.3.2 In addition to this, to encourage bidders to provide community activities in the town hall a further question was included to understand their proposal for how the public can interact with the building. As can be seen in section 6.16 of this report this question on community use could score 21% of the overall marks and therefore was the highest weighted evaluation criteria for the bidders to respond to.

8.3.3 The Council has been working with local group the Hornsey Town Hall Creative Trust to try to secure a future for HTH for over 10 years. The relationship with local the Trust during this procurement process is set out in section 6.2, confirming their involvement in this process to further encourage community use of the building.

8.3.4 The preferred bidder will be committing through legal agreements to on-going community access to the town hall and public access at all times to the town hall square, which reinforces that the objectives around community access set out within the Cabinet report from June 2015 will be met by the preferred bidder (see section 6.26 of this report).

8.3.5 The current building has limited disabled access, therefore in order for the building to be used for the prescribed uses it is likely that access will be improved. The access requirements will be managed through either existing or future planning consents for the development of the site.

8.3.6 The building is currently occupied, although this has been clearly agreed as interim use. The users will need to relocate either for the duration of the works or for the longer term and the Council will support them by advising on alternative Council owned properties which may be available. The Council is also working with the preferred bidder to ensure the current uses, particularly the community based activities can continue for as long as possible before works commence in the Town Hall.

8.4 Head of Procurement Comments

8.4.1 A number of experienced external advisors were engaged to lead and support the HTH procurement. Legal advisers Sharpe Pritchard provided advice and guidance in ensuring the process complied with public procurement regulations. Sharpe Pritchard also undertook the role of Moderator during the evaluation stages.

8.4.2 Corporate Procurement (construction team) was heavily involved in preparing the initial tender documentation and continued to provide a monitoring role throughout the procurement. The monitoring role ensured the process was conducted fairly and in accordance with procurement regulations.

8.4.3 The Head of Procurement has been engaged throughout the procurement, undertaking a quality assurance role, ensuring due process was followed and moderation sessions were conducted in a fair and transparent manner. The Head of Procurement is satisfied the procurement has been undertaken in accordance with the Procurement Regulations and has no concerns with the outcome of the procurement process.

8.4.4 Head of Procurement therefore supports the recommendation of this report to appoint FEC as the preferred bidder for HTH.

9. Use of Appendices

Appendix A – Site Plan

Appendix B – List of companies who submitted a PQQ

Appendix C – PQQ Questions

Appendix D – ISDS Questions

10. Local Government (Access to Information) Act 1985

Appendix E - Part B: Exempt report

This page is intentionally left blank

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

This page is intentionally left blank

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

This page is intentionally left blank

By virtue of paragraph(s) 3, 5 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is exempt

This page is intentionally left blank