

## **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.