

MINUTES of the meeting of Overview and Scrutiny Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday 13 April 2012 at 10.00 am

Present: Councillor A Seldon (Chairman)
Councillor JW Millar (Vice Chairman)

Councillors: AM Atkinson, PL Bettington, WLS Bowen, MJK Cooper, DW Greenow, EPJ Harvey, JW Hope MBE, MAF Hubbard, TM James, Brig P Jones CBE, JLV Kenyon, R Preece, SJ Robertson, P Rone and PJ Watts

In attendance: Councillors: PJ Edwards, J Hardwick, AJ Hempton-Smith, JG Jarvis (Leader of the Council), MD Lloyd-Hayes, RI Matthews, RJ Phillips (Cabinet Member - Enterprise & Culture) and PD Price (Cabinet Member – Corporate Services & Education).

Also in attendance: Mr J Bretherton (Hereford Futures Ltd), Mr Harris (Montagu Evans), Mr K Khangura and Ms J Robinson (Pinsent Mason LLP).

Officers in attendance: Mr G Hughes (Director for Places and Communities), Mr D Taylor (Deputy Chief Executive & Director of Corporate Services), Mr D Powell (Chief Officer Finance and Commercial), Mr C Chapman (Assistant Director Law, Governance and Resilience), Mr P James & Mr D Penrose (Democratic Services Officers).

96. APOLOGIES FOR ABSENCE

Apologies were received from Councillor PG Cutter; Councillor RC Hunt; Mr P Burbidge and Miss E Lowenstein.

97. NAMED SUBSTITUTES

Councillor Greenow substituted for Councillor Cutter and Councillor Hope substituted for Councillor Hunt.

98. DECLARATIONS OF INTEREST

9. Urgent Agenda Item - Call-in of the Cabinet Decision Concerning the Supplementary Agreement and Deed of Variation to the Retail Quarter (Old Livestock Market) Development Agreement.

Councillor JG Jarvis, Personal, Director, Hereford Futures.

9. Urgent Agenda Item - Call-in of the Cabinet Decision Concerning the Supplementary Agreement and Deed of Variation to the Retail Quarter (Old Livestock Market) Development Agreement.

Councillor PD Price, Prejudicial, Decision maker.

99. MINUTES

It was noted that a number of amendments were to be proposed, therefore the Chairman suggested that the minutes of 5 March and 19 March be deferred to a future meeting.

RESOLVED: That consideration of the minutes of 5 March and 19 March 2012 be deferred to a future meeting.

100. SUGGESTIONS FROM MEMBERS OF THE PUBLIC ON ISSUES FOR FUTURE SCRUTINY

The Committee received a number of suggestions for future scrutiny from the public.

The full suggestions were circulated at the meeting. The following summarises the written suggestions:

1. Mrs B Ferris – Surveys and research undertaken by the Council – how research is commissioned, conducted, and appraised. And used.
2. Mrs E Morawiecka – LTP3 and the Link Road. How Cabinet anticipates making a decision on a compulsory purchase order for the 'Link Road' on 14 June 2012 when the new Local Transport Plan (LTP3) is not due to be considered by Council until July 2012.
3. Mrs E Morawiecka – Concern over the ever expanding remit of Hereford Futures. When will the company provide a formal report to Council and make its accounts available?
4. Mrs E Morawiecka – the role of organisations which are promoting via the Herefordshire Council Parish Liaison Officer, the Living Villages and Herefordshire 20/20 events.
5. Mrs E Morawiecka – the role of the Parish Liaison Officer and whether it should be allowed to promote political events.

The Chairman thanked Mrs Ferris and Mrs Morawiecka for their suggestions which would be considered when the Committee considered its work programme.

101. QUESTIONS FROM THE PUBLIC

The Committee received a number of questions which specifically related to the urgent item - Call-in of the Cabinet Decision Concerning the Supplementary Agreement and Deed of Variation to the Retail Quarter (Old Livestock Market) Development Agreement. The full questions and responses currently available were circulated at the meeting. Written responses would be forwarded to the members and contributors. A copy is appended to these minutes.

The Chairman thanked the contributors for submitting their questions.

Questions and responses currently available were circulated at the meeting

102. TASK & FINISH REVIEW - PLANNING SYSTEM REVIEW - DEVELOPMENT CONTROL AND THE OPERATION OF THE CONSTITUTION

The Committee were invited to consider the findings arising from the Task & Finish Group – 'Planning System Review- Development Control and the Operation of the Constitution' and to recommend the report to the Executive for consideration.

RESOLVED: That consideration of the report be deferred to the meeting on 23 April 2012.

103. WORK PROGRAMME

The Committee were invited to consider its work programme.

RESOLVED: That consideration be deferred.

104. URGENT AGENDA ITEM - CALL-IN OF THE CABINET DECISION CONCERNING THE SUPPLEMENTARY AGREEMENT AND DEED OF VARIATION TO THE RETAIL QUARTER (OLD LIVESTOCK MARKET) DEVELOPMENT AGREEMENT (Pages 1 - 8)

The Chairman considered that for reasons of special circumstances set out below, this item should be considered at the meeting as a matter of urgency.

He stated that there was some urgency to decide whether to complete the deed of variation to enable the scheme to proceed. The urgency arises because the parties are close to finalising the deal, are in a position to make the necessary commitment in an uncertain financial climate and need to resolve matters now in order that work may start and completion targets for construction be met.

The Committee reviewed decisions 2012.CAB.045 KEY EXEMPT and 2012.CAB.046 KEY OPEN made by Cabinet on the 5th April 2012.

Councillor JG Jarvis declared a personal interest as a Director of Hereford Futures.
Councillor PD Price declared a prejudicial interest as a decision maker.

The Chairman commented that some information before the Committee was commercially sensitive and therefore part of the meeting would be held in exempt (closed) session and explained the rationale for this decision. He also explained the role of the Committee in considering the call-in. He further commented that members of the public had submitted questions before the meeting and answers in writing would be made available as soon as possible. Questions and responses currently available were circulated at the meeting. A copy is appended to these minutes.

The Chairman called upon Councillors: TM James; JVL Kenyon and R Preece to outline their reasons for the call-in.

Councillor TM James voiced concerns that the development had not been fully thought through, particularly in light of the changed financial climate. He suggested that very little benefit would be derived from the multi-million pound asset and didn't believe that the expected facilities in the development would be delivered as there was still no formal commitment from the developer. He also expressed concerns that the opportunity hadn't been taken to explore other means of attracting the various facilities and suggested the tendering process had missed an opportunity to get value for money. Much had already been spent on the development and he questioned the future costs, suggesting that the Council could have developed the site itself at less cost.

Councillor JVL Kenyon sought assurances about the whole development as these variations took the development a step further away from the original agreement. He also expressed concern that misinformation was dressing up the situation. He questioned whether there would be a cinema as Cabinet had said that this was only 95% certain. He was concerned about the possibility of more empty shops in High Town as the variations would poach more retail outlets from the city centre. He briefly reiterated the call-in reasons detailed in the agenda report.

Councillor R Preece expressed concerns about: the adequacy of the risk assessment; the level of consultation, particularly with the local ward member; the business viability of High Town, and questioned whether value for money was being derived for the council tax payer.

Replying to the nine specific issues raised by the call-in the Director for Places and Communities responded:

1. Undue haste of decision. Only 19 days from publication of Forward Plan to date of decision yet decision will impact for 250 years.

Response: The publication of the decision in the Forward Plan is entirely in accordance with the Constitution which requires all key decisions (not subject to urgency) to be listed in a published Forward Plan for five clear days. The Forward Plan for the period beginning 1st April, which contained the listing for this item, was published on the appropriate date in March in accordance with the requirements of the constitution.

It is important to note that this decision deals with six variations to an existing agreement entered into in 2009 and varied in 2011.

2. Lack of consultation with Ward Member before proposal was put forward for decision.

Response: The scheme itself, while having a physical presence in one ward, has county wide impact; the Central Ward member attended a local member briefing on the matter on Wednesday 28th March. The Ward member has also been party to regular briefings over recent years in respect of the proposals and has been offered access to additional exempt information. The ward member also had the opportunity to make his views known at the Cabinet meeting to inform their decision-making.

3. Lack of comprehensive risk assessment for the effect of decision.

Response: An overview of the risk assessment was provided as Appendix 2 of the exempt report. This drew on a range of independent technical assessments and advice from the Hereford Futures team delivering the programme on our behalf. The decision sought is for the broad terms of the variations; the decision on the detail of each element is delegated to the relevant officer who will of course take into account all advice and information and complete all necessary assessments in line with this decision and the council's own principles of delegation.

4. No examination of the impact of the decision on the economic viability of High Town

Response: Officers have examined the likely impact of the variations on the economic viability of High Town, and in doing so have taken independent advice; this examination is reflected in the risk assessment within Appendix 2 of the exempt report.

Previous assessments were carried out on an open market basis; any protections offered by a Lettings & Displacement Strategy would provide additional protection.

5. The dismantling of fundamental protection put in place at the request of previous Scrutiny and Council meetings.

Response: No 'fundamental' protections have been dismantled.

6. Serious concerns about the value for money of this decision for local tax payers.

Response: Appendix 1 provides assurance on this matter. The council's appointed auditors (Audit Commission) are required to assess whether the council has proper arrangements in place to secure economy, efficiency and effectiveness. This is known as the value for money conclusion. On 30th September 2011 it gave an unqualified opinion on the council's arrangements to secure value for money.

7. Lack of parity between the retail scheme with operating restrictions originally consulted upon in the scheme that have now gone forward.

Response: There are of course differences between the original agreement and the current proposals hence the need for a decision.

However, it is the considered view of officers in making the recommendations that the variations do not adversely affect the overall outcomes of the development scheme.

8. Doubts about the veracity of commercially confidential status given to the Exempt Report under the provisions of the Local Government Act.

Response: In accordance with the constitution (and the Local Government Act) some papers and some elements of the meeting were exempt from publication.

9. Inaccuracy of retail study figures quoted to Cabinet when making the decision

Response: No incorrect information was provided to Cabinet on this matter; issues covered during political debate did refer to potential 'leakage' and clarification can be provided on detail if required.

Noting that certain exempt information had been published in the local press the Chairman emphasised that to safeguard the Council from any possible legal action in the future, the latter parts of the debate would need to be in exempt (private) session.

Responding to comments about the Council's long term policy to revitalise the City; the cost to the Council, and ensuring value for money, the Cabinet Member (Enterprise and Culture) commented that this development was part of the Council's long term policy with investment already being made in High Town and Widemarsh Street; rather than a one-off capital receipt through a sale of the site, the development would generate approximately £2.5 million per annum in long-term revenue to support the council tax and provide wider benefits through jobs and attractive facilities. If development were delayed, a new procurement process could take 4 years, and this opportunity could be lost.

Questions and clarification was sought over the potential for the new site to 'poach' businesses from the High Town area and the ability to exclude current city centre retailers from moving to the new retail quarter. An adverse lettings policy at a Wrexham development was referred to. Mr Bretherton responded that he was familiar with the Wrexham development, however, the Council was in an unusual position of owning the freehold to the Cattle Market site and had put in place legal controls without having to rely only on its own planning controls. The variations would mean that at least 25 named stores currently trading in the city centre would not be able to relocate into the new development.

Various letting scenarios were illustrated as to how businesses could possibly get around the lettings policy and assurances were sought that this would not be the case. It was also questioned as to how the Council would react if a major retailer threatened to leave the city. In response, Mr Bretherton confirmed that the policy only related to the first letting of a unit, subsequent letting was not covered under the policy, however, the agreement did require Stanhope to enter into leases for units of ten years or more unless the developer could show a compelling reason why it should be less. Whilst the Policy wasn't water tight it was better than many other agreements of this nature. Lettings would ultimately be approved by the Council and would, therefore, be monitored. The

funding partner for the developer would be keen to examine the financial situation of potential tenants.

In reply to a question, Mr Bretherton said that there were no guarantees that a company would not go into administration after taking out a lease. As the funder was paying £90m for the investment, they would use all due diligence in ensuring that they exercised their fiduciary duty to their shareholders when letting units.

It was confirmed that one of the variations would allow trading to take place on some parts of the site prior to practical completion of phase 1. The Leader clarified that the department store and food store, for example, may be granted licences before completion. On completion of the site the licence would be converted into a lease. He anticipated the licences would only be for a matter of weeks or perhaps up to 3 months. Mr Bretherton could not give an assurance that the cinema would be completed first. The granting of licences, mentioned by the Leader, was normal operating practice as it allowed for businesses to undertake shop fitting etc.

In reply to a question, the Leader said that Cabinet had been provided with a report on the procurement law issues pertinent to the variations.

Questions were asked regarding the catchment area, particularly retail leakage, and the statistics quoted in this and other reports e.g. the LDF and on the Councils web site, as there seemed to be a number of inconsistencies for example the figure of 75% had been used at Cabinet. The Cabinet Member (Enterprise and Culture) commented that there was a difference between convenience goods and comparison goods. There was evidence that people weren't choosing Hereford as their first choice to shop. The catchment covered the County and extended into surrounding counties and into mid Wales. The Committee expressed reservations concerning the soundness of this evidence base.

Reference was made to a Deloitte report which suggested that around 40% of high street shops may be expected to close. It was questioned whether now was the best time to undertake this development. In response Mr Harris, Montagu Evans, confirmed that nationally some big high street names were closing stores. The Retail Quarter Development showed a long term commitment to the development of the City and therefore provided good reasons for large retailers to stay in High Town.

It was asserted that Appendix 2 (Summary of the Impact/Risks of Variations) did not constitute a proper assessment. The Cabinet Member (Enterprise and Culture) responded that Cabinet had been comfortable that appendix 2 had clearly indicated the risks. To give more information may adversely affect city centre landlord/tenant relations.

In response to whether any equality or diversity assessment had been undertaken the Leader commented that these assessments would have been dealt with at the planning application stage.

In reply to a Member's question, Mr Harris, Montagu Evans, said that the achievement criteria for pre-letting was a signed agreement to lease a unit. Further questioned on what was the percentage of pre-lets for the scheme, and what proportion of the total retail value this represented, Mr Harris said that the variation required Stanhope to achieve 50% pre-lets by area (unchanged from the earlier agreement) and 40% by value (changed from 50%). This was to reflect the fact that pre-lets were being prioritised as a condition of the Development Agreement in respect of lower value but economically important units such as the cinema.

Questioned whether the variations were value for money, the Chief Officer Finance & Commercial responded that as the Council's Section 151 Officer he had given careful consideration to them, principally on behalf of the council tax payer, but had also considered the wider view as not all the variations had a financial aspect and he concluded that the impact flowing from the variations had been minimal.

It was pointed out that independent shops were a minority group and it should not be forgotten that they wanted business security for the future.

The Committee adjourned at 12.02pm for a 13 minute break.

The two week difference between practical and final completion was standard practice and allowed for documents to be legally bound but this could be reduced at no risk to the Council.

Clarification was sought concerning the terms of the car parking lease, which was an option contained in the 'option agreement' for Phase 2 of the development. Mr Bretherton outlined the terms and timescales of the possible lease arrangements for the car park site. These are set out in paragraph 7.4 of Appendix 3.

Clarifying how the value of the car park site would be established it was reported that if mutual agreement wasn't reached then a valuation undertaken by a Chartered Surveyor using the open market value would be provided as this would take into account its potential value rather than only the value for any current use thereby protecting the Council's interest.

Questioned whether the Cabinet decision was flawed or open to challenge, due to the Section 151 Officer, the Monitoring Officer and the Director for Places and Communities not being present on the 5 April, the Monitoring Officer responded that the final decision would be made at Cabinet on 16 April 2012.

Responding to questions concerning the current valuation of the cattle market site the Chief Officer Finance & Commercial reported that the current accounts indicated the site valued as a cattle market, however, future accounts would reflect the change and this was in accordance with the Royal Institute of Chartered Surveyors (RICS)/District Audit accountancy principles.

Further questions were asked regarding the recoupment of resources to reserves following the sale of the cattle market site. With current reserves being at a low level and with surpluses being set aside to mitigate expenditure in adult social care, the Section 151 Officer was asked whether he was content with this situation. The Section 151 Officer responded that the Council's accounts were different from those in 2009 and acknowledged that reserves were currently at their minimum level and, while not ideal, the situation was being managed. The Medium Term Financial Strategy assumed that £5m would be returned to reserves. Recent changes to the Business rates would provide an extra income stream that hadn't been previously been factored in.

RESOLVED: that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting on the grounds that it involved the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

1 Information relating to any individual.

3 Information relating to the financial or business affairs of any particular person (including the authority holding that information).

- 5 information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.**

Summary of proceedings for Agenda Item 9 – Urgent Agenda Item Call-in of Cabinet Decision Concerning the Supplementary Agreement and Deed of Variation to the Retail Quarter (Old Livestock Market) Development Agreement.

The Committee considered the exempt report entitled 'Call-in of Cabinet Decision Concerning the Supplementary Agreement and Deed of Variation to the Retail Quarter (Old Livestock Market) Development Agreement. In particular they questioned or sought clarification on issues relating to: the protection of the Council's interests; the procurement process, and the Lettings and Displacement Strategy

RESOLVED: That the Committee resume in open session.

A Member asked whether the variations affected the rental value of the Department Store, the cinema and the food store. Mr Harris replied that pre letting percentage by area was not affected by the variations, and that the three units together comprised 43% of the rental space, and 25% of the total rental income. The pre-let target was 50% by area, whereas over 60% had in fact been agreed (Heads of Terms). The variations had no impact on rental values

RESOLVED That Cabinet should ensure that:

- a) the procurement processes that have been undertaken are robust, and are content that appropriate steps have been taken to safeguard the Council's position under the EU procurement rules.**
- b) Cabinet be satisfied that a comprehensive risk assessment which identifies mitigation measures has been undertaken.**
- c) an economic risk assessment, including financial impact statement on the viability of High Town and the surrounding streets, be undertaken before these Variations are approved in order to ensure that there should be no disproportionate effect on the independent trading sector.**
- d) there has been a complete and robust Equality Impact assessment undertaken.**
- e) further due diligence be shown to have been undertaken in demonstrating that value for money will be derived from the Variations.**

The meeting ended at 2.00 pm

CHAIRMAN

Overview & Scrutiny Committee

13 April 2012

The attached questions or comments have been received from members of the public in relation to the urgent agenda item 'Call-in of Cabinet decision concerning the supplementary agreement and deed of variation to the retail quarter (Old livestock Market) development agreement'.

Dear Coun. Seldon,

When the Scrutiny Committee examines the Cabinet's acceptance last Thursday of the Supplementary Agreement with Stanhope et al for the retail quarter of ESG it would be beneficial to the county and its Council tax payers if the following information could be obtained or extracted.

1) The situation has changed a great deal from when the original agreement was signed. What was the value of the site the Council was leasing to Stanhopes then and what is the estimated value now?

This is not relevant to the call in; however you may wish to refer to the council's published accounts which provide book valuations of our property holdings.

2) How much money has the Council contributed to the project to date in terms of land value, flood protection, administration costs of Hereford Futures, legal and other advice etc.?

This is not relevant to the call in; we will provide the information to the questioner in due course.

3) How much future finance is the Council committed to under the agreement. It is known that they are now having to find £27million to pay for the Link Road which was not the original intention. What other commitments are there? Have the risks to the Council been properly analysed?

The supplementary agreement does not commit the council to any future finance. The variations do not alter the council's commitments. The risks have been properly analysed.

4) When the project was originally launched and the agreement entered into with Stanhopes there was presumably a forecast return to the Council over the period of the lease. What was that return and what is the anticipated return now in the changed economic circumstances and due to changes in the agreement that appear to have had to be made to allow it to progress.; ie is it still value for money?

There is no change to the return; the variations have an impact on projected revenue income as set out in the report to Cabinet. Appendix 1 of the report to Cabinet confirms the agreement incorporating the proposed variations represents value for money.

I believe the people of Herefordshire do wish to see many of the improvements that the project could bring but not at any cost either in financial terms or in ruining the historic core. There are deep suspicions that with recent agreement changes (such as the Link Road), the atmosphere of secrecy which has grown around ESG, the whole future of retailing and the present economic situation that the scheme is not really viable and is being kept on life support at the expense of the ratepayers.

I hope your committee can help to shed light on this situation.

Yours sincerely,

John Faulkner

Sir

The Council's decision to allow the Stanhope development of a new Retail Quarter has always been justified by the belief that such a scheme would 'arrest the Retail Drift' from Hereford. That is, by providing a tranche of new retail outlets, shoppers would be dissuaded from taking their custom elsewhere to the larger centres of, say, Birmingham, Bristol, and Cardiff.

Can I ask what evidence has been produced to verify the Council's claim that (following the completion of the Stanhope scheme), 10% more shoppers would visit Hereford?

This is not relevant to the call in, however you may wish to be aware that a number of retail studies are available on the council's website.

Further, if such a claim can be proven, why has this Council made no provision for a substantial improvement in local transport infrastructure which would enable such an influx of shoppers to move freely in and out of the city?!

This is not relevant to the call-in, however you may wish to be aware that these matters were dealt with fully at the time planning consent was obtained.

Finally, the Council have sold the idea of the new Retail Quarter to the Hereford public on the basis that there would be a seamless transition between the new retail provision and the historic city core. If the Council persist with the Stanhope scheme, can we have some assurance that the Hamilton-Baillie scheme for a down-grading of Newmarket/Blueschool Street will be implemented?

This is not relevant to the call-in, however you may wish to be aware that these matters are addressed as conditions to the planning consent.

Yours faithfully,

STEPHEN KNIGHT Daisy Properties LLP

Dear Sir

I understand that any questions I have should be submitted to this email address prior to the 10th April 2012 to this end I set out those questions below and trust they will receive due consideration together with a full answer

1. The leader of the Council and Councillor Phillips together with the CEO of Hereford Futures at the Council Cabinet meeting on the 5th April made reference to 2no Pre-lets on this proposed retail scheme – Waitrose and Debenhams. Would you please confirm that both Waitrose PLC and Debenhams have signed in ink a "Heads Of Terms" Agreement supporting an "agreement to lease and lease" that will enable the scheme to proceed?

Stanhope have confirmed that both Waitrose and Debenhams are amongst those potential tenants who have signed Heads of Terms.

2. At the Cabinet Meeting on the 5th April 2012 The leader of the council specifically set out in his remarks that this retail development scheme would result in an extra spend of approximately £8.5 million per annum, where is the evidence that supports this statement? (this claim was also published in his letter in the Hereford Times of the 5th April.)

This is not relevant to the call-in. However, it appears there may be an arithmetical error in the question. The Leader quoted an expected increase of £165,000/day (equating to

some £60.2m/annum). These projections are drawn from a number of retail studies; some of these studies are public documents and available on the council's website.

3. This retail scheme has undergone a no of variations over the period since 2008 both to its size/design and to its specific contractual terms to reflect the economic circumstances . Will the council now publish and release the data , analysis and conclusions in the Economic Risk Assessment Report , that persuades the cabinet of the council to proceed with this latest revised scheme despite the legitimate concern that is raised regarding the continued viability of the existing retail hub centred on High Town?

Matters of risk are covered in the exempt report to Cabinet.

4. Would the Overview and Scrutiny Committee give consideration to making appropriate recommendations that for the future it may be inadvisable for our Council to enter in to" partnerships" with commercial organisations such as property development companies in so much as it is a function of the Council to ensure that it does not become or even perceived to be too closely associated with those with those that in reality it should simply have a commercial relationship with and that the use of such terms simply leads to a "clouding" of this relationship?

The Committee will consider your suggestion.

I trust that these are submitted in the correct manner and that they will receive consideration

Yours faithfully

Alistair McHarg

Dear Cllr Seldon,

I am setting out below (para 2) two questions which, as Chairman of the Council's Overview & Scrutiny Committee, you may be able to have answered for me.

Preamble: Due to the continuing global financial uncertainty, 2012 hardly seems a propitious moment to embark on a major city centre retail development, even one which has been scaled back by almost 50% in terms of lettable floor space. The only major city centre scheme in England that I know of which is currently underway, is Land Securities' Trinity development in central Leeds, due to open next year.

Question: Given the enormous potential value of the Council-owned land which formerly housed the city's livestock market, would it not be prudent, and in the best interests of Herefordshire taxpayers, if any decision to proceed with the arrangement with British Land and Stanhope plc (as approved by the Cabinet at its meeting on 5 April 2012) was postponed? And if the agreement was 'put on hold', is it possible to say what financial penalties might be incurred by the Council and / or Hereford Futures?

This is not relevant to the call-in; if the variations are not agreed the existing agreement stands.

Yours sincerely,

Nicholas Jones

Questions on Variations on Agreement with Stanhope plc regarding ESG site development.

Question 1.

In answer to a member's question (no.3 to full council November 2011) full council were informed that the total cost of the new livestock market to that date, was £9.924million and these costs were incurred purely to release the old livestock market site off Edgar Street for retail development. The last part of the question (part 3.8) was "will there be enough funds from the sale of the old market to cover all these costs or will the rate payers of the County be subsidising the market forever?" The written answer provided by Herefordshire Council stated that "A capital receipt is expected from the development; the actual sum cannot be confirmed at this stage, the amount received will replenish the capital receipts reserve funding used".

I would appreciate it if you would please confirm that the latest deal discussed with Stanhope/Hereford Futures Ltd will deliver value for money for the local taxpayer and ensure that the costs incurred or proposed to be incurred in respect of the ESG development are not at the taxpayers expense.

Appendix 1 provides assurance on this matter. The council's appointed auditors (Audit Commission) are required to assess whether the council has proper arrangements in place to secure economy, efficiency and effectiveness. This is known as the value for money conclusion. On 30th September 2011 it gave an unqualified opinion on the council's arrangements to secure value for money.

I would appreciate it if you would please confirm that the deal currently being discussed with Stanhope/Hereford Futures Ltd will deliver value for money for the local taxpayer and ensure that the costs incurred or proposed to be incurred in respect of the ESG development are not at the taxpayers expense.

Please therefore confirm that the local taxpayer will receive minimum capital receipts :-

- 1.1. To cover the full development value of this prime City centre location;
- 1.2. To cover the cost to local tax payers of the flood alleviation works to improve the development opportunities of the city centre location;
- 1.3. To cover the cost to local taxpayers of relocating the livestock market to its new location
- 1.4. To cover the cost to local taxpayers of access roads to development sites within the Edgar Street grid, such as the proposed Link road.
- 1.5. To cover the costs of external consultants such as Montague Evans, solicitors Pinsent Masons and the costs to date and ongoing of funding the private limited company Hereford Futures Ltd.
- 1.6 Can you confirm the actual amount of capital receipts due under the new agreement, their timing and whether this is an improvement on the returns due on the original agreement?

These 6 questions are not relevant to the call in; there is no change to the return as a result of these variations.

Question 2

The S151 Responsible officer, Mr David Powell was not available at the Cabinet meeting. This meant that councillors could not have a response from him that the revised deal would result in an improvement in value for money for the local taxpayer. Will the responsible officer be in attendance at the Overview and Scrutiny meeting?

Yes

Will the officer concerned confirm that the revised terms are an improvement in the value to local taxpayers on the sale of this site?

Appendix 1 provides assurance on this matter. The council's appointed auditors (Audit Commission) are required to assess whether the council has proper arrangements in place to secure economy, efficiency and effectiveness. This is known as the value for money conclusion. On 30th September 2011 it gave an unqualified opinion on the council's arrangements to secure value for money.

Question 3.

The Cabinet recommendation voted through stated in (c) "that authority be delegated to the Director for Places and Communities to finalise the necessary documentation". Surely, for the Director to assume such a heavy responsibility he should be available to hear the full debate of all councillors and answer any questions relevant to this task. Why was the Director not present and how can he assume such authority having been absent from the debate? Was this also legal?

The Director was on pre-booked annual leave and was represented at the meeting of Cabinet by an Assistant Director. This is entirely proper.

Question 4

Inaccurate answers were provided to my questions to the Overview and scrutiny meeting of 16th January 2012. Please see below the discrepancies between the answers and the historic information given to councillors.

a).The figure of 50% of traffic reduced on the inner ring road (Blueschool Street and Newmarket Street) is not in accordance with the officers report to the planning application for this road to the committee on 30th March 2010. In that report they state (para 6.23 page 25):-In summary, the benefits of the link road for Newmarket Street and Blueschool Street are relatively small when considered in isolation in the opening year but alongside other measures and particularly at the 2026 year, it is estimated that traffic will be reduced by around 50% on Newmarket Street and 35% on Blueschool Street."

The other measures referred to in the officers' report are a wide range of sustainable transport measures and a park and ride scheme to the north and south of the City. With the recent government cuts there is no longer any funding for park and rides schemes in Hereford. Unfortunately as there is no up to date Local Transport Plan I am uncertain as to there being any other sustainable local transport proposals that will deliver the proposed reduction in traffic volumes predicted in that report.

The full report to the planning committee can be seen at <http://councillors.herefordshire.gov.uk/documents/s21747/DMCE092576F%20-%20EDGAR%20STREET%20to%20Commercial%20Road,%20Including%20Barrs%20Court%20Rd,%20Blackfriars%20St,%20CANAL%20ROAD,%20NEWTOWN%20ROAD,%20HEREFORD.pdf>

In this report you will remember that over 10,000 people objected in the form of a petition and a further 83 letters of objection were received. If the plans were approved on the basis of other supporting transport measures which no longer exist either in reality or in future plans, then you need to carefully consider whether £27million for a road which provides "relatively small" benefits is the best use of our taxpayers money. Also, please remember that the original subsidy from Advantage West Midlands to build this "link road" was not secured and is no longer available.

b). Ref the creation of 1,400 new jobs I am uncertain as to where you obtained this figure as the planning application states on page 28 para 6.40

It is also estimated that the new retail area will directly or indirectly deliver around 800 new jobs and the road through achieving better connectivity between the existing and new retail area will assist in this outcome.

This figure of 800 jobs is 42% lower than the figure you provided and in view of the latest retail statistics this week, it is now looking unlikely that the ESG project will actually deliver this lower number of jobs in the current economic climate.

4.1 Could you please tell us where the figure of 1,100 – 1,400 new jobs created by the ESG development comes from?

This is not relevant to the call-in; however the questioner appears to be drawing information from different reports: on the link road with those in respect of the Old Livestock Market development.

4.2 As there is no funding in place to support key components of the current Local Transport Plan and "the benefits of the link road for Newmarket Street and Blueschool Street are relatively small" could you please explain how connectivity will be achieved with the existing city centre?

This is not relevant to the call-in; the proposals within the Local Transport Plan will be progressed as funding is secured.

Question 5

During the Cabinet debate and elsewhere, a number of statistics to support the Council's reasons for agreeing the revised terms were used.

5.1. Where does the figure of new businesses on ESG paying business rates of £2.5m come from and how is it calculated?

Montagu Evans has supplied the estimated figure for rates payable to the Council. The estimate of £2.5m is below the figure provided by Montague Evans and is a prudent assessment of new business rate income

5.2. What has been the loss to date of business rates on the sites in Widemarsh Street, Station Approach, the Cattle Market site, etc since businesses were required to relocate for the “Link Road” to support the Grid Development?

This is not relevant to the call-in but we will provide a written response to this question at a future date. It should be noted that the national business rates pool picks up any reduction in income and not the council.

5.3 What is the expected annual loss in business rates arising from the anticipated city centre attrition rate of retail businesses arising from the revised terms from businesses closing or relocating as a result of the new ESG development competing with the existing City Centre, including business rates that will be lost on the existing Odeon cinema site?

See answer to 5.2 above

5.4 Cllr Jarvis in his letter to the Hereford Times 5.4.12, states that there will be an extra spend of £165,000 per day in Hereford arising from the Stanhope development.

Where does this figure come from and how is it calculated?

This is not relevant to the call-in. These projections are drawn from a number of retail studies; some of these studies are public documents and available on the council’s website.

Mrs E Morawiecka