

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