

**TITLE OF REPORT: OPTIONS FOR THE FUTURE OF CHURCHGATE AND SURROUNDING AREA, HITCHIN – ADDENDUM**

REPORT OF THE PROJECT EXECUTIVE FOR CHURCHGATE PROJECT BOARD

**1. SUMMARY**

- 1.1 This report is an addendum to Agenda Item 13 – Options for the future of Churchgate and surrounding area, Hitchin, (the main report) following the submission of additional; information from Hammersmatch Properties Ltd received on 10<sup>th</sup> July 2013. (attached at Appendix C).
- 1.2 This report forms an addendum to section 8.14 ‘Refurbishment and extension proposal’ under consideration of the Hammersmatch Options of the main report. It seeks to comment on the points raised in Mr Payne’s letter and includes an additional recommendation at Section 2 of the main report.

**2. HAMMERSMATCH OPTIONS – ADDITIONAL INFORMATION**

- 2.1 As stated in the main report Hammersmatch have held initial discussions with senior managers and are also seeking pre-application advice from the Local Planning Authority (LPA) regarding their proposals.
- 2.2 Their proposals comprise a mixed use scheme termed the ‘Churchgate Extension Scheme’ (CES) and they have provided more information to that which was discussed in the main report in terms of the direction they would like to progress their scheme. This generally includes:
- (i) More detail on the proposed location of the cinema/restaurant block, the heights and numbers of the residential flats (30) above the existing Churchgate Centre, the relationship of the development to the St. Mary’s Church, the Almshouses and The Biggin in response to pre-application advice from the LPA and from a meeting with English Heritage (a copy of the pre-application summary advice is attached at Appendix D).
  - (ii) The amount of additional land required, where the Council would add 7% of its un-leased land onto the area, which equates to an approximate 23% increase in Churchgate leased land. No figures are provided in terms of increase in additional floorspace.
  - (iii) That the market be relocated to somewhere on the Portmill Lane and/or St. Mary’s car parks, and that an understanding to such a move has been agreed with the Market Operators. This would be subject to Council approval and agreement of the detail, although they suggest it would be planned jointly and do not see why the relocation of the market could not be funded by the CES.
  - (iv) Proposed funding arrangements, which suggest:
    - An open book joint venture (JV) agreement with no new capital input required of the Council other than the value of its land.

- A sufficient period is sought in which to agree their plans, viability and an open book JV agreement conditional upon signing up a cinema operator and subsequent detailed planning approval.
- That funding is available subject to the ground lease being extended to 150 years.
- That the relocation and funding for the market could be via the CES funding.
- The Council keeps the car parking income (new and old); receive capital and ground rent plus a share in the scheme profits.

2.3 As referenced as 'Phase 1' in paragraph 8.14.12 of the main report, they refer to their proposal as being a 'Gateway phase to kick start a long awaited refurbishment and does not inhibit what the Council may do on the majority of its balanced land'. They consider that subject to the above funding arrangements and gaining planning approval, the opening of the scheme is possible by Christmas 2015.

2.4 The Hammersmatch scheme involves the development of a new cinema and residential units on areas A1 and A2 and the relocation of the market somewhere in areas A4 and A5 of the 2005 Development Brief. Previous Hammersmatch schemes, the Simons scheme and others who entered the 2008 procurement exercise all took a comprehensive approach to the redevelopment of the Churchgate Centre and new developments on areas A1-A5. Adopting a piecemeal approach to the regeneration of the Churchgate area may have long term consequence for decisions that need to be made in relation to the new Local Plan for North Hertfordshire. As stated at 8.14.12 of the main report consideration would need to be given as to whether the proposal would complement other potential uses of the remaining site, or stifle it. Hammersmatch have stated that "any development of sites A3, A4 or A5 must include for replacement car parking". This is likely to make the viability of any such proposal very challenging, without a significant reduction in car parking spaces. This would need detailed consideration prior to the Council taking any binding decisions in respect of the Hammersmatch proposal.

2.5 These long term over-arching decisions are set out in paragraph 8.11 of the main report. Until the Council decides on a strategy within its new Local Plan relating to whether it wants to see a piecemeal approach, whether a cinema is an appropriate leisure facility, whether the market should be relocated to areas A4 or A5 and perhaps most importantly, whether there is a demonstrable need for new retail or other commercial floor space within Hitchin town centre and where it should be located, it is difficult to properly assess the long term suitability of the proposed Hammersmatch scheme. In this respect it is not appropriate in this report to consider matters of design and relationship to surrounding listed buildings, car parking or other more detailed matters, until the over arching development strategy for Hitchin and indeed the District as a whole has been devised through a new Local Plan. Although this does not preclude on-going dialogue with Hammersmatch, or any other interested party in the interim, the Council needs to be mindful of the bigger picture in terms of strategic planning before it can really assess the suitability of the Hammersmatch proposals.

2.6 Hammersmatch's view of best value is that it could be achieved by having an open book approach rather than having to be proved through a market testing approach. As referenced in para 8.14.12 of the main report, failing to consider a more holistic approach for the area could have financial implications for the Council in terms of securing best financial consideration in terms of its assets. Demonstrating best consideration is a legal requirement that must be considered by local authorities when giving consideration of how to manage its public assets.

- 2.7 The current ground lease has 85 years remaining and is subject to fourteen year rent reviews. No financial information has been supplied by Hammersmatch in relation to their current proposal, as we are informed that the financial modelling has not yet been undertaken. The Council is therefore unable to consider the financial implications of the proposal in any detail.
- 2.8 The high level information provided to date estimates that overall parking numbers would not alter (i.e. fall) by more than 10%. Nevertheless, this would have a detrimental impact on parking income. It is also indicated that no capital input would be required from NHDC, nor is any subsidy required. These are positive assertions, although the detail behind them would be welcome. It is also stated that financial benefits would accrue to the Council, but again detail is required to establish whether these benefits amount to more, or less, overall than the Council currently achieves from the overall site (i.e. Churchgate Centre and car parks).
- 2.9 In summary the detailed financial appraisal, when available, is necessary to allow proper analysis of the proposal and to underpin the Hammersmatch statements. Due to that lack of financial information it is not appropriate at this time for the Council to take any binding decisions in respect of the Hammersmatch proposal as the financial benefits (or impact) will be a key consideration in those decisions.
- 2.10 The proposal seeks some form of time period in which to agree their plans, viability and an open book Joint Venture agreement conditional upon signing up a cinema operator and subsequent detailed planning approval. This is not dissimilar to the request by Simons for an extension of time, to which Full Council on 31 January refused to extend. In discussions with Hammersmatch they have made reference to some form of exclusivity period, although it is unclear from their letter whether or not this is still required.
- 2.11 The proposed size of the extension compared to the existing leased area means that prior to taking any binding decisions the Council would need to seek specialist external advice as to whether or not a form of market testing would be required in order to meet legal obligations regarding best value and/or procurement requirements. Simons have indicated to the Council that they remain interested in the site, should the Council decide to proceed in the future. There are also clearly alternative views about the site as demonstrated by the proposals from the local architects, a speculative approach has been made from another developer and the Council was previously threatened with judicial review by a local developer when they thought the Council was avoiding tendering the development opportunity in 2006/7. Prior to taking a binding decision the Council would need to seek specialist advice on whether market testing would be required or not, given the high risk of challenge to such an approach from one of the other interested parties.

### **3. CONCLUDING COMMENTS:**

- 3.1 The lack of clarity on the potential future implications of the Hammersmatch proposals, the lack of any financial information and the lack of certainty on achieving best value does not enable officers to fully assess the likely implications of the proposals in financial, legal, resource and risk terms. Officers are therefore not in a position to provide Members with sufficient information on which to make an informed decision on the Hammersmatch proposals.

- 3.2 It is considered that any decision to enter into any form of exclusive discussions with Hammersmatch would have a high risk of being challenged, based on other parties having a continuing interest in the site and the threat of challenge to any similar approach in 2006/7. Based on the limited information currently provided by Hammersmatch, due to the early stage their proposals are at, it may be difficult to defend any decision to enter into an agreement at this stage. If the Council were successfully challenged it would have to pay legal costs of those proceedings.
- 3.3 Officers are unable to recommend dealing solely with Hammersmatch at this time although it is appropriate to continue the on-going dialogue with Hammersmatch or any other interested party, albeit the comments regarding the Local Plan should be borne in mind. This is in accordance with recommendation 2.1(ii) in the main report.

#### **4. RECOMMENDATIONS**

- 4.1 That the recommendations as stated at paragraph 2.1 in the main report remain unaltered and that the additional recommendation be added at 2.1 that the Council resolves to:
- (iii) Not enter into any form of exclusive discussions with Hammersmatch, based on the limited information currently provided due to the early stage their proposals are at, and that officers continue dialogue with Hammersmatch in accordance with recommendation (ii).

#### **5. APPENDICES**

Additional appendices to main report

- 5.1 Appendix C – Letter and papers submitted by Hammersmatch.
- 5.2 Appendix D – Summary of LPA pre-application advice.

#### **6. CONTACT OFFICERS**

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