

TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

20 June 2007

Report of the Director of Planning, Transport and Leisure

Part 1- Public

Executive Non Key Decisions

1 HADLOW TOWER – RESTORATION PROJECT – UPDATE

Summary

To report on progress with the Compulsory Acquisition of Hadlow Tower and to seek agreement to extend the loan guarantee to Vivat Trust for another two years.

1.1 Progress

- 1.1.1 As most Members will be aware the Council is pursuing the restoration of Hadlow Tower in partnership with the Vivat Trust. In June last year Cabinet agreed that, subject to the grant of planning permission and Listed Building Consent, a Compulsory Purchase Order be served on the owner of the Tower and others who have an interest in the Tower. The intention being that the Council would acquire the Tower and transfer it immediately to the ownership of the Vivat Trust which would undertake the restoration with the aid of a substantial Heritage Lottery Fund grant.
- 1.1.2 In July Vivat Trust submitted the applications for planning permission and Listed Building Consent. Planning permission was granted in September and the Secretary of State confirmed the Listed Building Consent in October. The Compulsory Purchase Order (CPO) was then served on 23 November.
- 1.1.3 The owner objected to the CPO and lodged an appeal to the Magistrates Court effectively for a stay of proceedings, arguing that he needed more time to carry out the prescribed repairs. In the meantime the CPO remained in abeyance. Following two adjourned hearings the matter was finally resolved on 31 May when the Magistrates refused a stay of proceedings. They also awarded costs in favour of the Council totalling £7454.
- 1.1.4 The Secretary of State will await the period for appeal to the Crown Court to elapse but subject to that the CPO can now proceed. As an objection has been made to the CPO, the Secretary of State will call a public inquiry unless the objector agrees that the case can be dealt with by written representations. Whichever route is followed the Secretary of State may confirm or reject the CPO.

If the CPO is confirmed then the Council will have 3 years within which to serve the Notice to Treat. During that time the Vivat Trust will need to sufficiently close the funding gap by raising contributions from elsewhere to ensure that the restoration project is viable and that they are ready and able to commence work. Only then will the building be acquired by the Council and transferred to the Vivat Trust.

1.2 Loan Guarantee

1.2.1 Whilst the Vivat Trust has access to substantial grant assistance from the Heritage Lottery Fund it also required a loan of £100,000 from the Architectural Heritage Fund in order to provide it with working capital. In April 2005 the Council undertook to guarantee this loan which was for a period of two years. Partly as a result of the delays in progressing the project Vivat Trust now need to extend the loan period by a further two years. The Architectural Heritage Fund is happy to do this provided the Borough Council is likewise prepared to extend its guarantee period.

1.3 Legal Implications

1.3.1 Having considered all options, the Council has agreed that the Compulsory acquisition of the Tower is the only way to secure its restoration. Such acquisition is being pursued under Section 47 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

1.4 Financial and Value for Money Considerations

1.4.1 The Council has previously considered at length the cost and balance of financial risks involved in this project.

1.5 Risk Assessment

1.5.1 The Director of Finance has carried out a financial appraisal of the Vivat Trust using the latest information available; these show no change from those undertaken in 2005. If the Vivat Trust were no longer a going concern the loan would have to be met from the Council's reserves. However, given the high profile of this project in the area and the potential costs that the Council could face if the project was not to go ahead the Director of Finance considers this to be an acceptable risk.

1.5.2 The Director of Finance has recorded this potential liability within the Council's Statement of Accounts under the heading of Contingent Liabilities.

1.6 Recommendations

1.6.1 Cabinet notes the progress with the restoration project

1.6.2 Cabinet agrees to the Council extending its guarantee of the loan of £100,000 to Vivat Trust from the Architectural Heritage Fund until 6 June 2009.

Background papers:

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Nil

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