



OVERVIEW AND SCRUTINY BOARD

20 SEPTEMBER 2011

FINAL REPORT OF THE ECONOMIC REGENERATION AND TRANSPORT SCRUTINY PANEL - ACKLAM HALL

PURPOSE OF THE REPORT

1. To present the findings of the Economic Regeneration and Transport Scrutiny Panel's review on the topic of Acklam Hall.

AIM OF THE SCRUTINY INVESTIGATION

2. The overall aim of the Scrutiny investigation was to establish the current position in relation to the proposed Acklam Hall development, to examine why the development has been delayed and to consider what action can be taken to resolve the outstanding issues.
3. The Panel has been mindful throughout this review that the development proposals for the Acklam Hall site must ultimately be approved by the Council, as planning authority and English Heritage to ensure that the scheme reflects planning and conservation principles, policies and guidance. In addition, as with any development of a Grade 1 Listed Building on local authority owned land, final planning determination for the site lies with the Secretary of State. The work of the scrutiny panel has at all times been kept distinct from the quasi-judicial role of the development control process.

TERMS OF REFERENCE OF THE SCRUTINY INVESTIGATION

4. The terms of reference for the Scrutiny investigation were as follows: -
 - (a) To consider the current position on the future development and restoration of Acklam Hall.
 - (b) To examine how the Council intends to resolve the main factors which are currently delaying the progress of the Acklam Hall development.
 - (c) To look at what action can be taken to address security concerns in respect of the Acklam Hall site.

5. Members of the Panel met formally between 20 July and 15 August 2011 to discuss/receive evidence relating to this investigation and a detailed record of the topics discussed at those meetings are available from the Committee Management System (COMMIS), accessible via the Council's website.
6. A brief summary of the methods of investigation are outlined below: -
 - (a) Detailed officer presentations supplemented by verbal evidence
 - (b) A site visit to Acklam Hall including a tour of the grounds
 - (c) A roundtable discussion with the North East's Planning Advisor and Team Leader at English Heritage, the Developer (Acklam Hall Ltd) and officers from the Council's Regeneration Department, which was held at Acklam Hall
7. The report has been compiled on the basis of this evidence and other background information listed at the end of the report.

MEMBERSHIP OF THE PANEL

8. The membership of the Panel was as detailed below: -

Councillor M. Williams (Chair), Councillor B. Taylor (Vice Chair), Councillors Arundale, Hubbard, Hussain, Rehman, Khan, Lowes, and Sharrocks.

TO CONSIDER THE CURRENT POSITION ON THE FUTURE DEVELOPMENT AND RESTORATION OF ACKLAM HALL

9. To commence the review the panel requested that the Department of Regeneration provide the panel with an overview of the current position in respect of Acklam Hall, the progress that has been achieved to date and some brief information in respect of security issues. The Council's Urban Regeneration Manager and Principal Planning Officer were invited to attend the panel's first meeting to provide this information.

Background information

10. The panel was advised that despite exhaustive efforts to hasten the development of Acklam Hall, external influences have delayed the rapid development of the site; not least the impact of the economic downturn. It was emphasised that the overriding goal is to achieve a high quality and financially viable conservation-led development that secures the restoration of the Hall and its historic surroundings. It was stated that all parties are committed to the sympathetic redevelopment of the site and, although delayed, continued negotiations are close to securing a sustainable future for Acklam Hall.
11. The panel heard that although the project was commenced three years ago, the Acklam Hall site has been a very difficult development to bring forward in a challenging property market. Positive progress is being made, although it was emphasised that the scheme must result in a financially viable development that secures the long term future use of the Hall.

12. The panel was informed that Acklam Hall is Middlesbrough's only Grade 1 Listed Building and has been described by English Heritage as a 'real jewel' in the North East. In 2005 a conservation plan was prepared for Acklam Hall, which established the conservation principles with which to steer the development. It was noted that the conservation plan was endorsed by English Heritage and cited as best practice.
13. With regard to site ownership it was advised that the ownership of the site is split between the Council and Middlesbrough College. It was noted that Middlesbrough College owns the land to the front of the site and Acklam Hall itself and that Middlesbrough Council owns the remainder of the land. Following Middlesbrough College's decision to consolidate and relocate to Middlehaven it was resolved to dispose of the site in a manner which best retains the historic nature of the site, restores the fabric of the Hall and secures an economically viable future. It was noted that the decision to jointly dispose of the site has been a real achievement and a truly joint exercise.
14. In respect of the disposal process for the site it was advised that in April 2007 the Executive Member for Regeneration approved the disposal of the Council's interest in the Acklam Hall site. Following a tender process Acklam Hall Ltd (AHL) was selected as the preferred developer.

Development proposals for the Acklam Hall site

15. The panel was informed that the proposed scheme for the site is a mixed-use scheme of medical facilities, office and conference facilities, residential dwellings and other ancillary uses including a restaurant in the Hall. The proposals will result in the clearance of some outlying buildings that detract from the Hall and its setting. The development scheme also includes landscape proposals to improve the parkland, woodland and secure continued public access to large areas of the site. It was noted that there will be housing to the east and west of the Hall and that the proposals involve a large expenditure on the Hall and grounds.
16. The panel noted that in August 2010 the Executive Property Sub Committee received a report detailing the disposal terms and the details of the proposed scheme. The terms of sale allow the Council and Middlesbrough College to fulfil their aim of receiving a capital receipt from the sale, as well as secure renovation of Acklam Hall. It was explained that the Council and the College are at present in a contractual position with the developer Acklam Hall Ltd but that the contract is conditional upon planning permission being obtained for the site and the lease agreements for the proposed medical facilities being secured.
17. With regard to the current position it was stated that the scheme is quite well advanced and that the developer has spent a lot of money at risk. It was noted that two main factors are currently delaying the progression of the Acklam Hall development, namely:
 - The necessary conservation and design standards for the site have not yet been fully demonstrated by the developer and this has delayed the submission of the planning application;
 - The re-negotiation of the aspects of the contract of sale to provide assurances for the long-term management of the site, the restoration of the Hall and future development restrictions.

18. It was explained that numerous discussions have taken place over the last two years between the developer, the Council and English Heritage and that the scheme has slowly evolved over that time. It was stated that from a planning perspective the current proposals are supportable in their broad context, however English Heritage is seeking further refinements.
19. Reference was made to the fact that the existing business case for the site is reliant on the development of a medical village, in negotiations with the local health authority. It was stated that owing to the uncertainty surrounding the structure, budgets and function of the Primary Care Trust (PCT) these negotiations have been delayed and only in the last few months has confirmation been received that the funding is in place, albeit at a reduced level than originally expected.
20. It was explained that as a result of the reduced level of funding available the viability model of the scheme has had to be revisited and revised proposals for the medical village put forward. Initial design proposals were not deemed to be fitting with the character of the Hall, however, preliminary revisions to the designs are much improved.
21. The panel was advised that the Council's planning department has received almost all the information it requires from the developer but that the department is looking to achieve a planning application that will be supported by English Heritage. The panel was advised that English Heritage is seeking further assurances in terms of design quality and confirmation of the early restoration of the Hall to an appropriate standard. English Heritage is also keen to ensure that appropriate management plans and section 106 agreements mirror the arrangements in the contract of sale and include details of a delivery programme and a financial commitment for the Hall's restoration.
22. It was explained that as with any development of a Grade 1 Listed Building on local authority owned land, final planning determination lies with the Secretary of State. However, if there are concerns about the proposed development English Heritage has the power to object and refer the matter to the Secretary of State; effectively suspending the local planning authority's powers. The panel was advised that should English Heritage decide to refer the matter to the Secretary of State it is likely that the development could be further delayed and it may well jeopardise the sale of the site and the wider project. It was emphasised that this should be avoided where possible. It was noted that to date the Council and developer have been unable to reach a point where the development proposals for the site are supported by English Heritage.

Re-negotiation of the contract

23. In an effort to address the issues highlighted above it was explained that Middlesbrough Council and Middlesbrough College have agreed to defer their proportion of the sale receipt to allow the Hall restorations to take priority and for the development to progress as soon as possible. The panel noted that an agreement in principle has also been secured to amend the contract of sale in order to build in explicit assurances of the prioritisation of the Hall restoration in the construction and financial programme. It was noted, however, that this is subject to the submission of necessary costings and finalised specification details (which are reliant on finalised plans).

24. Members of the panel queried what was planned for Acklam Hall following the immediate sale of the site. The Urban Regeneration Manager stated that in the interim period Acklam Hall Ltd are planning to occupy Acklam Hall and build an extension on the side of the Hall.
25. A Member of the panel expressed the view that Acklam Hall is starting to fall into disrepair and it was queried what steps would be taken by Middlesbrough Council and Middlesbrough College should the proposed development be further delayed. The panel was advised that a considerable amount of money is needed to renovate Acklam Hall. The figure identified in the conservation plan for renovation of the Hall in 2007 was £1.5 million. It was stated that Middlesbrough College, as the owner of Acklam Hall, is responsible for all heating and maintenance costs in addition to the shared security costs, and that in order to see Acklam Hall repaired and renovated the scheme must be developed.
26. Reference was made to the east woodland area of the site, which is due to be transferred to the developer as part of the contract of sale. It was queried how the developer is proposing to manage the woodland. The Principal Planning Officer stated that the Council is looking to include the management of the woodland as part of the section 106 contribution. In effect money will be given to the Council to undertake the full management and maintenance of the woodland area for a period of 25 years. Public access will also be maintained through the wood and park area.
27. The ward Member for Acklam stated that the future of the Acklam Hall site has been on the minds of people living in Acklam for some time and that it remains a cause of concerns that the site has been unoccupied for so long. The view was expressed that if anything should happen to Acklam Hall in this intervening period the blame would fall on Middlesbrough Council, as members of the public are unaware of the issues that are holding up development of the site. In the public's opinion the responsibility for developing the site remains with the Council. It was acknowledged that determination of the planning application is vital, although there have been a number of problems associated with reaching that stage.
28. Reference was made to the proposed medical village and it was advised that from the front of Acklam Hall the medical village should not be visible, access to the medical village will be split across the site. In terms of the type of housing proposed for the site it was advised that there would be a mix of semi-detached and detached properties but that there will be no affordable housing on site. It was stated that the housing will be good quality bespoke housing targeted toward the middle / upper end of the housing market. It was also confirmed that there would be no apartments developed on site.
29. Members queried the proposed management arrangements in terms of the lake and it was noted that pond management is part of the landscape management arrangements and that this element will also be included in the section 106 agreement.
30. In light of the information received during the course of the panel's initial meeting Members requested that a list of the significant concerns English Heritage has about the current development proposals be presented at a future meeting. In addition details of the efforts made by the department and the developer to address English Heritage's concerns were requested. Members also agreed that the panel would undertake a site visit to Acklam Hall and an invitation would be extended to both the developer and English Heritage to provide evidence to the panel.

31. In accordance with this request the developer and a representative from English Heritage were invited to attend a meeting of the panel. The meeting was held at Acklam Hall and was preceded by a site visit. The Practice Manager for the Woodlands Medical Practice was also in attendance. In advance of the meeting English Heritage submitted a written paper to the panel, which provided a brief overview of the organisation's involvement as a statutory consultee in the proposed development of the Acklam Hall site. The written submission also highlighted for the panel the outstanding areas of concerns that English Heritage has in respect of both the design proposals and the contract of sale agreement.

36. At the meeting the representative from English Heritage was asked to outline for the panel the organisation's key concerns in respect of the current development proposals.

TO EXAMINE HOW THE COUNCIL INTENDS TO RESOLVE THE MAIN FACTORS, WHICH ARE CURRENTLY DELAYING THE PROGRESS OF THE ACKLAM HALL DEVELOPMENT

37. The representative from English Heritage stated that he was delighted to be invited to contribute to this debate on how to take the Acklam Hall development forward.

38. In respect of the role of English Heritage the panel was informed that English Heritage is the Government's lead advisory body for historic environment and the organisation has a statutory role in the planning system. It was noted that only in exceptional circumstances might English Heritage request the Secretary of State to call-in a planning application for his or her own determination: English Heritage itself does not have decision-making powers for such applications.

39. The panel was advised that Acklam Hall is a Grade 1 Listed Building of national significance and as a consequence English Heritage has a significant interest in securing the long-term future of the Hall and its historic surroundings. It was stated that the conservation plan produced by the Council for the site is exemplary and that the subsequent development brief is a similarly thorough and well considered document.

40. The panel was informed that English Heritage has been involved in the pre application discussions for the Acklam Hall site since 2009 and in order to help secure a viable way forward for the site English Heritage has agreed to certain 'relaxations' to the approach defined in the agreed development brief. These 'relaxations' include:-

- A higher quantum of housing development in the grounds of the Hall than originally envisaged
- The principle of an outline planning application rather than a detailed application, contrary to Government policy guidance and best practice
- The principle of a scheme that does not provide immediate certainty about the future end use of the Hall, again against normal practice.

41. It was emphasised that English Heritage has given considerable concessions.

42. The representative from English Heritage explained that with regard to the current development proposals there are still some outstanding design concerns in respect of the medical village and that English Heritage has suggested a possible alternative location.

43. English Heritage has also raised concerns regarding the 'heads of terms' for the sale of contract for the site, which at present do not provide assurances that the Hall will be repaired in a timely fashion and maintained in the long term. It was stated that English Heritage is keen to see a scheme of the highest order, which is befitting of Acklam Hall. The representative from English Heritage acknowledged that work is ongoing with the developer and the Council to resolve both the contractual and design issues.
44. The panel heard that the designs for the proposed housing development appear to be moving forward and that assurances have now been received in terms of the proposed design approach for the housing units in two of the three character zones.
45. The panel was advised that there is no certainty about English Heritage calling in the application and that anyone can submit a request to the Secretary of State to call-in a planning application by way of public enquiry. The representative from English Heritage confirmed that the development proposals for the Acklam Hall site are moving forward and that English Heritage is receiving the assurances it needs in respect of the design proposals for the site. It was stated that English Heritage is optimistic that in the fullness of time the organisation's concerns will be addressed.
46. The developer was asked to comment on the information provided by the representative from English Heritage.
47. The developer advised the panel that since his company had registered their initial bid for the Acklam Hall site in 2007 a number of changes have occurred. The original liaison officer at English Heritage has retired and a new officer has been appointed. There has also been a difficult overlap due to the transitions taking place in the NHS and the PCT's current position on the issue of funding.
48. With regard to issue of PCT funding the developer advised that he first submitted an expression of interest for the delivery of two new GP surgeries, on site at Acklam Hall, in October 2007. In April 2008 the bid was selected and in July 2009 PCT Board approval was received. Value for money was also demonstrated with the District Valuer. The panel was informed that as the NHS could not afford to commit any up front capital to the scheme it has always been the intention that the medical buildings will be provided through a lease arrangement between the developer and the GPs.
49. The developer informed the panel that the proposals to relocate the Cambridge Medical Group and the Woodlands & Acklam Road surgeries to new premises located on the Acklam Hall site were submitted to the Health Scrutiny Panel, where they were supported by Members, and that the proposals have also been subject to public consultation.
50. The developed advised, however, that despite the PCT Board having previously approved the necessary funding for the scheme it would appear that owing to the Government's reorganisation of PCT's and the transitions now taking place in the NHS the GP practices are being advised to seek other developers and to consider cheaper options. The PCT has therefore yet to provide the funding for the medical facilities.

51. The developer advised that he now has a clearer understanding of what needs to be revised to satisfy the requirements of English Heritage. However, he is concerned by English Heritage's recent observation regarding the proposed location of the medical centre. The developer advised that the suggestion by English Heritage to consider moving the medical centre is a fundamental change to the scheme and he is unable to relocate the medical facilities. The developer stated that the Council's planning department and the Council's Conservation Officer are supportive of the overall planning application, as well as the location of the medical centre.
52. The Urban Regeneration Manager was invited to comment on the views expressed by both English Heritage and the developer.
53. The Urban Regeneration Manager stated that he agreed with the comments made by both the developer and the representative from English Heritage. It was advised that further discussions are still required regarding technical documents such as phasing and section 106 agreements. The Urban Regeneration Manager stated that the fact that the funding from the PCT for the proposed medical facilities has not been received is still a concern and could cause serious delays to the project.
54. In respect of the contract agreement it was advised that the amendments, of which English Heritage has been advised, have been fully agreed with the developer but these amendments cannot be finalised until a revised scheme is in place.
55. The representative from English Heritage was invited to comment on the views expressed by the developer. The representative from English Heritage stated that there was a need to clarify the role of English Heritage, as there appeared to be some misconceptions. It was stated that it is important to remember that the Council is the local planning authority and that English Heritage is a statutory consultee, with responsibility for advising the Council on what it believes to be the Government's position on planning policy in respect of historic environment. It was acknowledged that English Heritage has concerns and has raised those concerns with both the developer and the Council. However, if the Council feels that it can support the application it can proceed as it sees fit and move forward with approval. English Heritage would reserve the right to object.
56. The representative from English Heritage advised the panel that despite the change in liaison officer at English Heritage, the organisation has continued to provide substantive comments, which have outlined Government Policy in relation to the scheme. With regard to the comments on the location and design of the medical centre, the representative from English Heritage advised that the organisation highlighted its concerns with regard to this aspect of the scheme in April 2011.
57. The Chair asked all parties if there was any room for compromise in respect of the proposed scheme and in particular the location / design of the medical centre.
58. The developer advised that the development proposals for the site are evolving and that an element of landscaping has now been incorporated into the scheme in direct response to the concerns raised by English Heritage. It was advised that a formal response setting out why the medical centre cannot be moved, along with details of the mitigating design elements that have been put in place to address the concerns raised by English Heritage would be provided within the next 10 days. It was accepted by the representative from English Heritage that those proposals may be sufficient to resolve this particular issue.

59. The representative from English Heritage reiterated that it is not within the gift of English Heritage to determine the application. If the application is called in, the Secretary of State can still approve the scheme. The representative from English Heritage advised the panel that English Heritage has also raised concern regarding the proposed timing of the phasing of the site, the need for the timing to be up front, as well as the importance of receiving an up to date project plan and timetable. It was emphasised that the provision of the management plans for the Acklam Hall site is in everyone's interests, as this is how the local authority will ensure that works come forward in future years.
60. The developer stated that the management plan for the site is a fundamental part of the planning application and he hoped to finalise the draft management plan for consultation within the week. It was stated that once English Heritage has had the opportunity to comment on the design and management issues the planning application will be formally registered with the local authority.
61. It was highlighted to the panel that the developer had originally submitted the planning application in March 2011 but had been requested by the local authority to put the application on hold until the issues regarding the application had been resolved. The developer anticipated that the outstanding issues would be resolved in the next three weeks. The representative from English Heritage advised that English Heritage has been repeatedly reassured that the information requested will be provided.
62. The panel was advised that on the issue of process any planning application, which includes elements of demolition and listed building consent on local authority owned land, must be still referred to the Secretary of State for approval. The Principal Planning Officer also reminded the panel that if there are any outstanding concerns in respect of the development proposals these can be dealt with by planning conditions or section 106 agreements rather than by refusal of the application.

TO LOOK AT WHAT ACTION CAN BE TAKEN TO ADDRESS SECURITY CONCERNS IN RESPECT OF THE ACKLAM HALL SITE

63. With reference to the concerns raised by Members on the issue of site security the Panel was informed that Middlesbrough College and Middlesbrough Council continue to insure and secure the site comprehensively. It was stated that the site is currently protected by 24 hour manned security, backed up by call-out support and the regularly maintained security / fire alarm system. Whereas previously the site only had 12 hours of manned security. The panel noted that the gross cost for securing the site is approximately £86,000 per year and that this cost is born equally by both vendors. It was advised that the long-term solution for securing the area is to hasten the handover and development of the site, as this will transfer security obligations to the developer. The peripheral buildings around the Hall will be demolished as part of the development proposals and demolishing these buildings will contribute to the conservation of the hall.
64. The panel was informed that English Heritage has offered for their national security advisor to visit the site and the Council has accepted English Heritage's kind offer.

CONCLUSIONS

65. Based on evidence given throughout the investigation the Panel concluded that:

- a) Ownership of the site is split between the Council and Middlesbrough College. The revised contract for sale of the site to the developer Acklam Hall Ltd is conditional upon obtaining planning permission for the mixed use scheme of medical facilities, conference facilities and a restaurant with housing the east and west of the Hall and upon obtaining lease agreements for the proposed medical facilities.
- b) The proposed scheme is well advanced and the Council's planning department has received most of the information it requires from the developer. It supports the overall scheme but a planning application also requires the support of English Heritage.
- c) To help secure a viable scheme, English Heritage has already agreed to support more housing than first envisaged and, contrary to normal practice, an outline rather than a detailed planning application. Also, contrary to normal practice, the scheme has no clear certainty about the future end use of the Hall.
- d) Although the developer indicated on 15 August 2011 that, within ten days, English Heritage would be provided with a formal response to explain that relocation of the proposed medical facilities is not possible without affecting the viability of the whole scheme, at mid-September 2011 this has not yet been supplied. (It is acknowledged, however, that the appearance of the rear of the medical facilities from the rear of the Hall could be improved.) Details of changes to design elements to address other English Heritage concerns are also still awaited.
- e) Further discussions are required regarding technical documents such as phasing and Section 106 agreements. On 15 August 2011 the developer indicated that it was hoped that the draft management plan would be finalised within the week for consultation and outstanding issues would be resolved within three weeks. At mid-September 2011, these issues are still outstanding.
- f) Despite the Primary Care trust (PCT) previously approving funding for the medical facilities in the Acklam Hall scheme, the NHS reorganisation is causing delay. There is a major concern that other options are being suggested for the GP practices. This would jeopardise the whole scheme.
- g) Site security is maintained by a 24 hour presence with back up call-out support and a regularly maintained security and fire alarm system. Early achievement of planning permission and demolition of the peripheral buildings will ease security concerns.

RECOMMENDATIONS

66. That the Economic Regeneration and Transport Scrutiny Panel recommends to the Executive:

- a) That the Council's Chief Executive meets with the Interim Chief Executive of the PCT as a matter of urgency to discuss the PCT's commitment to funding a new medical centre on the Acklam Hall site and the scrutiny panel is advised of the outcome of that discussion. The panel is convinced that the funding commitment of the PCT is vital for the early resolution of the development, conservation and security of the site.

(Cont....)

- b) That the Urban Regeneration Manager provides the scrutiny panel with regular updates of the ongoing consultation between Acklam Hall Ltd. and English Heritage, the progress of the developer's draft management plan and the outstanding requirements of the planning application to be considered by the Council's Planning Committee.
- c) That the 24hour security presence continues to be funded jointly by the Council and Middlesbrough College and subsequently by Acklam Hall Ltd.
- d) That the scrutiny panel's concerns regarding lack of progress to date are raised with the developer, particularly the need to provide details of development proposals and associated timescales.

ACKNOWLEDGEMENTS

11. The Panel is grateful to all those who have presented evidence during the course of our investigation. We would like to place on record our appreciation, in particular of the willingness and co-operation we have received from the below named:-

Kevin Parkes – Executive Director of Regeneration
Chris Hawking – Urban Regeneration Manager
Shelly Vickers – Principal Planning Officer
Sam Gilmore – Principal Project Officer
Neil Whittingham – Developer, Acklam Hall Ltd
Phillip Lunnon – Developer, Acklam Hall Ltd
David Abercrombie – Technical Director, Planning, Fairhurst and Partners
Alan Hunter - North East's Planning Advisor and Team Leader, English Heritage
Christine Hurst – Practice Manager, Woodlands Medical Practice

COUNCILLOR M. WILLIAMS

CHAIR OF THE ECONOMIC REGENERATION AND TRANSPORT SCRUTINY PANEL

September 2011

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