

Forest Heath District Council

(This report is a key decision. This report has been subject to appropriate notice of publication under the Council's Access to Information Rules)

Report of the Portfolio Holder for Health, Leisure and Culture

CABINET

15 JANUARY 2013

CAB13/055

HOME OF HORSERACING NATIONAL HERITAGE CENTRE (Key Decision Reference: JUL12(A)/08)

1. Summary and reasons for recommendation(s)

- 1.1 Forest Heath District Council has worked in partnership with the Home of Horseracing Trust to develop an outstanding visitor attraction for Newmarket, which will generate nearly £15m of inward investment and create significant regeneration opportunities on a site which is strategically critical to the history of horseracing.
- 1.2 This report sets out the reasons why the risks, which have been carefully analysed, should be recommended to Full Council as acceptable ones in order to bring the project to fruition.

2. Recommendation(s)

- 2.1 **The Cabinet recommend to Full Council that the Home of Horseracing project as set out in this paper is approved as part of FHDC capital programme and the Council's prudential indicators are updated accordingly, subject to the following provisos:**
- i. The final £0.5m of funding is secured**
 - ii. The National Horseracing Museum (NHRM) VAT position is confirmed.**

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3. How will the recommendations help us meet our strategic priorities?

3.1 The project will contribute to all four of the Economic Growth objectives.

4. Key issues

4.1 Overall Concept

4.2 The Home of Horseracing project aims to create a compelling tourist destination for UK and international visitors which will comprise a national heritage centre for horseracing and an integrated visitor attraction interpreting Newmarket's history, celebrating its position as the international home of horseracing, and for the first time at a single site, encouraging visitors to enjoy the experience of interaction with live horses while learning about the town's unique sporting and cultural heritage.

4.3 The project will bring £14.3m of capital investment into Newmarket, of which the Council's contribution is £1.3m (£0.57 has already been paid to fund design works).

4.4 The project will involve three principal capital elements:

4.4.1 Upgrading the environmental conditioning and physical security of Palace House to national museum standards to provide a suitable space for the collections of the **British Sporting Art Trust and the Tate**.

4.4.2 The restoration of the Palace House Stables and Trainer's House to form new permanent galleries for the **National Horseracing Museum**; the development of a new-build Temporary Exhibition Gallery; a significantly enlarged library; an enhanced and expanded museum object store; and a study centre, meeting room and dedicated education suite accommodated in the main building. The Museum will also involve displays that have a multi-sensory approach which will appeal to a wide range of learning styles.

4.4.3 The restoration of the Inner or 'Rothschild' Yard and the paddocks beyond, to return them to sustainable long-term use as a flagship home for the **Retraining of Racehorses** charity which will allow live horses to be shown to the public through visits to the yard and by way of demonstrations and historic reconstructions in the remodelled paddocks.

4.4.4 All of these works will be carried out by the Council, before leasing the site to the operators, and will require substantial capital expenditure, estimated at £14.3m. It is vital that this funding is in place to ensure that the Council is protected from bearing the cost of the project. Funding is to be provided principally by the Trust, as set out below, and the risks associated are also discussed in Section 5.7 – 5.32.

4.5 Home of Horseracing National Heritage Centre Business Plan

4.6 The business case for the project is set out in detail in the full Business Plan, which has been circulated previously, but is available should members wish to see it. In essence the plan is to create a tourist destination venue which

appeals to as wide an audience as possible and which is particularly pitched at family visitors and young people.

- 4.7 The three elements of the site work together to provide a long half-day/full-day visitor experience which will encourage repeat visits and significant secondary spend in both the café and shop.
- 4.8 The development of the Home or Horseracing National Heritage Centre will be a significant destination within the town that will support existing attractions, providing a greater experience for visitors to Newmarket. It will also enhance the work of the Newmarket Experience Group, who work together to promote tourism attractions within Newmarket and the surrounding area by offering guided tours to all of the main attractions, gallops and training yards with the aim of maximising visitor stay and spend within the town.
- 4.9 There will be a greatly enhanced formal and informal education offer including a significant science element based on project work being funded by the Wellcome Trust.
- 4.10 The Business Plan is based on achieving visitor figures of between 40,000 and 50,000 customers per year across the whole site, which represents a 0.8% penetration rate of the total population (including tourist visitors) within a 45 minute drive time of Newmarket. Industry benchmarking indicates that a well run heritage site might expect a penetration rate of closer to 1.6% (which would represent 90,000 to 100,000 visitors per year) and the projected visitor figures are therefore considered realistic and achievable.
- 4.11 'Paid visitor' numbers to the National Home of Horseracing Museum in 2011/12 were 12,900¹ and the projection for 2012/13 is 14,000, meaning that the new attraction will need to increase its audience by 3.2 times the current numbers (although there are no directly comparable visitor numbers for the art gallery element of the project nor the retraining horse races element, since they do not currently exist as visitor attractions in their own right).
- 4.12 Clearly this project has the potential to drive a significant increase in spend not only in the new site itself, but in the wider town of Newmarket. With careful marketing and intelligent linkages and offers, there could be a substantial knock on effect, including overnight stays.
- 4.13 The site will be run by the National Horseracing Museum (the lead entity of the three partner charities) which as head lease-holder will carry the ongoing financial risk of the site. It will work with the other partners (the British Sporting Art Trust and Retraining of Racehorses charity) to operate appropriately the individual elements of the site (Museum, Art Gallery and live horses). The details of the exact form of these collaborative arrangements, whether sublease/commercial agreement (BSAT) or funding/grant agreement (RoR), are currently being finalised, to ensure maximum VAT efficiency in relation to future operations.

4.14 Capital Cost of project and funds raised to date

¹ Current annual footfall to the café is 35,000.

4.14.1 The overall capital project budget is £14.3m, of which £13.7m has been pledged in the following categories:

Table 1 – list of confirmed pledges and status of receipt

Donor category	Donor name	Amount pledged £000s	Received £000s	Not yet received £000s
National Grant	Heritage Lottery Fund	4,250		4,250
Private	Donor 1	1,500		1,500
Local Authority	FHDC	1,286	573	713
Private	Donor 2	1,000		1,000
Local Authority	SCC	1,000		1,000
Private	EBM Moller	750		750
Private	Wellcome Trust	750		750
Private	Monument Trust	750		750
Private	Jockey Club	500	250	250
Private	Alborada	500	250	250
Private	Donor 8	500	500	
Private	Donor 9	313	313	
Private	Tattersalls	150	60	90
Private	Gerald Leigh Trust	150		150
Private	Childwick Trust	100	100	
Private	Donor 13	50	50	
Private	Donor 14	50		50
Private	Dulverton	48	48	
		13,647	2,143	11,503
Benefactors	Various	232	143	89
Running Total		13,879	2,286	11,592

4.15 Revenue fundraising (working capital)

4.15.1 Over and above the capital project budget of £14.3m, the Home of Horseracing Trust have committed to creating a working capital fund of at least £0.75m before any part of the construction takes place. This is a sensible and prudent approach to the ongoing financial sustainability of the project. Furthermore, the Home of Horseracing Trust is clear that no construction will start until this working capital is secured.

5 Involvement of Forest Heath District Council

5.1 Forest Heath District Council is the freeholder of the site, some of which is grade 2 listed and some of which is grade 2* listed. Palace House itself formed part of a much larger palace which was built by Charles II in 1671, along with the accompanying Palace House Yard (reputed to be the oldest racing stables in the country). The Rothschild family acquired Palace House and the racing yard

in 1857 and brought them back into a state of full repair, rebuilding the latter. Over the next four decades under the Rothschilds, the Yard enjoyed a period of great success which culminated in the construction of a second courtyard in 1903, just before St Amant won the Derby in 1904. Palace House ceased to be used as a formal residence in the 1960s although the Yard continued as a training yard with Bruce Hobbs until 1985.

5.2 In 1992 the Council moved to prevent the threatened conversion of Palace House into flats, by compulsorily purchasing the whole site. By 1998, the Council had restored Palace House to its former glory, and made the trainer's house and yards watertight. In 2004/05 extensive work was carried out to restore and develop the Palace House Mews site.

5.3 In the meantime the Home of Horseracing Trust had been established with the assistance of the Council, with the specific objective of raising the funds necessary to secure the long term future of the site, including the facilities referred to in 4.3 above.

5.4 Implementation

5.5 This project has been progressing for several years, and various options for implementation have been considered. On 10 August 2011, Forest Heath District Council agreed to take on responsibility for implementation of the project.

5.6 Whilst there is no doubt that bringing this project to fruition will be a major achievement for all parties involved, and create an extraordinarily exciting addition to the Newmarket heritage and visitor offer, the implementation brings with it some inherent risks. These are addressed below.

5.7 Risks around funding – how secure are the pledged donations?

5.8 The major risk around funding arises from the fact that the Authority will be contracting to have the works carried out, and will therefore be obliged to finance the works, whilst the funds have been pledged to the Trust and will be collected by it. There is therefore a risk of a shortfall in funds to the Council either if not all pledges are paid or if there is a cost overrun. Whilst the design and costing of the project is progressed to a detailed level to minimise this risk it cannot be removed.

5.9 The Home of Horseracing Trust and the National Horseracing Museum Trust have been explicit that the fundraising target of £14.3m capital and £0.75m revenue (working capital) must be achieved before the capital build can start. Current estimates are that this target will be achieved by January 2013.

5.10 In Table 1 above it is clear that even though most of the funding has been **pledged**, 83% of it has not yet been **received** by the Home of Horseracing Trust. The majority of the large enabling grants are conditional on the project starting. Where funds have already been received these were generally to allow the project to develop designs etc. A few donors however have split their pledges over a number of years, although at least one of these has been persuaded to donate £750k upon start, rather than £250k over three years. As

a matter of course, the Heritage Lottery Fund only pays in arrears on presentation of copy invoices.

- 5.11 Clearly there is a degree of risk around private donors who have pledged funds to be paid at an agreed date in the future. If all pledges were received on time, the only remaining risk would be around cashflow, and this risk is discussed in 5.18 below. The issue for the Council, therefore, is whether there is any risk that the pledges do not materialise. This risk has been carefully considered by the HOH trustees and the Council. The mitigation is set out below.
- 5.12 There are two types of funding pledge, the first secured by a 'Deed of Gift', and the second acknowledged by a 'Letter'. All private funds committed will be recorded through one of these documents. The choice of which document has been used is largely up to the donor.

5.12.1 Deed of Gift

The Deed of Gift is a binding promise given by a Donor. As a document under seal it is possible for the Trust to take action to enforce the Deed of gift. It is unclear to what extent they would be willing to do this should the need arise and the Council will have no standing to compel any enforcement. Timing of the gift is to be specified.

5.12.2 Letter

The letter records the promise of funding but it is not enforceable. Payment remains voluntary as does the timing.

- 5.13 At the time of writing this report, 77% of the funding which has not yet been received has been secured with a Deed of Gift, and 23% by letter.
- 5.14 In an ideal world, all funds would be transferred to FHDC prior to start. However, it is clear from the large variety and sources of funding that this will not be possible. This will mean that the Authority is at risk by being the person taking on the obligation to carry out and finance the works without certainty that the funds will be available. **Given the nature of the financial standing of the donors (both public and private), this risk is considered to be acceptable, although it is the highest risk of all those risks considered in this report.**

5.15 Risks around funding – Cost overruns

- 5.16 Any capital project valued at c. £14m is likely to be at risk of cost overrun. The Home of Horseracing Trust have sought to mitigate this risk through two means. First, the project will not go out to tender until it has reached Architects' Design Stage E, which means that the design and specifications are fully detailed, thus leaving no 'wriggle room' for contractors to inflate costs during the build. Second, the project has a contingency of 6.2% of the overall sum, meaning that there is £900k available for possible overruns.

- 5.17 As mentioned, the project has not yet been tendered. This process is due to start at the end of January 2013. Once bids are received and analysed, there will be a further opportunity to review the overall cost and re-assess the adequacy of the contingency sum.
- 5.18 Finally there will be an opportunity to 'value engineer' parts of the project as necessary should cost overruns become apparent during the course of construction. **This risk is therefore considered to be reasonably low and within the control of the project team.**

5.19 Risks around funding – Cashflow

- 5.20 Linked to the funding security raised in 5.7 above is the issue of cashflow risk. This risk is mitigated by measures described below. It is raised to ensure that the Council has full understanding of overall project risks.

Table 2: Summary of Cashflow/Overdraft projection (after slippage contingency) – as at January 2013

Date	Jan 2013	Jan 2014	Jan 2015	Jan 2016
Income £000s	2,413	8,352	1,961	(204)
Expenditure £000s	2,095	8,625	3,250	309
Balance £000s ¹	318	(273)	(1289)	(513)

Note 1 () means overdraft is required.

Note 2: The overall situation will be improved by £0.5m when the final £0.5m is pledged. Therefore the likely requirement for an overdraft at any stage will be £0.5m less than shown in the table.

- 5.21 The Home of Horseracing Trust has put an overdraft facility in place with Weatherbys Bank, which is secured by The Levy Board reserves. This facility will ensure that as and when invoices become payable by FHDC, funds are available through the overdraft facility, even if the funding hasn't been received from the donors. The cost of this overdraft facility is borne by the Home of Horseracing Trust, and there is no further exposure to the council. The upper limit of the facility is £1.5m, although it is unlikely that this will be required in its entirety.
- 5.22 Clearly this is not sufficient in itself to fund the build fully, so there will still be an element of risk for the Authority in taking on the commitment to carry out the works if the sums needed exceed the overdraft limit. This would happen if pledged funds were not received by the date promised, or there were a cost overrun on the project (and therefore not enough funds available at all). Both of these risks have been addressed above.

5.23 In light of the analysis above, the cashflow risk is deemed to be low.

5.24 Risks around Procurement

5.25 The August 2011 Full Council decision effectively made the council responsible for all procurement of the project. Procurement of such a large scale project is complex and there are inherent legal risks around ensuring that the appropriate procedures are followed.

5.26 The FHDC Procurement Manager will oversee the procurement, and sign off all stages of the process, whilst the actual work will be undertaken by the appointed professional team, who bring significant combined procurement and market intelligence to the development process. They have delivered projects through all conceivable procurement types from PFI / PPP, traditional construction contract forms, design and build through to construction management and management contract forms.

5.27 The project will need to be procured in two sections, firstly the 'BaseBuild' which will provide the completed and serviced 'white box' building (approximately 80% of the cost) and secondly the 'Fit Out' (approximately 20% of the cost), which will provide the specialist exhibition content of the completed building.

5.28 Both procurement processes will follow the Restricted OJEU (Official Journal of the European Union) procurement process.

5.29 The risk around procurement is considered to be low.

5.30 Risks around VAT

5.31 VAT is a complex area, and a number of different options have been considered at various stages of the development of this project. At the time of writing this report the position is that FHDC will recover all VAT on the project. Final advice is awaited by the National Horseracing Museum to ensure that their VAT position is clear in relation to the ongoing operations of the site but this does not effect the position of full VAT recovery for FHDC on the capital project. **In light of the above information, the risk on VAT is considered to be low.**

5.32 Risk Summary

5.33 The risk table below considers each risk independently of the others. Officers' views are that the main risk area is around the funding pledges not being in place prior to starting the project. Members will need to assess whether the risk of this project not going ahead at all outweighs the risk associated with the funding pledges.

Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Funding shortfall	High	See 5.8 above	Medium
Cost overrun	Medium	See 5.15 above	Low
Cashflow shortfall	High	See 5.18 above	Low

Procurement	High	See 5.21 above	Low
VAT issues	High	See 5.31 above	Low

6. Other options considered

6.1 The site's strategic and historic importance to horseracing as described in this report, combined with the significant inward investment already secured, have virtually excluded the need for any other options to be considered.

6. Community impact

6.1 **Crime and disorder impact** *(including Section 17 of the Crime and Disorder Act 1998)*

6.1.1 n/a

6.2 **Diversity and equality impact** *(including the findings of the Equality Impact Assessment)*

6.2.1 n/a

6.3 **Sustainability impact** *(including completing a Sustainability Impact Assessment)*

6.3.1 A sustainability impact assessment will be completed once the project has approval.

6.4 **Other impact** *(any other impacts affecting this report)*

6.4.1 There is enormous community benefit derived from this project, in terms of regenerating a key area of Newmarket, creation of a small number of new jobs, and a potentially very significant wider economic impact.

7. **Consultation** *(what consultation has been undertaken, and what were the outcomes?)*

7.1 Extensive community consultation was undertaken by the National Horseracing Museum in relation to the project's Heritage Lottery Fund application, particularly in relation to the HLF funded community Activity Plan. The outcomes of this consultation are given in detail in the Activity Plan submitted to the HLF which is available for review should members wish to receive a copy. In summary, the project met with overwhelming community support (90.7% of survey respondents strongly agreed or agreed that 'The proposed new Centre will be a positive development for Newmarket').

An Audience Development Officer is incorporated in the Heritage Lottery Funding and a process of engagement with the public through a programme of community events will start as soon as practicable on the appointment of this post (likely to be March 2013).

8. **Financial and resource implications** *(including asset management implications)*

8.1 The overall financing of the Home of Horseracing project is considered in detail within the main body of the report above. The Council's capital contribution towards this £14.3m project stands at £713k and is allocated within the Council's capital programme.

8.2 On formal approval of this project, the full £14.3m project cost, will show within the Council approved capital programme and the Council's prudential indicators will need to be updated accordingly. The financing of which will be through funds from the Home of Horseracing Trust, with the balance of £713k, the Council's contribution, continuing to be financed from useable capital receipts.

8.3 The Audit Commission's view on the accounting treatment of this expenditure will be sought as soon as the VAT position is clarified.

9. Risk/opportunity assessment *(potential hazards or opportunities affecting corporate, service or project objectives)*

See section 5.7 – 5.31 above.

10. Legal and policy implications

10.1 The Council will be leasing the site to the Trust for 999 years at an undervalue. Specific consent has been obtained from the Secretary of State under S123 Local Government Act 1972 for this.

10.2 The Council has the power to lease the property. The proposal is that there will be an Agreement for Lease under which the Council will be obliged to procure the works, the trust to finance it and when concluded both parties will be obliged to conclude the lease. The Lease for the whole site will be supported by arrangements either to sublet portions to those occupying sections of the attraction (BSAT) or by collaborative/grant agreements with those same partner charities (BSAT and RoR) depending on the conclusion of the National Horseracing Museum independent VAT advice relating to future operations.

10.3 The project meets Planning Policy for the Newmarket area that provides for the creation of such an attraction. It complies with the Council's strategic plan as shown above.

11. Ward(s) affected

11.1 All wards, but Newmarket in particular.

12. Background papers

12.1 None.

13. Documents available for review

13.1 The Home of Horseracing National Heritage Centre - Business Plan October 2012 is available for review should members wish to receive a copy.