

PERTH AND KINROSS COUNCIL**COUNCIL MEETING****25 JUNE 2014****PERTH CITY HALL****Report by Executive Director (Environment)**

This report sets out the background to the decisions taken in relation to Perth City Hall, and the implications of the most recent decision to approve planning and listed building applications for the conversion of the building into a hotel.

1. BACKGROUND / MAIN ISSUES

- 1.1 The City Plan sets out the Council's ambition for Perth to become a dynamic, international city offering unrivalled business, educational, culture and leisure opportunities to our citizens and visitors. For example, Perth Concert Hall has already demonstrated how the provision of high quality facilities can attract world class performers. Its flexibility also contributes to Perth's success as conference and convention destination.
- 1.2 Perth City Hall did not have flexibility to compete in the way the Concert Hall can, and since its closure in 2005, the Council has sought to find a viable alternative use for the building that would contribute to the economic regeneration of Perth. Following the failure of developers to secure funding for a retail and leisure development, a review concluded that the demolition of the building to make way for a city square would deliver wide-ranging benefits to Perth by opening up the possibility of events, expanded markets and concerts in the city centre.
- 1.3 Consequently, on 16 November 2011, the Development Management Committee approved an application for planning consent for the creation of a new City Square. The Committee also made a recommendation to Scottish Ministers to approve an application for listed building consent to demolish the City Hall. This course of action was required because the Council is both property owner and applicant.
- 1.4 On 2 May 2012, Historic Scotland, on behalf of Scottish Ministers, refused listed building consent. This refusal was made on the basis that the proposal to demolish the building was contrary to the Scottish Historic Environment Policy. Specifically, Historic Scotland believed that the Council had submitted:
 - insufficient evidence that the anticipated benefits for Perth could only be delivered by the demolition of the building and that similar benefits could not be achieved through retention and conversion; and

- insufficient evidence that there was no alternative to demolition as it had been a number of years since the building was marketed to potential restoring purchasers at a price reflecting its location and condition.
- 1.5 The Council disagreed with Historic Scotland’s interpretation of the Scottish Historic Environment Policy. However, as the decision could not be appealed, the Council agreed on 27 June 2012 to re-market the building to test both the financial viability of re-use and the wider economic benefits of any proposals submitted. Historic Scotland offered to support the Council through the process and it was agreed with the agency that the building should be marketed in a 2 stage process. This was to allow prospective developers to come forward with outline proposals in 3 months and thereafter allow a period of 9 months to demonstrate commercial and structural viability. The financial sustainability of any proposals would be tested by seeking the submission of a robust and fully-funded business case.
- 1.6 Given its strategic location and island site, the Council agreed that the building should be marketed on the basis of a long lease (up to 125 years) rather than an outright sale.
- 1.7 Historic Scotland assisted Council officers to prepare marketing materials and offered to advise subsequently on the viability of any proposals on receipt of offers. Jones Lang LaSalle (JLL) was appointed by the Council to market the building by seeking initial expressions of interest; preparing guidance for assessment of detailed proposals; and assessing any subsequent detailed offers received.
- 1.8 Historic Scotland also agreed that any offers would require to be assessed in accordance with the legislative framework of the Disposal of Land by Local Authorities (Scotland) Regulations 2010 specifically taking into account:
- Proposed Heads of Terms
 - Proposed Use and Design
 - Commercial Viability
 - Funding
 - Economic Benefits

The Marketing Process

- 1.9 Stage 1 commenced in August 2012, comprising an open marketing campaign for 3 months to allow prospective parties to come forward with initial expressions of interest. The opportunity was widely marketed to ensure the opportunity received maximum exposure. Marketing initiatives included:
- On site banners
 - Mailshot to JLL’s developer database
 - Press advertising in The Herald, The Scotsman and the Courier
 - Website listings
 - Press releases

- 1.10 The Stage 1 closing date was 28 November 2012. Information requested included the identity of the proposed bidder (and background to key parties if the bidder was a consortium), and a brief outline of their development proposal including proposed uses. Expressions of interest were received from the following parties:
- Perth City Market Trust (PCMT)
 - Heritage Solutions (Scotland) Ltd
 - Perth City Centre Partnership
 - Whiteburn Projects
 - Corryard Developments Ltd.
- 1.11 Stage 2 of the marketing process commenced in January 2013. 4 parties were invited to progress, with 1 residential developer (Corryard) failing to comply with the requirement to enter into a lease with the Council as the bid requested. The assessment process and information requirements, agreed by the Council in conjunction with Historic Scotland, were communicated by JLL to all 4 parties at the launch of Stage 2 and the closing date for detailed submissions was set as 31 October 2013. Bidders were, therefore, given 15 months to research, prepare and submit viable bids.
- 1.12 At the closing date of 12 Noon on 31 October 2013 only one bid was received, from PCMT. The PCMT Stage 2 Detailed Submission was delivered electronically from Simpson and Brown architects at 10.54am. This did not include the various appendices nor did it include, as required, the legal offer. JLL advised the Council of the late offer status. However, in the absence of any other offer and to ensure every avenue was fully explored, the Council agreed to assess the bid.
- 1.13 Council officers met with Historic Scotland and JLL on 8 November 2013. At this meeting, it was agreed that the submission did not adhere to the Stage 2 requirements. Notwithstanding the omissions, JLL was instructed to assess the submission relative to the information that had been provided.
- 1.14 JLL's analysis concluded there was no clarity in relation to the legal offer, no evidence of support or commitment from any of those targeted to occupy space, nor any evidence of dialogue or support from any of the potential funding partners. It further concluded that the marketing exercise, the submission received, and the assessment provided, confirmed that there was no market solution and that any alternative uses would be unviable without significant ongoing public subsidy. JLL's recommendation, therefore, was that the Council reject the bid.
- 1.15 The Council considered the evidence and the advice offered by JLL on 11 December 2013. A deputation on behalf of Simon Wilson to express interest in the building was rejected by the Council as he had not expressed any formal interest during the lengthy marketing of the building. Following scrutiny and discussion, the Council accepted JLL's advice and rejected the offer by Perth City Market Trust. The Council also instructed the Executive Director (Environment) to re-submit an application for demolition of the building for determination by Scottish Ministers.

Current Planning Position

- 1.16 To ensure the Council can deliver its vision for the city, and in accordance with its decision of 11 December 2013, a revised application for listed building consent to demolish was prepared. This application is provisionally scheduled to be presented to the Development Management Committee in July 2014.
- 1.17 However, in the interim period, planning and listed building applications were submitted by the Seventy Group (Simon Wilson) for conversion of the building to a hotel.
- 1.18 As Planning Authority, the Council has a duty to determine planning and listed building applications and can only reject these if an application cannot be validated because it does not meet the minimum requirements in terms of site details and plans. Thereafter, the Council requires any validated application to set out the detail of the proposal, design rationale, impacts and mitigation measures appropriate to the proposal, and site context. The determination of any planning or listed building application requires consideration of the general viability of the proposal and its economic benefits. However, these assessments are not required to contain the level of detail that would also allow a landlord or property owner to enter into a discussion about disposal.
- 1.19 It therefore stands to reason that the Planning Authority could approve multiple applications for planning and listed building consent at the same site. However, such consents do not confer any right to implement the proposal. Applicants still need to secure a legal interest in the land or building alongside the necessary funding for acquisition, development and subsequent operation. Therefore, in the case of City Hall, the Council would still require to agree the terms of any lease before the hotel project could proceed.
- 1.20 With the above reflected in the officers' recommendations, the Development Management Committee approved the applications for planning and listed building consent on 14 May 2014.
- 1.21 Subsequent correspondence with Historic Scotland confirmed that because there is now a potential re-use of the building, it would be very difficult for the agency to support demolition until the viability of the hotel proposal has been tested.

Current Property Position

- 1.22 An unsolicited offer to buy the building was submitted in March 2014 by James Keiller Estates on behalf of the Perth City Market Trust. This was rejected by the Executive Director (Environment) on the basis of the Council's previous decision to offer a long lease and the subsequent failure of any viable offers being received. Officers, therefore, have no authority to negotiate an unconditional sale of the building unless the Council reconsiders its previous decision.

- 1.23 By agreeing to any sale, this would remove the requirement for any prospective purchaser/lessee to demonstrate viability. There would be no guarantee that the City Hall would ever be developed.

2. PROPOSAL

- 2.1 In the absence of a viable re-use of the City Hall, despite extensive re-marketing, it was logical for the Council to resume its proposal to deliver social and economic benefits through demolition of the building and its replacement with a public square. However, the recent granting of planning and listed building consent for hotel conversion means that there may be a viable re-use of the building which should be explored prior to progressing with an application for demolition. Other parties, such as PCMT, may also wish to submit a credible offer.
- 2.2 The recommended course of action is for the Council to re-market the City Hall for a short period of time to allow interested parties to submit offers supported by a full business case demonstrating deliverability, funding and commercial viability without public subsidy. Prospective bidders would be invited to submit offers that complied with the requirements specified by JLL in the stage 2 marketing process launched in January 2013. After the commencement of marketing, prospective bidders would require some time to prepare detailed submissions and 6 months is deemed to be a reasonable period. A closing date would be advised at the outset.
- 2.3 Consequently, to allow sufficient time to re-market the City Hall and assess any bids, it is recommended that the application for consent to demolish the building should be put on hold (sisted).

3. CONCLUSION AND RECOMMENDATIONS

- 3.1 The granting of planning permission and listed building consent for conversion of City Hall into a hotel has indicated that potentially there may be a viable project that would deliver the desired economic and social benefits for Perth.
- 3.2 As other interested parties, including PCMT, continue to believe they also have viable projects, a reasonable course of action for the Council to take would be to re-market the building for a period of time and assess the viability of any submitted offers. Historic Scotland would support this course of action, and it is anticipated that the agency would also agree that the process cannot be allowed to perpetuate itself in the event that none of the submitted offers can demonstrate viability and deliverability.
- 3.3 It is recommended that the Council:
- Agrees to re-market Perth City Hall for a period of 6 months and invite full offers to be submitted for the long term lease of the building that demonstrate financial viability and deliverability;

- Agrees to assist the Council's application for listed building consent for demolition until it has had the opportunity to assess the viability of any new bids to lease the building;
- Instructs the Executive Director (Environment) to appoint marketing agents and any other specialist advisers deemed necessary to assess submitted offers;
- Notes that a further report will be submitted to the Council on the conclusion of the re-marketing exercise to allow it to consider offers and decide on the future course of action.

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Approved

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Community Plan / Single Outcome Agreement	Yes
Corporate Plan	Yes
Resource Implications	
Financial	Yes
Workforce	None
Asset Management (land, property, IST)	Yes
Assessments	
Equality Impact Assessment	None
Strategic Environmental Assessment	None
Sustainability (community, economic, environmental)	None
Legal and Governance	Yes
Risk	Yes
Consultation	
Internal	None
External	Yes
Communication	
Communications Plan	Yes

1. Strategic Implications

Community Plan / Single Outcome Agreement

- 1.1 The proposals relate to the delivery of the Perth and Kinross Community Plan/Single Outcome Agreement in terms of the following priorities:

(iii) Promoting a prosperous, inclusive and sustainable economy

Corporate Plan

- 1.2 The proposals relate to the achievement of the Council's Corporate Plan Priorities:

(iii) Promoting a prosperous, inclusive and sustainable economy

2. Resource Implications

Financial

- 2.1 The proposal will require revenue resources of an estimated £50k to enable agents to be appointed to re-market and assess offers for the City Hall and meet ongoing maintenance costs. These revenue costs can be accommodated within the Environment Service revenue budget.

Workforce

- 2.2 There are considered to be no workforce implications arising from the proposal.

Asset Management (land, property, IT)

- 2.3 The proposals will allow the Council to fully meet its duties in relation to securing best value in the management and potential disposal of its property assets.

3. Assessments

Equality Impact Assessment

- 3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties.
- 3.2 This section should reflect that the proposals have been considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome:
- (i) Assessed as **not relevant** for the purposes of EqIA

Strategic Environmental Assessment

- 3.3 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.
- 3.4 No further action is required as it does not qualify as a PPS as defined by the Act and is therefore exempt.

Sustainability

- 3.5 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. In terms of the Climate Change Act, the Council has a general duty to demonstrate its commitment to sustainability and the community, environmental and economic impacts of its actions.
- 3.6 This section should reflect the steps that have been taken to assess the proposals.

Legal and Governance

- 3.7 The Head of Legal Services and the Head of Democratic Services have been consulted and confirmed the proposals are compliant with Council's Scheme of Administration and duties in relation to the disposal of property.

Risk

- 3.8 The key risks associated with the proposals relate to the potential disposal of the property by way of lease where appropriate terms are recommended to mitigate risk in relation to the delivery of any development should the Council agree to dispose of the property.

4. Consultation

External

- 4.1 Historic Scotland was advised that the Council would be requested to consider re-marketing the building.

5. Communication

- 5.1 Given national and local public interest in the City Hall a revised communications plan using all forms of communications media will be required to fully explain the Council's decision and next steps in the process.

2. BACKGROUND PAPERS

The following background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (and not containing confidential or exempt information) were relied on to a material extent in preparing the above Report

- Report to Council 11 December 2013
- Report to Development Management Committee 14 May 2014: Report 14/00297/FLL
- Report to Development Management Committee 14 May 2014: Report 14/00298/LBC

3. APPENDICES

None

