

# DECISION ITEM



REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	TOURISM AND LEISURE COMMITTEE	9 MARCH 2017	4
<b>LYTHAM HALL RESTORATION PROJECT - INDEPENDENT AUDIT REPORT</b>			

## PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

The report provides the findings from the independent audit into the reasons for the withdrawal of funding support for the Lytham Hall restoration project. The audit was requested by the Tourism & Leisure committee at the meeting on November 3<sup>rd</sup> 2016 where it was resolved:

That the Tourism and Leisure Committee ask for an independent audit to be commissioned to examine in detail and to ascertain:

- (a) The reasons for some of the major funding bodies pulling out of the project.
- (b) The findings of other work undertaken into the project such as the Moore Stephens report prepared by the Heritage Lottery Fund.
- (c) Whether in light of this information the borough council can have any confidence that the existing trustees and management of HTNW will ever be able to complete the restoration of Lytham Hall within a reasonable time period.
- (d) What has the £300,000 that Fylde Council gave to Lytham Hall been spent (to be suitably itemised)
- (e) Whether in light of the outcome of 2 (d) above, the council has any grounds to demand repayment of the £300,000 grant awarded by Fylde Council in 2011.

The audit team at Blackpool Council carried out the investigation work and produced the Fact Finding Report included as Appendix 1 to this report.

### RECOMMENDATION

Having regard to the Fact Finding report and the previous information provided at the meeting on November 3<sup>rd</sup> 2016, the committee concludes as follows:

1. That Heritage Trust North West ("HTNW") have failed to comply with clauses, 5, 8, 9, 14 and 22 of the Heads of Terms of the Lytham Hall Capital Grant agreement dated August 4<sup>th</sup> 2011.
2. That the committee has no confidence in the ability of the present leadership or management of HTNW to lead the Lytham Hall restoration project and request the immediate removal of HTNW's Chief Executive from the Lytham Hall restoration project.
3. That the committee seeks reassurance, with supporting evidence, from the Heritage Trust North West Board that they have the capability and appropriate personnel to continue to deliver the Lytham Hall restoration project, in particular an appropriately qualified financial officer, without which the committee cannot have confidence in HTNW delivering the Lytham Hall Restoration Project.

4. That the management of the Lytham Hall restoration project includes separate and dedicated accounting and financial management from other projects being delivered by HTNW.
5. That the financial management arrangements include a separate capital account and that all accounts are submitted on an annual basis for inspection to all parties that have made a grant contribution.
6. That the Heritage Trust North West be required to provide an itemised list with costing of the capital initiatives that Fylde Council's £300,000 has been allocated to and the amount of the grant that remains unspent, in accordance with Clause 5 of the grant agreement.
7. That should HTNW decline or be unable to take any of the actions set out above to ensure compliance with the terms of the council's grant, the council will take such action as may be open to it (including legal action) to recover the grant.
8. That HTNW be requested to invite Fylde Council to nominate an elected member of as a member of its Board of Trustees.
9. That six monthly progress reports are provided to the committee by the elected member representative and the appropriately qualified financial officer responsible for the Lytham Hall restoration project.
10. The committee notes the continued challenge of the refusal to release the Moore Stephens report under the Freedom of Information Act and if it is made available that it is brought before the committee for consideration.
11. That the council reviews the protocols for capital grant funding of longer term projects to include milestone payment terms determined by set criteria as opposed to one off up-front payment.
12. That the Council, preferably with other funding partners, seeks the intervention of the Charity Commission to review the overall financial management and governance arrangements of Heritage Trust North West and its respective trading companies.

#### SUMMARY OF PREVIOUS DECISIONS

November 3<sup>rd</sup> 2016 Tourism & Leisure - Lytham Hall Capital Grant Monitoring Report  
 November 12<sup>th</sup> 2015 Tourism & Leisure - Lytham Hall Capital Grant Monitoring Report  
 January 7<sup>th</sup> 2015 Tourism & Leisure – Lytham Hall Progress Report: Coastal Revival Fund  
 January 15<sup>th</sup> 2014 Cabinet - Lytham Hall Capital Grant Monitoring Report  
 June 27<sup>th</sup> 2012 Cabinet - Lytham Hall Capital Grant Monitoring Report  
 June 28<sup>th</sup> 2011 Cabinet - Lytham Hall Capital Grant Approval  
 March 28<sup>th</sup> 2011 Full Council – Lytham Hall Capital Grant Request  
 March 23<sup>rd</sup> 2011 Cabinet – Lytham Hall Capital Grant Request

#### CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services ( <b>Value for Money</b> )	√
Delivering the services that customers expect of an excellent council ( <b>Clean and Green</b> )	
Working with all partners ( <b>Vibrant Economy</b> )	√
To make sure Fylde continues to be one of the most desirable places to live ( <b>A Great Place to Live</b> )	√
Promoting Fylde as a great destination to visit ( <b>A Great Place to Visit</b> )	√

## REPORT

1. The report provided as Appendix 1 are the factual findings from the independent audit report commissioned by the committee into the financial management of the Lytham Hall Restoration Project being carried out by Heritage Trust for the North West ("HTNW"). The audit team at Blackpool Council were commissioned to carry out the work and have no operational or financial link to Lytham Hall therefore can act impartially presenting only the facts from the research and interviews.
2. The report provides factual clarification with supporting evidence in respect to several issues that were not satisfactorily explained by the HTNW Chief Executive on November 3<sup>rd</sup> 2016 when he attended the committee meeting to present the annual Capital Monitoring Report. The report covers the following:
  - The reasons for some of the major funding bodies pulling out of the project.
  - The findings of other work undertaken into the project such as the Moore Stephens report prepared by the Heritage Lottery Fund.
  - Whether in light of this information the borough council can have any confidence that the existing trustees and management of HTNW will be able to complete the restoration of Lytham Hall within a reasonable time period.
  - What has the £300,000 that Fylde Council gave to Lytham Hall been spent on (to be suitably itemised).
  - Whether the Council has any grounds to demand repayment of the £300,000 grant awarded by Fylde Council in 2011.
3. A request for the Moore Stephens report was made by Fylde Council to the Chief Executive of HTNW who refused to release the report on the grounds that it was commissioned by the Heritage Lottery Fund (HLF) and the request should be made direct to the HLF. Fylde Council and the MP for Fylde requested the Moore Stephens report from the HLF under the Freedom of Information Act and the request was refused on the grounds that it contained information that had been given in the expectation of confidence and of prejudice to commercial interests. The council is appealing against this decision on the grounds that HLF funding, and some of the other grants to the Lytham Hall Restoration Project, is from public finances and as such it is in the public interest to disclose the report. At the time of publishing this report the appeal is still being considered. In the event that the Moore Stephens report is disclosed it will be reported to the committee.
4. Members are asked to carefully consider the content of the Fact Finding audit report along with the information that was presented in person by the Chief Executive of HTNW and in the report at the meeting on November 3<sup>rd</sup> 2016 which can be found at [this link](#).
5. It is clear from the detailed financial information provided in the Fact Finding audit report that the financial management systems HTNW have in place made it impossible to allocate grant funding by the various contributors to specific projects and / or works, or to differentiate between revenue and capital expenditure, or that the funds for the Lytham Hall Restoration Project are recorded and contained in a dedicated account. This has made it difficult for HTNW to accurately report back to the council in accordance with clauses 5, 8 and 22 of the Heads of Terms for the Lytham Hall Capital Grant.
6. HTNW were notified in early 2016 that the HLF were closing the project down and withdrawing the remainder of the funding; *'Therefore the previously agreed HLF project was no longer affordable and the project as was ended in 2016 with the last claim which has been settled by the HLF relating to Jan – March 2016'* (2.1.16). Fylde Council was only notified of the HLF decision on Tuesday August 9<sup>th</sup> at a meeting with the Chief Executive of HTNW and the Project

Manager for the Lytham Hall Restoration Project that was arranged to discuss a press release on the matter. The failure to notify Fylde Council is a breach of Clause 14 of the Heads of Terms.

7. HLF commissioned the Moore Stephens investigation in July 2016 and a report has subsequently been produced. In accordance with Clause 9 to the Heads of Terms in the agreement for the capital contribution to Lytham Hall, Fylde Council should have been informed of the inspection and provided with a copy of the report. HTNW are in breach of the agreement (Clause 9) by not providing the dates of the inspection and the report.
8. The Fact Finding report in Appendix 1 contains a number of factual statements that reflect the competency of HTNW leadership and management of the Lytham Hall Restoration Project which members should consider in coming to their view on the recommendations to this report, the statements include:
  - 2.1.7 – *‘in 2011 that the HTNW had defaulted on a loan’*
  - 2.1.9 – *‘HTNW missed the deadline for submitting the business case’*
  - 2.1.10 – (in 2015) *‘when reviewing the business case submitted by HTNW it was noted that they had not sold the properties which they had stated they would dispose of as part of the 2013 agreement’*
  - 2.1.14 – *‘In retrospect it could be considered that the income target was unrealistic as no evidence has been provided which suggests that Lytham Hall had previously made a profit.’*
  - 2.1.17 – *‘They (the HLF) had identified significant risks with the business plan and the governance and management proposals which meant the request was not supportable.’*
  - 2.2.19 – *‘The Chief Executive of HTNW confirmed, as part of this review, that there is a need to strengthen governance arrangements’*
  - 2.3.1 – *‘It is evident that there has been a breakdown in the relationships between the key stakeholders involved in the project to restore Lytham Hall.’*
  - 2.3.2 – *‘fuelled by an apparent lack of willingness by the Chief Executive of HTNW to share the outcome of the various reviews which have been undertaken’*
  - 2.3.3 – (the Lytham Hall Project) *‘has suffered from a lack of effective management and dedicated financial support from someone who is qualified in financial management’*
  - 2.3.3 – *‘it would be difficult to provide assurance that the HTNW, as this moment and with their current processes, would be able to deliver the Lytham Hall project on a timely basis, nor is there currently the funding available to deliver the scheme.’*
  - 2.4.6 – *‘Due to the way in which the financial records have been maintained it is not possible to categorically say what element of funding was spent on what part of the project’*
  - 2.4.6 – *‘There is no separate bank account for the Lytham Hall Project and the money goes into the main HTNW account’*
  - 2.4.7 – *‘there is no transparent record which can be referred to in order to assess money coming in and out of the project, and no clear audit trail which can be clearly attributed to Lytham Hall.’*
  - 2.5.1 – *‘the financial information provided shows that not all the money (the £3000,00 grant from Fylde) could have been spent on capital works but has been apportioned to contribute to all the costs identified in the HLF project’*
  - 2.5.3 – *‘it is not possible to specifically detail how Fylde Borough Council’s funding has been spent.’*
9. Members of the committee are asked to consider the recommendations included with this report and propose any further recommendations which may arise from the information available and debate on the item.

IMPLICATIONS	
Finance	In August 2011 Fylde Council agreed a capital sum of £300k to support the Lytham Hall Heritage Restoration Project, which was paid in 2011/12. The latest unaudited accounts of the Heritage Trust for the North West (at 31 March 2015) show that at that date a sum of £131,108 of this grant remained unspent. It is anticipated that within the 2015/16 accounts this figure will be significantly reduced to reflect the additional expenditure incurred since March 2015.
Legal	Evidence from the audit report indicates that there has been at least one clause of the Heads of Terms breached by HTNW.
Community Safety	No implications arising from this report
Human Rights and Equalities	No implications arising from this report
Sustainability and Environmental Impact	No implications arising from this report
Health & Safety and Risk Management	No implications arising from this report

LEAD AUTHOR	TEL	DATE	DOC ID
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LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Committee Reports	Various	<a href="http://www.fylde.gov.uk">www.fylde.gov.uk</a>

Appendices attached to this report

**Appendix 1:** Fact Finding Report – Review of Lytham Hall Restoration Project