	REPORT TO CABINET TO BE HELD ON 19 JANUARY 2016	
	Key Decision Forward Plan Ref No	
Corporate Priority: Strong and Diverse Economy Aim 2: Building a Prosperous Community Aim 3: Creating a Quality Environment	Cabinet Portfolio Holder	Cllr M. Cockerill Cllr D. Bastiman

REPORT OF THE DIRECTOR (TW) – 16/21

WARDS AFFECTED: WHITBY ALL

SUBJECT: REGENERATION OF THE PIER ROAD AND SCOTCH HEAD AREAS – WHITBY HARBOUR

RECOMMENDATION (S):

Cabinet is recommended to approve:

- i. The principle of the proposed invest to save scheme for the renewal, reorganisation and installation of additional kiosk concessions at Pier Road and Scotch Head, Whitby.
- ii. The submission of a planning application for the renewal, reorganisation and installation of additional kiosk concessions at Pier Road Scotch Head, Whitby.

Subject to approval of i and ii:

- iii. Grant an exemption to the Council's Contract Procedure Rules to facilitate the appointment of Transcore Ltd to carry out the scheme and implement Phase 1 of the scheme prior to the commencement of the main trading season 2016.

REASON FOR RECOMMENDATION (S):

To allow progression of the renewal and reorganisation of kiosk concessions at Pier Road and Scotch Head, Whitby, to regenerate these facilities by improving their

physical appearance and popularity; and through the installation of additional kiosks increase rental income generation for the Borough Council.

HIGHLIGHTED RISKS:

As shown in Appendix A.

1. INTRODUCTION

- 1.1 The Borough Council currently lets a number of concessions throughout Whitby including some located within the limits of Whitby Harbour.
- 1.2 Following a review of the opportunities for generating new revenue income within the harbour the Harbour Authority and the Council's Regeneration Services team identified that the existing kiosk concessions within the harbour limits could be significantly enhanced and improved and that additional kiosks could be established to pay for this regeneration activity and ultimately increase income generation for the Council.
- 1.3 Driven by the significant need to generate additional income to meet the growing demands on the Council's financial resources, and in order to minimise the payback period to the Council from such an investment, it is considered necessary to progress this scheme in the most expedient manner possible and to aim to deliver the first phase of the new concessions prior to commencement of the main tourism season 2016.
- 1.4 This report therefore seeks the approval of Cabinet to submit a planning application for the proposals and subject to some further consultation and detailed development, to grant officers an exemption from the Council's contract procurement procedures in order to utilise the Council's Coastal Maintenance Framework Contractor Transcore Limited to undertake the Phase 1 works outlined herein.

2. CORPORATE OBJECTIVES AND THE COMMUNITY PLAN

- 2.1 The proposals are in accordance with the Council's key priority of a 'Strong and Diverse Economy' and meet the corporate aims of:

Aim 2: Building a Prosperous Community
Aim 3: Creating a Quality Environment.

3. BACKGROUND AND ISSUES

- 3.1 The Council currently lets 5 plots for kiosk concessions on Pier Road at the southern end of Whitby Fish Quay and a further 4 concessions on and around the Scotch Head area at the Northern end of the Fish Quay.

- 3.2 The Council lets only the plot of land on which the concessions are located and the tenant is responsible for providing and maintaining the kiosk premises from which they operate. Tenants currently enjoy full protected business tenancies under the 1954 Landlord and Tenant Act. Currently each of the tenants has a restrictive lease limiting the type of goods and services they may sell from their concession.
- 3.3 All the concessions are fully occupied and provide a variety of differing types of retail offering ranging from a palmist to coffee, ice cream and beach goods sales. All of the concessions operate successfully and add significantly to the vibrancy of the town as a visitor destination.
- 3.4 However, having reviewed the environment in which the kiosks are located, their organisational layout and the appearance of some of the current concessions, it has become apparent that there is significant opportunity to improve current activity, regenerate the public realm environment, increase the number of concessions available and add yet further to the vibrancy of the area.

Pier Road Kiosks (southern end of Fish Quay)

- 3.5 There are currently 5 operating kiosks in this area, they are laid out in a shallow arc as depicted in Figure 1. Each of the kiosks is under separate leasehold ownership and provides a different product ranging from ice cream sales to wet fish. All of the tenants have protected business tenancies, the longest current lease term in this area runs until July 2018.
- 3.6 The kiosks in this area are all of timber construction and are in a varying state of repair ranging from good to poor. Where provided electrical and telecoms services are delivered by an unsightly overhead cable arrangement. Water and drainage is also supplied to the kiosks.

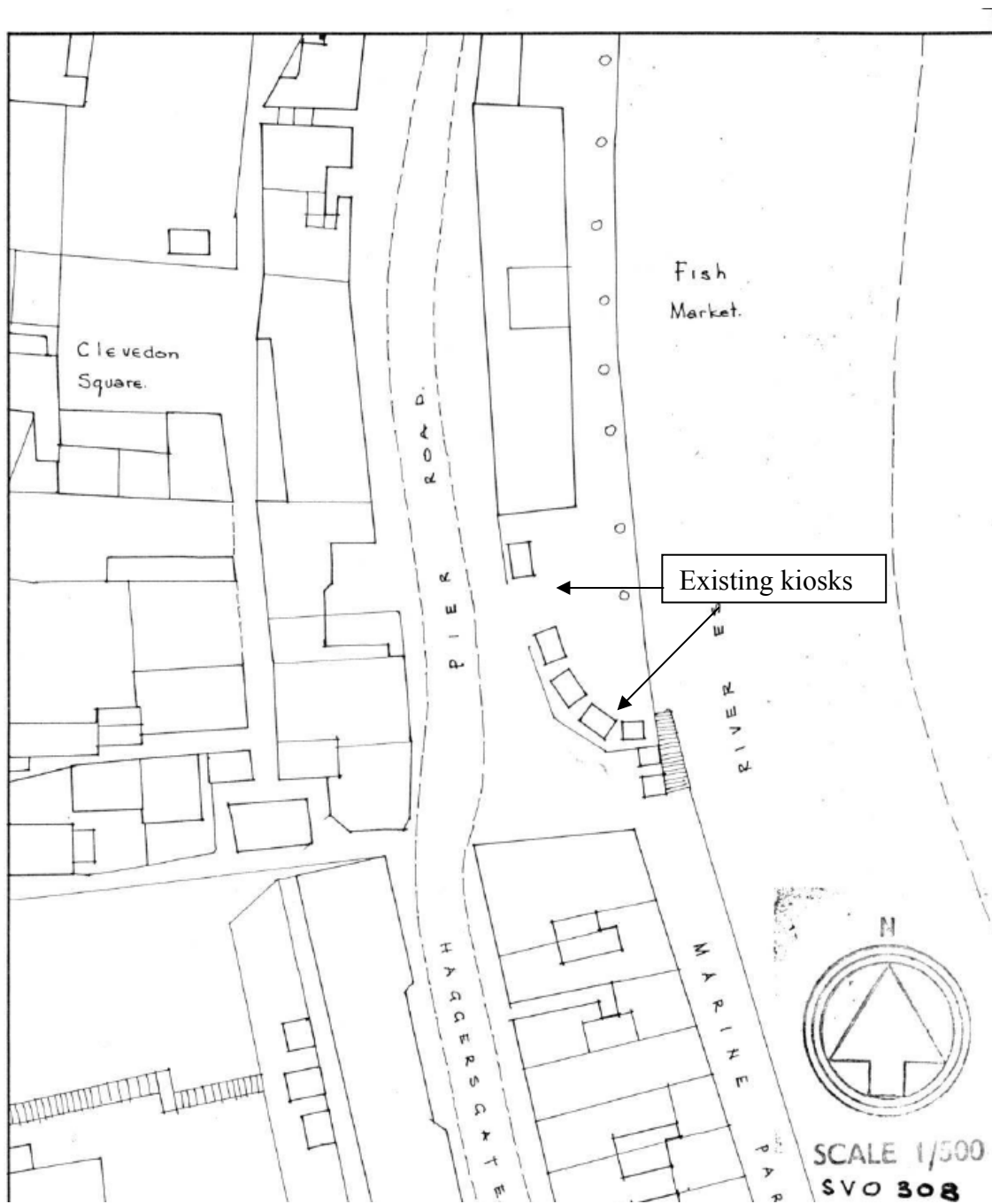


Figure 1

- 3.7 The general appearance of the public realm in the area is satisfactory to poor with varying material finishes to the footway including traditional stone, concrete of the fish quay structure and tarmac of the footpath and highway.

Opportutiny for development

- 3.8 Historically the positioning of the concessions in this vicinity followed the former layout of the fish quay fence line. The boundary of the fish quay fence was moved in recent years, however the layout of the kiosks has remained unchanged and as a result there is a significant amount of “dead” space to the

rear of the kiosks. In addition the layout of the kiosks currently causes an unnecessary narrowing of the public space limiting pedestrian flow.

- 3.9 A measured survey has demonstrated that by reorganising the kiosks into an alternative layout as depicted in Figure 2, the public space can be increased and 2 additional kiosks can be located in the area. Any reorganisation of layout or additional kiosks erected in this area would require planning consent from the Local Planning Authority.

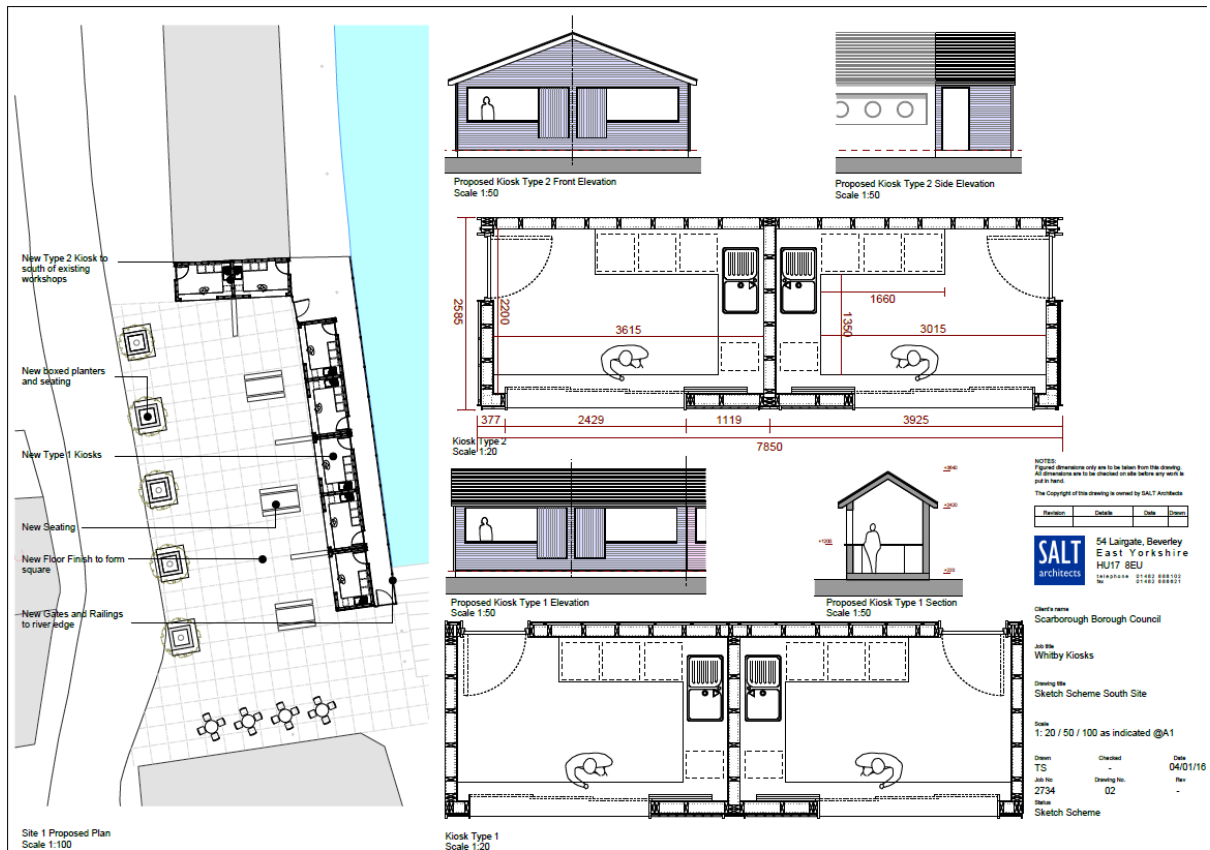


Figure 2.

- 3.10 Some surface treatment would be undertaken to the footway to improve its appearance and function and when accompanied by some localised planting a small public piazza could be created. This would provide the opportunity for visitors to dwell in the area so increasing the opportunity for retail activity of the concessions and other adjacent businesses and also improve pedestrian flows.

Implications of implementation of the works

- 3.11 In order to implement the scheme in this location it will be necessary to re-arrange kiosks into the proposed layout. Due to the age and relatively fragile construction of the existing kiosks it is unlikely that they can be successfully moved to new locations without causing them significant damage.

- 3.12 It is therefore proposed that all of the existing kiosks are removed and replaced with new purpose built kiosks of an equivalent size and improved specification.

Utility Services

- 3.13 Services to the kiosks would have to be re-routed to the new and relocated concessions. An initial assessment of electrical and water provision indicates that sufficient capacity is present to meet the needs of the additional kiosks in the area. However foul drainage will require some additional local pipework to be installed to serve the relocated kiosks. Cabinet should note that a comprehensive assessment of the drainage and utility requirements has yet to be completed and although an adequate budgetary allowance has been made to overcome this element of the scheme this remains an outstanding issue which will have to be resolved prior to commencement of any works.

Existing lease arrangements

- 3.14 As previously outlined the existing tenants located in the area of the proposed works have protected business tenancies. The consent of the tenants will therefore be required if works to relocate their concessions are to proceed prior to their existing leases expiring. Although initial consultation has been undertaken with each of the concessions operators full agreement has not yet been reached on the proposals for relocation. Therefore works to relocate these concessions may not commence until agreement with the tenants has been reached or alternatively upon the date of expiry of the longest term in July 2018 or whichever is sooner.
- 3.15 Should agreement not be reached the Council would need to serve a formal notice to terminate the tenancy on the expiry date. This notice would propose that suitable alternative accommodation is provided by way of a new concession plot. If the tenant still objects then it could be referred to the Court for a decision.

Scotch Head Kiosks (northern end of Fish Quay)

- 3.16 There are 4 concession plots leased from the Council within the area known as Scotch Head at the northern end of the the fish quay. See Figure 3 for current locations.

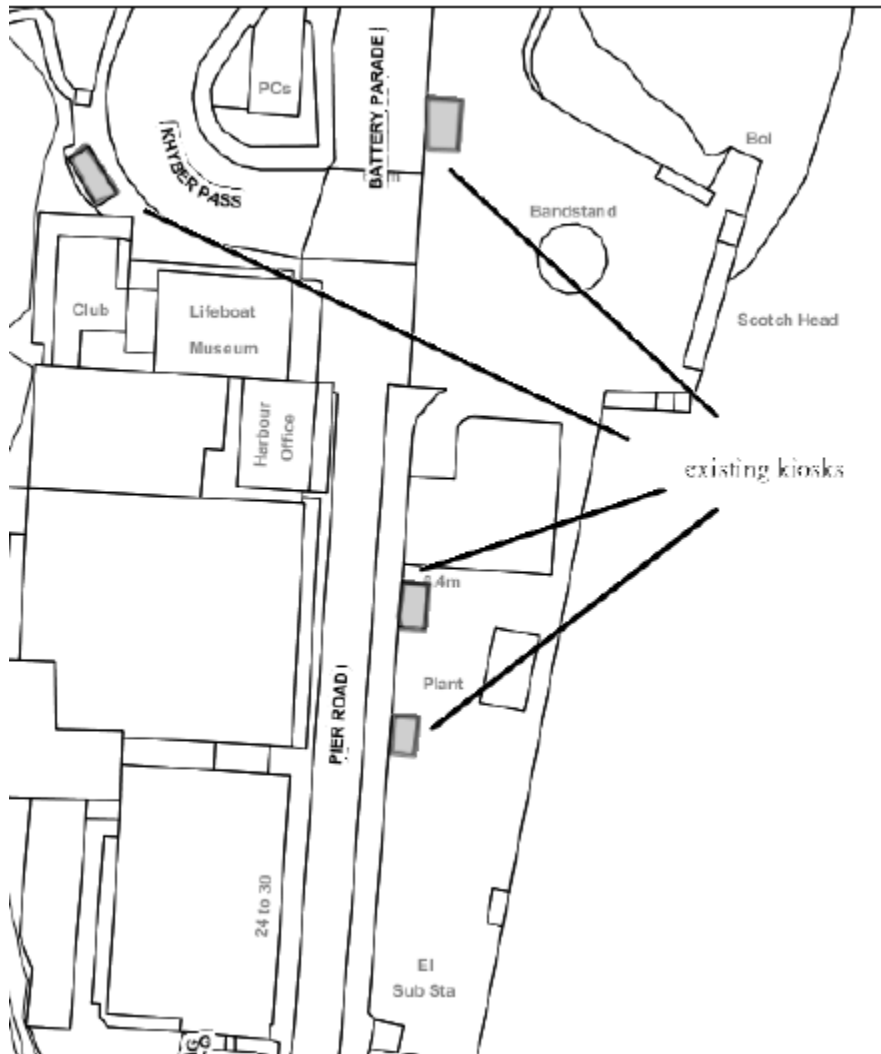


Figure 3.

- 3.17 These kiosks are privately owned and provide a range of products including fudge, coffee, ice cream and hot food etc. Each of the kiosks are individual in appearance and are constructed of various materials including brick, timber and plastic.

Opportunity for development

- 3.18 It can be seen from the current layout that there is a considerable amount of underutilised space between the kiosks. A measured survey of the area has demonstrated that an additional 7 kiosks of equivalent size to those already in situ could be located within the area as depicted in Figure 4.

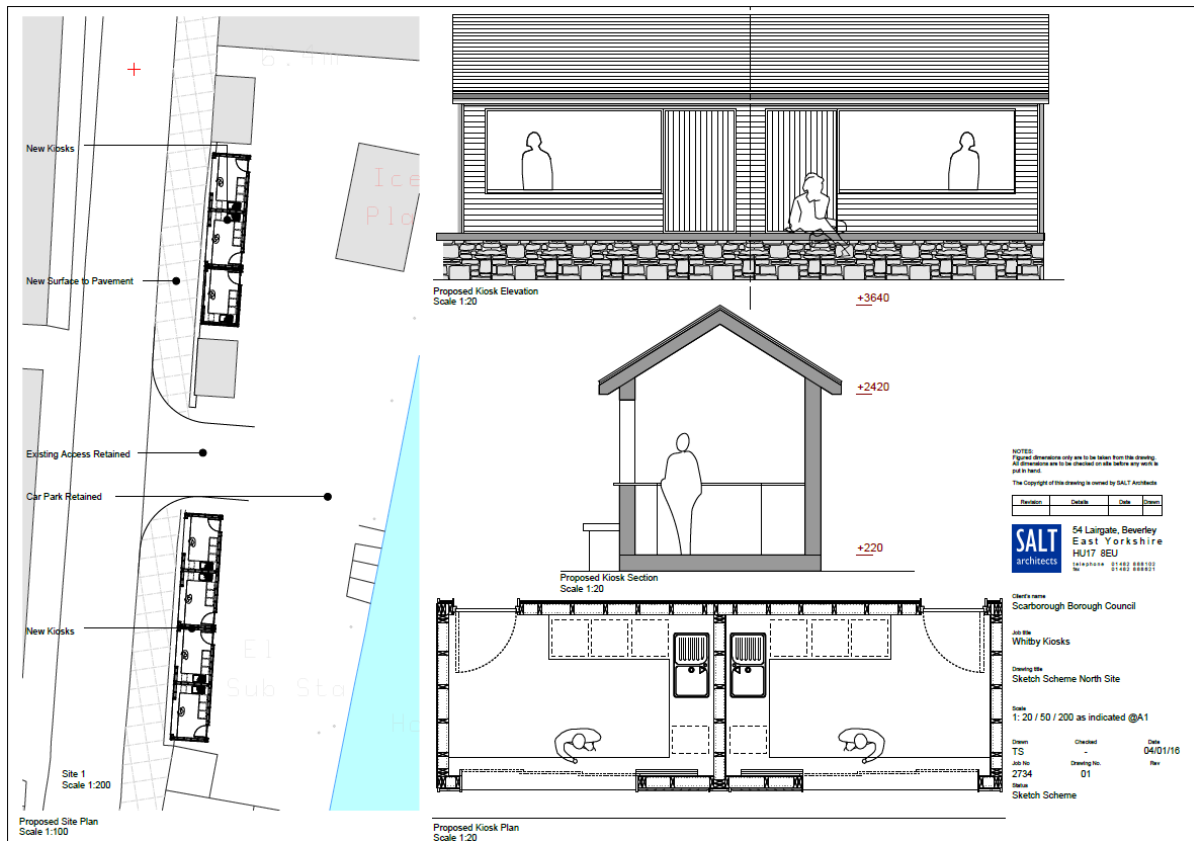


Figure 4.

3.19 The kiosks suggested would be of modular timber frame construction and would provide additional vibrancy to the area, increase the range of products on offer to visitors and importantly would also provide increased rental income to the Borough Council. It should be noted that any new kiosk erected in this area would be subject to planning consent from the Local Planning Authority.

Implications of implementation works

- 3.20 The proposed new kiosks could be located in this area with minimum disruption to existing kiosk concessions. Modular, partly complete kiosk units would be delivered to the site and installed and completed in situ. The existing kiosk concessions would remain untouched and therefore no expenditure would be incurred in relocating these or providing new accommodation.
- 3.21 The proposed kiosk locations are currently utilised as permit holder parking bays. In order to maintain the same number of parking bays within the vicinity it is proposed that the concrete block which was formerly the foundation of the Whitby Harbour ice house be removed and new parking bays be created in this area.
- 3.22 Vehicular access and egress to the site and the fish quay would be maintained as would operating areas for the conveyance of fish product and fishing equipment upon the quay.

Utility services

- 3.23 Services including electricity, water and foul drainage would have to be provided to the new kiosks. An initial assessment of all provision has been undertaken and it is believed that sufficient capacity is present to meet the needs of the additional kiosks. However a comprehensive assessment has yet to be completed and this will be required prior to commencement of any works. Cabinet should note that an adequate budgetary allowance has been made to upgrade service provision should it be determined necessary.

OUTLINE BUSINESS PLAN

- 3.24 There is currently 100% occupancy of all concessions in the Whitby area.
- 3.25 The current concessions are limited to the type of goods they can sell. The Council as Landlord ensures a range of offerings through placing restrictions on the types of goods/services sold and as a result it is believed that the kiosk concessions command an above average annual rent. However, in order to allow market forces to dictate the goods and services that are available for sale and to maximise the take up of new tenancies it is proposed that this restriction be removed for existing tenants and that any new kiosks installed do not have restrictions on the type of goods/services they can sell, within the limits of decency and regulation.
- 3.26 The business case for investment in the kiosks has been developed with these factors in mind and makes a number of assumptions which officers consider prudent.
- 3.27 Therefore on the basis that the restriction on sales will be removed and additional kiosks will increase competition, a prudent outlook has been taken factoring in a reduction in the average market rentals achievable.
- 3.28 It has also been assumed that 100% occupancy of all kiosks, including the new concessions, may not be achievable and it is estimated that across the entire range of concessions in this area only 75% occupancy will be achieved given the higher levels of competition.
- 3.29 It is envisaged that all replacement or new kiosks will remain in the ownership of the Council. The kiosks will be let under a full repairing lease and the tenant will therefore be responsible for the day to day maintenance and upkeep of the kiosk, however a budgetary allowance has been made to replace all Council owned kiosks on a 10 year cycle.
- 3.30 All new additional kiosks built will be provided with minimal internal fit out and will be equipped by the kiosk operator at their own cost upon occupancy. However those existing kiosks which are to be replaced and relocated by the Council will be fitted out with the tenants existing equipment upon completion.

3.31 On the basis of these assumptions the cost of undertaking the works and establishing the replacement kiosks at Scotch Head and Pier Road has been assessed at a total £175,613.

Cost item	Scotch Head (7 additional units)	Pier Road (2 additional units 5 replacements)	Combined
Utilities	£13,000	£13,000	£26,000
Remove Ice House foundation	£7,500		£7,500
Resurfacing and paving (£50m2)		£4,750	£4,750
Parking bays setting out	£3,000		£3,000
Surveys, planning and legal fees	£5,000	£5,000	£10,000
Marketing and sales	£7,000	£2,000	£9,000
Advertising	£1,000	£1,000	£2,000
Kiosk units	£49,000	£49,000	£98,000
Fit out (prov sum)	£3,500	£3,500	£7,000
Contingency @5%	£4,450	£3,913	£8,363
Total construction cost	£93,450	£82,163	£175,613

3.32 It is proposed that the capital investment required would be provided by the Council on an Invest to Save basis. The 2016 Financial Strategy proposes that an additional £300k Invest to Save Fund be created, subsequently the revenue costs associated with this borrowing have been built into Council Budgets. Based on the above assumptions of occupancy (75%) and rental income a net benefit of £27,000 per annum is anticipated in the first year directly contributing towards the Council's revenue resources. Upon completion of the full scheme of works a net annual increase in rental income of approximately £40,000 per annum is anticipated as detailed below.

	2016/17 £'000s	2017/18 £'000s	2018/19 £'000s	2019/20 £'000s	2020/21 £'000s	Total £'000s
Capital Outlay	(93.0)	(82.0)				(175.0)
Rental Income	37.2	40.0	54.1	54.3	54.3	239.9
Ancillary Costs	(4.2)	(4.2)	(6.4)	(6.4)	(6.5)	(27.7)
Provision for Unit Replacement	(6)	(6)	(7.7)	(7.7)	(7.7)	(35.1)
Total Costs	(10.2)	(10.2)	(14.1)	(14.1)	(14.2)	(62.8)
Net Benefit	27.0	29.8	40	40.2	40.1	177.1

- 3.33 On this basis the scheme will provide a return on investment to the Council of less than 5 years.

4. CONSULTATION

- 4.1 The Leader of the Council, the Portfolio Holder for Harbours & Land and officers from the Council's Regeneration Service have undertaken face to face consultation with the current kiosk operators, representatives from Whitby Town Council and Borough Councillors from the Northern area.
- 4.2 All but one of the kiosk operators were represented during the consultation sessions. All those present were supportive of the principle of regenerating the kiosks, the public realm and the addition of new kiosk operations. All agreed that the area needed improvement and many saw the reorganisation and addition of new kiosks as a potential opportunity for business growth. The operators did however express some concern over the letting policy for new units and the potential for the market for certain goods to be flooded in the area, resulting in potential business failure.
- 4.3 It was agreed that good management of the portfolio of kiosk uses would be required of the Council in order to ensure both existing and new tenants could operate successfully in the area.
- 4.4 With regard to the relocation of existing kiosks at Pier Road it was agreed that further design development would be undertaken in order to ensure the new facilities accommodated existing operations and equipment. This would be undertaken during the coming months.
- 4.5 Representatives present from Whitby Town Council and the Borough Council's northern area were all supportive of the proposals.
- 4.6 In developing this project consultation has also been undertaken internally with the Council's Planning, Estates, Financial and Legal Services.

5. ASSESSMENT

- 5.1 The opportunity to develop additional kiosk concessions within this area of Whitby has been demonstrated to be physically and financially viable. The scheme would provide additional rental income in the order of £40,000 per annum to the Council, it would add additional vibrancy to the street scape and retail offer within Whitby and would improve the visual appearance and amenity of the area. Implementation remains the biggest challenge of the scheme. Consultation is ongoing with existing kiosk tenants, however, it is unlikely that consensus to relocate the existing kiosks is likely to be achieved prior to commencement of the main trading season of 2016.
- 5.2 Therefore it is proposed that, subject to the approval of Cabinet to the overall principle of the scheme, the approval of Council to the finance for the project of £175,613, and the granting of planning consent by the planning authority, that the scheme be implemented in two phases. Phase 1 being the installation

of 7 new kiosks at Scotch Head, to be undertaken in the spring of 2016; and Phase 2 being the reorganisation of the 5 existing kiosks and establishment of 2 new kiosks at Pier Road which is to be undertaken in 2018 or before if tenant consensus can be reached.

- 5.3 This two phased approach has been modelled within the business case cash flow (and the scheme proves viable and would provide the Council with a return on investment of less than 5 years.

Implementation plan

- 5.4 If Cabinet approve the recommendations of this report Officers would immediately submit a planning application for the entire scheme to the local planning authority. The red line area for the submission would include both the Pier Road and Scotch Head locations and would show the revised layout and additional kiosks, proposals for surface treatment and landscaping and works to the public realm.
- 5.5 The financial proposal and associated Invest to Save borrowing for the scheme would be included within the annual budget for 2016/17 and presented to Council for approval in February 2016.
- 5.6 Concurrently, officers would enter into detailed development of the technical specification for the scheme and prepare contracts for implementation with Transcore Ltd to undertake the Phase 1 works. This is necessary as to undertake a full tender exercise to procure a contractor would delay the scheme for a number of weeks and take implementation and completion of works beyond the main trading season of 2016/17 resulting in loss of potential income for the coming financial year.
- 5.7 Whilst these preparatory works are underway the Council's Estates Department will undertake a marketing campaign and tender exercise to advertise and let the proposed Phase 1 kiosks.
- 5.8 Therefore and subject to the necessary approvals and consents being granted by 17 March 2016, works to install the 7 new kiosks at Scotch Head will commence immediately thereafter with a target completion date of 20 April 2016.
- 5.9 It is conceivable that given the process proposed and the popularity of these concessions in Whitby that all of the Phase 1 kiosks will be pre let prior to completion.
- 5.10 Consultation with the existing tenants on Pier Road would continue throughout this period and beyond if necessary. However Phase 2 would commence outside of the main trading season either upon agreement to relocation being achieved with all the existing tenants or following the termination date of the longest running lease i.e. after July 2018.

- 5.11 Cabinet should note that if only Phase 1 were to proceed and Phase 2 never implemented the scheme still provides a net benefit of £27,000 per annum to the Council and provides a repayment period of less than 3.5 years.

6. IMPLICATIONS

(a) Policy

- 6.1 The proposals are in accordance with the Council's key priority of a 'Strong and Diverse Economy' and meet the following corporate aims:

Aim 2: Building a Prosperous Community

Aim 3: Creating a Quality Environment.

(b) Financial

- 6.2 The financial analysis and cash flow for the project are detailed within the body of the report. In summary it is intended that the project, totalling £175,613, be financed through Council borrowing on an Invest to Save basis. The overall project demonstrates a likely net increase in income to the Council of circa £40,000 per annum and a payback period of less than five years.
- 6.3 This project will be included in the annual budget for 2016/17 and presented to Council for approval in February 2016.

(c) Risk

- 6.4 A full risk register can be found at Appendix A. The highlighted risk associated with the project is failure to implement the works to establish Phase 1 kiosks prior to commencement of the main visitor trading season 2016 resulting in under occupation of the kiosks and failure to meet budgetary targets for income generation and repayment of the invest to save loan during 2016/17.

(d) Legal

- 6.5 This report seeks the authority of Cabinet for an exemption from Council's Contract Procedure Rules in order to expediate implementation of the works and achieve completion of the Phase 1 kiosks prior to commencement of the main visitor trading season 2016. This is required to ensure the Council achieves maximum possible occupancy upon completion of the kiosks and to ensure a return on investment to the Council during the financial year 2016/17. The total value of the scheme is estimated at £176,613 (Phase 1 and Phase 2) and is therefore well beneath EU procurement threshold which from January 2016 sits at £4.1m. It is proposed that the Council appoints Transcore Limited as the Council has experience of working with this company through its Coastal Maintenance Framework.

(e) Planning

- 6.6 The proposals at both Scotch Head and Pier Road will be subject to planning consent from the Local Planning Authority. Subject to the approval of Cabinet a full planning application to include both of these areas will be submitted in January 2016.

(f) Others

- 6.7 I have considered whether the following implications arise from this report and am satisfied that there is no identified adverse implications that will arise from a decision to proceed with these proposals.

Equalities and Diversity
Staffing
Environmental and sustainable Development
Crime and Disorder
Health and Safety

7. OUTLINE ACTION PLAN

Cabinet receives report	19 Jan 2016
Submit planning application	20 Jan 2016
Detailed development and prepare contracts	19 Jan – 17 Mar 2016
Council approval of invest to save monies	29 Feb 2016
Marketing and tendering of new kiosks	19 Jan – 17 Mar 2016
Planning consent	17 Mar 2016
Implementation of Phase 1 kiosk works	17 Mar – 20 Apr 2016
Completion of Phase 1 kiosks and occupancy	End Apr 2016
Develop detailed designs for Phase 2 kiosks	Apr - Oct 2016
Implementation of Phase 2 works	Indicatively Nov 2017
Completion of Phase 2 kiosks and occupancy	Indicatively Jan 2018



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Background Papers:
None

Appendix A

Risk Matrix

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
1		Failure to secure Cabinet approval to progress the scheme and submit planning application	Lost opportunity to secure additional revenue income for the Borough Council of approximately £40k per annum	This report	A3	A1	Trevor Watson	NA
2		Failure to secure approval for exemption from contract procedures allowing use of framework contractors	Delays in implementing phase 1 works past start of main visitor season 2016 resulting in reduced uptake of concessions and reduced revenue income for the council during the financial year 2016/17. Extended ROI for the scheme overall	This report	B4	A1	Trevor Watson	NA
3		Failure to secure planning consent for proposed project	Lost opportunity to secure additional revenue income for the Borough Council of approximately £40k per annum	Early consultation with planning authority officers undertaken to ensure scheme is developed in line with requirements	B4	A1	Alex Richards	Submit compliant application by 20 th Jan 2016
4		Delays in implementation resulting in Phase 1 of scheme not completed prior to commencement of main trading season 2016	Reduced uptake of concessions and reduced revenue income for the council during the financial year 2016/17.	Project management programme drafted and effective multidisciplinary team in place to implement the works	B3	A1	Alex Richards	Effective Project Management Effective contract management
5		Capital project overspend	Requirement for additional borrowing or reduced scheme leading to increased payback period and reduced scheme viability	Relatively straight forward project with satisfactory contingency allowance and provisional sums to mitigate capital budget overspend.	B2	A2	Alex Richards	Effective contract management and cost control.

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
6		Failure to achieve projected occupancy levels and revenue generation	Reduced revenue income for the council during the financial year 2016/17. Extended ROI for the scheme overall	<p>Phase 1 of the scheme currently predicts a return on investment of 3.21yrs. This could reasonably be extended to 5 years without any significant impact on Council resources.</p> <p>A campaign to market and tender the proposed kiosks is proposed which will coincide with completion of the works</p> <p>Phase 2 of the works need not commence should phase 1 prove less viable than predicted.</p>	B1	A1	Kev Wardell Bryan Walker	Undertake full marketing and tender exercise during period leading up to completion of the kiosks

Glossary of Terms

Risk	An event which may prevent the Council achieving its objectives
Consequences	The outcome if the risk materialised
Mitigation	The processes and procedures that are in place to reduce the risk
Current Risk Score	The likelihood and impact score with the current mitigation measures in place
Corporate Objectives	An assessment of the Corporate Objectives that are affected by the risk identified.
Target Risk Score	The likelihood and impact score that the Council is aiming to achieve
Service Unit Manager	The Service Unit or Officer responsible for managing the risk
Action Plan	The proposed actions to be implemented in order to reduce the risk to the target score

Risk Scoring

Impact	5					
	4					
	3					
	2					
	1					
			A	B	C	D
		Likelihood				

Likelihood:

A = Very Low
 B = Not Likely
 C = Likely
 D = Very Likely
 E = Almost Certain

Impact

1 = Low
 2 = Minor
 3 = Medium
 4 = Major
 5 = Disaster