

	REPORT TO CABINET TO BE HELD ON 12 JULY 2016
	Key Decision NO Forward Plan Ref No
Corporate Priority: Place: High quality planning and development. Prosperity: Develop sustainable tourism which is of high quality, varied and is all year round. Council: Ensure our service provide value for money and secure best use of our assets.	Cabinet Portfolio Holder <p style="text-align: right;">Cllr M Cockerill, Harbours, Assets, Coast and Flood Protection</p>

REPORT OF: DIRECTOR (NE) – 16/162

WARDS AFFECTED: STREONSHALH, WHITBY

SUBJECT: LEASE OF PREMISES LANGBORNE ROAD, WHITBY

RECOMMENDATION (S):

Cabinet is recommended to:

- (i) note that the marketing of the Council premises currently used as a Tourist Information Centre on Langborne Road, Whitby, as edged red on the attached plan at Appendix 1, has concluded and the tenders received are being evaluated;
- (ii) note that the tenders received have requested use of a proportion of adjoining land for outdoor tables and chairs under a separate Licence; and
- (iii) approve a consultation exercise to be conducted with Streonshalh Ward Councillors and Whitby Town Council to discuss the use of the adjoining land for outdoor tables and chairs provision;

- (iv) following the consultation exercise detailed in recommendation (iii) to delegate the final decision as to whether or not to permit the use of the adjoining land for outdoor tables and chairs and if so, on what terms including the area and size to the Portfolio Holder for Harbours, Assets, Coast and Flood Protection;
- (v) delegate authority to Director (NE) in consultation with the Portfolio Holder Councillor for Harbours, Assets, Coast and Flood Protection to
 - (a) seek clarification of the tenders received and the terms of those tenders and
 - (b) complete the tender evaluation; and
 - (c) conclude the tender process by agreeing the final terms of the legal documentation with the successful tenderer and entering into the appropriate legal agreements.

REASON FOR RECOMMENDATION (S):

- (i) To make Members aware of the outcome of the marketing campaign;
- (ii) To ensure that sufficient and appropriate consultation is conducted prior to any decision being made on the use of land adjoining the Council premises for outdoor tables and chairs;
- (iii) To provide a mechanism for the decisions to be determined by the Director (NE) and relevant Portfolio Holder;
- (iv) To comply with the Council's Constitution;
- (v) To achieve a market income for the Council's assets.

HIGHLIGHTED RISKS:

A successful conclusion to the tender process is not achieved.

The Council does not achieve appropriate financial benefit from the premise.

1. INTRODUCTION

- 1.1 The Council has recently concluded the marketing of the soon to be vacant premises in Whitby as approved by Cabinet on the 16th February 2016.
- 1.2 A tender evaluation criteria was utilised to analyse the bids which was circulated with the marketing material.
- 1.3 In accordance with the Constitution as the proposed annual rentals are above the £50,000 threshold the matter must be considered by Cabinet. As there are still final discussions and negotiations to take place it is recommended that the final decision on the terms of the lease for the premises and if approved a licence for the outdoor tables and chairs be delegated to the

Director (NE) in consultation with the Portfolio Holder for Harbours, Assets, Coast and Flood Protection.

2. CORPORATE AIMS/PRIORITIES AND THE COMMUNITY PLAN

- 2.1 The following Council objectives would be met through the letting of this premise:

Place: High quality planning and development.

Prosperity: Develop sustainable tourism which is of high quality, varied and is all year round.

Council: Ensure our service provide value for money and secure best use of our assets.

3. BACKGROUND AND ISSUES

- 3.1 The premises were marketed for a 21 year lease on a full repairing and insuring basis, with the new tenant being responsible for all operating costs.
- 3.2 The tenderers who have responded to the advertisement have indicated that they would like to have the opportunity to place outdoor tables and chairs on the land adjoining the premises to support their business operation. The dimensions for such an area have not yet been determined.
- 3.3 Marketing of the premises was carried out via advertisements being placed in the Whitby Gazette & Scarborough News. The premises were also advertised online via the Estates Gazette and Scarborough Borough Council Website.
- 3.4 Interested parties were invited to submit a tender proposal by 12 noon on Monday 13th June 2016.

4. CONSULTATION

- 4.1 No formal consultation has been carried out to date in respect of the use of the land adjoining the premises. It is considered appropriate, as detailed in recommendation (iii) of this report, for consultation to be undertaken with Streonshalh Ward Councillors and Whitby Town Council prior to a formal decision being made on the use of this land for tables and chairs.

5. ASSESSMENT

- 5.1 The marketing of the premises generated significant interest and marketing particulars were sent out to twenty-two interested parties, with four arranged viewings conducted.

- 5.2 Following the initial analysis of the submissions two tenderers are both offering restaurants with outdoor seating provision. Whilst it is not appropriate at this stage to disclose the tenderers' details, neither are presently represented in Whitby and both are local businesses from within the Borough.
- 5.3 Further discussions are required with both of these tenderers in order to clarify the position in respect of the outdoor seating, and the impact of such on both submissions. However, prior to that being undertaken it is considered prudent to conduct consultation with the Streonshalh Ward Councillors and Whitby Town Council as it is recognised there may be sensitivities around the use of this land.
- 5.4 The land in question is used for certain ceremonies and events through the year and it is important that these are not prejudiced if outdoor tables and chairs are permitted. It is therefore proposed that a set number of days are set aside where the outdoor space will not be available for use for tables and chairs. The exact level of days has not yet been determined, and would have to be balanced against a fee structure proposed for a Licence.
- 5.5 In view of the above it is recommended that the final decision on whether the land can be used for tables and chairs, and if so, the particular area and size be delegated by Cabinet to the Portfolio Holder for Harbours, Assets, Coast and Flood Protection.

6. IMPLICATIONS

(a) Policy

- 6.1 The content of this report is in accordance with the Council's policy framework.

(b) Financial

6.2 Two tenders were received of which the financial sum tendered was in excess of £50,000.

(c) Risks

- 6.2 The key risks have been identified in Appendix 2.

(d) Legal

- 6.3 A lease/licence will be documented by Legal Services once negotiations have been completed and heads of terms agreed.

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Risk Matrix

Risk Ref	Date	Risk	Consequences	Mitigation	Current Risk Score	Target Score	Service Unit Manager/ Responsible Officer	Action Plan
1	July 2016	Cabinet do not agree to delegate negotiations to Director (NE)	The site is not let, a tenant is not obtained and a rental income is not received.		B3	A1	NE	Approve negotiation to NE.
2	July 2016	A successful conclusion to the tender process is not achieved	The premise will become vacant and the Council liable for maintenance and business rate charges Increased pressure on revenue budgets		B3	A1	NE	As above
3	July 2016	The Council does not achieve appropriate financial benefit from the premise			B3	A1	NE	As above

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	E
	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