



PORTFOLIO HOLDER DECISION NOTICE

INDIVIDUAL DECISION BY THE LEADER

TOPIC – ABBEY MILL LETTING AND REDEVELOPMENT

PROCEDURAL INFORMATION

The Access to Information Procedure Rules – Part 4, Section 22 of the Council's Constitution provides for a decision to be made by an individual member of Cabinet.

In accordance with the Procedure Rules, the Chief Operating Officer, the Chief Executive and the Chief Finance Officer are consulted together with Chairman and Vice Chairman of The Overview and Scrutiny Committee and any other relevant overview and scrutiny committee. In addition, all Members are notified.

If five or more Members from those informed so request, the Leader may require the matter to be referred to Cabinet for determination.

Contact Officers:

Case Officer: Kevin Warren, kwarren@winchester.gov.uk

Democratic Services Officer: Nancy Graham, ngraham@winchester.gov.uk

SUMMARY

This Decision Notice seeks approval for the revised budget for the refurbishment of Abbey Mill, an increase in the rent to be charged and expenditure for advanced works. The Notice also considers the objections received following the advertisement of the proposal to dispose of 42 sq m of open space land adjoining the Portico to form an external seating area.

DECISION

1. That the Head of Estates be authorised to let Abbey Mill to River Cottage Canteen Winchester Limited on the terms/rent set out in Exempt Appendix B.
2. That approval under Financial Procedure Rule 6.4 be given to incur the Capital Expenditure for the scheme detailed in Exempt Appendix B.

3. That authority be given to dispose of the land shown coloured pink on the drawing in Appendix A to the Decision Notice, in accordance with the provisions of S 123 (1) (2A) of the Local Government Act 1972.
4. That approval be given to undertake advanced works, to the value detailed in Exempt Appendix B, to strip out the old partitions and ceilings in the building, to allow the Structural Engineer to establish the form of construction and loading capability of the structure.

REASON FOR THE DECISION AND OTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

At its meeting of 9 July 2012, Cabinet approved proposals for the refurbishment of Abbey Mill. Cabinet also delegated authority to the Head of Estates in consultation with the Leader, Deputy Leader and Head of Finance to determine the most appropriate tenant for the building. Following a meeting of this group on 20 September 2012, the Head of Estates approved a letting of the building to River Cottage Canteen Winchester Ltd.

Chaplin Farrant Wiltshire was appointed to develop the design of the premises and a scheme was produced with River Cottage which met their objectives. The planning and listed building applications were duly submitted in April. Gentle Consulting were appointed as Project Managers and Quantity Surveyors, while Paul Tanner Associates were instructed as Structural Engineers.

Details of the rent provisionally agreed with River Cottage for the letting of the property are set out in Exempt Appendix B and approval is sought to the letting of the premises to them on these terms. Approval under Financial Procedure Rule 6.4 is also requested to be given to incur the Capital Expenditure for the scheme detailed in Exempt Appendix B.

As part of the development it is proposed to construct an outside seating area on 42 sq m of land which currently comprises a flower bed situated between the Portico and Colebrook Street. The land is currently held by the Council as part of Abbey Gardens and under S 123 (1) (2A) Local Government Act 1972, it is necessary to advertise the proposed disposal in the local press and consider any representations received before the disposal proceeds.

The advertisement was published on two consecutive weeks in the press and eleven objections were received from ten parties. The objections are summarised as follows:

Objector A: Should not encroach on the gardens

The proposal will act as a precedent

Used daily for sitting on and quiet meditation and is abundant with rare birds, plants and wildlife.

Will cause noise, rubbish, overlook children encouraging paedophiles

Will change a historic part of Winchester forever

Objector B:

Loss of open space

A3 use in a strongly residential area of great historical importance

Not located in an area where few people live

Should not be granting a lease over open space when an application for change of use has not yet been submitted, let alone approved.

Objector C: 2 Letters

Will the lease be granted separately from the lease of the Mill?

Devastating to have food smells in gardens

Will alcohol be sold outside?

Will the area be fenced off from the rest of the gardens?

A disparaging effect on the garden to satisfy commercial greed

Possible congestion with large vehicles at day and night

Noise and disturbance in a quiet residential area

Parking issues

Drainage issues

Vehicular access to Abbey Mill via the Gardens

Is there a need for another restaurant due to the numbers in the area already?

If the business were to fail what would follow it?

Objector D:

Objects to the precedent set by the use of public amenity land for commercial use

Opposite children's play area, issues of food waste attracting vermin which may impact on the enjoyment of the park by children.

It is presumptuous to state that the land shall be used as an outside seating area forming part of a restaurant when change of use not approved.

Objector E: Letter and two further e-mails

The land forms part of an attractive planted border forming part of the much valued amenity of Abbey Gardens

It is presumptuous and misleading to state that the land shall be used as an outside seating area forming part of a restaurant, when no planning application has been submitted. The process is flawed and the notification should be withdrawn.

Objector F:

It is presumptuous to state that the land shall be used as an outside seating area forming part of a restaurant and assumes change of use to restaurant use is a foregone conclusion.

The space would narrow the walkway making it difficult to use for those with buggies/prams.

Noise arising from use of the seating area at night would have a detrimental effect on the quietness of the neighbourhood.

Objector G:

Premature to consider disposal in advance of the grant of planning

Loss of open space would adversely affect the public

Not clear if it will continue to be possible to access the park from (Colebrook) Street.

Objector H: Comments and concerns:

An outside seating area will be used in part for the consumption of alcohol and smoking.

The seating area will be adjacent to a public footpath and a children's play area which does not appear to be appropriate.

The hours of use of the outdoor seating area would increase noise generated in the open space when compared to the present use.

Already sufficient licensed premises and this could add to alcohol related antisocial behaviour in the City Centre.

Concern that the disposal of the land would set a precedent for similar applications.

Objector I:

Sad to see any commercial intrusion in the park.

Tranquil and beautiful gardens it would be regrettable for part of this to be taken away.

Objects to the grant of the lease.

Objector J:

Premature as there is no restaurant on the site and change of use application was validated after the first advert appeared.

This indicates that the outcome of the planning process is a foregone conclusion

Objections to the disposal have been received from ten parties. Some of the concerns raised relate to planning or licensing matters, which will be considered as part of the applications for planning permission and the premises licence.

The land forms part of a planting bed and is of limited amenity value - it is not possible to sit on it or walk over it. The new seating area which is proposed to be constructed will be separated from the footpath by a screen hedge. The drawing attached as Appendix A to this Decision Notice details the proposed outside seating area and demonstrates that a footpath with an adequate width along its length will be maintained, which will thereby continue to allow access from Colebrook Street to Abbey Gardens. The drawing also shows how the land will be screened from the play area by a hedge.

With regard to the objections to the principle of the disposal of amenity land, the Local Government Act 1972 specifically allows for this, subject to the consideration of the objections. Issues relating to the development and change of use will be considered by the Planning Development Control Committee, while alcohol-related concerns will be heard by the Licensing Sub-Committee if relevant representations are made to the application for a premises licence. If planning permission is granted for the works and change of use, this may be subject to conditions if this is considered to be appropriate.

The disposal of the land by way of a lease does not set a precedent as each application for a disposal is considered on its own merits and having regard to any objections received at the time.

The objections relating to advertising the disposal of the land before the planning applications were validated and considered are noted. However, the requirement to advertise the disposal of the land under the provisions of the Local Government Act 1972 is unrelated to the planning process and is considered separately from it. There is therefore no reason why the disposal of the land under S 123 (1) (2A) Local Government Act 1972 cannot be considered separately, and in advance of any planning application. The letting of the Mill premises has already been approved by Cabinet and there has been wide reporting of this in the local as well as in the national press.

As set out above, the Council must consider the objections before deciding whether or not to dispose of the land. The small size of the area concerned, the fact that the remaining parts of Abbey Gardens will continue to be available to the public, the improvements in physical access for the public to the Gardens as a result of the works, and the benefits to customers of the business (and the associated benefit to the Council of having a successful use of the premises, subject to planning and licensing applications being approved) are considered to outweigh any arguments in favour of retaining the land and not permitting it to be disposed of by way of a lease for the purpose proposed.

The decisions in this Decision Notice are necessary to enable the Building Agreement and Lease to be completed with River Cottage, for the revised budget for works to be approved and to enable the building works to commence as soon as the agreement conditions are discharged. The programme of delivery required by the tenant is short and there is a need to proceed with enabling works which do not require planning permission in advance of the grant of planning permission. A reference to Cabinet would delay the completion of the legal documentation unnecessarily.

The possibility of providing a level access across the Mill Stream has been investigated and the existing sluice bridge can be adapted to enable it to be used by the public. This allows pedestrians to more easily cross the stream; currently this can only be done by climbing up and down the steps to the Portico which makes access for those with pushchairs or disabilities difficult.

Considerable work has been undertaken with the Quantity Surveyor to identify the most cost effective methods of undertaking the works.

RESOURCE IMPLICATIONS:

The budget implications for the scheme are detailed in Exempt Appendix B. The total capital expenditure referred to in the Appendix will be unfinanced and in accordance with the Council's Capital Strategy will therefore be required to demonstrate value for money in terms that the financial benefits outweigh the financing costs (including the minimum revenue provision).

CONSULTATION UNDERTAKEN ON THE DECISION

The Leader, Deputy Leader, Chief Executive, Head of Legal Services and Chief Finance Officer have been consulted. Local Members have been informed of the proposed disposal of the land. The Chairman of The Overview and Scrutiny Committee has also been advised of the proposals and has decided not to call in the paper for scrutiny. The disposal of the 42 sq m land was advertised for two weeks in the local press and responses were received from ten parties.

FURTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED FOLLOWING PUBLICATION OF THE DRAFT PORTFOLIO HOLDER DECISION NOTICE

Following publication of the draft notice, objections to the proposals were received from four Councillors for the reasons detailed below:

1). Objected to this PHD notice in view of the overwhelming strength of opposition to the proposals from both local residents and Ward Councillors. Considered it essential that this matter was dealt with through a detailed report to the Overview and Scrutiny Panel.

The current potential tenant was not considered to be suitable for this key location within the historic heart of the City and the premises should be re-advertised so that an appropriate tenant could be secured.

2). Objected to this PHD notice as the proposed use as a restaurant was contrary to the Councils own planning policies in such a location and there was very strong opposition from local residents.

3). Objected to this PHD as River Cottage was not considered to be a suitable tenant for Abbey Mill.

4) Strongly objected to this PHD.

However, in view of the extensive marketing previously undertaken of the property, the quality of the proposed tenant and after careful consideration of the public objections, the Leader has agreed to proceed with approval without referral of the matter to Cabinet.

DECLARATION OF INTERESTS BY THE DECISION MAKER OR A MEMBER OR OFFICER CONSULTED

None

DISPENSATION GRANTED BY THE STANDARDS COMMITTEE

N/A

Approved by: (signature)

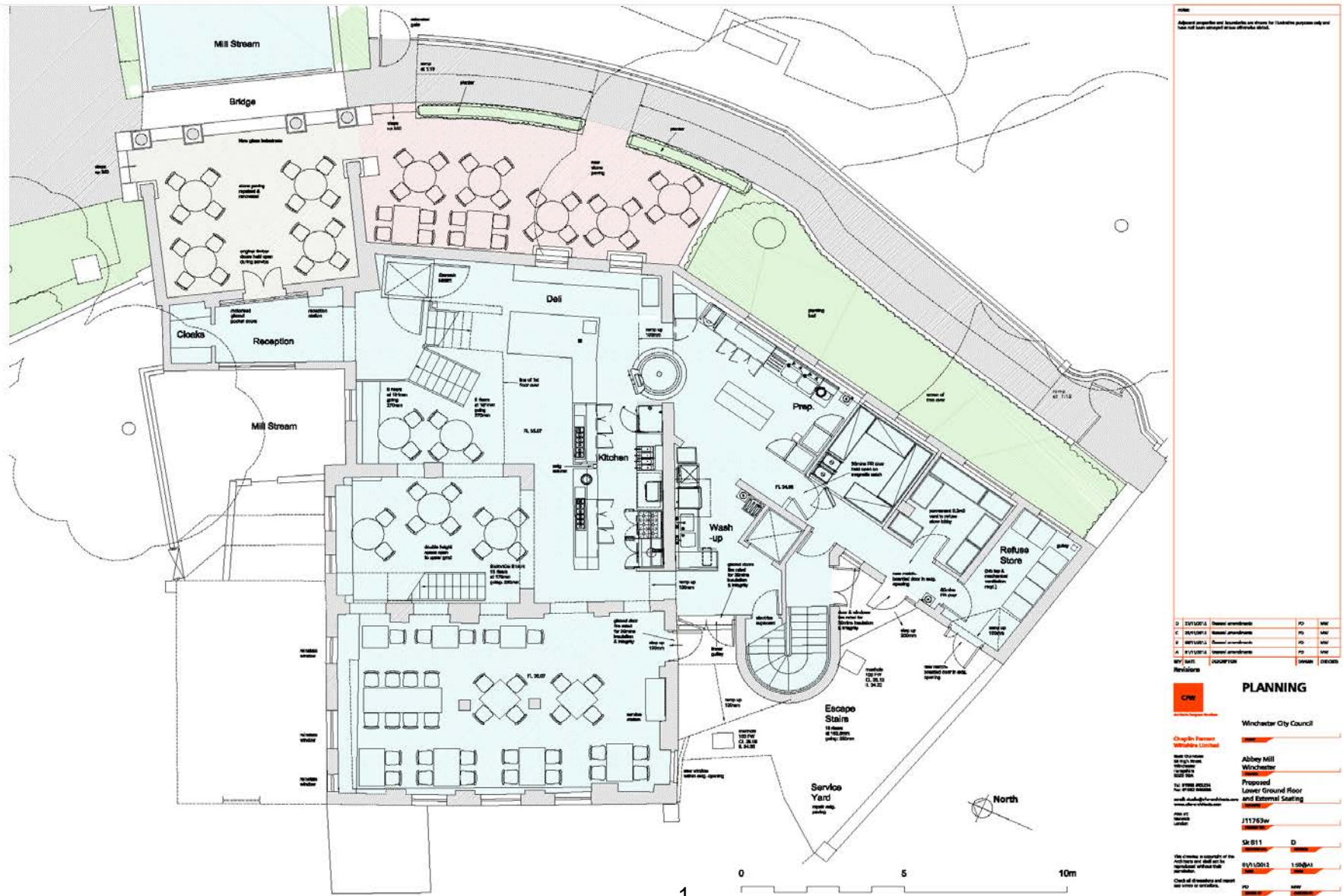
Date of Decision: 29.05.13

Councillor Keith Wood – Leader

Appendix A: PLAN

Exempt Appendix B: Revised Letting Terms and Project Budget

PHD 493
Ward: St Michaels



Notes
Adjust proposed boundaries and doors for fire safety purposes only and take full account of the following notes.

D	13/11/2013	Issue amendments	PD	MR
C	20/11/2013	Issue amendments	PD	MR
B	18/11/2013	Issue amendments	PD	MR
A	14/11/2013	Issue amendments	PD	MR

REV: DATE: DESCRIPTION: DRAWN: CHECKED:

Revisions

PLANNING

Winchester City Council

Chaplin Thomas
Winchester Council

Abbey Mill
Winchester
SO10 2JL

Proposed
Lower Ground Floor
and External Seating

111763w

Sk B11 D

03/11/2013 1:50pm

Check of drawings and report see notes or attached.