

REPORT TITLE: GUILDHALL CAFÉ OPTIONS

23 DECEMBER 2019

REPORT OF CABINET MEMBER: Cllr Kelsie Learney, Cabinet Member for Housing and Asset Management

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WARD(S): ALL

PURPOSE

Cabinet, 25 March 2019, (CAB3148) approved in principle the option to lease the eighteen71 café to a tenant offering food and beverage and that the opportunity should be marketed to assess demand and exploratory work be undertaken to establish if the unit could be made self contained.

The purpose of this report is to provide Cabinet with detailed proposal for decision on:

- The outcome of the marketing of the Cafe space together with a recommendation for a tenant.
- Detailed costings for the building works necessary to allow or the self contained operation of the café.
- A detailed assessment of the staffing implications for the Council and associated costs.
- Detailed and costed option for room hire catering.

RECOMMENDATIONS:

It is recommended that Cabinet:

1. Agree the business case, Appendix 1, which includes for capital investment to convert eighteen71 café to a self contained unit for lease to a food and beverage tenant;

2. Approve a capital budget and expenditure by the Council of £130,000 to convert café eighteen71 to a self contained unit for lease to a food and beverage tenant;
3. Approve that the Council cease trading café eighteen71 café from 1 April 2020;
4. Approve the procurement of a new Catering contract(s).

Subject to approval of recommendations 1-4 above:

5. Authorise the Strategic Director – Place to undertake the necessary arrangements to cease the trading of the eighteen71 café from 1 April 2020;
6. Authorise the Service Lead – Legal to prepare, negotiate and complete the necessary notices and agreements to put in place arrangement to cease the trading of eighteen café from 1 April 2020;
7. Authorise the Strategic Director – Place, in compliance with Contract Procedure Rules, to seek tenders to undertake the capital works to convert café eighteen71 into unit independent of the Council; to accept tenders received and to appoint, award and enter into contracts to undertake the capital works;
8. Authorise the Strategic Director – Place to seek best and final offers for the lease of café eighteen71 to a food and beverage tenant, and to accept offers received and to appoint, award and enter into contracts to enable the lease of café eighteen71 to a food and beverage tenant;
9. Authorise the Strategic Director – Place to select the procedure to be used (including the evaluation model and the any frameworks if appropriate), to seek tenders for the catering contract(s);
10. Authorise the Service Lead – Legal to prepare, negotiate and enter into the necessary agreements with service providers following a tender in compliance with the Contract Procedure Rules to enable implementation of the recommendations above.

**IMPLICATIONS:****1 COUNCIL STRATEGY OUTCOME**

The Council Plan is currently being reviewed and a draft for public consultation has been published. The Plan recognises that Winchester District faces many challenges and sets out the core principles which underpin the Council's work to respond to these challenges. One such challenge is "Maintaining high quality services while balancing the Council budget".

**2 FINANCIAL IMPLICATIONS****Closure and letting of Eighteen71**

- 2.1 The Guildhall eighteen71 café options review has been undertaken to bring the Guildhall to a balanced trading position. Currently the café operates at a loss:

<b>Income / Takings</b>		£305,000
<b>Expenditure</b>		
Direct Staff	-£221,350	
Indirect Cost	-£48,650	
Cost of Sales	-£80,000	
Building/Equipment/ Utilities	-£59,000	
Cleaning, Laundry, Refuse, Clothing / Toilet Maintenance	-£30,000	
Advertising	-£1,500	
Insurance & Rates	-£11,000	
<b>Total Expenditure</b>		-£451,500
Forecast Annual (Net Deficit / Loss)		-£146,500

- 2.2 With regard to the indirect costs detailed above, estimated at £48,650, these will remain with the Council for the Guildhall staff are to be retained. These costs are being considered as part of a wider operational review of Guildhall business with identified target savings. Closure of the café will result in an estimated net saving therefore of £98,000 before any rental achieved from letting the café space.

- 2.3 The option to test the market for a private sector tenant to operate in a self contained unit to replace the café was approved. The works to carry out the self containment has been estimated at £115,000 plus up to £15,000 to provide a separate utilities supply. The total required budget of £130,000 will be funded by prudential borrowing equivalent to an estimated annual cost of £9,000 per annum over the estimated life of the works of 20 years.
- 2.4 The business case has been assessed at a prudent estimate of £50,000 rent per annum. Market testing however indicates there is potential to lease the premises for as much as £60,000 which, if achieved, will increase the benefit to the Council.
- 2.5 The total savings and return on investment within the business case if therefore is estimated at over £140,000 per annum from the first full year and £3.5m over 20 years. A financial appraisal is provided at Appendix 1.

### **Catering Contract**

- 2.6 The tender specification for a new catering contract that provides for both function/event catering and day to day meeting catering has been prepared. It is recommended that this is let in lots under an open tender procedure. The value of the contract is £200,000p.a. and there is a potential commission incomes to the council (10%) of up to £20,000 p.a. (net).

## **3 LEGAL AND PROCUREMENT IMPLICATIONS**

- 3.1 The Council has powers under the Local Authorities (Land) Act 1963 to erect and maintain buildings for the improvement of its area. To implement the recommended objectives a new tenancy lease agreement will be required as well as upgrade works such as disabled toilet facilities. It is understood that, whilst final terms are to be agreed, the basis of the terms are a ten year lease with five year break, full repairing with service charge for some common services, for example refuse collection.
- 3.2 Some current contracts may be affected by the separation of the unit from the Guildhall, including the cleaning contract which may need to be removed from the contract, subject to final tenant terms. Other contractual / lease arrangements for maintenance of catering equipment will also need to be reviewed, again subject to whether the equipment is disposed of or taken over by the new tenant. Therefore the final recommendation authorises to enter into variations of these existing contracts as may be required to enable implementation of the decisions of this Cabinet.
- 3.3 Under section 1 of the Localism Act 2011, the Council has the power to undertake any activity a normal person could undertake, for the benefit of the authority, its area or persons resident or present in its area. The Council is satisfied it has the enabling power(s) to award a lease and services following the robust procurement exercise and subsequent contract.

- 3.4 The Council has an obligation as a best value authority under section 3 of the Local Government Act 1999 to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.”
- 3.5 By following due process through the OJEU compliant procurement, and the Contract Procedure Rules and the Public Contract Regulations 2015, prior to entering into the lease arrangements and works contract, and relevant statutory requirements the Council will have observed its statutory duties, including in regard to the duty as a best value authority.

#### 4 WORKFORCE IMPLICATIONS

- 4.1 There are three permanent members of staff employed in the eighteen71 café that will be directly affected and at risk when it ceases to trade. The full direct staff costs include agency cover and overtime.
- 4.2 For redundancy the notice period is one month with a potential total cost for three employees of £5697.85.
- 4.3 Should TUPE apply the following is the case:
- Notice period – The exact details of TUPE arrangements cannot be confirmed until it is understood who the new operator is and how current WCC Job Descriptions compare to those of the new operator. It is expected that one month notice period is observed, however this can decrease or increase based on agreement between employee, existing employer and the new employer
  - Costs are dependant upon the lease arrangement’s the current employees may TUPE across to the new employer with either amended or their current WCC terms and conditions of employment. If the business is closed and not sold as a going concern then further legal and financial advice is required in relation to redundancy arrangements and pensions.

#### 5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 The creation of a self contained unit from the eighteen71 café has direct implications for the Guildhall property asset. Investment will be made in new toilet facilities that enable the unit to operate independently of the Guildhall, which will now no longer need to remain open if no events are taking place to allow users of the eighteen71 café access to the public toilets.
- 5.2 Divorcing this unit will not fetter any later decision about the long term future operations / use of the Guildhall.

## 6 CONSULTATION AND COMMUNICATION

- 6.1 No consultations have taken place regarding the proposed changes to the café operation. Both Cabinet Members for Estates and Local Economy have been informed of these proposals. Marketing has been undertaken by Savills who have established market demand for the space. Following any decision to proceed to close and let to a new tenant all affected staff will be informed first and wider communication with Council staff, users, clients and contracts will take place. It will be important to ensure that people are given the reason for change and to share details of what is proposed so that any negative response can be managed.

## 7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 The Council now considers the carbon impact of all decisions following the declaration of a climate emergency. The building work specification will include carbon reducing measures such as low energy lighting and low water consumption toilets. The procurement of the catering contract will also include assessment criteria in relation to environmental impact and social value.

## 8 EQUALITY IMPACT ASSESSEMENT

- 8.1 The Council is required when exercising its functions to comply with the duty set out in section 149 of the Equality Act 2010, namely to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity between those who share a protected characteristic and those who do not, and foster good relations between those who share a protected characteristic and those who do not.
- 8.2 The proposal set out in this report does include consideration of vulnerable people in accordance with the Equalities Act 2010, such as through the provision of an entrance suitable for a parent to move a pram and disabled person a wheelchair, and toilet facilities and any requirements associated with the ceasing trading of eighteen71 café will be continuously reviewed.

## 9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 None

## 10 RISK MANAGEMENT

- 10.1 The proposal to close the eighteen 71 café and create a self contained unit for a new tenant has been developed through a detailed process of business and financial review, market testing and investigation works. A cross service officer team has been working together to ensure a breadth of issues have

been considered. Through this process options have been considered, which minimise the risks to the delivery of this project.

<b>Risk</b>	<b>Mitigation</b>	<b>Opportunities</b>
<i>Property</i> <i>Changes to the building and utilities are delayed and unforeseen issues arise.</i>	The programme will be overseen by an experienced estates team	
<i>Community Support</i> <i>The closure of the cafe and change in the operator is not seen as positive.</i>	Information for, and communications with, current users and contractors etc. will be undertaken in the next stage.	The new tenant when agreed can support change with their own marketing / events and engagements etc.
<i>Timescales</i> <i>Unable to complete works and let contract within the given timeframe.</i>	Work has already been completed on market testing the space and site investigations and design and catering contract specification.	
<i>Project capacity</i> <i>There are several, concurrent activities that could affect the overall programme of work if capacity is not available to keep to programme. This will delay the completion of works and letting to a new tenant.</i>	A project team has been set up to oversee the progress of the programme and this will continue to meet to review actions and resolve issues.	Closure of the café will enable works to proceed unhindered by the space being in use. This may add flexibility to the work programme.
<i>Financial / VfM</i> <i>The Council is unable to lease the premises following closure</i>  <i>Delaying closure means the Council continues to incur losses on the cafe</i>	Soft market testing has indicated that there is demand for these types of premises in this location  There is a detailed timeline of required actions to ensure the closure and subsequent works not delayed	Closure of the café offers considerable savings before allowing for lease income
<i>Legal</i> Amendment of contracts already entered into which are contingent on	Consideration of relevant contracts and early notification to parties of	Upgrade of facilities to ensure compliance with the Equalities Act

continuation of the status quo	necessary amendments.	considerations.
<i>Innovation</i>		
<i>Reputation Council is criticised for closing café. The new catering contract does not meet the standard expected by clients</i>	Details for the reason behind the changes need to be shared. Contract management and monitoring will ensure that supplier meet the necessary standards of delivery	Opportunity to enhance the council reputation in support of the new tenant.
<i>Other</i>		

## 11 SUPPORTING INFORMATION:

### 11.1 Background

11.2 Cabinet (CAB3148) at its 25 March 2019 meeting approved in principle the option to lease the eighteen 71 café to a tenant offering food and beverage. It also required that detailed proposal is brought back to Cabinet for decision to include:

- The outcome of the marketing of the Café space together with a recommendation for a tenant.
- Detailed costings for the building works necessary to allow or the self contained operation of the café.
- A detailed assessment of the staffing implications for the Council and associated costs.
- Detailed and costed option for room hire catering.

### 11.3 **Outcome of marketing the café**

11.4 The Council appointed Savills to undertake the marketing of the café to food and beverage providers. There has been interest from six such providers (listed in Appendix 2.) which demonstrates there is a market demand for the space from private operators. A basic term of 10 year lease with a 5 year break at up to £60,000 pa has been used. On this basis a tenant may look for a rent free period of 3 months if their fit-out is limited.

11.5 No formal offer has been received and it is recommended that, if the Council wishes to proceed with the capital works to create a self contained unit, a date is set by which to accept final offers.

11.6 The proposed timetable for agreeing a lease is:

23 December	Approval to proceed	
6 January 24 January	Request for final offers issued Date for final offers	3 weeks
31 January 2020	Review and selection	1 week
1 Feb - 14 March	Legal / lease terms agreed	6 weeks
1 April	Café leased to new tenant	2 weeks

### 11.7 Detailed costing of building works

11.8 Chaplin Farrant Wiltshire Limited (CFW) were appointed to provide detailed drawings for the creation of male, female and disabled toilets for use by the café tenant, thus enabling the unit to be let as a self contained unit divorced from the Guildhall. These drawings have been reviewed by listed building and building regulations who have not highlighted any objections to the proposal. To apply for listed building consent will take eight weeks. The proposed new floor plan is given in Appendix 2.

11.9 Ridge Consultants were appointed to provide a cost estimate for completing the proposed works. Their estimate is £115,000 (excluding VAT). Whilst the costs are based on the drawings a detailed specification was not issued.

11.10 Additional to the creation of the toilets is the issue of separating services (gas, water etc.) and systems (fire alarm and security). Sub meters can be installed to allow for individual billing for the tenant together with an appropriately apportioned service charge; however, a longer term solution would be to install a separate supply for water, gas and electric. This would be at an estimated £15,000 additional cost to the building works. Time requirement for creating separate utilities has been estimated at 18 weeks.

11.11 A proposed timetable for creating a self contained unit is as follows:

23 December	Approval to proceed	
6 December to 24 January	Prepare detailed specific for Invitation to tender	3 weeks
27 January 2020 21 February 2020	Issue ITT Deadline for tender submissions	4 weeks
28 February	Review and select contractor	1 week
13 March	Contracts agreed	2 weeks
31 March	Contract lead in period	2.5 weeks
1 April 31 May	Commence works on site Complete works	8 weeks

- 11.12 It is anticipated that the building works would run concurrently with the fit-out works by the tenant.
- 11.13 A financial appraisal is provided at Appendix 1 and indicates a net annual benefit after borrowing costs of over £140,000 in savings and lease income.
- 11.14 **Details and costs of catering contract** (including room hire catering)
- 11.15 With the closure of the café there are implications for in-house that provided for the room hire catering of internal and some external meetings. This is chiefly in the form of tea/coffees etc. and a selection of hot and cold buffet. The commission for external banqueting generated an income of £14k in 2018/19, with a further £6-8k possible commission on the current in-house catering.
- 11.16 The review of the café also considered function catering, with the recommendation that new catering contracts be procured to cover all aspects of the business:
- Function Catering: appoint a number of suppliers to a framework agreement; to enable choice for customers.
  - Day to Day Catering: appoint a single supplier to provide refreshments suitable for meetings.
- 11.17 In addition some smaller meeting rooms would be set up for self service tea and coffees, much like hotels offer.
- 11.18 The estimated value of the contract is circa £200,000 per annum. The potential commission income (at 10%) generated by the contract is therefore up to £20,000 per annum (net).
- 11.19 Contract term
- 11.20 The proposed contract term is three years; to include an option to extend for one year to provide flexibility. Note framework agreements can be for a max period of four years.
- 11.21 Procurement Procedure
- 11.22 The value of the contract is above the EU threshold for Goods and Services (£181,316) and The Light Touch Threshold (£589,148). A single tender exercise is to be undertaken and the contracts will be advertised as Lots. This will allow interested companies to bid for one or both Lots. There are two procurement routes:
- Open Procedure - open tender is where any supplier who can meet the requirements can submit a bid. Open tenders' work best where the

supply market is small. This procedure is quicker than a restricted and would take approximately three months.

- Restricted Procedure - a restricted procedure is a two stage process whereby the Council releases a standard Selection Questionnaire (SQ) (1st Stage) to the open market. The SQ contains pass/fail requirements such as financial assessment, technical and professional ability to ensure that tenderers meet the desired minimum requirements. The SQ responses are evaluated and a supplier shortlist created and only those short listed suppliers will be invited to submit a tender response (2nd stage). Restricted tendering is best where the potential supply market is large and you need to restrict the number of potential tenders being submitted at the 2nd stage. This process can however extend the procurement timeline further and take up to five months.

11.23 It is recommended that open procedure be use to tender the catering contract due to the size of the market and the time scales fit with the programme to close the café by 1 April 2020.

11.24 The catering contract specification has been drawn up and is ready to be issued as an Invitation to Tender, based on the outcome of the approval to let the café unit to an external tenant. The proposed timetable for the procurement is

23 December	Approval to proceed	
6 January	OJEU Contract Notice submitted	Must be issued 2 days in advance of the Invite to Tender Documents
8 January	Invitation to tender (ITT) issued via ProContract e-tendering system	Must be published for at least 30 days
7 February	Tender Return date:	
10 Feb - 6 March	Evaluation and moderation of ITT responses for both Lots	Initial sifting exercise then the main tenders evaluated and moderated 4 weeks
20 March	Invite the highest scoring bidders into a taste testing / interview	2 weeks
27 March	Conduct taste testing /interviews	1 week
10 April	Moderation to agree final scores and issue award notification letters to bidders	2 weeks
24 April	Notification of proposed contract award and start standstill	Standstill must be at least 10 days 2 weeks

## 12 OTHER OPTIONS CONSIDERED AND REJECTED

- 12.1 Another option could be to close the café before 01 April (as it is loss making) even if it is not envisaged we will need it vacated until then (staff morale is likely to be low if there is too long a lead in period). This could benefit the Council financially because perhaps some initial works could commence before then meaning we will be receiving rent from an earlier date (or could negotiate less of a rent free period).
- 12.2 This option has not been selected as time is needed to consult with staff being made redundant and with contractors that may be affected by the closure. Communication and information sharing with customers is also required to minimise impact of any negative reaction to the changes, which would be better explained if the tenant who would be taking the space was know. It will also minimise the period in which the unit was unoccupied and negative effect this would have on the High Street.

### BACKGROUND DOCUMENTS:-

#### Previous Committee Reports:-

Cabinet CAB3148 25 March 2019

#### Other Background Documents:-

None

### APPENDICES:

1. Business case – capital works = Exempt
2. List of interested tenants = Exempt
3. Proposed floor layouts