



**PROJECT LEADERSHIP,
HARBOURS, COAST AND FLOOD
PROTECTION PORTFOLIO HOLDER**

16 May 2017

	Key Decision	No
	Cabinet Portfolio Holder	Cllr Mike Cockerill
Corporate Priorities: Council	Date of Decision	16 May 2017
	Deadline for Call in	19 May 2017
	Implementation	22 May 2017

REPORT OF: DIRECTOR (NE) - 17/112

WARDS AFFECTED: STREONSHALH

SUBJECT: LAND AT DOCK END, WHITBY

RECOMMENDATION (S):

The Cabinet Portfolio Holder is recommended to approve:

- i) a licence of land at Dock End Whitby as shown edged blue on the attached plan (Appendix 1) for the purpose of siting tables and chairs;
- ii) the headline licence terms which are:
 - a) for a 21 year period;
 - b) peppercorn rent;
 - c) the Council can determine the agreement should the tenant breach the terms;
 - d) the Council have a right to use the land for up to 30 days per year for any Council events by serving notice to the tenant 7 days in advance.

REASON FOR RECOMMENDATION (S):

- a) To enable the completion of the licence agreement on headline terms outlined in this report.
- b) To comply with the Council's Constitution.
- c) To comply with recommendation (iv) of report 16/162.

HIGHLIGHTED RISKS:

If the licence is not agreed the overall transaction may be compromised.

1. INTRODUCTION

- 1.1 On the 12 July 2016 Cabinet approved a decision to conclude the tender process of premises at Langborne Road, Whitby and enter into the appropriate legal agreements.
- 1.2 Cabinet also noted a request to use a proportion of adjoining land on Dock End for outdoor tables and chairs under a separate licence agreement. The printed minutes from Cabinet delegated the decision in relation to the licence to the Cabinet Portfolio Holder for Project, Leadership, Harbours, Coast and Flood Protection.

2. CORPORATE AIMS/PRIORITIES AND THE COMMUNITY PLAN

- 2.1 Council - ensure our services provide value for money and secure best use of our assets.

3. BACKGROUND AND ISSUES

- 3.1 The headline terms of the licence are:
 - a) 21 year period;
 - b) peppercorn fee;
 - c) the Council can determine the agreement should the tenant breach the terms;
 - d) the Council have a right to use the land for up to 30 days per year for any Council events by serving notice to the tenant 7 days in advance.

4. CONSULTATION

- 4.1 The Director (NE) has consulted with Streonshalh Ward Councillors and Whitby Town Council.

5. ASSESSMENT

- 5.1 The proposed area is shown edged blue on the attached plan (Appendix 1) and the headline terms are detailed in paragraph 3.1.

6. IMPLICATIONS

- (a) Policy**
 - 6.1 There are no policy implications.

- (b) Financial**
6.2 If the licence does not go ahead, the Council may be liable to pay compensation to the tenant to mitigate the tenant's losses.
- (c) Risks**
6.3 The key risks are identified in the attached risk matrix.
- (d) Legal**
6.4 The Council's in house Legal team will document the agreement.
- (e) Equalities and Diversity**
6.5 This has been considered and is not applicable to this report

Nicholas Edwards

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Director

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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	May 2017	<p>The portfolio Holder does not agree to the licence.</p> <p>If the licence is not completed then the lease cannot be completed.</p>	<p>The Council does not complete the licence and the tenant will not be able to use the land for the proposed restaurant.</p> <p>No income to the Council and a risk of legal proceedings being commenced by the tenant</p>		B1	A1	Estates Manager	To action the recommendation contained within this report.

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