

**REPORT OF THE CHIEF EXECUTIVE**  
**TO THE EXECUTIVE**  
**7 DECEMBER 2007**

**The Old Gaol, Abingdon.**

**1.0 Introduction and Report Summary**

1.1 At its meeting on 13<sup>th</sup> July 2007 the Executive short listed a number of companies to proceed to stage 2 of the selection process for a development partner for the Old Gaol. The deadline for submissions was 22<sup>nd</sup> October 2007 and this report sets out the context for the Executive to select a preferred development partner and to determine its position in respect of the other submissions.

1.2 The contact officer for this report is Terry Stock, Chief Executive, telephone (01235 540303. **Email address: terry.stock@whitehorsedc.co.uk.**

**2.0 Recommendations**

*The Executive is recommended:*

- (a) *To select a preferred development partner and state the reasons for that selection. The Officers advise that this decision should be taken in confidential session;*
- (b) *To formulate any guidance it wishes to give to the Chief Executive on any particular aspects it would wish to see explored in the discussions on the Development Agreement. The Officers advise that this decision should be taken in confidential session;*
- (c) *To select a reserve development partner and state the reasons for that selection. The Officers advise that this decision should be taken in confidential session;*
- (d) *To determine its position on the remaining schemes, together with its reasons. The Officers advise that this decision should be taken in confidential session;*
- (e) *To determine its position in respect of Harcourt Way. The Officers advise that this decision should be taken in confidential session;*
- (f) *To consider the financial consequences of its decision on a preferred developer. The Officers advise that this decision should be taken in confidential session;*
- (g) *To determine what, if anything, further to put into the public domain. The Officers advise that this decision should be taken in confidential session;*
- (h) *To determine what, if any, consultation it wishes to take with Abingdon Town Council, Community in the Old Gaol, other groups and individuals. The Officers advise that this decision should be taken in confidential session;*

- (i) *To delegate to the Chief Executive, in consultation with the Leader of the Council and Leader of the Opposition, the authority to negotiate and conclude any agreements needed to proceed to contract with the preferred developer.*

### **3.0 Relationship with the Council's Vision, Strategies and Policies**

This report relates to the Council's Vision in that it supports all objectives and strategies.

### **4.0 Background**

4.1 The Old Gaol was transferred from the former Borough of Abingdon to the newly created Vale of White Horse District Council at its vesting day of 1<sup>st</sup> April 1974. The former Borough had acquired the site and let contracts to develop it as a leisure centre. It opened as a leisure centre in 1974 and was seen at the time as a pioneering and innovative use for the historic building. It was, however, always a difficult building to maintain as a fit for purpose leisure centre, especially given its difficult access for people with disabilities. Over the course of its 28 years as a leisure centre (from 1974 – 2002) this Council subsidised its operation every year. This subsidy in the final year of operation of the Old Gaol was around £100,000 and would have totalled several million pounds over this period. This Council therefore sought partners and built a new and significantly larger leisure centre in Abingdon at a capital cost to the Council of some £6 million and with an annual revenue subsidy of less than £500. The Old Gaol closed as a leisure centre in April 2002 after the White Horse Leisure and Tennis Centre was opened in Audlett Drive. It is currently unoccupied.

#### **A history of Old Gaol Consultation**

4.2 Consideration of the potential future of the Old Gaol began in the late 1990s. A major report by Sykes Leisure was considered by the Leisure and Tourism Committee in November 1997. A Working Party was set up by the Council in 1998 and consideration was given to the Old Gaol's future by the Abingdon Town Centre Working Party in 1999. The Council also undertook informal consultation with community groups. Three possible options with indicative uses and costs were put into the public domain and comments invited. These options were:

- Option 1: To maximise cultural use of the building, recognising that this would involve both a capital cost to create and a permanent revenue subsidy from the Council.
- Option 2: To balance cultural and commercial use of the building, recognising that this would involve a capital cost and then generate an annual income to the Council.
- Option 3: To maximise commercial use with no community facilities, recognising that this would generate either a capital receipt or an annual income to the Council.

4.3 A public meeting was held in Abingdon Guildhall and a questionnaire containing these three options was distributed with Vale Views. Almost 2,000 responses were received and a clear majority (60%) indicated a preference for option 1.

4.4 The Council had in the meantime acquired the Old Police Station which gave it the ownership of the greater Old Gaol site, the future of which is now under consideration.

- 4.5 Although the earlier consultation, including Vale Views, was not a stratified sample, the Council resolved to explore the feasibility in more detail of retaining the Old Gaol site in community and cultural use. In 2001 the Council appointed FSP Architects and Planning Consultants to produce an options study. In 2003, the Council's long standing property consultants, Angermann Goddard & Loyd, were asked to give commercial advice on aspects of the Old Gaol site.
- 4.6 In November 2004 the Vale and Oxfordshire County Council jointly commissioned research from acknowledged market leading experts in this work, ABL Cultural Consulting Ltd. (ABL) into the feasibility of the Old Gaol site being used for community use, including space for a cinema, theatre, museum and library, as well as commercial space.
- 4.7 The project was overseen by a steering group of District, County and Abingdon Town Council representatives as well as members of Abingdon Performing Arts Groups Executive (APAGE), an umbrella organisation for local arts groups. Members of relevant Abingdon societies were also consulted by ABL including Friends of Abingdon, the Unicorn Theatre, Abingdon Film Society, and Abingdon Artists.
- 4.8 ABL concluded that the scheme would have cost around £20 million in capital and would have required up to £500,000 a year revenue subsidy. The consultants predicted there would be no grant funding available for such a scheme and that the demand would be limited, due to other facilities available both within Abingdon and in the surrounding area. The ABL report is available on the Vale's website.
- 4.9 Both the District and Oxfordshire County Council agreed that the costs were prohibitive and Abingdon Town Council, which considered moving the town museum into the Old Gaol complex, also accepted that the scheme was not feasible and could not proceed.
- 4.10 In December 2005 the Executive agreed to sell the site for development with the stipulation that the site would retain some degree of public access.

#### **Structured Consultation – 2005/06 Budget**

- 4.11 In 2004, as part of its preparation for the 2005/06 financial year's budget, Research for Today, was commissioned to identify Vale residents' priorities for Council services in the light of mounting budget pressures. This company is nationally recognised for undertaking such work with groups representative of the demography of the area, working in detail with those representatives to enable them to provide an informed view of the issues.
- 4.12 309 people, including 106 from Abingdon, were taken through a detailed range of service options. Although this sample size attracted some criticism as being too small, the sampling basis and the technique used by this company are acknowledged as statistically valid. This type of consultation is known as a Simalto modelling exercise.
- 4.13 The Council selected 25 service options ranging from household rubbish and public toilets, through to arts promotion and the Old Gaol. Within each option there were choices which would have led to increasing, cutting or maintaining current spend. In the case of the Old Gaol the choices were:

- Sell for development for best commercial use (eg restaurant/bars).
- Leave empty with minimal maintenance.
- Redevelop for mixed commercial and cultural/heritage use.
- Redevelop as a cultural/heritage centre.

4.14 People were given a number of “credit units” which they could distribute according to their spending priorities, so if they chose to increase spending in one area, they would have to reduce spending in others.

4.15 They were also given options about raising or cutting Council Tax charges. The overall preference was to increase Council Tax by £25. Subsequently the Government was approached on this issue but responded that it would not allow this level of increase. Assuming this increased level of funding had been possible, the responses to the Old Gaol from the survey respondents were as follows:

- 73 per cent wanted the Old Gaol sold for development
- 15 per cent wanted the site redeveloped for mixed commercial and cultural/heritage use
- 4 per cent wanted the site redeveloped as a cultural/heritage centre

4.16 This was a response based on residents from the whole of the Vale. The response from the 106 Abingdon residents was:

- 58 per cent wanted the Old Gaol sold for development
- 28 per cent wanted the site redeveloped for mixed use
- 4 per cent wanted the site redeveloped as a cultural/heritage centre.

### **Structured consultation – 2006/07 Budget**

4.16 In late 2005 another budget consultation was conducted. Four focus groups were held in Wantage, Abingdon (two) and Faringdon, recruited from the Vale Voice Citizens’ Panel, a demographically representative group of around 1,000 Vale residents. The Council was again facing financial pressures and needed to consider its options.

4.17 The focus groups were given a list of 13 options for service cuts or income generation, again including a range from litter picking and closing cash offices to selling the Old Gaol. The option relating to the Old Gaol was to sell it to obtain the highest capital receipt, and generate an income of £175,000 per annum.

4.18 Selling the Old Gaol was one of the four most widely acceptable options for reducing the Council’s budget. There was less support for this option in the Abingdon groups.

4.19 During 2006 the Council prepared detailed Planning and Marketing and Development Briefs and determined its approach to seeking a development partner. It was decided to issue very detailed Briefs in order to encourage potential developers to come forward with imaginative and viable proposals. It was also decided to make these documents freely available.

4.20 The Council advertised for a development partner in January 2007 and more than a hundred sets of documents were issued. These documents are still available on the Council’s website. Initial proposals were required by May 2007 from which a limited

number of companies were invited to work up detailed schemes. These detailed schemes have been evaluated for consideration at this Executive meeting.

## 5.0 **Proposals**

5.1 Details of the proposals received, Officers' evaluation of those proposals against the published criteria and recommendations on each proposal are set out in the confidential part of this report. The Council set out its vision for the site and the criteria to be used for the evaluation in the Marketing and Development Brief which has been in the public domain from the outset of the process. This document is available on the Council's website. The evaluation criteria are summarised in paragraph 6.4 below.

## 6.0 **Confidentiality**

6.1 The Executive will be aware that there has been considerable public comment on the confidentiality of the proposals. Abingdon Town Council has requested and received briefings, although not of the confidential material. The Community in the Old Gaol (COG) has also received briefings, again without confidential information. COG has sought to be allowed direct meetings with all of the companies which have submitted proposals. This has not been permitted although correspondence from both the Town Council and COG has been passed to those companies and any company responses passed back (anonymously) to COG. Requests for the disclosure of names and or schemes have been received under the Freedom of Information Act and these have been refused.

6.2 Many members of the public are understandably interested in the submissions. However, it remains firmly the view of your Officers (including the three Statutory Officers) that disclosure would, or would be likely to, prejudice the commercial interests of the Council and of bidders. The officers have conducted a balancing exercise and concluded that any public interest in disclosure is outweighed by the public interest in maintaining the integrity of the tender process, at least until a legally binding agreement is reached with a preferred developer. Given the clear strength of view of some outside bodies and individuals, the Council's position has been tested with the Council's long standing property consultants (Angermann Goddard and Loyd of London (AGL)) who agree with the position taken by the statutory officers.

6.3 The Council's Standing Orders, which are based on the national model, require all tenders to be submitted in confidence and for each tenderer to confirm that the tender has been disclosed to no other party. This standard practice ensures that a public body such as the Council receives the best possible offer by would-be suppliers (or in this case developers) by encouraging competition and preventing collusion.

6.4 In this particular case, the Council's Marketing and Development Brief (publicly available on the Council's website) sets out the criteria by which schemes will be evaluated. In summary, these criteria are:

- A Make a positive contribution to the visual amenity of the area
- B Make a major contribution to the vibrancy of the town centre both for local people and for visitors.
- C Encourage controlled (commercial) access by the general public through the courtyard and ground floor of the Old Gaol to the riverside garden.
- D Make the best use of its waterside location and the historic buildings on the site.

E Demonstrate good value for money in terms of the capital receipt receivable, general use of a prime riverside location and, should housing be provided on the Old Gaol site, affordable housing provision in accordance with the requirements of the Local Plan.

6.5 The Council recognised in publishing the criteria at the outset that some of these criteria potentially conflict with others. For example, it might not be the case that a scheme which maximises the beneficial impact on the conservation area would also maximise the beneficial impact on the viability of the town or perhaps the capital receipt. The Council therefore indicated that it would attach a weighting of 50% to each of the financial and non-financial criteria.

6.6 It follows from the above, in the views of your Officers, that it is not possible to evaluate or comment on any of the schemes in a balanced way without all of the information. Putting all of the information into the public domain could enable all potential developers to revise their negotiating positions significantly to their advantage to the undoubted detriment of the Council. This detriment could manifest itself in respect of any or all parts of the evaluation criteria. Disclosure could also make negotiations more protracted and significantly more complex. For these reasons, requests for disclosure (including partial disclosure) have been refused.

## 7.0 **Evaluation**

7.1 Decisions relating to the future of the Old Gaol are Executive functions as defined by the Local Government Act 2000. This means that the Executive alone may and must take the decisions – it cannot be referred to another member body or to the full Council for decision. All decisions to date have been taken by the full Executive. The selection of a preferred developer is being put to this meeting of the full Executive.

7.2 The process of selection is inevitably complex. The Leader of the Council is the Executive Member leading on the Old Gaol project and he has had in place a cross-party Old Gaol Advisory Group which has met informally throughout this process to give advice both to him and the Officers.

7.3 Each developer in stage 2 has taken the opportunity to give a private briefing on its individual scheme which was open for attendance by all members of the Council.

7.4 Officers have liaised with each developer to seek clarification on a series of detailed questions and have evaluated the schemes based on the criteria set out in the detailed Planning and Marketing and Development Briefs and summarised above. The Officers' evaluation for each scheme against each criterion is contained in the confidential section of this report. The Officers have also assessed the risks associated with each scheme and their assessment of these risks is also contained in the confidential section of the report.

7.5 There is a Council meeting between the publication of this report and the meeting of the Executive at which Council might, but is not required to, offer its advice to the Executive.

7.6 As part of the tender process developers were required to consult statutory bodies which would be asked for an opinion in the event that their scheme were submitted as a planning application. These bodies are the Environment Agency (principally flooding issues), English Heritage (conservation issues) and Oxfordshire County Council

(highways issues). Officers have also sought the views of these agencies on each scheme and these views are summarised in the confidential section of this report.

7.7 The Council's property consultants of 27 years are Angermann Goddard and Loyd based in London (AGL). Roger Serginson is the Director responsible for business with this Council and his assessment of the schemes, and his advice on the issue of confidentiality, are also in the confidential section of this report.

## 8.0 **Decisions required of the Executive**

8.1 There are a number of decisions now required of the Executive.

8.2 The Executive must first satisfy itself that it has sufficient and clear information on which to take its decisions. On that basis it is recommended to select a preferred development partner and to authorise the Chief Executive to negotiate a Development Agreement with that company based on the scheme submitted to the Council. The Executive will need to record the reasons for its selection.

8.3 All of the subsequent decisions assume that a preferred developer has been selected.

8.4 The Executive may wish to give guidance to the Chief Executive on any particular aspects it would wish to see explored in the discussions on the Development Agreement. The Agreement itself is a technical and legal document on which expert advice will be obtained but it is possible to explore a limited number of minor variations to the preferred scheme within those discussions. In formulating any such requests to the Officers, the Executive should bear in mind that any such variation could impact on one or more of the evaluation criteria. Such variations must not in aggregate have the effect of changing the scheme significantly or the overall result and justification for the selection.

8.5 The Executive is recommended to select a reserve scheme, together with reasons. This developer would be informed that it was in second place and that, should negotiations with the preferred developer founder, the Council may seek to open negotiations with that company on the basis of that company's scheme. The Executive should acknowledge that there would be no obligation on that company to enter any such negotiations should the request be made.

8.6 The Executive is recommended to determine its position on the remaining schemes. These could be held in reserve in which case an order of preference should be determined, together with reasons. Alternatively, they could be eliminated in which case the Executive would need to record its reasons. Any reserve schemes would be treated in the same way as set out in the paragraph above. Any companies eliminated at this stage would be entitled to receive an explanation either or both in writing and in a meeting.

8.7 The Executive is recommended to determine its position in respect of Harcourt Way. This site is available to developers for the construction of 14 affordable housing units to the Council's specification. Any scheme on the Old Gaol site which contains 15 or more residential units is required to provide 40% of the total units as affordable housing. This is in accordance with the adopted Local Plan. To enable comparison on a like for like basis, each scheme was required to make a financial offer that included the provision of these affordable units, regardless of whether they were needed within that company's scheme. Officer advice on this aspect of the development brief is contained within the confidential part of this report.

- 8.8 The Executive will need to consider the financial consequences of its decision in respect of a preferred developer. The Executive is entitled to select any compliant scheme as the preferred option and it is not obliged necessarily to accept the best financial offer. The Executive will, however, need to consider the financial consequences of its decision in recommending a budget to the Council in February 2008.
- 8.9 The Executive will need to determine what, if anything, to put into the public domain in respect of the decisions it makes. In so doing, the Officers would advise that it should not disclose information that may give commercial advantage to any of the companies remaining in the process.
- 8.10 The Executive will need to determine what, if any, consultation it wishes to undertake with Abingdon Town Council, COG, other groups and individuals. In making this decision the Executive may wish to bear in mind both the history of previous consultations and the merit of new consultation, especially if some information remains confidential to the Council.
- 8.11 The Executive will be recommended to delegate authority to the Chief Executive, in consultation with the Leader of the Council and Leader of the Opposition, to negotiate and conclude any agreements needed to proceed to unconditional contract with the preferred developer.

TERRY STOCK  
CHIEF EXECUTIVE

Background Papers:

Correspondence with Abingdon Town Council  
Correspondence with COG