Whitbread disposals

WHITBREAD

Thank you for enquiring about one of the Whitbread disposals. This is a short guide to the process and points that will be in the sale contract should you be chosen as the successful purchaser.

All Viewing requests are only to be made through the relevant Christie & Co person assigned to the property/properties you are interested in. As staff are unaware of the sales process at no stage should an interested party make a direct approach to any staff within the Restaurants or Hotels. If a direct approach is made this may go against you, should you then choose to submit an offer.

Christie & Co is retained as sole selling agents by Whitbread Plc ("Whitbread") to market the opportunities. We have set out further information below in respect of the sale process.

There is a data room which access will only be granted to prequalified parties who have shown interest, carried out customer inspections and shown evidence of how the transaction will be funded. To access the data room you will need to sign an NDA.

Non-Disclosure Agreement (NDA)

In accessing this data room and viewing any confidential information contained within, you are bound by the NDA previously read and accepted by you, your principal or client. All information contained within the Project Kiwi data room is to be considered confidential information

FAQs

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Boundary Plan

1. Restaurant Only Disposal - the plans edged in red are a guide to Whitbread's property's ownership, the boundary edged in blue is the demise that will transfer as part of the Freehold, Long Leasehold or shorter leasehold transactions.

2. Whole Site Disposal – the plans edged in red are a guide to the property's boundary only. Please seek legal advice in respect of the title plan.

3. Stacked Sites – where the restaurant sits directly below the hotel, the access from the Hotel reception will be closed off, with access directed through the main restaurant entrance.

All offers will be made on an unconditional basis, subject to contract

Please confirm the offer has full Board Approval

Proof of funding must be provided with all offers submitted

All transactions will require the purchaser/assignee/ sub tenant to sign the memorandum of sale to confirm they agree and approve all points documented within, which will then form a part of the sales contract.

- Any premises licence to be transferred.
- Whitbread will not remove loose items or fixtures and fittings, which will be left in situ with the exception of any Excluded Equipment.
- All contracts for goods and services at the property will be terminated on or before the completion date.

"Excluded Equipment"	**means: the Marked Items**
"Marked Items"	Means any crockery cutlery linen brochures promotional materials stationery literature menus or other items at or about the Restaurant bearing the name of the Seller or any member of the Seller's Group or any of its or their trademarks service marks or trade names and all signs both fixed and free standing (whether such signs or other items as aforesaid are internal or external or illuminated or unilluminated including the name board on the exterior of the Property) and lettering plaques panels nameplates or other fittings and fitments ancillary thereto and all badged or other items bearing any name trade name trademark service mark trade name inscription mark logo or insignia of or identified with the name corporate identity or logo of the Seller or of any company within the Seller's Group.

Vending Machines owned by a third party at the Property and the electronic tills and cables and wires leading to them
Computer software
Linen
Items used by any member of the Seller's Group but not in connection with the Business carried on at the Property
Hand dryers
Soap dispensers
Alarms
Bulk refuse containers
Contraceptive dispensers
Sanitary towel dispensers
Materials used in connection with training employees
Epos till systems
Cellar raising equipment
Dry Stock
Defibrillator
Any other items not held in the absolute ownership of the Seller or any member of the Seller's Group.

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FF&E and Capital Allowances
There is no goodwill attributed to the Sale.
Capital allowances to be valued at £1 per site for the purpose of transfer.

Supplier Contracts
Contracts for goods and services at the property will be terminated on the completion date and the purchaser will need to make other arrangements in this regard. A list of current suppliers can be made available on request.

Environmental Position
The Buyer takes on Environmental Liability for the Freehold Property from Completion.

Reservations
The Seller will terminate existing bookings from the date of unconditional exchange of contracts for those bookings that fall in the period post completion. The Buyer can take future bookings for each of the Properties 4 weeks prior to the of Completion of each Property. The Seller advises purchasers to have set up their own platforms and websites by this date.

VAT
The Buyer shall be liable for any VAT payable in connection with the sale if deemed by HMRC, although as the sale is being treated as the transfer of a going concern, no VAT would normally be payable.

Stock & Inventory
Any remaining wet stock in trade will be included in the Purchase Price. All dry stock will be removed.
The seller will not provide an inventory for the restaurants.
Any cash held on the premises will not be transferred.

Residential Tenancies
Any Assured Shorthold Tenancies for employees that work at the Premises will be novated to the buyer.

Refuse & Deliveries
The Seller and the Buyer will permit the sharing of existing refuse areas and the delivery yards, with reciprocal rights dependent on title ownership.

Service Charge

The Buyer will contribute 50% towards the Seller's costs of the management, energy, repair and maintenance for any areas and services shared in common with each individual Property and/or the Retained Property. This will include any car parking spaces and any grassed areas which are agreed to be transferred/let to the Buyer and are contiguous with the other common areas on the Retained Property, with the Seller having a right to access in order to carry out the services.

The Buyer will pay an on-account Service Charge payment in accordance with the scope of the Services provided on a site by site basis, to include an annual reconciliation payment.

The Service Charge calendar year will commence from 1st January on all sites, with the exception of leasehold sites where Services are provided by a Superior Landlord, the Service Charge will be recharged in accordance with the terms of the head leases.

Signage and Extraction Equipment

The Seller will remove or cover restaurant branded signage relating to each Property before Completion.

The parties will agree the location style size and design of the Signage at each Property as soon as reasonably practicable.

The Seller may reasonably refuse to approve consent to any Signage in the event that:

1. the signage is illuminated and such illumination will result in light entering any hotel rooms so as to disturb the sleep of the guests at any hotel comprising part of the Seller's Retained Property;
2. such signage totem and signage will adversely affect the visibility of any of the signage on the Seller's Retained Property.

The Buyer to obtain Seller's approval to the location of any extraction/venting and other noisy plant or equipment at each Property. Consent is not to be unreasonably withheld but the Seller may reasonably refuse consent if the equipment is facing the hotel building on the Retained Property or is audible from the rooms of the hotel so as to disturb the sleep of the guests at the hotel.

Future Use

The Buyer will be free to determine the future use of the Property post Completion, however the Buyer agrees that the future use:

Must not adversely impact the hotel operations at the Retained Property, in particular in any way that would impact the sleep of hotel guests, or adversely impact the reputation of the Seller or any of its associated companies;

- Must not be for use:
    - within Class C1 of the Town and Country Planning (Use Classes Order) 1987;
    - as a nightclub, casino, amusement arcade or strip tease venue;
    - as a brothel, sauna, massage parlour, escort agency or for or in connection with any or all of the uses or articles referred to in paragraph 4 of schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 or otherwise for any dangerous, noxious, excessively noisy, morally offensive, illegal, immoral, lewd, obscene or pornographic nature or purpose.
- Will not adversely impact the reputation of the Seller or any of its associated companies.

The Buyer will ensure that any future use restrictions are passed on to any subsequent owners of the Property.

The Seller will be free to determine the future use of their retained properties post Completion, however the Seller agrees that the future use:

- Must not adversely impact the pub / restaurant operations at the sold property, in particular in any way that would impact the pub / restaurant customers, or adversely impact the reputation of the Buyer or any of its associated companies;
- Must not be for use:
    - as a pub / restaurant;
    - as a nightclub, casino, amusement arcade or strip tease venue;
    - as a brothel, sauna, massage parlour, escort agency or for or in connection with any or all of the uses or articles referred to in paragraph 4 of schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 or otherwise for any dangerous, noxious, excessively noisy, morally offensive, illegal, immoral, lewd, obscene or pornographic nature or purpose.
- Will not adversely impact the reputation of the Buyer or any of its associated companies;
- The parties acknowledge that the Seller operates ancillary food and beverage offerings to its guests and customers at the retained sites, including the sale of alcohol. This clause shall not apply to any such use of the retained sites by Seller or any future owners of the retained sites.

The Seller will ensure that any future use restrictions are passed on to any subsequent owners of any of the Properties.

Co-located Dinner & Breakfast Agreement
The Buyer and the Seller will agree the terms on a site by site basis for the provision of breakfast and dinner to hotel guests. The Seller will supply a template Co-Location Agreement.

User
The Buyer shall not use the Property for the purposes of a 'drive thru' and shall not install a drive thru lane.

Media
The buyer will be responsible for arranging an internet service and connection to the Property.

Energy & Utilities
The Seller will use reasonable endeavours at its own cost to separate the mains services (gas, water and electricity) so that the Property and the Retained Property have their own independent supplies. The contract will contain rights for the Seller to access the Buyer's Property to do these works following completion. Until completion of the separation the Seller will recharge the Buyer based on submeter readings. Where existing submeters are not in place the Seller will recharge the Buyer based on a historical notional splits. Estimates to be provided. Similarly, where the Restaurant receives the mains supply the Buyer will recharge the Seller calculated via submeters on historical notional charges until the supplies have been separated.

The Buyer shall require the Seller's consent to any works to increase the capacity of Energy or Water Supplies to any Property. Consent will not be unreasonably withheld and provided that:

a) where the Seller is undertaking or has plans to undertake works to the Retained Property for the construction of the hotel's food and beverage rooms and/or bedrooms extensions, the Buyer's works to increase Energy/Water Supplies shall not commence until the Seller's works are completed.

b) the Buyer must demonstrate to the reasonable satisfaction of the Seller that the supplies to the hotel shall not be adversely impacted.

c) the Seller may require as part of its consent a joint approach if the Seller wants to, or wishes to preserve its ability in the future to, also increase the supplies to the Retained Property.

The Buyer and Seller agree that there is no exclusivity between the Property and the Retained Property for Electrical Vehicle Charging Stations.

Building Separation
Where there is a connection between Building on the Property and the Building on the Retained Property, the Seller will at its own cost and insofar as it is reasonably practicable to do so, use reasonable endeavours to separate the buildings. The Seller will submit plans for these works to the Buyer as soon as reasonably practicable for Buyer approval (not to be unreasonably withheld or delayed) and the contract will contain rights for the Seller to access the Buyer's Property to do these works following completion.

Car Park
Any spaces within the Car Park which cease to be utilisable for the parking of cars as a result of any relevant works by either the Buyer or the Seller are replaced by an equivalent number of reasonably equivalent and convenient car parking spaces at the sole expense of the Buyer or Seller (whichever party has undertaken works to reduce the number of car parking spaces).

This will not apply where the Seller constructs its own refuse/bin store area on existing car parking spaces, providing this does not exceed more than 4 car parking spaces.

This will not apply for the sites where the Seller has planned extensions to the Retained Property

The Buyer will be required to comply with any requirements of an ANPR or other traffic management agreement entered in to by the Seller.

Works Agreements
No noisy works between hours of 6pm to 8am.
Site set up and compounds for works to be restricted to the Parties' own demise.
During the Period of any work both Parties to retain access to refuse and delivery areas.

Deliveries and operating hours
The following restrictions shall be included in the transfers/leases regarding deliveries and operating hours to protect the use of the Retained Property as a hotel:

a) Operating hours for each Property shall be limited to between the hours of 06.30 and 23.30
b) Deliveries shall be prohibited outside of the hours of 07.30 to 19.00.
c) Use of outdoor seating area shall be prohibited outside of the hours of 08.00 and 22.30

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Licence
The Buyer, or the solicitor acting for the Buyer, should apply to relevant Local Authority to clarify the requirement for appropriate licences. Under the Licensing Act 2003 it is a requirement that all premises serving or retailing alcohol must hold a premises licence and have a designated premises supervisor who must be the holder of a personal licence.

The Buyer will not object to the Seller's application for a Premises Licence on the Retained Property. The Seller will not object to the Buyer's application for a Premises Licence on the Property.

Insurance
The Seller will maintain insurance on the Property until the date of completion of the sale. The Buyer will maintain insurance on the Property from the date of completion of the sale.

Planning
The Buyer will not object to the Seller's application for any Planning Permission on the Retained Property (Subject to Buyer's compliance with above restrictions on future use).
The Seller will not object to the Buyer's application for Planning Permission on the Properties (subject to the use restrictions detailed above).

Bybox and Amazon
The Seller shall remove any Bybox and Amazon Locker equipment from the Property prior to Completion.

Timescale
The date expected for unconditional exchange of contracts is within 4 weeks of receipt of draft documentation.

Upon exchange of contracts, the purchaser will submit a deposit of 10% of the purchase price to the Sellers solicitor.

The date expected for completion is 6 weeks thereafter.

Conditions
Each party to bear their own legal cost in respect of the transaction.

Confidentiality
The contract shall contain the Seller's confidentiality clause.

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Jurisdiction
This memorandum of sale is subject to either English or Scottish law and in relation to any dispute arising from it, the parties submit to the jurisdiction of the courts of England & Wales or Scotland.

Anti-Money Laundering – for Intending Buyer
The Money laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 require us to undertake a Customer Due Diligence check on the intending buyer. Please speak to your solicitor about what this will entail.

If you are a sole individual, then please provide us with a copy of an identification document (such as a passport or driving licence) and a separate document proving your address (such as a utility bill, council tax bill/statement or bank statement which is less than 3 months old). This can be done in person at any of our offices, or alternatively, please provide certified copies by post.

If you are planning to buy the property via a partnership, company or other structure, then we will need the above two document types for all persons who own 25% or more of the entity making the purchase (legally known as all "beneficial owners").

We are required under those Regulations to request and obtain this information from you. If you choose to not provide this information, then we will follow the reporting requirements of the Regulations (which you should take legal advice about).