

Report

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Report to:	Estates Committee
Date of Meeting:	31 May 2005
Report by:	Executive Director (Enterprise Resources)

Subject:	Sale of 19 Auchingramont Road, Hamilton: Amendment to Terms of Overage Agreement
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1 Purpose of Report

1.1 The purpose of the report is to:-

- ◆ seek Committee authority to renegotiate terms of overage payment due to the Council upon sale of completed flats at 19 Auchingramont Road, Hamilton.
- ◆ note the action taken in terms of Standing Order No 36(c) to authorise conclusion of negotiations.

2 Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) that the existing agreement, whereby the Council receives 50% share of uplift in sale prices above the agreed base price, upon settlement of sales of completed flats, be terminated.
- (2) that the Executive Director (Enterprise Resources), in consultation with the Head of Legal Services, if appropriate, progress the necessary legal agreements to conclude the proposed transaction which shall incorporate new terms to achieve a percentage share of uplift in sale prices of completed flats, over and above new base sale prices.
- (3) that in view of the requirement to progress this matter as soon as possible in terms of Standing Order No 36(c), the action taken by the Executive Director (Enterprise Resources), in consultation with the Chair and Ex-Officio Member in authorising amendments to the terms of the clawback agreement with Miller Homes in order that the development of the site proceeds as soon as possible be noted.

3 Background

3.1 The Estates Management Sub-Committees of 20 June 2000 and 13 March 2001 approved the sale of the subjects at 19 Auchingramont Road, Hamilton (see attached plan) to Wilcon Homes Limited for a net price, after deduction of approved abnormal costs, of £1,961,400 (one million nine hundred and sixty one thousand, four hundred pounds). The relevant contracts also included a provision whereby the Council would receive a fifty percent share of any uplift in the sale prices of completed flats, in excess of a range of agreed sales prices.

3.2 In the intervening period, Wilcon Homes Limited disposed of their interest in the development site, with detailed planning consent, to a Heritage Homes/Miller Homes

partnership, and Heritage Homes subsequently concluded development of a part of the subjects, comprising a refurbishment and sub division of an existing property and the demolition of offices and erection of new build flats. The balance of the development comprised the erection of two new build flatted blocks which have only been constructed to foundation and ground works stage.

- 3.3 Heritage Homes have abandoned the site, leaving the development in a chaotic state, including partial construction of foundations and base course levels, installation of sub structure of the future service road and installation of some services. The condition of the site has subsequently become a matter of concern to local residents and the wider community.
- 3.4 Miller Homes, Heritage's funders and development partners, have assessed the works undertaken to date and conclude that remedying the present situation and conclusion of the development outcome of the planning consent would result in their company suffering financial loss and, consequently, have asked South Lanarkshire Council to waive their entitlement to overage payments.
- 3.5 A breakdown of Miller's expenditure to date and remaining development costs, including a summary of the various elements of remediation and construction, have been obtained and appear to represent a fair appraisal of the existing situation and required development. Based on sales projections and these cost breakdowns, Miller Homes would stand to make a net loss on the project of £1,276,919 (one million two hundred and seventy six thousand, nine hundred and nineteen pounds). Included within the appraisal the Council would currently be entitled to a total clawback of £241,940 (two hundred and forty one thousand, nine hundred and forty pounds) arising from increase sale prices of completed flats since the conclusion of the original contracts.
- 3.6 Miller Homes have requested the Council waive its entitlement to this clawback in recognition of Miller's costs in remediating the present unsatisfactory construction works and concluding the proposed development. The opportunity remains for the Council to negotiate a fresh clawback agreement in order to seek some share in any future appreciation in values following completion of the development and in line with a reviewed base price.

4 Employee Implications

- 4.1 There is no impact on South Lanarkshire Council employees.

5 Financial Implications

- 5.1 The Council has been asked to waive a projected clawback figure amounting to £241,940. This figure would only be realisable were Miller Homes to proceed to conclude the development. However, they have indicated they would be unlikely to proceed on the basis of existing cash flow projections as they are unable to sustain the forecast losses of around £1.25 million on this project. The projected clawback figure has not been accounted for in any Council capital programme or projects and, therefore, waiving this entitlement will have no implications on any currently proposed capital projects.

6 Other Implications

- 6.1 There are no other implications

7 Consultation

- 7.1 Estates have consulted with Planning and Building Control and Legal Services and conclude that it would be appropriate to accede to Miller Homes' requests to waive the current clawback agreement and to ensure that the development proceeds speedily to completion as detailed in the existing Planning Consent.

Iain Urquhart
Executive Director (Enterprise Resources)

18 May 2005

Link(s) to Council Objectives

- ◆ Conclusion of the proposed development and remediation of the presently constructed unsatisfactory works is a matter of local interest and the Council's assistance will contribute to the well being of the local area.

Previous References

- ◆ Estates Management Sub-Committee - 20 June 2000
- ◆ Estates Management Sub-Committee - 13 March 2001

List of Background Papers

- Location Plan

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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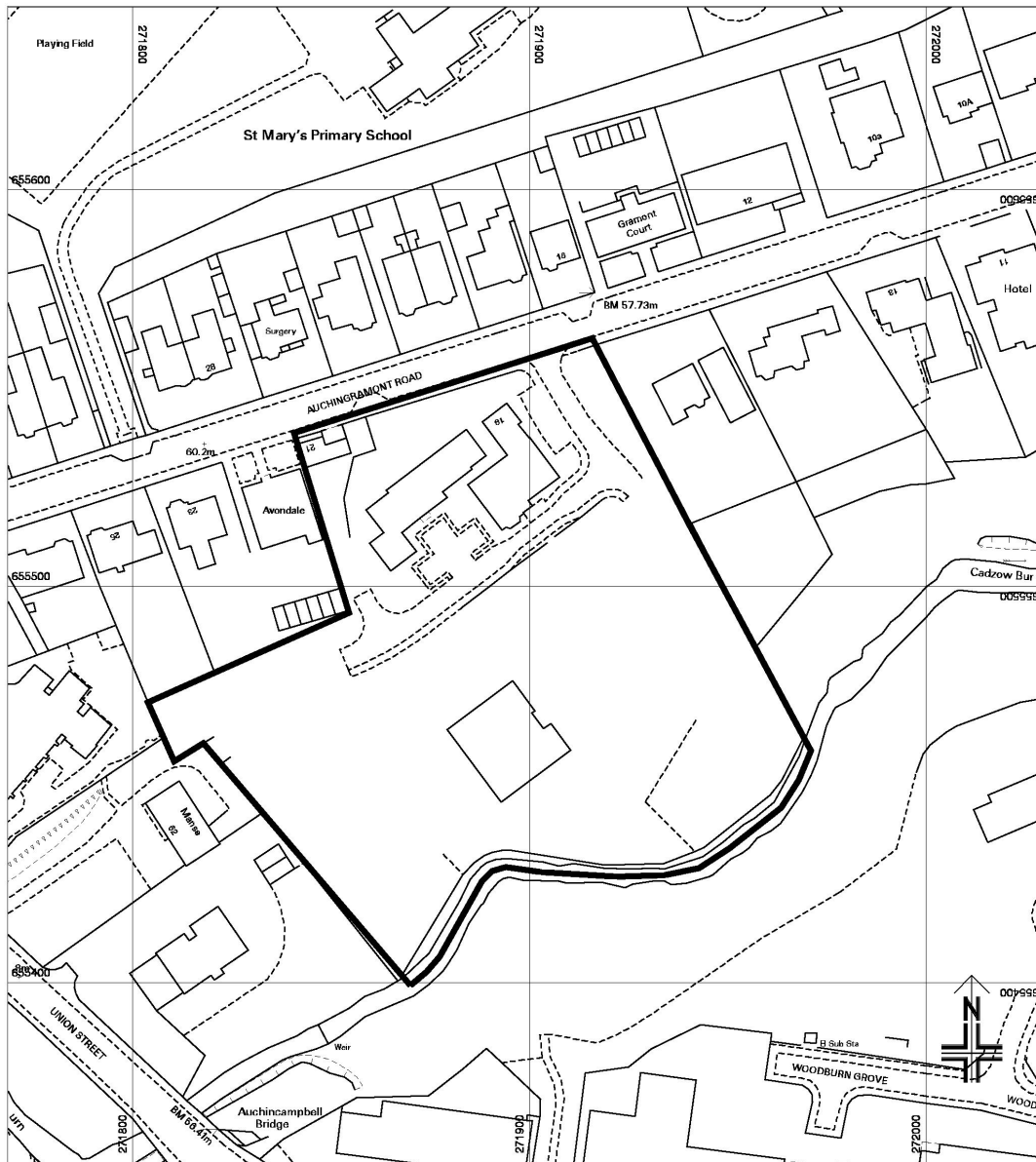
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LOCATION PLAN

**19-21 Auchingramont Road
Hamilton**



ESTATES SERVICES



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