

Report

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Report to:	Estates Committee
Date of Meeting:	23 August 2005
Report by:	Executive Director (Enterprise Resources)

Subject:	Palace Grounds Retail Park, Hamilton – Granting of a Standard Security
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1 Purpose of Report

1.1 The purpose of the report is to:-

- ♦ note the action taken in terms of Standing Order No. 36(c) to the granting of a standard security and the assignation of occupational rents by Hercules Unit Trust/ Equitable Life Assurance Society in favour of ABN Amro Trustees Ltd at the Palace Grounds Retail Park, Hamilton

2 Recommendation(s)

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

- (1) that a standard security and assignation of occupational rents by Hercules Unit Trust / Equitable Life Assurance Society in favour of ABN Amro Trustees Ltd. at the Palace Grounds Retail Park, Hamilton, is granted.
- (2) that the Executive Director (Enterprise Resources), in consultation with the Head of Legal Services, if appropriate, is authorised to conclude the necessary legal agreements on behalf of the Council
- (3) that in view of the requirement to progress this matter as soon as possible, and 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 be noted

3 Background

- 3.1 As part of the Hamilton Ahead Initiative, the Council granted a 150 year Ground Lease at the Palace Grounds Retail Park. The current Landlord is the Hercules Unit Trust / Equitable Life Assurance Society.
- 3.2 The Landlord has notified the Council that they intend refinancing their investment at the Retail Park by raising funds from ABN Amro Trustees Ltd. This will require the granting of a standard security and the assignation of rents by Hercules Unit Trust/Equitable Life Assurance Society in favour of ABN Amro Trustees Ltd.
- 3.3 Under the terms of the above Ground Lease the Landlord is required to obtain the consent of the Council (in its capacity Head Landlord) prior to granting any security/fixed charge.

4 Current Position

- 4.1 The Council cannot unreasonably withhold or delay the granting of its consent. The only legal test which the Council is permitted to apply when considering whether or not to grant its consent is the financial covenant of the charge i.e. ABN Amro Trustees Ltd.
- 4.2. Financial information on the background of ABN Amro Trustees Ltd has been provided and found to be satisfactory.
- 4.3. The Council has engaged DLA Piper to provide legal advice. They have advised the Council throughout on this project. Under the terms of the above Ground Lease the Landlord is required to meet all of the Council's reasonable costs (including external legal advisors fees) irrespective of whether or not the granting of the standard security proceeds to completion.
- 4.4. There are no reasonable grounds on which the Council can object to this request. Consequently the Council is obliged to consent to the granting of the standard security in favour of ABN Amro Trustees Ltd.

5 Employee Implications

- 5.1 None

6 Financial Implications

- 6.1 The Landlord is obliged to pay to the Council the annual Palace Grounds service charge, which is currently approx £66,455pa index linked, for the remaining term of the Ground Lease. This is unaffected by the granting of the standard security. There are no outstanding payments. The Landlord is seeking a prompt response from the Council to allow them to conclude the refinancing package.

7 Other Implications

- 7.1 None

8 Consultation

- 8.1 None.

Iain Urquhart
Executive Director (Enterprise Resources)

29 July 2005

Link(s) to Council Objectives

- Creating Successful Communities – progressing key town centre improvements

Previous References

- Estates Committee 26 August 2004
- Estates Committee 31 May 2005

List of Background Papers

- Letter dated 7th June 2005 from Sheppard & Wedderburn (Hercules Unit Trust / Equitable Life Assurance Society's solicitors) formally seeking the Council's consent to the granting of the standard security

Contact for Further Information

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

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