

# Report

13

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

Subject:	<b>Proposed Discharge of Performance Guarantee in respect of the Princes Gate Office/Retail Complex on Hamilton Town Square</b>
----------	---------------------------------------------------------------------------------------------------------------------------------

## 1 Purpose of Report

1.1 The purpose of the report is to:-

- ◆ seek approval in terms of Standing Order No. 36(c) to discharge the performance guarantee provided by Development Options (Hamilton) Ltd. (Hereinafter referred to as DOHL) to secure the completion of the Princes Gate development and payment of the Palace Grounds annual service charge.

## 2 Recommendation(s)

2.1 The Committee is asked to approve the following recommendations:-

- (1) that the Performance Guarantee provided by Development Options (Hamilton) Ltd be discharged and that the Executive Director (Enterprise Resources) in consultation with the Head of Legal Services, if appropriate, is authorised to conclude the necessary legal agreements of behalf of the Council
- (2) that in view of the requirement to progress this matter as soon as possible, and in terms of Standing Order No. 36(c), the Executive Director (Enterprise Resources), in consultation with the Chair and an ex-officio Member, be authorised to take appropriate action

## 3 Background

- 3.1 As part of the Hamilton Ahead Initiative, the Council entered into a Development Agreement and Ground Lease with DOHL to secure the construction and subsequent lettings of the Princes Gate development. This is located adjacent to Asda on Hamilton Town Square, comprising approximately 2,520m<sup>2</sup> (29,150ft<sup>2</sup>) of offices on 3 floors and 331m<sup>2</sup> (3,500ft<sup>2</sup>) in 5 retail units fronting onto the Town Square.
- 3.2. DOHL is a joint venture company set up specifically to develop and subsequently own the Princes Gate development and is jointly owned by Watson Construction and the Royal Bank of Scotland. Because it was initially a shell company with no asset base, the Council sought and obtained a performance guarantee from The Royal Bank of Scotland. This guarantee is for £5,005,000 to cover the £5,000,000 replacement cost of the development and the £5,000pa (index linked) to cover the Palace Grounds annual service charge.

- 3.3. The Princes Gate development is now complete and, excepting one unit, fully let. Under the terms of the Guarantee DOHL can request that the Council discharge the Guarantee when the development is complete and when the Council, acting reasonably, conclude that "DOHL is demonstrably capable of fulfilling its obligations under the Ground Lease". The only financial obligation is to pay the Council the Palace Grounds annual service charge, which is currently approximately £6,000 p.a.
- 3.4 DOHL lodged a formal notice with the Council on the 11<sup>th</sup> of February 2005 requesting that the Guarantee be discharged.

#### **4 Current Position**

- 4.1 To form an opinion as to whether or not the above financial test has been satisfied, the latest audited Annual Accounts were requested for DOHL. A Dunn & Bradstreet report on DOHL has also obtained by the Council.
- 4.2 In response to this request DOHL provided audited Annual Accounts for their financial year ending 31<sup>st</sup> 2003 and draft Annual Accounts for the year ending 31<sup>st</sup> of December 2004.
- 4.3 Finance and IT Resources has confirmed that, based on the above information, DOHL is more than capable of meeting its only ongoing financial obligation to the Council i.e. to pay the Palace Grounds Service charge which has increased due to index linking to approx £6,000pa.
- 4.4 There are no reasonable grounds on which the Council could to object to the granting of the discharge. Consequently the Council is obliged to grant DOHL's request for the discharge of the Guarantee.

#### **5 Employee Implications**

- 5.1 There are no employee implications.

#### **6 Financial Implications**

- 6.1 As the development is complete, the £5m portion of the guarantee is no longer needed. The remaining £5,000 to cover the Palace Grounds annual service charge (now £6,000pa) is no longer needed as the asset base of DOHL is able to pay this charge.

#### **7 Other Implications**

- 7.1 Any external legal fees and any reasonable internal costs incurred by the Council in connection with the discharge will be paid by DOHL.

#### **8 Consultation**

- 8.1 None. This is a private matter between the Council and DOHL.

**Iain Urquhart**  
**Executive Director (Enterprise Resources)**

29 April 2005

**Link(s) to Council Objectives**

Creating Successful Communities – progressing key town centre improvements

**Previous References**

Enterprise Resources Committee, 9th November, 1999

**List of Background Papers**

- DOHL letter dated 11th February, 2005 requesting the discharge of the Guarantee
- Draft Discharge Agreement by Burness (DOHL's solicitors) dated 18th April, 2005.

**Contact for Further Information**

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

Stephen Hulance, Partnership Advisor

Ext: 5932 (Tel: 01698 455932)

E-mail: [stephen.hulance@southlanarkshire.gov.uk](mailto:stephen.hulance@southlanarkshire.gov.uk)