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Submission Form

Meeting Date:

17 January 2012

Cabinet or Committee Title:

Estates Committee

Agenda Item Title:

Palace Grounds Retail Park, Hamilton - Proposed Amendment to Ground Lease Restrictions

Description:

Report dated 13 January 2012 by the Executive Director (Enterprise Resources).
(Copy attached)

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Report to:	Estates Committee
Date of Meeting:	17 January 2012
Report by:	Executive Director (Community and Enterprise Resources)

Subject:	Palace Grounds Retail Park, Hamilton - Proposed Amendment to Ground Lease Restrictions
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ Request approval to amend the existing Ground Lease covering the Palace Grounds Retail Park in Hamilton to allow a fourth electrical retailer, Carphone Warehouse, to be accommodated in a vacant unit originally built for fast food use.

2. Recommendation(s)

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

- (1) that a Deed of Variation amending the Ground Lease of the Palace Grounds Retail Park, Hamilton be approved to permit the letting of Fast Food Unit 4 to Carphone Warehouse
- (2) that the Council agree to accept a premium payment of £50,000, exclusive of VAT, plus up to £5,000 excluding VAT to cover legal and surveying expenses, from Hamilton Trustees Limited in consideration of the grant of a Deed of Variation to the Palace Ground Retail Park ground lease.
- (3) that the Executive Director (Community and Enterprise Resources), in consultation with the Head of Legal Services if appropriate, be authorised to conclude any other terms and conditions and the necessary legal agreements of behalf of the Council.

3. Background

3.1. Following completion of the construction of the Retail Park in October 1998, the Council granted a 150 year Ground Lease extending to 7.336 hectares (18.13 acres) or thereby, to the Equitable Life Assurance Society Ltd. Since then the Retail Park has changed hands a number of times with the current owners, Hamilton Trustees Ltd, acquiring it in December 2005.

3.2. The terms of the Ground Lease have been amended in 2003 and 2007 allowing an increasing in the number of permitted Fast Food outlets from two to four. In 2005, the terms of the Ground Lease were amended to increase the number of electrical retailers from two to three.

3.3 In 2007 Hamilton Trustees were granted permission to extend the Retail Park and construct a new Fast Food outlet known as Fast Food Unit 4. The fast food unit was built and the extension implemented although not to the full extent of the area permitted. Fast Food Unit 4 has remained vacant since its completion in 2008 despite being openly marketed by Hamilton Trustees letting agents.

4. Proposal

4.1 Hamilton Trustees have been in negotiation with Carphone Warehouse for some time with a view to them taking a lease on 278 sq. metres of vacant space at the retail park. The Carphone Warehouse trading format can only be accommodated within Fast Food Unit 4. Carphone Warehouse will not consider any other locations in Hamilton town centre. The terms of the existing ground lease only allows this unit to be used for fast food and will require to be amended to allow it to be occupied and used for retail use.

4.2 The ground lease also contains a floor area size restriction on the total amount of retail floor space at the Park that can be allocated to the sale of specific types of goods, most notably electrical goods. Carphone Warehouse's trading format falls within this restriction and the ground lease floor space restriction area will require to be adjusted to take account of the retail space they wish to occupy.

4.3 The ground lease contains a restriction on the number of electrical retailers that can operate from the Retail Park. Electrical retailer numbers are limited to three and these are currently Maplin, Comet and PC World/Curry's. To accommodate Carphone Warehouse's operations this restriction will require to be amended to allow a maximum of four electrical retailers within the retail park.

4.4 The proposed tenant, Carphone Warehouse, wish to take occupation of the premises as soon as possible and the date for the completion of all legal documentation to facilitate this is 31 January 2012.

5. Employee Implications

5.1 None

6. Financial Implications

6.1 The Council will receive a capital receipt of £50,000 exclusive. of VAT which is to be credited to the Hamilton Ahead account. The Council's legal and surveying expenses will be covered up to the value of £5,000 excluding. VAT.

7. Other Implications

7.1 The risks associated with this transaction is focussed on the potential for delays to the programme for agreeing and implementing the changes to the Ground Lease which could lead to the proposed tenant withdrawing from the deal. These risks will be managed by Community and Enterprise Resources in consultation with the Head of Legal Services.

8. Equality Impact Arrangements and Consultation Arrangements

8.1 This report does not introduce a new policy, function or strategy and, therefore, no impact assessment is required.

Colin McDowall
Executive Director (Community and Enterprise Resources)

13 January 2012

Link(s) to Council Objectives/Improvement Themes/Values

- Support the local economy by providing the right conditions for growth, improving skills and employability.

Previous References

- Estates Committee 26 August 2003, May 2005, 13 December 2005, Executive Committee 21 March, 2007

List of Background Papers

- None

Contact for Further Information

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

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