

Report

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Report to:	Executive Committee
Date of Meeting:	11 May 2011
Report by:	Executive Director (Education Resources) Executive Director (Enterprise Resources)

Subject:	Former Audiology Unit 4b Auchingramont Road, Hamilton – Lease Obligations
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ advise the Committee of the Council's liabilities associated with the Council's lease of the property known as the former Audiology Unit at 4b Auchingramont Road, Hamilton.
- ◆ seek approval to fund the outstanding dilapidations and refurbishment of the property.

2. Recommendation(s)

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

- (1) that the Executive Director (Enterprise Resources) be instructed to progress the dilapidation and refurbishment works to the property known as the former Audiology Unit, 4b Auchingramont Road, Hamilton.
- (2) that the Executive Director (Enterprise Resources) be instructed to obtain the necessary landlord's consent to the refurbishment works and thereafter commence arrangements to secure an occupier for the property.
- (3) that the Executive Director (Education Resources) in consultation with the Executive Director (Enterprise Resources) and the Head of Legal Services, if appropriate, be authorised to conclude all matters and complete any necessary legal agreements on terms that are in the best interest of the Council.

Background

- 3.1. The property known as the former Audiology Unit comprises a single storey flat roof building with a gross internal area of 512 sq m or thereby situated in a site extending to 1,060 sq m.
- 3.2. The building, which has been unoccupied since the Health Service vacated it in April 2005, is in a very poor state of repair and, due to the previous use, the internal construction renders it functionally obsolete.
- 3.3. In 2010 the property was reported vacant and available to Housing and Technical Resources as part of the national diagnostic review of office buildings.

- 3.4. The Audiology Unit is currently held on a ground lease from H&M Land Limited for a period of 999 years from 1974 and the current rent is £14,000 per annum subject to 5 year reviews.
- 3.5. Given that the Council have no further use for the property as an audiology unit Regeneration Services had been negotiating a renunciation of the ground lease to facilitate the development of the ground for residential purposes by H&M Land Limited thereby limiting the Council's dilapidation liabilities and the requirement to make further rental payments. As a result of the economic downturn and decline in the demand for property the proposed development is no longer viable and the Landlord has intimated that they will not progress a renunciation.
- 3.6. In terms of the lease the Council is obliged to maintain any buildings in good condition.
- 3.7. The Landlord has served an interim Schedule of Dilapidations requiring the Council to repair the building to a condition commensurate with the terms of the lease.
- 3.8. In addition, the Landlord has threatened to terminate the Lease due to the state of disrepair of the property.
- 3.9. If the Landlord were to successfully terminate the Lease, it would look to the Council for the costs likely to be incurred by it in making good the property.
- 3.10. In these circumstances there are 2 matters for the Council to consider:-
 - (i) the Landlord's estimated costs of repair are likely to be higher than those of the Council in actually repairing the property and experience suggests that any challenge to the Landlord's estimated costs would require to be resolved by litigation which could be costly and complex; and
 - (ii) the Council would lose the benefit of its tenancy.

It is therefore recommended that the Council resist any attempt by the Landlord to terminate the Lease.

4. Proposal

- 4.1. The property is in a very dilapidated condition and in addition to the extensive repairs refurbishment works are required to return it to a tenable condition. The estimated cost of these works is £500,000.
- 4.2. The Landlord will be approached for approval to the refurbishment works, over and above the basic dilapidation repairs. If the Landlord gives such approval, it would make it more difficult legally for the Landlord to justify terminating the Lease. There remains a risk that the Landlord could still seek to terminate the Lease. Despite this risk it would be more economical for the council to carry out the repair work.
- 4.3. If, in addition to carrying out the required repairs, the Council is able to resist any attempt by the Landlord to proceed with termination of the Lease, occupiers will be sought for the refurbished property which should achieve an annual rental by way of sub-leases of around £30,000 p.a. Initially the property will be included in the Asset Diagnostic Project to establish if there are any internal Council uses and thereafter the property will be taken to the market.

5. Employee Implications

- 5.1. There are no personnel implications for the Council.

6. Financial Implications

- 6.1. The Annual outgoing rental is £14,000 per year.
It is estimated that when refurbished the property would attract an annual rental income of £30,000.
- 6.2. The estimated costs of refurbishment are £500,000. This is required whether the Lease continues or not.

7. Other Implications

- 7.1. Should the Council not proceed with the dilapidations the Landlord will raise a court action against the Council for recovery of costs and repossession.

8. Equality Impact Assessment and Consultation Arrangements

- 8.1. The proposal and funding arrangements have been discussed with Regeneration, Planning and Legal Services.
- 8.2. This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy and therefore no impact assessment is required

Larry Forde
Executive Director (Education Resources)

Colin McDowell
Executive Director (Enterprise Resources)

6 April 2011

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

- ◆ Efficient and effective use of Resources

Previous References

None

List of Background Papers

None

Contact for Further Information

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

David Hinshelwood, Support Services Manager

Ext: 4408 (Tel: 01698 454408)

E-mail: david.hinshelwood@southlanarkshire.gov.uk