

REPORT TO: POLICY & RESOURCES COMMITTEE - 28TH JUNE 2004

REPORT ON: GARDYNE'S LAND, 71 HIGH STREET, DUNDEE

REPORT BY: DIRECTOR OF ECONOMIC DEVELOPMENT

REPORT NO.: 508-2004

1. PURPOSE OF REPORT

- 1.1. This report details the restoration and future use of the property and the requirements for the City Council's involvement in the development process.

2. RECOMMENDATIONS

- 2.1 The Committee is requested to advise whether it wishes to provide the requisite guarantees and if so authorise the Director of Economic Development, together with the Depute Chief Executive (Finance) and Depute Chief Executive (Support Services) to complete the legal formalities and financial arrangements in relation to the restoration project, acquisition of the restored property and the lease and ultimate sale to Backpackers Limited.

3. FINANCIAL IMPLICATIONS

- 3.1. The total amount of initial guarantees is £1,206,272.
- 3.2. It may also be necessary for the Council to provide all such funds that are necessary to complete the project in circumstances outlined in paragraph 6.16.

4. LOCAL AGENDA 21 IMPLICATIONS

- 4.1. None.

5. EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1. The renovation project will facilitate the installation of services for the disabled in the building.

6. REPORT

- 6.1. The property known as Gardyne's Land together with the Western Club, High Street, Dundee comprises a Grade A listed building and is the subject of a proposed restoration project by Tayside Building Preservation Trust with the intention of creating a privately owned backpackers hostel.
- 6.2. The City Council has previously agreed to assist the project by agreeing to promote a Compulsory Purchase Order in relation to the Western Club (reference Article I of the Minute of the meeting of the Planning & Transportation Committee held on 1st December 2003) subject to the Preservation Trust meeting all acquisition costs.

- 6.3. The anticipated restoration costs were estimated at £3,795,089. That cost was proposed to be funded as follows:-

SET	£ 100,000
Historic Scotland	£ 500,000
Heritage Lottery Fund	£1,811,912
Trusts	£ 125,000
Tayside Building Preservation Trust	£ 30,405
Dundee City Council	£ 16,500
ERDF	£ 861,272
Sale of Property	<u>£ 385,000</u>
Total	£3,830,089 ie surplus £35,000

- 6.4. The Trust's original intention was to sell the restored premises to Backpackers Limited who operate Hostels in Edinburgh. The price of £385,000 was fixed by the District Valuer.
- 6.5. The Trust approached the Council seeking its assistance in relation to the ERDF Grant of £861,272 which was being sponsored by SET. The conditions of this grant require a Public Sector Guarantee for 7 years that all the conditions of the grant would be complied with. These conditions relate to the satisfactory completion of the project, maintenance of the property and the premises remaining available for the stated purpose ie as a backpackers hostel.
- 6.6. Despite sponsoring the ERDF Grant SET had stated that it was unable to provide such a guarantee due to their auditing process and at that time the City Council was asked to undertake that role.
- 6.7. Since the completed premises were to be sold to a private sector company the City Council's ability to guarantee the ERDF conditions was limited. The risk to the Council in the event of a breach of the grant conditions was a liability to repay in whole or in part the grant of £861,272 without any recourse to the value of the assets (albeit that the completed project would only enjoy a value of £385,000). In addition whilst the Historic Scotland grant of £500,000 and the Heritage Lottery Grant £1,811,912 are covered by a Security, once ownership transfers to the City Council any conditions will also transfer to the Council and there may therefore also be financial implications as a result.
- 6.8. Primarily this risk emanated from 3 sources:-
- The purchasers sold on the property to a third party and the hostel use was not maintained for the guarantee period.
 - The property not being maintained to the standards required under the grant terms.
 - The restoration project did not complete or goes over budget.
- 6.9. In relation to the first issue it was suggested that a possible solution was that the Trust transfer ownership to the City Council on completion of the restoration rather than to Backpackers Limited. Notwithstanding any view of the proposed sale agreement between the Trust and Backpackers Limited it was not considered that there was any merit in attempting to renegotiate the terms of that agreement other than delay the sale to them until after the expiry of the guarantee period namely 2011. Backpackers Limited will also be investing £110,000 in final fit out expenditure.

- 6.10. Accordingly it was suggested that the Council could enter into a full repairing and insuring lease agreement with Backpackers Limited at a rental reflecting bank loan interest on the price of £385,000. The lease would persist for a 7 year period with an option for Backpackers Limited to purchase the premises at the agreed price of £385,000 at the end of that period. The lease arrangement would enable the enforcement of the user condition by the Council or at worst ensure that the premises remained available for that use for the period of the guarantee. The lease could be drawn in such a way as to ensure the maintenance of the property was in accordance with the grant conditions and accordingly address the second issue. Generally that proposal is acceptable to Backpackers Limited.
- 6.11. Since it would be necessary for the Council to acquire the completed premises at the full value of £385,000 to enable the Trust to recover VAT on the construction costs and also to fully fund the project SET and Historic Scotland agreed to provide additional acquisition grants to the City Council ie £200,000 each.
- 6.12. This however led to a further complication since at the end of the 7 year period the Council would receive (or potentially receive) the purchase price of £385,000 together with the rents over that period. Historic Scotland, the Heritage Lottery Fund and SET all sought that these sums be repaid to them although they were prepared to concede that the Council was entitled to a management fee in relation to the lease. That position was resisted in as much as the Council was not being rewarded for the considerable risks it would be assuming in relation to the second issue and the costs it might incur should it lose its tenant during the guarantee period ie the Council would incur maintenance, insuring, legal costs etc during a void period. The position proposed to these bodies was that under the proposed arrangements the Council would retain all monies received for the duration of the lease after which if there were any surpluses then these would be dispersed on an equitable basis but that the Council expected to receive a reasonable proportion ie at least 25% of any surplus. The issue is still to be finally resolved but it is anticipated that agreement will be reached.
- 6.13. The third issue is more difficult. The building contract has been put out to tender and the Trust advises that it would wish to appoint W H Brown Construction Ltd as preferred contractors at an adjusted tender price of £2,925,392. That sum provides for contingency of £250,000 with a further development surplus of £92,750 compared with the original financial projection, though some of this surplus relates to the value of hours worked by members of the Trust. These costs do not take into account the professional teams fees, acquisition costs and sundry costs. The new estimated cost of the entire restoration project is £4,143,448.
- 6.14. The professional team comprises:-
 - Simpson & Brown Architects
 - Keillor Laurie Martin Quantity Surveyors.
- 6.15. The project management will be provided by the Trust's officers, whilst the City Architectural Services Officer will monitor the contract on behalf of the City Council. Any fees for the monitoring of the contract will be met from contingency within the contract.

- 6.16. Part of the property dates from the 16th century and it is almost inevitable that there will be unforeseen works that will require to be undertaken in the course of the project. The risk to the Council is that the Trust's contingency as detailed above may be insufficient to complete the project. Under such circumstances the Council could find itself in a position of providing all such funds as are necessary to complete the project otherwise it would require to repay the ERDF grant and the Architectural Heritage Loan Fund of £345,000 referred to in paragraph 6.18 below.
- 6.17. In addition, the redevelopment requires the purchase and relocation of the Western Club, whose premises are required to provide improved access and egress to Gardyne's Land. Rather than continuing to promote the CPO of the Western Club it is proposed that the City Council will purchase premises in Murraygate presently occupied Dundee Disabled Children's Association and sell these on to the Western Club. Costs associated with the transfer of the club will be covered by the general development costs of Gardyne's Land. There will be an increase in the net value of the assets of the Western Club as the value of the Murraygate property will exceed the value of the club's current premises in High Street though both have yet to be valued by the District Valuer. The cost of purchasing the Murraygate property, which is part of a listed building, will be covered by an acquisition grant from Historic Scotland.
- 6.18. To assist with cash flow during the project the Trust latterly advised that in addition it wished to procure an Architectural Heritage Fund Loan of £345,000 This grant also requires a public sector guarantee and it would require the Council to undertake this also.
- 6.19. Other Considerations
- 6.20. The Historic Scotland Grant (£500,000) and the Heritage Lottery Fund Grant (£1,811,912) would be secured against the property until the completion of the restoration. These securities would then be discharged when the Council acquired the property from the Trust on completion. The Council would be obliged to ensure that the conditions of both these grants were complied with for the duration of our ownership. If they were not then the Council may be faced with repaying in whole or in part these grant monies also.
- 6.21. The Council's exposure can be ameliorated to an extent by inspection rights (it is not considered appropriate or feasible that the Council directly manage the restoration project) and step in rights should the project falter. Significant reliance would still be placed on the Trust's professional team to deliver the project on budget and on time.

7. CONSULTATIONS

- 7.1. The Depute Chief Executive (Finance) and Depute Chief Executive (Support Services) have been consulted in the compilation of this report and agreed to its content.

8. **BACKGROUND PAPERS**

- 8.1. No background papers, as defined in Section 50D of the Local Government (Scotland) Act 1973 (other than any confidential or exempt information) were relied on to any material extent in preparing the above report.

DOUGLAS A A GRIMMOND
DIRECTOR OF ECONOMIC DEVELOPMENT

DATE: 21ST JUNE 2004