

This Report will be made public on 18 May 2021

Report Number **C/21/07**

To: CABINET
Date: 26 May 2021
Status: Key Decision
Responsible Officer: Helen Hensel – Estates & Assets Lead Specialist
Andy Blaszkwicz – Director, Housing & Operations
Cabinet Member: Cllr Monk – Leader & Portfolio Holder for Finance
Cllr Collier – Property Management & Grounds Maintenance

SUBJECT: URGENT DECISION: CONNECT 38 - ADDITION OF CAT A WORKS TO GENERAL FUND CAPITAL PROGRAMME

SUMMARY: In May 2019, Folkestone & Hythe District Council purchased the investment property known as Connect 38 in Ashford, Kent. At that time, the first floor and part of the second floor were vacant and required finishing to a Category A (CatA) specification before leasing out. Unfortunately this space remained vacant as a result of low interest in office space through the Covid pandemic.

Recently however there has been a resurgence of interest in office space and the council has agreed draft heads of terms with a potential new tenant who requires occupation by 30 July 2021. Therefore the CatA works to the second floor need to be undertaken immediately to enable this deadline to be met. Urgent approval is now required to modify the Council's capital programme to allow the CatA works to be undertaken in order to let the vacant space.

REASONS FOR RECOMMENDATIONS:

1. There is currently no budget approved in the Council's General Fund capital programme for the CatA works. However, the £400,000 monies identified for the original works is held in an earmarked reserve and available to spend for this purpose.
2. This is an urgent requirement to secure a deal to lease part of the vacant space at Connect 38 by 30 July 2021. Cabinet is requested to approve the budget for the CatA works to be added to the General Fund capital programme.

RECOMMENDATIONS:

- 1. To receive and note report C/21/07.**
- 2. To make an urgent decision to add £400,000 to the General Fund capital programme to allow the necessary Cat A works to the Connect 38 building to be met from monies received under the legal agreement for the original property acquisition (held in the Capital Grants and Contributions Unapplied Reserve).**
- 3. To note that this matter will be reported to Full Council at the next available opportunity.**

1. BACKGROUND

1.1 FHDC purchased the investment property Connect 38 in May 2019. At this time, the first floor (12,000sqft) and two-thirds of the second floor (c.7,300sqft) were vacant space and still required finishing to a CatA standard. Upon purchase of the building, there was an agreement in place – the Deed of Guarantee – between Quinn Estates (the developer) and FHDC whereby Quinn Estates were committed to paying the rent and associated costs with the vacant space until the time they leased the remainder of the space to third parties. Under this agreement, they were also obliged to complete the CatA fitout as part of any new leases agreed and £400,000 was held in escrow to enable Quinn to carry out the works. Despite several leads, the space was not leased by Quinn. The difficulty letting the space was exacerbated by the Covid pandemic when interest disappeared. The Deed expired in November 2019 following which the escrow monies were returned to FHDC.

1.2 Two months ago, the marketing agent for the building confirmed interest in office space had returned, with four leads in Connect 38. Officers started to explore options for undertaking the CatA fit out works to the second floor so that the space should be ready to let in the event that there was firm interest from potential tenants. Last month, FHDC appointed Martello Consultancy to prepare a Cat A specification and tender the works through the Kent Business Portal. Simultaneously, the agent's lead for approximately 5,300sqft on the second floor has been very quickly progressed and final heads of terms to let the space have been prepared. The headline terms as currently drafted are set out as follows:

- Term: 6 year lease with a break and review at Year 3
- Rent: £108,650pa
- Service Charge: £15,900pa
- Rates: liability estimated at - £85,000 Rateable Value
- Incentive: 3 months rent free start of lease; and 3 months rent free at Year 3
- Commencement: end-July 2021

2. REASONS FOR URGENT DECISION

2.1 The deal agreed with the potential tenant has moved very quickly and one of the terms is that they require occupation by 30 July 2021 with completion of the CatA works by that date. If the Council continued with tendering the CatA works, it would not meet this deadline (total tender time to completion of the works is estimated 5-6 months). The only way in which the Council can meet the deadline is to appoint a contractor directly to commence the works immediately. The Council has been discussing the possibility of Quinn Estates undertaking the works as they are familiar with the building (having built it and completed all other CatA works here) and have subcontractors who could be mobilised to meet the timeframe. Even so, the timescale has little room for delay: Quinn require a 3-4-week lead-in time and then around 6 weeks to undertake the works. It is possible that by working with the tenant's contractor for their CatB fit-out works some reduction in the time period could be achieved. However, if the contractor is not appointed

imminently, the works cannot be completed by 30 July 2021 and the Council will not secure this tenant for the second floor.

- 2.2 To enable the works to be carried out, approval is required to create budget in the Council's General Fund capital programme for the CatA works for the vacant space. The funding for this scheme is secured as outlined within the report through the sum previously allocated to escrow and now being held within reserves.
- 2.3 Subject to Cabinet approving the additional budget to the capital programme, a waiver will be sought to appoint the contractor (Quinn Estates) due to the tight timelines involved and their intimate knowledge of the building.
- 2.4 It is intended that Martello Consultancy will be appointed as employer's agent on behalf of FHDC to oversee the works and ensure that the Council receives value for money.

3. FINANCIAL IMPLICATIONS

- 3.1 The proposed cost of the capital works required to the Connect 38 building can be fully met from the £400,000 contribution received under the legal agreement to purchase the building. This sum is held in the Capital Grants and Contributions Unapplied Reserve and is ring-fenced to meet the works outlined in this report.
- 3.2 The financial implications to the Council of not undertaking the second floor CatA works immediately would jeopardise securing the proposed new tenancy. This could mean the Council losing the opportunity to secure an additional rent of £108,650pa for the potential 6 year lease duration and the council would also remain liable for service charges and rates of about £60,000pa.
- 3.3 It should be noted that the full sum of £400k is for the CatA fit out of the remainder of the vacant space across the whole building, i.e. all of floor one and the remaining part of floor two. Floor two will be fitted out immediately following budget approval and officers anticipate that the spend profile of this remaining budget will be through 21/22 but may go over into 22/23 depending upon demand from the market in the vacant space. Updates on the spend profile will be made through the budget monitoring of the Medium Term Capital Programme.

4. URGENT DECISIONS OUTSIDE THE AGREED BUDGET OR POLICY FRAMEWORK

- 4.1 Part 4 of the Constitution allows for urgent decisions to be made outside of the agreed budget framework. Where it is not possible to convene a quorate meeting of the full Council (in this case due to time and operational complexities due to covid restrictions) the Chair of Overview and Scrutiny Committee must agree that the decision is a matter of urgency.

4.2 The report has been discussed with the Chair of Overview and Scrutiny Committee and it has been agreed that the decision is a matter of urgency.

4.3 This matter will be reported to Full Council at the next available opportunity.

5. RISK MANAGEMENT ISSUES

5.1 The risk management issues associated with this approval are limited and set out below:

Perceived risk	Seriousness	Likelihood	Preventative action
Acting outside of the Budget framework	High	Low	Seek urgent approval of Cabinet to add the £400K to the General Fund Capital Programme
Cabinet not agreeing the decision leading to loss of potential tenant and a rental income of £108,650pa.	High	Low	Decision made to add the £400k budget to the General Fund Capital Programme
Construction material costs increasing due to Covid pandemic	Medium – could increase budget cost	Medium	Martello appointed to oversee works and keep costs under control

6. CONCLUSION

6.1 It would be prudent for the Council to take advantage of current market conditions before they wane and secure the proposed new tenant as soon as possible. If this tenant is secured, the Council will benefit from additional revenue of £108,650pa together with savings from the service charge and rates (c. £60,000pa).

6.2 Whilst there is currently not a specific scheme in the capital programme for the Connect 38 CatA works therefore no budget approval, there is £400,000 available to spend for this purpose as it has been ring-fenced by Finance following return of the monies held in escrow. Cabinet approval is urgently requested to authorise the addition of the CatA works to the General Fund Capital Programme. This would then facilitate the current deal being proposed for the second floor space at Connect 38 and secure the on-going rental income.

7. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

7.1 Legal Officer's Comments (NM)

There are no legal implications arising directly from this report.

7.2 Finance Officer's Comments (LW)

No budget provision currently exists in the Council's approved General Fund capital programme for the works outlined in this report. The Council received a payment of £400,643.59 in March 2021 under the legal agreement signed at the time the building was acquired. This sum is held in the Capital Grant and Contributions Unapplied Reserve and is available to meet the cost of the works. The impact to the Council's General Fund revenue budget of proceeding with the scheme are outlined in the Financial Implications section of the report.

7.3 Diversities and Equalities Implications

There are no equalities implications directly arising from this report.

8. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

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The following background documents have been relied upon in the preparation of this report: N/A

Appendices: none