

EXECUTIVE COUNCIL

CONFIDENTIAL

Title of Report: Lookout Industrial Estate
Paper No: 259/11
Date: December 2011
Report of: David Waugh –GM FIDC

1.0 Purpose

To propose that the Falkland Island Development Corporation adopt all of Lookout Industrial Estate on individual Crown Grants, and FIG adopts the 3 roads and mains services, in order to simplify the management and mapping of the Estate. This will also enable FIDC to fulfil their objectives as according to the 2012/13 Business Plan. This includes the objective to offer all plots to the Private Sector on a Freehold basis.

2.0 Recommendations

Honourable Members are asked to approve the following recommendations:

- (a) PWD adopts and manages the main services, roads and communal parking areas within Lookout Estate;
- (b) PWD complete the survey of Lookout Estate, including the production of boundary plans for each plot, with a target completion date of January 2012;
- (c) FIDC convey to FIG the land comprised within Crown Grants 681 and 617, to facilitate the issue of individual Crown Grants and ultimate freehold sale of all plots within Lookout Estate;
- (d) The Attorney General agree with FIDC a standard format for a Crown Grant to be used for all plots throughout the Lookout Estate, adjusted only where necessitated by physical features (eg. where one plot requires access across another plot);
- (e) FIDB be asked to approve detailed proposals, including pricing policy, for the freehold sale of all plots within Lookout Estate, such proposals to give priority to sitting tenants;
- (f) FIG grants to FIDC, or its nominees where FIDC has already agreed a sale to the sitting tenant, the freehold of each plot by a series of individual Crown Grants (excluding the plot occupied by the FIG Computer Section).

Note: If the above are not completed in a timely manner it will not be possible for FIDC to meet it's Business Plan target of disposing of Lookout Industrial Estate to its tenants.

3.0 Summary of Financial Implications

	2011/12	2012/13	Full Year
	£	£	£
<u>Operating Budget</u>	None	4,400	4,400
<u>Capital Budget</u>	None	None	4,000

4.0 Background

- 4.1 There are currently two FIDC Crown Grants covering the South East of the Estate and FITT plot. The remainder of the Estate currently remains under FIG ownership.
- 4.2 The management of all of the Estate was agreed as being the responsibility of FIDC. See Appendix A for a first extract.
- 4.3 Lookout Industrial Estate comprises 60 plots of varying sizes, most of which have little paperwork to support their boundaries. In order to rectify this, the Design Section of the Public Works Department (PWD) has been working with FIDC to establish boundaries and issue detailed maps showing the correct boundaries and areas. This work is currently incomplete.
- 4.4 A common problem that The Design Section, Commercial Lawyers and the Attorney General's Chambers (AGC) have had to deal with is that some of the plots are situated in such a manner that they are made up of a combination of FIDC Crown Grant Land and FIG Crown Lease Land. Legal advice is that the current Crown Grants held by FIDC should be cancelled and FIG should issue new Crown Grants for each plot as mapped. This would mean that in the long-term the work-load for the Design Section would be decreased and the AGC would be freed from undertaking unnecessary lease work relating to Lookout Industrial Estate as such work would sit with the private sector.
- 4.5 Among the areas that FIDC manages on Lookout Industrial Estate is the FIG Computer Department. The rest of the Estate is made up of private development. It has been identified that the cost and inconvenience to FIG to relocate would be significant, therefore it is recommended that the area in which the department is located is removed from any management or ownership by FIDC and becomes a stand-alone FIG department that will no longer feature as part of the Estate. This will enable FIDC to look at alternative management of the remainder of the Estate in line with ExCo paper 273/10.

5.0 Proposed Lookout Industrial Estate Plan

- 5.1 The Estate Plans provided are not exact, nor complete in that not all plot boundaries are shown but should provide a clear indication of the way forward. The division of Crown Grants will enable a greater efficiency in searches in future land transactions. The

borders of each proposed Crown Grant are comparable with natural and manmade divisions in the estate and the borders of the allocated plots.

- 5.2 The risk to FIDC of failure by FIG to adopt the roads and services has been identified by our consulting legal practitioner to be significant. As plots are disposed of on a Freehold basis it would not be possible for FIDC to recoup the costs of maintenance from those Freeholders meaning that the costs would be borne by the remaining leaseholders and tenants. Once all plots had been disposed of there would be no method available for FIDC to recoup maintenance and repair costs of roads and services. Clause 2.2 of the Management Agreement (see Appendix A) provides for the crown to maintain these services.
- 5.3 The matter needs urgent resolution as the current lack of accurate plot boundary definition for the whole estate has led to a state of deadlock on several lease purchases, and this has been further complicated where the plot sits on both FIDC Crown Grant land and FIG land.
- 5.4 Failure by FIG to support the recommendations of this paper would impact FIDC's ability to continue to manage the Estate and to dispose of it to the Private Sector as agreed by FIDB on the 17th of February 2010 paper no 503/10. This situation would be untenable for FIDC.
- 5.5 If EXCO approval for this paper is not granted FIDC may be left with no option but to give notice to return all of the Estate to FIG Management. An extract of the Management agreement is attached at Appendix A.

6.0 Financial Implications

- 6.1 There is a requirement for PWD and AGC resources to support the recommendations of this paper. It is anticipated that this would involve additional work hours for PWD given current staffing levels and workload within the Design Office. It is agreed that where the work cannot be covered within existing FIG budgets any excess costs would be recharged to FIDC and covered by the FIDC Project Budget. Net impact on FIG budget is therefore nil.
- 6.2 It is proposed that the property known as the Computer Section is to be retained by FIG. Going forward, it is expected that it will then be administered as are other FIG departments. The costs to FIG of this arrangement have already been included within FIG Budgets for 2011-12 and Forecasts for future years.
- 6.3 In accordance with the Management Agreement for Lookout Industrial Estate FIDC has administered the estate and costs for the management and maintenance of the estate are currently fully recovered by FIDC under the lease terms.
- 6.4 Costs for the maintenance of the roads and services proposed to be adopted and maintained by PWD have to date been low, and have been recovered through charges raised on tenants within the estate. It should however be noted that most of these assets have been installed within the relatively recent past, with the roads and parking areas having been progressively upgraded and surfaced and that costs could then be expected

to be low during those first years but to rise over time and that the ‘honeymoon period’ when costs will be that low must be considered at an end.

- 6.5 The roads and associated parking areas equate to an increase of approximately 2% of the surfaced roads within the Stanley area and for this reason DPW recommends that, based on current costs incurred for general road and service maintenance, annual allowance of £4,400 is made to PWD within recurrent budget and £4,000 within the capital budget to meet the additional maintenance costs. Following rectification works financed by FIDC, there are not expected to be any Capital costs in 2012-13.
- 6.6 In the event that such provision is not made, the only alternative will be to apportion current funding even more thinly over the increased asset base.
- 6.7 The financial implications to FIDC are covered by the £20k within approved FIDC Budgets (2011-12). This is the net cost of rectifying site issues prior to the adoption of roads and services by FIG and boundary marking/fencing costs as appropriate.

7.0 Legal Implications

- 7.1 FIDC will convey back to FIG the land covered by Crown Grants 617 and 681. FIG will then issue to FIDC individual Crown Grants for all plots in the Estate. FIG, in partnership with FIDC, will need to ensure that any covenants appropriate to the plots are included within these Crown Grants.
- 7.2 FIDC will then be able to dispose of each plot freehold to the sitting tenants, in return for them surrendering their existing leases.
- 7.3 By issuing individual Crown Grants future conveyancing, including Registry land searches, will be greatly simplified, and the current boundary issues permanently resolved
- 7.4 FIG (AGC) and FIDC will work together to produce a specimen Crown Grant that will be generic to all plots on Lookout Industrial Estate and include appropriate covenants. This specimen Crown Grant will be presented to FIDB together with details of the proposed disposal and on-going Management of Lookout Industrial Estate for approval by FIDB.

8.0 Human Resources Implications

- 8.1 Whilst AGC resource will be required to issue new Crown Grants initially, ultimately the transfer of Crown Grants to FIDC should reduce the workload pressure on the Attorney General’s Office in this respect. Until that point, it is expected the work will be subsumed into the current workload of the AG’s staffing complement and so require no additional resources at this time.
- 8.2 PWD design office is currently in the process of mapping all of Lookout Estate’s individual Plots, roads, pavements and communal parking areas. It is currently expected that resource requirement to complete this would be approximately 1-2 weeks (subject to no unknown issues arising). Where additional hours are required it is anticipated that FIDC would cover the cost within it’s Project Budget.

8.3 Currently FIDC utilise PWD's services to resolve Estate issues such as blocked drains etc. It is therefore anticipated that there would no additional increase in PWD resource requirement as a result of the adoption of the roads and services within the Estate.

9.0 Next Steps

9.1 FIDC will continue to work with PWD to complete mapping of the Estate

9.2 FIDC will carry out rectification and remedial works in respect of the roads, pavements and shared parking areas prior to adoption by FIG.

9.3 FIDC will continue to work with AGC to prepare specimen Crown Grants and Freeholds – to include appropriate covenants.

9.4 Individual Crown Grants will be issued to FIDC – or where appropriate directly to new Freeholders.

9.5 FIDC will continue to work with current Leaseholders and tenants to agree plot boundaries and sale of plots on a freehold basis.

9.6 FIDC will present to it's Board a paper laying out the process for valuing plots for sale to (where possible) existing leaseholders and tenants.

9.7 Where appropriate FIDB will agree individual plot sales.

