

Item: 5

Asset Management Sub-committee: 5 October 2021.

Former Herring Factory, Stromness.

Request to Lease at Less than Market Value.

Report by Chief Executive.

1. Purpose of Report

To consider requests from Orkney Men's Shed, Stromness Drama Club and Orkney Historic Boat Society to lease the former Herring Factory, known as Factory Unit (G24), Garson Industrial Estate, Stromness, at less than the market rent.

2. Recommendations

The Sub-committee is invited to note:

2.1.

That the former Herring Factory, known as Factory Unit (G24), Garson Industrial Estate, Stromness, has mainly been vacant since 2012, generating no rental income, but incurring annual property costs in excess of £36,000 per annum.

2.2.

That, at the Special General Meeting held on 14 January 2021, the Council resolved that Factory Unit (G24), Garson Industrial Estate, Stromness, be advertised for sale on the open market, with offers assessed by the Asset Management Sub-committee and a decision on disposal of the property made at that point.

2.3.

That the property has recently been advertised on the open market for sale and previously for lease but, to date, no offers have been received.

2.4.

That the Council has subsequently received three expressions of interest from charitable organisations to lease Factory Unit (G24), Garson Industrial Estate, Stromness, at below market rent.

2.5.

That all three charitable organisations provide a wide range of community benefit to a range of members of the community.

2.6.

That, in order to maximise use of the facility to ensure successful achievement of the charitable organisations' aims, some alterations or repairs are required to the building.

2.7.

The proposal that the Council undertakes the necessary alterations and repairs to make the building fit for purpose, at an estimated cost of £35,000, to be funded from the annual corporate asset improvement and maintenance programmes.

It is recommended:

2.8.

That Factory Unit (G24), Garson Industrial Estate, Stromness be transferred from the Strategic Reserve Fund to the General Fund, at market value, to be funded by a contribution from the General Fund unearmarked balances.

2.9.

That the Chief Executive should arrange for the appropriate alterations and initial repairs to Factory Unit (G24), Garson Industrial Estate, Stromness, to be costed and thereafter instruct the works, to be funded from the annual corporate asset improvement and maintenance programmes.

2.10.

That, Factory Unit (G24), Garson Industrial Estate, Stromness, be offered for lease to Orkney Men's Shed, Orkney Historic Boat Society and Stromness Drama Club, at a rent of £1 per annum, for a period of 10 years with a 5 year break clause, on terms and conditions to be determined by the Solicitor to the Council, subject to the following:

- The alterations referred to at paragraph 2.9 above being feasible to proceed.
- Tax advice being sourced to the satisfaction of the Interim Executive Director of Finance, Regulatory, Marine and Transportation Services.

3. Background

3.1.

Background information, together with the previous decision of the Council, are detailed in Appendix 1 to this report.

3.2.

At the Special General Meeting held on 14 January 2021, the Council resolved that Factory Unit (G24), Garson Industrial Estate, Stromness, be advertised for sale on the open market, with offers assessed by the Asset Management Sub-committee and a decision on disposal of the property made at that point.

3.3.

To date no offers have been received for the purchase or commercial lease of the property.

4. Expressions of Interest in the Factory

4.1.

The Council has received three expressions of interest from charitable organisations to lease Factory Unit (G24), Garson Industrial Estate, Stromness at a below market rent.

4.2.

The first expression of interest was received from Orkney Men's Shed. Internationally, Men's Sheds are "meeting and doing places" for men who want to meet new folk, make new friends, learn new skills, and generally have a blether and an improved life. The movement is nationally recognised for all the good work that they do in helping to improve quality of life, both physically and mentally, for the men in their community.

4.3.

Due to several factors, Orkney Men's Shed has to vacate their current store and has no premises to operate from. The group is renting a meeting space in a community hall, which, although better than nothing, is not providing the best opportunities for its members in supporting some of the inclusion and mental wellbeing issues experienced. The local group has provided valuable services to the community with projects that have included the new shed at The Blue Door, outdoor musical equipment for Glaitness School, developing outdoor space at Firth School, livestock signs for the County Show park, bicycle sheds for schools, bus stops — amongst many others. But more importantly, delivery of these projects has provided invaluable support to the individual members in being part of these practical projects and this element of the group's activities is not possible without suitable premises.

4.4.

Orkney Men's Shed has expressed an interest in leasing approximately one third of the factory unit, as shown in yellow on the plan attached as Appendix 2 to this report, in order to resume their practical activities. Having to vacate their current store in October 2021, Orkney Men's Shed has not been able to identify alternative premises and urgently require a solution. In order to provide a wide range of activities, from workshop to digital, the Men's Shed would require to have a working lift in the premises to ensure inclusion for all.

4.5.

The second expression of interest was received from Stromness Drama Club. This group currently rents a store but has to rent facilities to rehearse and meet. This well established registered charity requires space to store scenery, props and costumes.

The group are interested in the areas marked in green on the plan attached as Appendix 2.

4.6.

Stromness Drama Club has also noted that a working lift is a prerequisite for them to be able to use first floor storage space, for safe transport of props upstairs to the stores, but importantly to comply with the club's policy of inclusivity in providing accessible rehearsal rooms. In addition, the group notes that having a fixed base (where room rental is not by the hour) would make it feasible for them to start up a regular youth drama group in co-operation with local schools.

4.7.

The final expression of interest was received from Orkney Historic Boat Society (OHBS). This charitable group is currently progressing plans to establish a boat museum at another site however has indicated that they require additional sufficient storage and workshop space to look after all the boats in their care and realise the maximum benefit for their projects. The remainder of the factory would be suitable for this group as shown in pink on the plan attached as Appendix 2 to this report .

4.8.

The Society envisages using this space for the storage of some of the Society's boats, related maritime artefacts and tools. Boat restoration and maintenance work would also be undertaken within this space. The Society noted, however, that there is currently no 'boat friendly' large access door to the area of interest and this problem would need to be resolved for OHBS to make optimum use of the area of interest.

4.9.

The three groups have recognised that their activities will be highly complementary to each other's work and expressed that they would be very happy to work closely together to achieve an amicable and equitable sharing of the building. Together, all three charitable organisations provide a wide range of community benefit to a wide range of members of the community – from the young to the old. The three groups will work very well together – the help and support they can provide to each other in delivering their group's ambitions is unlimited.

4.10.

All three groups are small charitable organisations with limited income streams. Acknowledging that there will be fixed costs to contribute to - the heat, light and power in the building, together with annual maintenance charges for the fire safety systems, insurance and lift, the request is for consideration of a peppercorn rent to ensure financial viability. In addition, to give stability it is proposed to consider offering a 10-year lease with a 5-year break clause.

5. Leasing Factory Unit (G24)

5.1.

The previous market rental value of Factory Unit (G24) was £54,000 per annum, but more recently was advertised as open to offer.

5.2.

The three charitable organisations would be able to meet the costs of internal repairs and maintenance, building insurance and day to day costs for the facility. It is proposed that the Council would remain liable for the fabric of the building – for example keeping it wind and watertight. The welfare facilities and shared areas would be looked after jointly by the groups.

5.3.

In order to maximise the use, to ensure the facility is successful in achieving the groups' aims, some alternations or repairs would be required. These include:

- Addressing the electricity supply which currently incurs high standing charges from the provider to reflect the potential industrial factory usage.
- Identifying the most practicable way to recharge the groups for electricity used.
- Recommissioning the lift(s) to ensure all parts of the building are accessible.
- Facilitating the installation of a large external access to enable boats to be stored in the large factory area.
- Ensuring the building meets fire safety regulations, for example reinstating correct internal locks and servicing of the fire alarm system.
- Exploring the ventilation system and decommissioning of the air handling system.
- Checking the water supply is fit for purpose.
- Ensure the change of use has the appropriate planning consent.

5.4.

It is proposed that the cost of these repairs and improvements be met from the annual corporate asset improvement and maintenance programmes. The current plan of works met by this budget will require to be reprofiled to facilitate this additional expenditure. The actual cost of these repairs are not yet known and it should be noted that to obtain a cost to recommission the lift, following a lengthy period of inactivity, will require inspection by a qualified lift engineer. Following these initial repairs, any further alterations would be funded by the leasees.

5.5.

The lease of Factory Unit (G24), Garson Industrial Estate, Stromness, would provide the Council with an opportunity to divest itself of an underperforming local investment, which has been mainly vacant since 2012, as well as providing an opportunity to create a community hub for the West Mainland area. The charitable activities of the groups undoubtedly contribute to, and have been evidenced to promote, the improvement of health and social wellbeing. This is however outwith

the remit of the Council's Strategic Reserve Fund so it may be necessary for the property to be transferred to General Fund Services to facilitate this outcome.

5.6.

It is proposed that the concept of providing a community hub facility at the factory is progressed and that the factory is withdrawn from the property market. It is further proposed that the principle of offering a below market value lease to the three charitable organisations to provide a Community Hub for the West Mainland is approved. Taking into consideration the initial expenditure to address key requirements for the proposal, the Council will subsequently save more than £36,000 per year but importantly will be facilitating local community groups in providing valuable opportunities, with important health and wellbeing benefits, for the residents of Orkney.

6. Links to Council Plan

6.1.

The proposals in this report support and contribute to improved outcomes for communities as outlined in the Council Plan strategic priority Thriving Communities.

6.2.

The proposals in this report relate to Priority 3.2 – Working with individual communities, promoting community participation and (where applicable) joint ownership, of the Council Delivery Plan. Although this priority references the school estate, the same principles apply to assets across the Council's estate which are deemed suitable for community use.

7. Links to Local Outcomes Improvement Plan

The proposals in this report support and contribute to improved outcomes for communities as outlined in the Local Outcomes Improvement Plan priority of Strong Communities.

8. Financial Implications

8.1.

Factory Unit (G24) is held on the Council's Strategic Reserve Fund (SRF) as an investment property that has been vacant for nine years and for which no rental income is received and on which property costs have averaged £36,645 per annum over the last four years. In addition to the property costs, as a vacant property, its condition is likely to deteriorate over time without significant additional maintenance.

8.2.

The lease of the building to charitable organisations would mean the Council would not be liable for the ongoing annual costs. The annual budget is £48,700 however the approximate annual spend is as follows:

Financial year.	Amount.
2020/21.	£35,791.19.
2019/20.	£37,170.55,
2018/19.	£40,213.41,
2017/18.	£33,408.05.

8.3.

There has been very little other interest in the building since it was vacated in 2012. Factory Unit (G24) is a specialist building and was a bespoke design for a particular business which means that there are limited alternative uses for the factory and a limited number of businesses that are prepared to consider lease or purchase the premises from the Council.

8.4.

When it was occupied and leased by Orkney Herring Company Limited, the factory had a market value for accounting purposes of £815,000 which was based on the assessed rent and length of lease. Now that it is no longer occupied, the building is valued at £325,000 for accounting purposes. The building has a sum insured of £5,378,495 for 2020/21 for which the current premium is £1,459.59.

8.5.

After nine years of being unoccupied and incurring property costs for no return, the recommendation in the report is to offer the building for lease at a peppercorn rent. This means the Council will be forgoing the opportunity to generate a capital receipt from the sale of the investment property and further that the capital market value of the property is likely to be adversely affected by the imposition of non-business lease terms for the duration of that lease.

8.6.

As the Council elected to opt to tax this property, it will be necessary to take further specialist tax advice to ensure that this position can be unwound without any adverse consequences. The primary purpose of opting to tax the property was to ensure that the VAT incurred in constructing the factory building could be recovered in full on the basis that the premises were to be leased to a third party operator, being a taxable supply. The proposal to lease the property to the charitable sector on non-business terms means that the option to tax is likely to be disapplied.

8.7.

On the basis that the Strategic Reserve Fund should not be disadvantaged for decision that are taken on service related grounds, consideration should also be given to transferring the property to General Fund Services at market value on the basis that a commercial return is not being recommended. It is, therefore, proposed that this transfer takes place, to be funded by General Fund unearmarked balances.

8.8.

Alternatively, the SRF property could be made available to the charitable sector on a short term rolling lease basis as an interim measure while previous decision of the Council to advertise the property for sale is progressed.

9. Legal Aspects

9.1.

In terms of Section 74(2) of the Local Government (Scotland) Act as amended by Section 11 of the Local Government in Scotland Act 2003, a local authority shall not dispose of land for a consideration less than the best that can reasonably be obtained other than in accordance with the Disposal of Land by Local Authorities (Scotland) Regulations 2010 ("the Regulations"). In order to comply with this provision property is normally advertised on the open market inviting offers over valuation.

9.2.

The Council must show that it is securing best value when considering land transactions (section 1, Local Government in Scotland Act 2003).

9.3.

Section 74 of the Local Government (Scotland) Act 1973 (as amended) provides that the Council cannot normally dispose of land (which includes leasing land) for less than the best consideration that can reasonably be obtained. The exceptions are where:

- The best consideration is less than £10,000; or
- The proposed consideration is more than 75% of the best consideration.

9.4.

If the Council is minded to dispose of land for less than the best consideration and the exceptions detailed above do not apply, the Council would have to follow an appraisal procedure. This is set out in the Disposal of Land by Local Authorities (Scotland) Regulations 2010.

9.4.1.

The local authority must (a) appraise and compare the costs and other disbenefits and the benefits of the proposal, and (b) determine that the circumstances set out in regulation 4 are met.

9.4.2 .

Regulation 4 specifies that the circumstances in which a local authority may dispose of land for a consideration less than the best that can reasonably be obtained are that (a) the local authority is satisfied that the disposal for that consideration is reasonable, and (b) the disposal is likely to contribute to any of the purposes set out below, in respect of the whole or any part of the area of the local authority or any persons resident or present in its area;

9.5.

The purposes referred to above are the promotion or improvement of:

- Economic development or regeneration.
- Health.
- Social well-being.
- Environmental well-being.

9.6.

Under Section 50A(4) of the Local Government (Scotland) Act 1973, the public should be excluded from the meeting in respect of any discussion relating to Appendix 1. Appendix 1 contains exempt information as defined in paragraphs 2, 6 and 9 of Part 1 of Schedule 7A of the Act.

10. Contact Officers

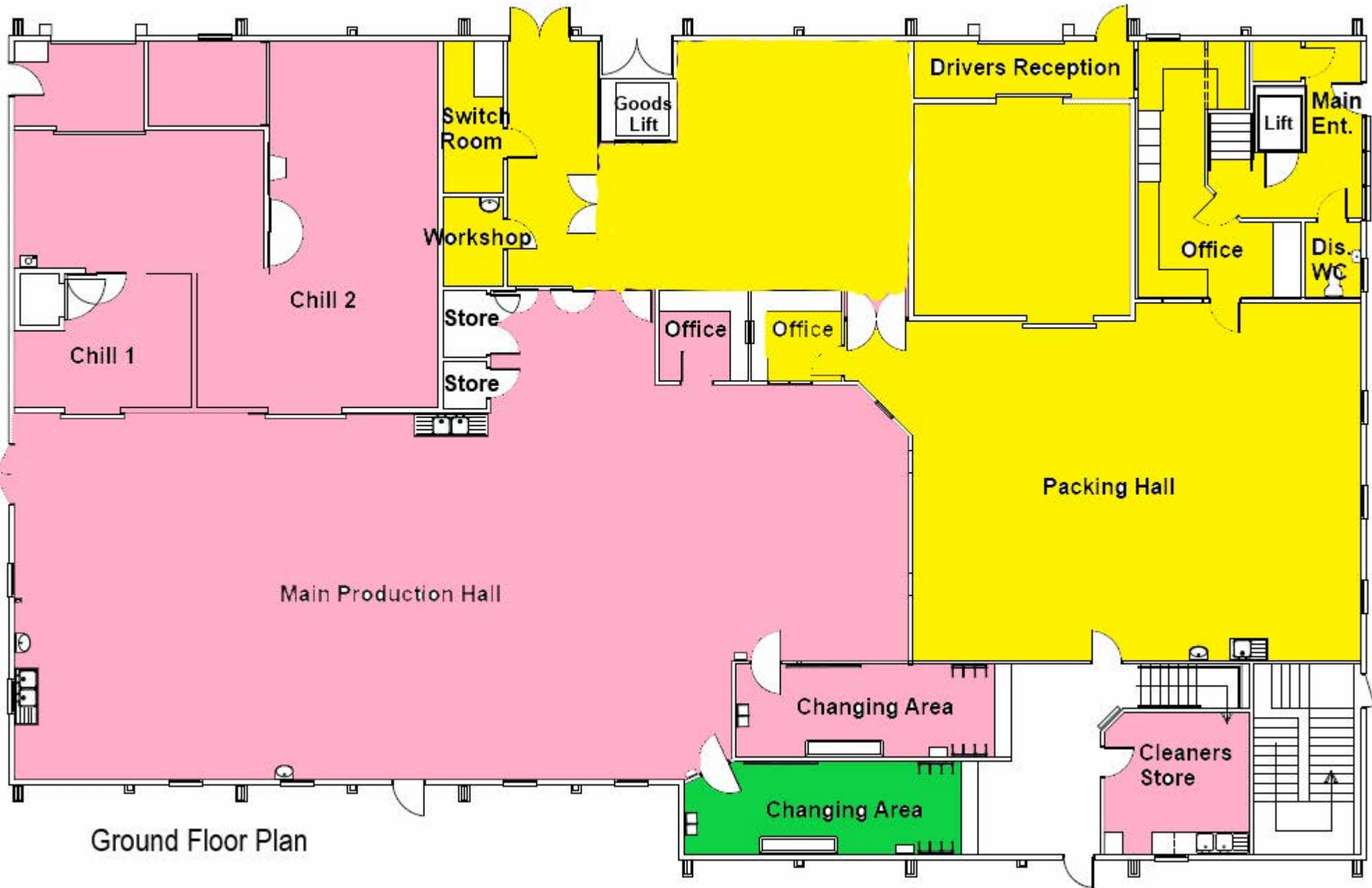
John W Mundell, Interim Chief Executive; Email chief.executive@orkney.gov.uk.

Karen Greaves, Head of Executive Support; Email karen.greaves@orkney.gov.uk.

11. Appendices

Appendix 1: Background Information and Previous Council Decision.

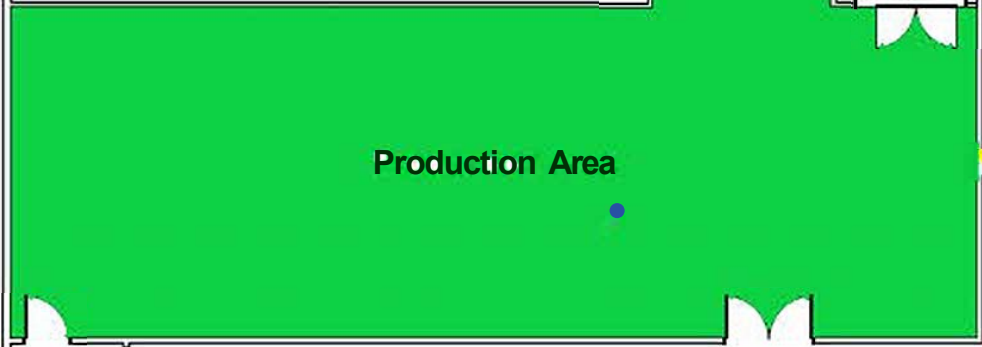
Appendix 2: Floor plans of Factory Unit, G24, Garson Industrial Estate, Stromness.



Ground Floor Plan

Appendix 1

Service Zone



Production Area

Store

Goods Lift

Office

Office

Office

Lift



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Kitchen

Store

Sh.

Sh.

Female Locker Room

Male Locker Room

Messroom

Store

Plant Room

Plant Room

Store

Store

Service Zone

Service Zone

Cleaners Store

First Floor Plan