



Belfast City Council

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| Report to: | Strategic Policy and Resources Committee |
| Subject: | Ormeau Business Park Lease, Gasworks Estate |
| Date: | 19 June 2009 |
| Reporting Officer: | Gerry Millar, Director of Core Improvement, Ext 6217 |
| Contact Officer: | Adrian Ferguson, Estates Surveyor, Core Improvement Ext 3503 |

Relevant Background Information

Ormeau Business Park (OBP), formerly know as Ormeau Enterprises Limited (OEL) was established with support from Local Enterprise Development Unit (LEDU) under their Local Enterprise Organisation scheme. Their mission statement of the organisation is "To promote economic development and job creation in South Belfast through the provision of support to aid the start up and growth of business"

With a mixture of public capital grant aid assistance to establish an enterprise centre comprising both workspace units and office accommodation with common facilities and services Council were approached by OEL to locate their centre at the Gasworks Estate.

In 1998 Council entered into an Agreement for Lease with OEL for a 1.53 acre plot in the Gasworks to develop an enterprise centre. Upon completion of the development a Lease for 125 years was granted with effect from 20th December 1999.

Under the terms of the Lease with OEL there was a single payment made at commencement of the Lease of £38,000 in lieu of rent for the initial 10 years of occupation. Thereafter an equity ground rent, similar to all other development plots in the Gasworks, would become payable to Council based on rental income received by OEL from their occupational tenants.

In addition to the equity ground rent OEL are liable under their Lease for annual service charge contributions from the commencement of their Lease.

The Lease restricts OEL to permitting occupation of the centre for business, light industrial, storage and distribution use. However, the initial 10 years restricts occupation to activities consistent with manufacturing, service and craft industries which are eligible for LEDU funding. There is no restriction on LEDU backing after the initial 10 years.

OBP have provided background information on the work carried out at their centre in the Gasworks and is attached at Appendix 1, they have also sought a meeting with “the relevant Committee”

OBP have indicated that the increasing cost of the annual service charge coupled with the impending requirement to make equity rental payments would have a detrimental impact on their ability to deliver on the objectives of their organisation whilst remaining in the Gasworks Estate.

In response to the approach from OBP the Chief Executive has indicated that any decision regarding waiver of rent would require approval from the Strategic Policy & Resources Committee.

Key Issues

The Lease with OBP provides for an equity rent, payable to Council, based on 10% of the gross rental income from OBP’s tenants. Based on projected occupation of the units over the initial 10 years a premium of £38,000 was agreed in lieu of the annual equity rent entitlement. The relative success of OBP (Appendix 1) meant that 100% occupancy was achieved in advance of projections and has by and large been maintained at a consistently high level.

The Lease also provides for an increase in equity rent payable to Council from 10% to 11% in the event that OBP assigns the Lease to a company or body not established as a charity or non-profit making purposes.

Estates Management Unit wrote to OBP in March 2008 to advise that, under the terms of the Lease, an equity rent would become applicable with effect from 20th December 2009 (Appendix 2) This legal obligation was again pointed out at a meeting with OBP in December 2008.

In line with Councils Economic Downturn Action Plan the Strategic Policy & Resource Committee has at its meeting on 22nd May 2009 consented to a review of the current Gasworks Estate service charge and approved various measures aimed at reducing the annual cost faced by Council’s tenants. These measures will have a direct impact in reducing OBP’s occupational costs in line with all other tenants in the Estate.

As with all the other enterprise agencies in Belfast the Council support a range of activities to enhance small/start-up business growth in the City through its economic development responsibilities. Whilst the scale of this assistance is limited it comes generally in the form of funding for delivery of start-ups and growth initiatives by the various enterprise agencies. There is no direct intervention by subsidising the provision of suitable premises within which these enterprise agencies operate.

OBP feel that the cost of retaining a presence in the Gasworks Estate is prohibitive for their organisation which is run as a non-profit making business. However, Council is bound by Section 96(5)(a) of the Local Government Act (Northern Ireland) 1972 to achieve best value in their property transactions. The Lease currently recognises the non-profit motive of OBP in seeking an equity rent percentage of 10% rather than a higher commercial rate of 11%.

In addition to maintaining relativity of equity returns from the various development plots

in the Gasworks, Council have approximately 220 acres of land under lease to 127 individual tenants in Balmoral and Duncrue industrial estates who could equally seek reductions in their rents. Council's tenants in St George's & Smithfield Markets could also seek relief in respect of their rents.

Invest NI adopt a similar disposal policy to Council in their industrial estates where they acquire and develop land exclusively for development by its client companies. These sites are disposed of at current market value and restrictive covenants within the leases to ensure that they are retained for industrial development purposes.

Members will also be aware of the Council's wider economic role supporting other competing enterprise agencies in Belfast where commercial landlords are unlikely to have considered subsidising occupational costs.

OBP have lobbied for allocation of additional land on the Northern Fringe to further develop their business at this location.

Options:

1. to maintain relativity with other tenants in the Estate and seek an income stream from this Plot through payment of an equity rent as provided for and agreed by both Council and OBP as set out in the existing Lease
2. extended "rent free" period for a further 10 years subject to payment of a further capital premium to be agreed
3. extended "rent free" period for a further 10 years without the requirement to pay any capital premium, this would require Council to seek approval from the Department of Environment to effectively dispose of this Plot at less than best value
4. accept a reduced level of equity rent (currently 10%) again this would require Council to seek approval from Department of Environment to effectively dispose of this Plot at less than best value

Options 3 & 4 would be subject to imposition of conditions prescribed by Council's Economic Initiatives Service aimed at supporting and promoting Council's wider economic development agenda.

Resource Implications

Financial

Under Section 96(5)(a) of the Local Government Act (Northern Ireland) 1972 there is an obligation to achieve best value in any property transactions. Options 3 and 4 would require Council to seek approval from Department of Environment to effectively dispose of this Plot at less than best value.

Foregoing equity rental income from this plot would further reduce income from the Gasworks Estate over and above the assistance towards service charge costs already agreed to by Members at its meeting on 22nd May 2009.

Potential impact on income from Council's industrial estates and St George's & Smithfield Markets should tenants seek similar relief in respect of their rental payments.

Human Resources

No impact over the existing Council resources already committed to managing the Gasworks Estate.

Asset and Other Implications

Implication for other developers in the Gasworks Estate who continue to make equity rental payments under their agreed Lease terms.

Wider economic development responsibilities of Council through support of all the other enterprise agencies across Belfast where Council are not the landlords.

Recommendations

From an estate management prospective we would recommend Option 1 as that is the agreed legal position and we have already moved some way toward assisting all tenants in the Gasworks by reviewing the level of service charge.

Should Members wish to support any other options as outlined above to approve, where necessary, a submission seeking sanction from the Department of the Environment together with any subsequent conditions considered appropriate by Council's Economic Initiatives Service.

Members are requested to note the request from Ormeau Business Park to meet with the Committee and to indicate whether they wish to receive a presentation from OBP.

Decision Tracking

Estates Surveyor to contact Ormeau Business Park to convey Committee's decision in July 2009 and agree any revision of present agreement necessary prior to December 2009 (date of equity rent liability)

Key to Abbreviations

OBP – Ormeau Business Park
OEL – Ormeau Enterprises Limited
LEDU – Local Enterprise Development Unit

Documents Attached

Appendix 1 – Letter from Ormeau Business Park outlining work carried out in the Gasworks Estate
Appendix 2 – Letter to Ormeau Business Park, dated 19th March 2008