



Belfast City Council

Report to:	Strategic Policy and Resources Committee
Subject:	Ormeau Business Park Lease, Gasworks Estate
Date:	18 September 2009
Reporting Officer:	Gerry Millar, Director of Core Improvement, Ext 6217
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Relevant Background Information

At its meeting of 19th June 2009 the Strategic Policy and Resources Committee deferred consideration of a report in relation to rental payments due to Council from Ormeau Business Park (OBP) under the terms of their Lease for a development plot in the Gasworks Estate. For reference this report is attached at Appendix 1.

OBP have indicated that the impact of imposing an equity rent, effective from December 2009, would impact on their ability to deliver on the objectives of their organisation whilst located in the Gasworks Estate. They have requested that Council consider not charging OBP any rent to continue their occupation in the Estate.

Members wanted to obtain further legal advice and, following which, to receive if necessary representatives of the Board of Ormeau Business Park.

Key Issues

The Policy and Resources Committee (Economic Development Sub-Committee) of 29th January 1997 approved the Lease terms entered into with OBP (formerly Ormeau Enterprises Ltd) which provided for a capital payment in lieu of rent for the initial 10 years of the 125 year term. Thereafter the Leases provides for an equity rent of 10% of gross rental income received from OBP's occupational tenants. The equity rent provisions are similar to all other Leases in the Gasworks Estate. There is no obligation on OBP to pay an equity rent to Council on unlet and vacant accommodation. Currently the business park is 91% occupied with only two unlet units.

Legal Services have advised that it is doubtful if any successful legal challenge by OBP could be mounted against the existing Lease terms given the length of time they have

taken benefit under same and due to the fact they had legal representation at time of entering into the Lease

Legal Services have also advised that each of the four options contained in the previous report could legally be agreed between the Council and OBP. Some of these options will require approval from Department of Environment and be the subject of further conditions prescribed by Council's Economic Initiatives.

To recap the options that can be offered to OBP are as follows:

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 aimed at supporting and promoting Council's wider economic development agenda.

At its meeting of 22nd May 2009 the Strategic Policy and Resources Committee approved a package of measures aimed at reducing the level of service charge in the Gasworks as part of Council's response to the economic downturn. The level of service charge paid by OBP fell from £41,107.50 (year ending 31/03/08) to £15,839.92 (year ending 31/03/09) These cost cutting measures were applied proportionally across the board to all Council tenants within the Gasworks Estate.

No measures to reduce or forgo rental income from any other Council tenants, either in the Gasworks Estate or other industrial estates (Balmoral, Duncrue) have been proposed. The Development Department have confirmed that no rental subsidy is given to Council tenants who occupy retail units in St George's and Smithfield markets.

There are 6 enterprise agencies within Belfast; furthermore Council's Economic Initiatives team has positive relations with each agency but has no formal relationship with any of them. Therefore any potential subsidy offered to OBP would have to be considered solely in the context of the landlord/tenant relationship rather than in the context of support for economic development since OBP does not provide a unique service.

The projected occupational rental income received by OBP (excluding the two vacant units) is £232,232.88 (excl service charge) which would produce an equity rental income for Council in 2009/10 of £23,223.29. This equity rent would increase to £25,545.62 for a commercial tenant (11% equity share) representing an effective subsidy to OBP of £2,322.33 (Appendix 2)

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, assessed at £23,233.29, 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.

Given the advice from Legal Services it is not felt that Members would require to receive any further representation from the board of OBP.

Decision Tracking

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

OBP – Ormeau Business Park

Documents Attached

Appendix 1 – SP&R report of 19 th June 2009 – Ormeau Business Park Lease, Gasworks Estate

Appendix 2 – Projected equity rental income
