



Belfast City Council

Report to:	Parks and Leisure Committee
Subject:	Carvill Group Temporary Compound at Annadale Embankment
Date:	9 June 2011
Reporting Officer:	Andrew Hassard, Director of Parks and Leisure
Contact Officer:	Cathy Reynolds, Estates Manager, Property and Projects Department

1	Relevant Background Information
1.1	Following a decision by the Parks and Leisure Committee on 15 May 2008, the Strategic Policy and Resources Committee, at its meeting on 14 November 2008, approved the grant of a temporary licence to Carvill Group for an area of 1.21 acres at Annadale Embankment. The licence restricted use of the land to use as a contractor's compound in connection with the development of 216 apartments and underground car parking on Carvill's adjoining land. The licence was granted subject to the inclusion of certain legal protection for the council's position as the owner of land adjoining the apartment development. Among other things the licence also provided for reinstatement of the council's land in accordance with an agreed landscape plan.
1.2	Carvill Group has now completed four out of the intended five apartment blocks which make up the development. Although the overall pace of development has slowed as a result of the relative weakness of the property market, it is understood that work on the fifth and final block was due to commence soon, however as Carvill Group are now in administration there remains some uncertainty regarding this.
1.3	To facilitate the development of the final apartment block while at the same time reducing their financial obligations under the existing licence agreement, Carvill Group had sought a re-negotiation of the physical extent of the land held on licence from the council. The attached map shows (shaded yellow) the land included in the existing licence agreement. The area Carvill's wished to retain is shown outlined red.

2	Key Issues
2.1	<p>Reduction of the area let on licence to Carvill Group (now in administration) would facilitate the construction of the final part of the proposed apartment development while reducing the financial commitment to the council in terms of licence fee (currently £30,000 per annum). A revised apportioned licence fee of £2750 had been agreed with valuers acting for Carvill Group. Advice from Legal Services suggests the retention of the revised area of land by Carvill Group could best be achieved by way of a variation of the existing licence agreement. This would keep in place many of the legal protections incorporated in the existing arrangements but allow the council to take over maintenance of much of the site (subject to safeguards in relation to minor outstanding reinstatement issues).</p>
2.2	<p>Carvill Group also wished to retain advertising boards and a number of flag poles on the area shaded yellow on the map (Appendix 1) and a licence fee of £1500 per annum has been negotiated with Carvill Group's valuer for retention of these items. Carvill Group will be solely responsible for the management of these structures although the council will retain the right to seek their removal at any stage.</p>
2.3	<p>The combined agreed apportioned licence fee (£2750 per annum) for the reduced land area, plus the licence fee (£1500) for the advertising boards and flagpoles would have reduced Carvill Group's financial commitment from £30,000 per annum to a total of £4250 per annum. Carvill Group were seeking a reduction to the revised fees with effect from August 2010. There has been considerable delay on the part of Carvill Group's representatives in reaching agreement to the revised licence fees.</p>
2.4	<p>The main issue from Carvill Group's perspective was the timing of the implementation of the revised arrangements. The council were originally approached by Carvill Group in early August 2010 seeking a reduction in the area held on licence. However it has taken some time to obtain agreement with Carvill Group on a range of issues and obtain confirmation from them of the date from which they wish the revised arrangements to operate from.</p>
2.5	<p>Members may be aware that Carvill Group is now in administration. The licence fee under the present arrangements has been paid up to and including September 2010 and the present level of arrears accumulated since then stands at £20,000. Back-dating of the adjusted fee until 1 August 2010 would result in the council owing Carvill Group approximately £2000. We have however taken the view that a financially neutral arrangement in relation to back-dating may be most appropriate to the prevailing financial circumstances.</p>

3	Resource Implications
3.1	<p><u>Financial</u> The revised licence fee will provide a small income to the council but will also be of operational/financial benefit to Carvill Group's administrators. The council may apply the revised arrangements from a variety of dates. However applying the revised arrangements from 1 September 2010 (the last month in which full payment was made) would result in the council owing Carvill Group £44 (i.e. basically neutral for both parties).</p>
3.2	<p><u>Human Resources</u> No additional Human Resources required.</p>
3.3	<p><u>Asset and Other Implications</u> The legal safeguards incorporated in the existing licence agreement to protect the council's interest in this property asset, will be retained in respect of the entirety of the council's land for the duration of any further occupation by Carvill Group. Any variation of the terms of the existing licence agreement will also cover any outstanding reinstatement issues. Legal Services advice is that Members will be acting within their powers in commencing the revised arrangements from 1 September 2011. In view of the current administration of the Carvill Group, Legal Services will be required to provide further advice regarding the legal entity with which the council will enter into the proposed deed of variation.</p>
4	Equality and Good Relations Considerations
4.1	There are no known good relations or equality issues associated with this matter.
5	Recommendations
5.1	Committee is recommended to approve a variation of the current licence agreement between the council and Carvill Group to reduce the area held on licence to that outlined red on the attached map (Appendix 1) and the total licence fee payable under the licence to £4250 per annum with effect from 1 September 2010 and consent to extension of the time period covered by the licence agreement for a period of up to two years, subject to agreement on detailed terms, by the Estates Manager, and incorporation of same within a suitable legal agreement to be drawn up by Legal Services.
6	Decision Tracking
6.1	Director of Parks and Leisure to refer to ensure implementation of revised arrangements within two months of Council decision.
7	Key to Abbreviations
7.1	None.
8	Documents Attached
8.1	Appendix 1 - Map showing (shaded yellow) land owned by Belfast City Council and currently held by Carvill Group on licence. The portion outlined red is the area Carvill Group wish to continue to hold for a further year or more. The portion outlined blue is in the ownership of Carvill Group.