



Belfast City Council

Report to:	Strategic Policy & Resources Committee
Subject:	Arc21 Residual Waste Treatment Facilities – Update on the Contract for the Transfer of Land
Date:	25 January 2008
Reporting Officer:	Director of Improvement, Gerry Millar – Ext 6217
Contact Officer:	Director of Legal Services, Ciaran Quigley – Ext 6038

Purpose of the Report.

The purpose of this report is to update Members with regard to the decision authorising the transfer of land at Dargan Road to Arc21 in relation to its site selection process for a Residual Waste Treatment Facility.

Relevant Background Information.

At the meeting of the Health and Environmental Services Committee on 3rd October 2007, Members agreed to recommend to this Committee that:-

- (i) approval be granted for the remaining area of the forty acre south-east corner of the North Foreshore Site to be made available to arc21 for potential use as a Mechanical Biological Treatment Facility or an Energy from Waste Facility, and
- (ii) that the Director of Improvement and the Director of Legal Services be authorised to agree terms and a suitable Legal Agreement with arc21 to allow the site to be used for either of these facilities if selected as a preferred site.

Members will recall that at the meeting of this Committee on 19 October 2007 they were advised of the above recommendation and that arc21 was proceeding with *“the implementation of the residual waste treatment phase of the Waste Plan, which was to secure facilities that would enable compliance with the targets for diversion of biodegradable waste from landfill. Failure to meet landfill targets from 2009/2010 would involve potential liability for substantial financial penalties”*.

Members adopted the recommendation made (and a copy of the minute of that meeting is attached at Appendix I).

In summary, approximately 17 acres of land at the former landfill site at the North Foreshore has

been shortlisted as one of the seven sites on which arc21 is interested in siting either an MBT Plant (Mechanical Biological Treatment) or an EfW (Energy from Waste) Plant. The next stage will be the completion by arc21 of its site selection process.

Key Issues.

Arc21 has now written to each of the seven landowners, including Belfast City Council, asking each party to commit to the sale of the particular lands identified, at a value assessed by the Land and Property Services Agency.

In the case of Belfast, the Council has been asked to commit to entering into a contract for the sale of "c.17 acres of land to Arc21 for the sum of £850,000 per acre, for use by Arc21 as the site of a Residual Waste Treatment Facility".

In order to protect the Council's position, the Director of Legal Services has qualified the commitment of the Council by making the letter of response subject to the following qualifications:-

- (i) that no contractual relationship will be deemed to exist between the parties until such time that the formal Contract for Sale is made between the Council and Arc21, and that the contract will address all issues that the Council will require to be dealt with in relation to the management of the North Foreshore site within which the Land is situated, and also including agreement in relation to all terms of the lease by which the Council would propose to grant title to Arc 21; and**
- (ii) that the terms of the letter are to be reported to the next meeting of the Council's Strategic Policy & Resources Committee and that the letter is signed strictly subject to future political direction, specifically in relation to the issue of community gain.**

The response letter has been signed by the Chief Executive and a full copy is attached at Appendix II. The letter was issued in order to comply with the arc21 procurement deadline of 18 January 2008.

Members should note that the next stage of the arc21 process is now likely to lead to the identification of the North Foreshore site as the preferred location for an Energy from Waste Plant. The development and siting of this type of facility at the North Foreshore will not be without opposition and difficulties. Arc21 has approached the Council in relation to the preparation of a comprehensive Communications Plan, and this is currently in hand.

As noted in the response letter to arc21, the issue of Community Gain is likely, in part, to be an issue that will be the subject of political interest and debate and it is intended that a future report will be brought back to Committee in relation to this matter.

Recommendations.

Members are asked to note the contents of this update report and direct any queries they might have to either the Director of Legal Services or the Director of Improvement.

Key to Abbreviations

MBT – Mechanical Biological Treatment (Plant)
EfW – Energy from Waste

Appendices

Appendix I – Extract from the minute of the Strategic Policy and Resources Committee of 19 October 2007

Appendix II – Copy of response letter from Belfast City Council to Arc21

Appendix III - Map of North Foreshore with area for transfer to arc21 highlighted

Extract from Council Minutes System:

**Arc21 Site Selection Process
for Residual Waste Treatment**

The Committee was advised that arc21 was taking forward currently the implementation of the residual waste treatment phase of the Waste Plan, which was to secure facilities that would enable compliance with the targets for diversion of biodegradable waste from landfill. Failure to meet landfill targets from 2009/2010 would involve potential liability for substantial financial penalties.

An important part of the current work was the identification of potential sites for such facilities and each of the arc21 Councils had been requested to confirm the availability of suitable sites to be assessed through a structured process to identify preferred sites for both Mechanical Biological Treatment and Energy from Waste facilities. Sites offered by the private sector and Central Government would be included also in the selection process.

The Council had decided previously that the development of the land on the south-east corner of the North Foreshore be based on the potential requirements of arc21. Accordingly, the Health and Environmental Services Committee, at its meeting on 3rd October, had agreed to recommend to the Strategic Policy and Resources Committee that approval be granted for the remaining area of the forty acre south-east corner of the North Foreshore Site to be made available to arc21 for potential use as a Mechanical Biological Treatment Facility or an Energy from Waste Facility and that the Director of Improvement and the Director of Legal Services be authorised to agree terms and a suitable Legal Agreement with arc21 to allow the site to be used for either of these facilities if selected as a preferred site.

The Committee adopted the recommendation.

Copy of Letter of response from the Council to arc21 :

Mr John Quinn
arc21
Duncrue Complex
Duncrue Industrial Estate
Belfast
BT3 9BP

(Dated)

Dear Sirs,

Re- Site at Dargan Road, Arc21 Residual Waste Treatment Facilities

I am writing to you as Chief Executive of Belfast City Council to confirm the following.

Belfast City Council notes that its land at Dargan Road (up to 17 acres outlined in red on the map attached hereto, the final site area and boundaries to be agreed at a future date)('the Land') has been short-listed by Arc21 as part of the process being undertaken by Arc21 to identify and purchase suitable lands to be used by Arc21 as the site of Residual Waste Treatment Facilities (Energy from Waste ('EFW') and Mechanical Biological Treatment ('MBT') facilities – up to three sites, potentially comprising one EFW and two MBT) and further notes that Arc21 is currently undertaking a process to identify its preferred sites.

Belfast City Council hereby commits itself to entering into a contract for the sale of the Land to Arc21 for the sum of £850,000 per acre, for use by Arc21 as the site of a Residual Waste Treatment Facility, on the fulfilment of the conditions outlined in the next paragraph. *Belfast City Council* recognises that this is the final agreed price for the land and that it shall remain fixed.

Belfast City Council hereby confirms that it understands the process to be undertaken and commits itself to entering into a Contract for the sale of the land at the price mentioned above subject to the following:

- (a) The Land being one of the preferred sites for Residual Waste Treatment Facilities identified by Arc21.
- (b) *Belfast City Council* being able to demonstrate clear and unencumbered title to the Land, inter-alia clear of any restrictive covenant, lien or any other hindrance which may restrict the use of same by Arc21.
- (c) Adequate road access including visibility splays for the site being available from the Land Owner.
- (d) It being demonstrated that all main services deemed necessary for the delivering of the proposed facility are readily available and that there should be no significant abnormal development costs arising in respect of same.

Belfast City Council further understands that should the conditions in the previous paragraph be fulfilled, then *Belfast City Council* and Arc21 shall enter into a Contract for the sale of the land, based on the Law Society's General Conditions of Sale 3rd edition. *Belfast City Council* understands and recognises that the Contract and completion of the sale shall be conditional on the site acquiring the necessary planning permissions, statutory consents (PPC Permits etc) and satisfying all due diligence issues (including contaminated land) for use as a Residual Waste Treatment Facility and further on the site being required by Arc21's preferred bidder/contractor for the facility.

It is to be understood, however, that no contractual relationship will be deemed to exist between the parties until such time that the formal Contract for Sale is made between the Council and Arc21, and that the contract will address all issues that the Council will require to be dealt with in relation to the management of the North Foreshore site within which the Land is situated, and also including agreement in relation to all terms of the lease by which the Council would propose to grant title to Arc 21.

On signing of the Contract Arc21 shall pay *Belfast City Council* a deposit of 5% of the agreed price outlined above.

It should further be understood that I intend to report the terms of this letter to the next meeting of the Council's Strategic Policy & Resources Committee and that this letter is signed strictly subject to future political direction. Specifically, I anticipate that there is likely to be future political direction from the Council in relation to the issue of community gain.

I am of course happy to discuss the foregoing points with you at a mutually convenient time.

Yours faithfully

(Signed)

Enc: Map with outline in red

Outline Map:

