



Belfast City Council

Report to:	Strategic Policy & Resources Committee
Subject:	Iceland Foods, Ballysillan Road (i) 2011 rent review (ii) Lease re-gearing
Date:	25 January 2013
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1	Relevant Background Information
1.1	Approximately 5.37 acres of land at Ballysillan Road, adjacent to the Ballysillan Leisure Centre (Appendix 1 – location map) and held by Parks & Leisure Committee is leased to Iceland Foods Plc. Iceland Foods Plc hold this site under a 125 year Lease dated 22 nd May 2001 and they have constructed a foodstore of approximately 8,000 sq ft for their own occupation and three smaller speculative shop units for leasing. They also have an option to develop additional adjoining land of approximately 1.60 acres for further car parking associated with their development.
1.2	Council had initially entered into a Development Agreement with Stewarts Supermarkets Ltd in response to a DOE development brief for the construction of a neighbourhood shopping centre (circa 40-50,000 sq ft) However, this scheme never materialised and a revised proposal for the much smaller Iceland Foods scheme located on the same site area of 5.37 acres was later approved by the Client Services Committee at its meeting of 20 th August 1996.
1.3	Under the terms of the Lease the ground rent for this site is to be reviewed every 5 years. Members may recall that at the first review (22 nd May 2006) the initial rent of £10,000 per annum, set in May 2001, remained unchanged following referral to an independent expert to settle the matter as it was not possible to achieve a negotiated settlement.

2	Key Issues
	<p data-bbox="373 331 655 365">(i) <u>2011 rent review</u></p> <p data-bbox="236 398 1385 566">2.1 A further rent review fell due on 22 May 2011 and there have been subsequent negotiations to try and agree the revised rent. Despite numerous discussions the agents appointed by Iceland Foods have again resisted any increase in the ground rent review and made an application to the Lands Tribunal to settle the review at £10,001 per annum.</p> <p data-bbox="236 600 1385 734">2.2 During the course of the rent review negotiations Iceland's agent made a submission to Council to surrender part of the land leased to Iceland back to the Council with the aim of fixing the annual ground rent, albeit for a reduced site area, at £10,000 for the residue of the 125 year term.</p> <p data-bbox="236 768 1385 1003">2.3 Whilst Iceland's proposed re-gearing of their lease forms the second part of this report, negotiations on the lease re-gearing have been progressed in tandem with the outstanding rent review, whereby agreement has now been reached, subject to Committee's approval, of a revised rent of £14,000 per annum for the 5 years effective from 22nd May 2011. This represents an increase of 40% on the 2006 rent assessment. Iceland has also agreed to postpone the Lands Tribunal proceedings whilst the detail of any lease re-gearing is finalised.</p> <p data-bbox="236 1037 1385 1205">2.4 In respect of future rent reviews and in order to negate protracted and potentially costly negotiations, relative to value of the ground rent income, it has also been agreed (subject to Committee approval) to replace the existing open market rent reviews provisions in the Lease with future 5-year periodic reviews indexed linked that will guarantee increases at all future reviews.</p> <p data-bbox="373 1238 655 1272">(ii) <u>Lease re-gearing</u></p> <p data-bbox="236 1305 1385 1473">2.5 Given the reduced scale of development delivered on this 5.37 acre site, together with the lack of demand for the 3 additional shop units that have remained vacant since their construction, Iceland have proposed to re-gear their Lease to reflect more accurately their actual development which has rendered much of the site surplus to their requirements.</p> <p data-bbox="236 1507 1385 1675">2.6 The proposal is that Iceland would surrender undeveloped land, the majority of existing car parking (shared with Ballysillan Leisure Centre) including an additional right in Iceland's lease to Option Land, comprising a further adjoining 1.6 acres at Ballysillan, together with the 3 vacant shop units. The extent of the land to be surrendered by Iceland is shown on the map attached at Appendix 2.</p> <p data-bbox="236 1709 1385 1910">2.7 Initially Iceland indicated that in addition to freezing the ground rent for the residue of their Lease term they would also require payment of a capital premium to compensate them for surrender of land and option rights back to the Council. However, negotiations have been concluded (subject to Committee approval) on the basis of an improved ground rent, as above, coupled with simplified future periodic review provisions and with no capital premium payable.</p> <p data-bbox="236 1944 1385 2007">2.8 However, the provision of clawback arrangements to share potential returns from any future development replaces Iceland's requirement for immediate payment</p>

	<p>of a capital premium. Iceland's agreement to the surrender back to the Council of this portion of their leased site is on the basis of a 40% clawback arrangement in the event that the surrendered land is subsequently developed for commercial purposes within 20 years. However, any future Council related proposals would not trigger clawback and the 3 shop units and the Option Site would also be excluded from the clawback arrangements.</p>
2.9	<p>Despite no particular Council requirement being identified at the current time for the surrendered lands, and even allowing for the clawback arrangement, there is nonetheless a benefit of resuming control of land that may provide greater flexibility for future Council uses or as a result of the outworkings of the Ballysillan Masterplan. Members may be aware that DSD, working with the North Belfast Partnership & Ballysillan /Upper Ardoyne Neighbourhood Partnership are commissioning consultants to prepare a Masterplan for the Greater Ballysillan area. The Council is represented on the Project Board overseeing the Masterplan.</p>
2.10	<p>No particular Council use has been identified for the three vacant shop units. However, these could either provide storage for a Council related use or the Council could advertise them to let on the open market. A report will however be brought back to Committee in due course in relation to the future use options for the shop units. .</p>

3	Resource Implications
3.1	<p><u>Financial</u></p> <p>(i) 2011 rent review</p> <p>A 40% increase in the annual rental income to £14,000 p.a.backdated to May 2011, which would also provide more cost effective and timely implementation of future rent reviews through indexation.</p> <p>(ii) Lease re-gearing</p> <p>Whilst there will be normal occupational costs associated with taking back land (car parking, shop units etc) there would be no capital cost incurred in assuming full beneficial possession.</p> <p>Clawback would only be triggered if the Council enter into a future commercial agreement for the development of lands surrendered back from Iceland, subject to the exemptions as referred to above.</p>
3.2	<p><u>Human Resources</u></p> <p>Staff resource in Estates & Legal Services to implement and progress both the 2011 rent review and also the lease re-gearing.</p>
3.3	<p><u>Asset and Other Implications</u></p> <p>Re-gearing the original Lease with Iceland replaces an agreement that does not</p>

	reflect the actual development undertaken and will provide greater flexibility for Council's adjoining assets of for future use proposals.
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4	Equality and Good Relations Implications
4.1	There are no equality implications to this proposal.

5	Recommendations
5.1	It is recommended that the Committee approves: <ul style="list-style-type: none"> (i) a revised rent of £14,000 per annum effective from 22 May 2011; and (ii) future rent reviews being agreed on the basis of indexation; and (iii) the re-gearing of the lease to reflect the surrender by Iceland Foods of a portion of their leased site, as outlined above, subject to detailed terms being agreed with the Estates Management Unit and Legal Services.

6	Decision Tracking
Director of Property & Projects to ensure that the 2011 rent review is implemented and revised rent collected together with finalising the Lease re-gear within the next 3 months.	

7	Key to Abbreviations
DOE – Department of the Environment DSD – Department for Social Development	

8	Documents Attached
Appendix 1 – location map Appendix 2 – extent of land to be surrendered by Iceland	