



Belfast City Council

Report to:	Strategic Policy and Resources Committee
Subject:	North Foreshore - Arc21 Agreement to Lease
Date:	22 November 2013
Reporting Officer:	Gerry Millar Director of Property & Projects, Ext: 6217
Contact Officers:	Cathy Reynolds, Estates Manager, Ext: 3493 Susan Quail, Planning & Development Manager, Estates Unit, Ext: 3441

1	Relevant Background Information
1.1	Members will be aware that the Council has previously agreed in 2007 that part of the North Foreshore, the closed Dargan Road waste landfill site, should be developed for waste management purposes.
1.2	The Development Committee had previously agreed on the 18 March 2004 to permit the south east area of the North Foreshore, to be developed for waste management facilities required by the Council and Arc21 under its Waste Management Plan. Approval was granted to allow the organics waste service operator procured by Arc21 to develop an 8.55 acre site for an In-Vessel organic composting facility, subject to the terms being agreed by the Development Department and a Legal Agreement being prepared by Legal Services.
1.3	Arc21 entered into a 25 year organics waste service contract with NWP Ltd (Natural World Product Ltd) in 2008. The organics service contract required the service operator to build an In-Vessel organic composting facility to process all of the Arc21 Councils' organic waste at the North Foreshore site.
1.4	On the 23 rd December 2008 Arc21 entered into a 25 year Agreement to Lease with the Council for an 8.55 acre site at the North Foreshore. It committed Arc21 to obtain full planning consent for the facility and all building works to be completed by 23 rd December 2013. The terms of this Agreement provided that when Arc21 secured planning consent, the service operator (NWP Ltd) would take possession of the site as a tenant at will and would be responsible for completing the building works by 23 rd December 2013. On completion of the building work, it was agreed that the Council would grant a 25 year lease to Arc21 who would then sub lease the site to NWP Ltd.
1.5	The agreed rent set out in the Agreement to Lease was £128,000pa or £15,000 per acre per annum based on market rental evidence at that time. It was agreed that the rent would be reviewed every five years from the commencement of the lease.

2	Key Issues
2.1	<p>The existing Agreement to Lease will expire on 23rd December 2013. This Agreement required Arc21 to submit a planning application within two years (later extended to three years) of signing the agreement, and provided a three build period, with a lease being granted on completion of these building works. However, it has not been possible to submit this planning application within the set timeframe due to the complexity of the information that they have had to provide up front to the DOE because of the nature of the site.</p>
2.2	<p>Whilst a planning application has not been submitted to date Arc 21 has however been in pre planning discussions (PAD process) with Planning Service and key statutory consultees since 2008. A number of environmental statements, site investigations and assessment reports had to be prepared to satisfy Planning Service and key statutory consultees. Delays have been due in part to site specific challenges, NIEA requirements and resultant design changes. The protracted PAD process has not been helped with changes in Planning Service personnel, which has also delayed the process. Arc21 has indicated that they hope to complete the PAD process by the end of 2013 which would enable them to submit a Planning Application in early 2014.</p>
2.3	<p>It should be noted that the organics service contract referred to above required Arc21 to secure planning permission for the North Foreshore site. The North Foreshore site has the critical waste management land use zoning in the statutory draft Belfast Metropolitan Area Plan. Arc21 assumed responsibility for obtaining planning permission, because the In-Vessel organic composting facility represented a strategic part of the proposed network of waste infrastructure facilities envisaged in the Arc21 Waste Management Plan, and that the asset would ultimately be in public ownership at the end of the current service contract. It was considered that a planning application made by Arc21 would enhance the prospects of securing planning consent.</p>
2.4	<p>Belfast City Council is a member of Arc21, and is committed to delivering the Waste Management Plan for the region. This plan included the delivery of the In-Vessel composting facility at the North Foreshore site. This facility is a modern plant for processing waste; it is a sealed facility that will prevent the emission of dust and odour. It also has the potential to create at least 20 jobs at the site. It is an essential part of the waste infrastructure to recycle organic waste in order to reduce the tonnage going to land fill and to meet European and local recycling targets.</p>
2.5	<p>The organics service contract between Arc21 and NWP Ltd specifically identifies the North Foreshore as the site for an In-Vessel organic composting facility to service the Arc21 area. The Council's Legal Services Section has advised that if Arc21 fails to provide the North Foreshore site for the proposed development it could have significant financial implications for Arc21 and hence the constituent councils. In addition if the facility was not built and if organic waste cannot be recycled into compost this would have implications for the Council's recycling targets and potential NILAS fines potentially in excess of £1 million if the waste is land filled.</p>
2.6	<p>The Director of Property & Projects recently met with the Chief Executive of Arc21 to discuss the terms of the Agreement to Lease, which is due to expire on 23 December and to ascertain Arc 21's position concerning the future development of the site. Ac21 has confirmed that they still require the North Foreshore site to fulfil their legal obligations. They also indicated that they have been using best endeavours to complete their discussions with Planning Service in order to be able to submit a planning application in early 2014. However, given that the current Agreement to Lease will expire on 23rd December 2013, a</p>

	<p>new Agreement to Lease would be required setting out new terms including revised timescales and rental agreement to reflect the current market value of the land.</p>
2.7	<p>The previous lease agreement proposed an income of £128,000pa to the Council. However this rental level was set in 2008 and it envisaged that a lease would be in place by December 2013 with the Council receiving an annual rent of £128,000p.a (reviewable every 5 years). It is now anticipated that Arc 21 will not be in a position to enter into a lease with the Council for a further 3 years potentially (to allow for the planning approval stage and completion of the building works). The terms of any new Agreement to Lease will therefore need to be revised, particularly in relation to the site rental in order to reflect the current market value of the land and ensure that the Council is acting in accordance with the Local Government Act 1972 (Sec 96) which provides for disposal of land at best price or otherwise on best terms.</p>
2.8	<p>Members are being asked to approve the granting of a new Agreement to Lease and Lease to Arc 21 in respect of an 8.55 acre site for the purposes of an In-Vessel organic composting facility at the North Foreshore subject to agreement on revised terms. The revised terms will include new rental provisions, with the rent to be agreed by the Estates Manager, on the proviso of it being referred to Land & Property Services in the absence of an agreement between the parties. The revised terms and conditions agreed by the Council and Arc21 will be brought back to Committee for approval.</p>

3	Resource Implications
3.1	<p><u>Financial</u></p> <p>The lease of the site to Arc 21 for the proposed development of an in-vessel composting facility will provide a rental income to the Council. The previous lease agreement proposed an income of c£128,000pa to the Council but this will need to be reviewed as part of the revised terms and conditions to be contained in the new Agreement to Lease and to reflect the current market value of the land. However it should be noted that this may have an impact on the gate fee charges, depending on the precise nature of the sub lease arrangements.</p> <p>In order to enable development and comply with planning and NIEA requirements and for the protection of human health, the site will require capping works (including an active gas abstraction system) to be undertaken by the Council. The cost of the capping work for this c8.55 acre site is approximately £2.1 million. It is worth noting however that in the absence of development the Council may still have to provide a basic capping system. This capping cost is likely to be met from the Landfill Closure Funds.</p> <p>If this facility is not built and if organic waste cannot be recycled into compost there will be implications for the Council's recycling targets and potential NILAS fines potentially in excess of £1 million if the waste is land filled.</p>
3.2	<p><u>Asset</u></p> <p>The proposed North Foreshore site in the south east area has been designated for development of waste management facilities. The asset forms part of the proposed environmental resource park to create a cleantech business cluster for Belfast.</p>

3.3	<p><u>Human Resource</u></p> <p>Staff resource, primarily from Property & Projects Department and Legal Services.</p>
-----	--

4	Equality and Good Relations Considerations
4.1	There are no known equality or good relations issues relating to this matter

5	Recommendations
5.1	It is recommended that Members agree to grant Arc21 a new Agreement to Lease for the c8.55 acre site at the North Foreshore for an In-Vessel organic composting facility, subject to revised terms and conditions to be agreed between the Council and Arc21, as referred to above. The revised terms will be brought back to Committee for approval.

6	Decision Tracking
Director of Property & Project to progress.	

7	Key to Abbreviations

8	Documents Attached
Appendix 1 Site Location Map	

APPENDIX 1