
To: Infrastructure, Land & Environment Policy Board

On: 25 January 2023

Report by: Chief Executive

Heading: Lease renewal at Camphill Court, Paisley

1. Summary

- 1.1 This report advises the Board on the provisional terms and conditions agreed for a new lease of the telecommunications mast at Camphill Court, Paisley.

2. Recommendations

It is recommended that the Board:

- 2.1 Authorise the Head of Corporate Governance in conjunction with the Head of Economy & Development to conclude a new lease of the telecommunications mast at Camphill Court, Paisley on the basis of the terms and conditions detailed in this report.

3. Background

- 3.1 Vodafone have been a Council tenant at Camphill Court, Paisley since August 1998 and operate a mobile telecommunications network via installations sited on the rooftop. The lease is running on a year to year basis at a current annual rental of £8,750.
- 3.2 The Electronic Communications Code (the Code) governs the rights of telecommunications operators, and was originally included within the Communications Act 2003. The Code was updated as part of the Digital Economy Act 2017. This legislation effectively means that telecoms installations are now treated much the same as as other utilities and are valued on 'no network principle' i.e. as if there was no telecoms network in place.

The main effect this for landlords is that financially their rental income is likely to be reduced.

- 3.3 Landlords will continue to receive some consideration and compensation. However this will no longer be in the form of an annual rental based on market value. The new Code has been in operation since December 2017 and since then several Lands Tribunal cases have been determined, resulting in clear guidance on appropriate levels of charging for new lease agreements. These levels are much reduced from existing rents. Telecoms companies will now bring cases to Lands Tribunal if they cannot be agreed by negotiation. There is strong evidence in their favour, so it is prudent to negotiate within the newly established parameters.
- 3.4 With the benefit of recent case law, discussions have taken place with representatives of Vodafone, and the following main terms and conditions have been provisionally agreed. It should be noted that these terms are more advantageous to the Council as landlord than would be likely to be achieved should the telecoms operator seek to take the case to the Lands Tribunal.

4 Proposed terms and conditions of lease;

- 4.1 The existing lease shall be renounced at a mutually agreed date between both parties. This date shall also be the date of entry in the new lease.
- 4.2 The new lease shall be for a period of 10 years.
- 4.3 The new annual rent shall be £7,500 in year 1, £6,000 in year 2, £5,000 in year 3 and £4,000 in years 4-10.
- 4.4 The use shall continue as a telecommunications installation only.
- 4.5 The tenant shall meet the Council's reasonable legal and professional expenses incurred in concluding the new lease, capped at £3,000 in total, plus a one-off fee of £3,000 in respect of expenses incurred in obtaining advice on the Code.
- 4.6 Note that the new lease must be concluded within 6 months from the date of this Board otherwise revised terms and conditions will be renegotiated.
- 4.7 Any other reasonable terms and conditions considered necessary by the Head of Corporate Governance and the Head of Economy & Development to protect the Council's interest.

Implications of the Report

1. **Financial** – Annual rents as detailed above to be received.

2. **HR & Organisational Development** – None.

3. **Community Planning** –

Jobs and the Economy – Existing telecommunications service will be maintained.

4. **Legal** – New lease required.

5. **Property/Assets** – As per report.

6. **Information Technology** – None.

7. **Equality & Human Rights**

(a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. Required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

8. **Health & Safety** – None.

9. **Procurement** – None.

10. **Risk** – None.

11. **Privacy Impact** – None.

12. **Cosla Policy Position** – N.A.

List of Background Papers

(a) N/A

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