

To: Infrastructure, Land & Environment Policy Board

On: 30 August 2023

Report by: Chief Executive

Heading: Telecommunications Mast – Craighendhill, Erskine

1. Summary

1.1 This report advises the Board on the provisional terms and conditions agreed for a new ground lease at Craighendhill, Erskine.

2. Recommendations

2.1 It is recommended that the Board:

2.2 Authorise the Head of Corporate Governance in conjunction with the Head of Economy and Development to conclude a new ground lease at Craighendhill, Erskine based on the terms and conditions detailed in this report.

3. Background

3.1 EE Limited have been Council tenants at Craighendhill, Erskine, since 1994 and operate a mobile telecommunications network from a mast they have installed on site. The ground lease is now running on a year-to-year basis at a current annual rental of £4,663.00.

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. The main effect this has for the Council as a site provider is that financially, the income to be received will be reduced.

Site providers 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, a number of Lands Tribunal decisions have established the basis for negotiating new lease agreements.

- 3.3 Board should also note that income from ground lease agreements is lower than leases atop multi-storey buildings. This is due to the investment required by telecommunications companies in providing a mast and infrastructure necessary to operate from a ground site. Rooftop sites naturally have the requisite height, power etc. as standard. Also ground sites are generally easily accessible and don't attract compensation for providing access.
- 3.4 With the benefit of recent case law, discussions have taken place with representatives of EE Limited, and the following main terms and conditions have been provisionally agreed.

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 £1,000.00.
- 4.4 The use shall continue as telecommunications mast only.
- 4.5 The tenant shall meet the Council's reasonable legal and professional expenses incurred in concluding the new lease, capped at £3,500 in total.
- 4.6 All rent arrears, if any, shall be paid in full prior to concluding any new lease.
- 4.7 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.
- 4.8 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 income of £1,000 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** – Not Applicable.

List of Background Papers

(a) Not Applicable.

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Aerial Mast Site, Craigendhill, Erskine Report / Lease Plan Ref. E3361



Notes: