

# CHESHIRE EAST COUNCIL

## Cabinet Member for Regeneration and Assets

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**Date of Meeting:** 11 August 2015

**Report:** Executive Director of Economic Growth and Prosperity

**Subject/Title:** Cheshire Farms-Telecommunications Mast - Lease

**Portfolio Holder:** Cllr D Stockton

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### **1.0 Report Summary**

- 1.1 Cornerstone Telecommunications Infrastructure Ltd (CTIL) has requested agreement for a new lease for an existing telecoms mast at Oak Farm on the Ridley Farms Estate. The previous lease has terminated.
- 1.2 In conjunction with independent expert consultants commissioned by the Council, terms for a new lease have been negotiated and agreed, subject to approval. The lease makes provision for additional equipment to be added and includes an option to increase the height of the mast, subject to planning consent.
- 1.3 The proposed lease runs for a term of 25 years and generates an initial income £7,365.50 per annum with rent reviews to be carried out every 3 years to Open Market Value or RPI, whichever is the highest.
- 1.4 Break Clause: Either party may serve a notice determining the agreement every 5<sup>th</sup> year on giving 12 months written notice.

### **2.0 Recommendations**

- 2.1 That a lease be granted on terms to be agreed by the Director of Economic Growth and Prosperity in consultation with the Head of Legal Services.

### **3.0 Reasons for Recommendations**

- 3.1 The proposal is consistent with the operational management strategy for the estate and generates income.

### **4.0 Wards Affected**

- 4.1 Wrenbury

### **5.0 Local Ward Members**

- 5.1 Councillor S Davies

## **6.0 Policy Implications**

6.1 The proposal is consistent with current policy

## **7.0 Implications for Rural Communities**

7.1 Mobile phone coverage for rural areas is extremely important for a variety of reasons including business efficiency and preventing communities from being socially disadvantaged.

## **8.0 Financial Implications**

8.1 CTIL is contributing a maximum of £1,500.00 to the professional and legal fees incurred by the Council.

## **9.0 Legal Implications**

9.1 The Localism Act 2011 introduced the General Power of Competence, which allows the Council to do anything an individual can do, provided it is not prohibited by other legislation. These powers have replaced the previous wellbeing powers, however, the use of these powers must be in support of a reasonable and accountable decision made in line with public law principles.

9.2 The General Disposal Consent 2003 authorises the disposal of land for 7 years or more at less than best consideration if the undervalue is £2million or less, if the undervalue is higher than £2million consent to the disposal is required from the Secretary of State. The Lease proposed is at best consideration and within the guidance permitted.

9.3 The Council has the power to grant a lease of the land pursuant to s123 of The Local Government Act 1972 subject to any disposal for 7 years or more being at the best consideration that can reasonably be obtained.

9.4 Notwithstanding the above powers the Council has a fiduciary duty to the taxpayers and must fulfil this duty in a way which is accountable to local people.

9.4 All disposals must comply with the European Commission's State aid rules. As this is a transaction at Best Value the rules will not apply

9.6 In considering the terms to be proposed for the Lease consideration will be given to landlord and tenant security of tenure and the potential for exclusion of rights of renewal of the Lease in specific circumstances, and earlier termination on the happening of specified events..

## **10.0 Risk Management**

- 10.1 An indemnity of up to £5 million pounds payable by CTIL is part of the lease agreement.
- 10.2 The lease makes provision for immediate termination if CTIL lose their statutory authority to operate.

## **11.0 Background and Options**

- 11.1 The proposal has been considered within the context of the Farms Estate strategy.

## **12.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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