

Cheshire East Council

Portfolio Holder Report – Cabinet Member for Regeneration

Date of Meeting:	9th October 2017
Report of:	Executive Director for Place
Subject/Title:	Lease of land at Grosvenor Multistorey Car Park to Cornerstone Telecommunication Infrastructure Limited
Portfolio Holder:	Portfolio Holder for Regeneration – Councillor Don Stockton

1.0 Report Summary

- 1.1 To formalise the telecommunications lease arrangements for aerial masts owned by Vodafone Limited and situated on the rooftop of the Council owned land known as the Grosvenor Multistorey Car Park, Macclesfield. They are subject to a Lease from the Council to Vodafone. The Lease expired in 2008 and Vodafone has requested the grant of a new lease.

2.0 Decision requested

- 2.1 That the Council enters into a new 16 year lease agreement with CTIL (Vodafone and Telefonica joint venture company) at an annual rent of £13,000 plus VAT at the property known as Grosvenor Multistorey Car Park, Macclesfield on terms and conditions to be agreed by the Head of Assets and Director of Legal Services.

3.0 Reasons for Recommendations

- 3.1 CTIL currently has rights pursuant to The Communications Code 2003 which entitle the tenant continuance of occupation of the site and the area occupied is not required for CEC operational purposes. The offer to grant a new lease of the site to CTIL rather than Vodafone presents better terms for the Council and the offer satisfies the requirements of s123 of the Local Government Act 1972.

4.0 Wards Affected

- 4.1 Macclesfield Central

5.0 Local Ward Members

- 5.1 Cllr. Beverley Dooley & Cllr. Janet Jackson

6.0 Policy Implications (e.g. Climate Change and Health)

- 6.1 The existing use of the site will remain.

7.0 Implications for Rural Communities

7.1 The use of the site will be unchanged.

8.0 Financial Implications

8.1 The Council will receive a higher rent for the site and has received assurances surrounding best consideration in accordance with RICS guidance and s123 of The Local Government Act 1972 requirements.

9.0 Legal Implications (Authorised by the Director of Legal Services)

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 Council has the power to dispose of the land pursuant to s123 of The Local Government Act 1972 subject to it being at the best consideration that can reasonably be obtained as has been determined in this case.

9.3 The Council has a fiduciary duty at all times 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, the Council has confirmed that there is no aid being granted in this case.

10.0 Risk Management

10.1 Entering into a new lease with CTIL before the current Code Reforms of the Electronic Communications Code will avoid any uncertainty surrounding its future effect on rental values of aerial masts.

11.0 Background information

11.1 The Council owns the multi-storey Grosvenor Centre Car Park which houses the Macclesfield Indoor Market and a Council operated Car Park. Located on an external area of the building at roof level is an aerial mast. The area occupied by the mast is subject to a Lease from the Council to Vodafone Limited dated 7 May 1998 which is contracted out of the Landlord and Tenant Act 1954. The passing rent is circa £7,000 per annum.

11.2 The Lease expired in 2008 and there have been negotiations between the parties to agree terms for a new lease. Vodafone have remained in occupation of the land and continue to pay rent as directed by the former Lease.

11.3 The area housing the aerial masts are not required in connection with the Council's Car Parking Service and is not operational. The land has been leased for over 18 years.

11.4 Terms for a new lease have been agreed (subject to contract) that incorporates the provisions contained within the former agreement (as was approved by the Cabinet Member for Finance on 22nd December 2014).

- 11.5 The parties have agreed terms for a new 16 year lease of the site to be granted to Cornerstone Telecommunications Infrastructure Limited (“CTIL”) at a rent of £13,000 per annum subject to rent review every 3 years and break options at years 5 and 10 of the term. CTIL is a company created by Vodafone and Telefonica as a joint venture, and Vodafone request that all of its new leases are entered into with CTIL as the tenant.
- 11.6 The terms have been negotiated to reflect current market conditions and have been recommended by the Council’s professional advisors and external agents specialising in telecommunications lease renewals to provide assurances with regard to best consideration.
- 11.7 Central Government is consulting on Code Reforms of the Electronic Communications Code. Professional advice indicates that the Reform is likely to result in a reduction in the rental value of telecommunication sites.

12.0 Access to Information

The background papers relating to this matter are not available for public inspection as they are considered exempt by virtue of Schedule 12A of the Local Government Act 1972.