

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:	4365
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Department:	Growth and City Development
Contact:	Jeremy Bryce (Job Title: Surveyor, Email: jeremy.bryce@nottinghamcity.gov.uk, Phone: 01158763082)
Subject:	Various telecoms assets
Total Value:	see exempt appendix (Type: Capital)
Decision Being Taken:	<p>To declare surplus to the Trading Account six greenfield telecoms compounds and one rooftop site (see exempt appendix for full details).</p> <p>To grant delegated authority to the Director of Economic Development and Property to agree the method and terms for the sale of the freehold interests in these sites.</p> <p>To delegate authority to the Director of Economic Development and Property to agree any necessary Rights of Way, Easements or Wayleaves that may be required to conclude the disposals.</p> <p>To approve that the receipt will be held as a Corporate Capital Receipt and used in accordance with the Capital Strategy.</p>
Reasons for the Decision(s)	<p>The Digital Economy Act (DEA) 2017 came into force on 17th December 2017 and introduced a new Electronics Communications Code (New Code) which has made several substantial changes to the original Code. In the last 4 years the New Code has started to "bite" and is influencing negotiations for new leases, base rents and payaway figures. The current influence being continually downwards. And more recently supported by the outcome of cases heard at Upper Tribunal. Because the Councils future rent is uncertain over the next 1 to 5 years and cannot be guaranteed as we are forced to renew leases on poorer terms (indeed it may fall considerably in years 5 to 10 year) it is recommended to dispose of these assets. The New Code creates a legislative straightjacket for land owners and there is really no escape. Moreover, these assets are no longer "money spinners" for land owners but should be classed as high risk diminishing assets.</p>

Other Options Considered:

Retain and do nothing. Over the last decade, many of the major players in the telecoms field have merged once, if not twice, reducing the number of mast sites required to service their networks. Mast sharing has reduced by almost 50% as a result of these mergers, lowering the rents received by landlords. Landlords reacted to this by renewing leases (where possible) with new terms to include payaway rents (instead of set rents) for any additional mast sharers based on a percentage of the passing rent. These new totalised rents are now made up of a base rent for the site, usually including the main operators' equipment, and a share, generally 30%, of the additional sub rent/s received from the other operators using the same mast. This option has been rejected as these types of asset have been reclassified as diminishing assets as the future rent is not guaranteed.

It is considered that where the Council has adjoining/contiguous land it will not be affected in terms of value and there is no opportunity for value enhancement.

It is considered that there is no ransom or marriage value considerations that affect the sale of these assets.

Background Papers:

None

Published Works:

None

Affected Wards:

Citywide

Colleague / Councillor Interests:

None

Any Information Exempt from publication:

Yes

Exempt Information:

Description of what is exempt:

The exempt appendix which contains advice on valuations and auction reserves, external valuation advice and the tenancy schedule which both contain commercially sensitive and private information relating to the councils tenants and is exempt under data protection rules.

An appendix (or appendices) to this decision is exempt from publication under the following paragraph(s) of Schedule 12A of the Local Government Act 1972

3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).

The public interest in maintaining the exemption outweighs the public interest in disclosing the information because it contains valuation info, guide prices and reserve estimations that if available would prejudice the councils position in regard to negotiations and final sale prices.

Documents exempt from publication:

01.02.2021 Auction Estates advice NCC Telecoms Mast.pdf, 29.07.2021 telecoms occupier schedule.pdf, Exempt Appendix sale of telecoms assets (3).doc

Consultations:

Those not consulted are not directly affected by the decision.

Crime and Disorder Implications:

None

Equality:

EIA not required. Reasons: This decision does not include principals for changing policies, services or functions.

Decision Type:

Portfolio Holder

Subject to Call In:

Yes

Call In Expiry date:

20/09/2021

Advice Sought:

Legal, Finance, Property

Legal Advice:

From the information provided in the report, and following discussion with the author of the report, it is understood that Property colleagues have undertaken a full review of the relevant telecoms sites and assets and the proposal will be to dispose of those relevant parcels of land and or assets at market value. Each site will be sold subject to whichever tenancy or agreement is currently in place with relevant telecoms provider, and each transaction will be subject to normal property legal due diligence and the drafting, agreement and completion of formal legal documentation between the parties and their respective legal advisors. Advice provided by Mick Suggett (Team leader: Conveyancing) on 02/07/2021.

Finance Advice:

REVENUE There will be a revenue pressure resulting from this decision of £95k. It is required that this is managed within the overall PTA and options for this are currently being looked at.

Advice provided by Susan Tytherleigh (Finance Business Partner) 02/09/2021

CAPITAL

The Council has no debt associated in relation to the assets included within this decision. Therefore, the net capital receipt achieved from disposing of these assets will be applied in accordance with the Capital Strategy. As this decisions does not amend the capital programme it does not require endorsement by the Capital Board.

Advice provided by Tom Straw (Senior Accountant - Capital Programmes) on 27/07/2021

Property Advice:

The Digital Economy Act (DEA) 2017 has and will continue to have a major impact on the rental income to the Council from its 6 mast sites it is therefore recommended that these are site disposed of to crystallise the capital receipt. The decision to sell will have a significant impact on the revenue to the Property Trading Account which will need to be addressed by Finance. Prior to any disposal all appropriate due diligence will be undertaken and marketing and sale costs confirmed. The disposal will be undertaken in accordance with the Council's Disposal Policy. **Advice provided by Beverley Gouveia (Development & Disposals Manager) on 01/07/2021.**

Signatures

David Mellen (Leader/ PH Strategic Regeneration Communications)

SIGNED and Dated: 13/09/2021

Sajeeda Rose (Corporate Director of Growth & City Development)

SIGNED and Dated: 07/09/2021