

Key Decision Required:	No	In the Forward Plan:	No
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ASSISTANT DIRECTOR FOR BUILDING AND PUBLIC REALM

13 October 2020

- A. TO AGREE A MASTER TEMPLATE WAYLEAVE AGREEMENT IN RESPECT OF UPGRADING TDC PORTFOLIO OF RESIDENTIAL FLAT BLOCKS TO A FULL ULTRAFAST FIBRE BROADBAND**
(Report prepared by Vidmante Minkeviciute)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To agree a master wayleave agreement to be used as a template in respect of upgrading existing broadband infrastructure to a full Ultrafast Fibre to the Premises (FTTP) Network to TDC portfolio of housing flat blocks.

EXECUTIVE SUMMARY

Openreach are in the process of upgrading their existing Copper Telephony Network to a full Ultrafast Fibre to the Premises (FTTP) Network across the UK, see literature included at Appendix B. As this is an upgrade of their already existing Infrastructure, all works are fully free of charge to TDC and our residents.

BT have requested a 'master wayleave' to be agreed that will be the template for all individual building wayleaves as they are passed in to their Network build teams.

This master wayleave, which is included in Appendix A, will mean all the wording and terms and conditions are pre-agreed standards and only property specific details will need to be added each time, thus saving time for TDC in dealing with multiple requests and having to check the full document for each one

RECOMMENDATION(S)

That, the Assistant Director for Building and Public Realm approves agreement of a master wayleave in the format attached at Appendix A

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Council has priorities for effective and positive Governance and using assets to support priorities. Supporting this infrastructure upgrade will support these priorities.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

The project is partially funded by Open Reach and part funded by the Local Government Essex BDUK bid. All the works are fully free of charge to TDC and to our residents.

Whilst we would normally request fees for granting Wayleave's over the Council's land, in this instance as the infrastructure is for the benefit of TDC property and TDC tenants, then it is not considered that a charge is appropriate.

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Risk

No significant risks have been identified.

LEGAL

Section 123(1) Local Government Act 1972 indicates that, a local authority may dispose of land held by it in any way it wishes so long as (section 123 (2)) the land is disposed for a consideration not less than the best that can reasonably be obtained.

The General Disposal Consent Order (England) 2003 gives consent for disposal at below best consideration reasonably obtainable provided that the undervalue is less than £2m and the proposal enhances the environmental economic and social wellbeing of the area. The order includes specific rules and guidance on the consideration and approval of any such decision.

Section 123(2A) Local Government Act 1972 indicates that, a local authority may not dispose of land held by it as public open space without advertising its intention to do so in the local press.

In coming to decisions in relation to management of assets, the Council must act in accordance with its statutory duties and responsibilities. Under case law following Section 120 of Local Government Act 1972, the Council is obliged to ensure that the management of its assets are for the benefit of the district.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of Crime and Disorder, Equality and Diversity, Health Inequalities, Consultation/Public Engagement and Wards; and any significant issues are set out below.

The Property Team will complete each Wayleave based on the master template agreed in accordance with this report and the Housing Team will liaise with BT and the tenants of the properties as appropriate to facilitate the physical works.

Area or Ward Affected

All Wards in Tendring

PART 3 – SUPPORTING INFORMATION**BACKGROUND**

TDC residents are already using the Openreach Network for their existing copper fed broadband and as Openreach is the only network provider that operate a fully 'open access' network they are the only provider to ensure our customers maintain full flexibility and options to move between the many service providers (BT, SKY, TalkTalk, Vodafone, PlusNet etc) that use Openreach infrastructure to carry their services.

Openreach can already upgrade any of the Single Dwelling Units (SDU) to fibre as they work in a given area, as well as any Multiple Dwelling Units (MDU) that are served via overhead or external cabling but in TDC flats and apartments that are internal fed or underground fed, they have to follow a different process. In short, for these MDU's Openreach requires a wayleave agreement in place to access, survey and build their Network in the common areas and through risers etc,

CURRENT POSITION

BT have identified at least 779 flats (within 99 blocks) that are owned by Tendring District Council that are eligible for the broadband upgrade, with 100 of these flats (within 14

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blocks) commencing immanently upon signing of the wayleave agreement.

Rather than having to agree separate wayleaves for each of these blocks, BT have proposed that a master wayleave is agreed and then this can be applied to each block as they come up in the upgrade program. Specific details with regard to property address, location of equipment and plans will be added to the master wayleave prior to this being completed.

The Head of Housing Services and legal team have been consulted and are in agreement with the master wayleave proposed.

APPENDICES

Appendix A – Proposed Master Wayleave Agreement

Appendix B – Open Reach Brochure 2020