

Report



Cabinet Member for Assets and Member Development Deputy Leader

Part 1

Date: 22 March 2018

Subject Michaelstone y Fedw Village Hall

Purpose To renew the lease on terms set out in this report, incorporating rights to install Broadband infrastructure and rights for the Tenant to purchase the freehold interest.

Reason For Urgency

Welsh Government has provided funding for installation of High Speed Broadband for communities at this location (MyFi). The project is underway and will entail installation of service hubs and 25 kilometres of cabling by the end of the year. At Michaelstone y Fedw, the location of the server hub is within the subject land. This is the first element of the construction project and installation must start during the first week of April. Based on discussion, the MyFi project has committed contractually and facilitating work will start physically before the end of February. To protect both parties interest and to facilitate the Broadband installation, it will be necessary to complete the new lease before the facilitating works commence.

Author Housing and Assets Manager

Ward Marshfield

Summary Terms have been agreed for a renewal of the lease of the subject premises. This has been agreed on terms that will enable installation of new Broadband infrastructure. To meet the construction programme, it is necessary to approve and complete the new lease as an urgent action.

Proposal To take this decision urgently as it is so urgent that it cannot go through the Council's agreed consultation process and/or must be implemented immediately and therefore not subject to the Council's call in procedures for the reasons set out under 'Reasons for Urgency' above.

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Action by Head of Regeneration, Investment and Housing

Timetable Immediate

This report was prepared after consultation with:

- Strategic Director, Place
- Head of Regeneration, Investment and Housing
- Head of Law and Regulations – Monitoring Officer
- Head of Finance – Chief Finance Officer
- Head of People and Business Change

Signed

1. Background

- 1.1 The subject premises (plan attached) has been leased to a local Committee for many years. The arrangement appears to work well, in that there is an active community programme delivered at the premises with minimal involvement by Council officers. The previous lease placed external repairing obligations on the Council but in practice all internal and external repairs have been undertaken by the Lessees.
- 1.2 The latest lease terminated in 2013 and new terms were offered, based on the tenant taking all maintenance responsibility. Unfortunately, this has never been agreed and therefore the tenant continues to “hold over” on the terms of the previous lease.
- 1.3 A Welsh Government initiative to upgrade Broadband currently is being rolled out at this location. Following survey work, it was decided that the preferred location for the Broadband infrastructure is within the demised area. For this to be installed however, it will be necessary to have a new lease in place.
- 1.4 It has therefore been possible to agree terms for a new lease, subject to Council approval, including passing all maintenance liability to the tenant. This is conditional however, on the lease being executed on a programme to meet the requirements of the Broadband project. We are advised that the final decision regarding purchasing the required Broadband equipment was taken on Friday 9th February. Whilst the Committee will take a view on this matter, they will not proceed unless the Council indicates that, in principle, it will grant a lease incorporating the term below.
- 1.5 The Tenant has requested that, for the first five years of the term, it has the right to purchase the freehold of the premises for full value (as determined by an independent surveyor). It is understood Council officers are comfortable to recommend this term be accepted, as the premises appears to have no strategic importance. In addition, if the Council received full value for a disposal, it would protect its capital for reinvestment.
- 1.6 Agreeing the lease renewal would protect both parties position, improve the terms of letting from the Council’s perspective and support roll-out of the Broadband project. In order to meet the project programme however, an urgent decision is required.

2. Financial Summary

The costs and financial implications:

	Year 1 (Current) £	Year 2 £	Year 3 £	Ongoing £	Notes
Costs (Income)	125	150	150	150	None
Net Costs (Savings)					
Net Impact on Budget					

- 2.1 The current rent of £125 pa will increase to £150 pa.
- 2.2 The financial risk associated with the external repairs, currently carried by the Council, will transfer to the lessee under the new arrangements.

- 2.3 Should the Lessee exercise its right to acquire the freehold interest, the Council will receive the full value of the premises, by way of a capital receipt.

3. Risks

- 3.1 Present arrangements are not satisfactory but the proposed new arrangements will improve the Council's position significantly, from both a practical and financial perspective.

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
The Council is unable to undertake the necessary administration to complete the new lease, in the small window of time available to it	Medium	Low	For every effort to be made across the Council, to complete the transaction expeditiously.	Housing & Assets Manager

4. Links to Council Policies and Priorities

- 4.1 Corporate Asset Management Plan
4.2 Corporate Plan

5. Options Available and Considered

- 5.1 Decline to renew the lease and continue occupation by "holding over" on previous terms.
5.2 Agree to renew the lease, incorporating rights to install Broadband infrastructure and rights to purchase the freehold.

6. Preferred Option and Why

- 6.1 Agree to renew the lease, incorporating rights to install Broadband infrastructure and rights to purchase the freehold. This will protect the interests of the Council and its Tenant, as well as facilitating installation of new Broadband infrastructure.

7 Comments of Monitoring Officer

- 7.1 The proposed lease renewal is in accordance with the Council's statutory powers to dispose of land under section 123 of the Local Government Act 1972. The grant of the original lease would have constituted a "disposal", given the length of the term, and the land would have been declared surplus to the Council's requirements and appropriated for general asset management purposes before the lease was entered into. Therefore, the principle of transferring this property as a community asset has already been established. The renewal of the lease on the agreed terms also enables the Council to regularise the maintenance and repairing obligations, with the Hall Committee taking full responsibility for the property. The extended term and proposed option to buy will also enable the Committee to commit to the installation of the new Broadband infrastructure at the premises. The grant of the proposed unconditional right for the Committee to purchase the freehold outright within the first 5 years of the new lease term, would need to be at market value in order to meet the best value requirements of s123 of the Act. However, the

mechanism in the lease for the joint appointment of an independent surveyor to fix the sale price will be sufficient for this purpose. The sale would generate a capital receipt and the building has no strategic value for the Council. However, it may be necessary to impose some form of restrictive covenant on the sale of the freehold, to ensure that it remained as a community asset.

8 Comments of Chief Financial Officer

- 8.1 There are no financial implications in the report. The current rent will increase slightly by £25 per year and the maintenance liability will now lie with the local committee, rather than the council.

9. Comments of Head of People and Business Change

- 9.1 Ensuring access to high speed broadband for rural communities is increasingly important in ensuring economic prosperity, social inclusion and the viability of services. There are also benefits to cultural and environmental wellbeing e.g. in terms of reducing vehicle journeys, supporting home-working and allowing access to online services. If the renewal of the lease is necessary to facilitate the investment in improving broadband connectivity then this is supported.

10. Comments of Cabinet Member

- 10.1 The Cabinet Member supports this action, as it will protect the interest of the Council and the Village Hall Committee.
- 10.2 An urgent decision will help facilitate installation of broadband infrastructure.

11. Local issues

- 11.1 None

12. Scrutiny Committees

- 12.1 N/A

13. Equalities Impact Assessment and the Equalities Act 2010

- 13.1 The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.
- 13.2 The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users.
- 13.3 In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not.

- 13.4 The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

14. Children and Families (Wales) Measure

- 14.1 Although no targeted consultation takes place specifically aimed at children and young people, consultation on planning applications and appeals is open to all of our citizens regardless of their age. Depending on the scale of the proposed development, applications are publicised via letters to neighbouring occupiers, site notices, press notices and/or social media. People replying to consultations are not required to provide their age or any other personal data, and therefore this data is not held or recorded in any way, and responses are not separated out by age.

15. Wellbeing of Future Generations (Wales) Act 2015

- 15.1 The Well-being of Future Generations (Wales) Act 2015 ensures that public bodies across Wales, including local authorities, think about the long-term, work better with communities and each other, look to prevent problems and take a more joined-up approach. To achieve this, the Act puts in place 7 well-being goals

- A globally responsive Wales
- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh Language

- 15.2 If the disposal proceeds the Council will, as far as possible, seek to ensure any future development demonstrates the application of the sustainable development principle put into place by the Act.

16. Crime and Disorder Act 1998

- 16.1 Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

17. Consultation

- 17.1 Comments received from wider consultation, including comments from elected members, are detailed in each application report in the attached schedule.

18. Background Papers

- 18.1 Site Plan attached.

