

# ALDENHAM PARISH COUNCIL

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| <b>Council Document</b><br>To review the proposed lease for the booster station on top of The Radlett Centre. | <b>AGENDA item 7.</b><br><b>Full Council Meeting 15<sup>th</sup> December 2020</b> |
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## **Background**

There is a booster station located above the ceiling of the Douglas Hicks Room in the Radlett Centre. This was installed some time ago, and is subject to a lease with Arqiva (now On Tower UK Ltd). The lease expired in June 2020 and a new proposal has been forwarded to the Council for consideration. The Heads of Terms are attached.

## **Recommendations**

*That Aldenham Parish Council (APC) rejects the new lease and asks for the equipment to be removed as soon as possible.*

## **Reasons for recommendation**

In the current lease APC receive £5,000 per annum rental, this is now proposed to be reduced to £1,500 per annum which is quite a reduction.

The lease also states that the tenant has the right to install any associated equipment anywhere on site, which, as parking spaces are limited could cause problems.

The lease also states in 19.2 that the tenant can prune any trees that may affect its communications, subject to the landlord's consent which must not be unreasonably withheld. You may recall some years ago the then tenant wanted to cut down the Cedar Tree at the front of the Radlett Centre, because they said it was interfering with telecommunications. APC rejected this as they had no grounds at the time and they stopped. Interestingly enough the booster station is still operating. This they are trying to rectify with this clause.

## **Alternative options**

To accept the new lease and instruct Debenhams Ottaway to act on APC's behalf, as this is being paid for by the tenant.

The tenant has stated that removal of the booster station may affect the signal, but since it was original installed, there is now a mast at Radlett Gardens. There is also a new mast being commissioned on KGV Playing Field, so this argument may be questionable.

## **Financial Implications**

There will be a reduction in income of £5,000, which is passed to the Radlett Centre.

## **Risk Management Implications**

If the telecoms signal is reduced because of this decision, there may be comments from some residents.

Members are asked to consider this report.

Peter Evans  
Parish Council Manager

**Standard Rooftop Heads of Terms Stage 1  
SUBJECT TO CONTRACT**

The information contained in this document is strictly confidential and proprietary to the Tenant and should be used solely in relation to negotiating the Lease renewal for the Site below.

**Heads of Terms – RADLETT ALDENHAM AVENUE (Site Ref 88147)**

| <b>ON TOWER UK LIMITED - ROOFTOP HOTS</b> |   |  |
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| <b>1.</b>                                 | <b>INITIAL INFORMATION</b>  | <p>These Heads of Terms are Subject to Contract</p> <p><b>*</b></p> <p><b>These Heads of Terms are being issued in an effort to reach a consensual settlement with the Landlord. In the event that a new Lease is not completed under these Heads of Terms, then On Tower UK Ltd reserve the right for the matter to be referred to the Tribunal. These consensual terms will then not be open for acceptance by the Landlord. It is in the interests of both parties that this matter shall not be referred to the Tribunal for determination and On Tower UK Ltd is therefore prepared to offer the following terms. These terms are open for acceptance by the Landlord for the period of 90 days from the date of issue.</b></p> |
| <b>1.1.</b>                               | <b>TYPE OF AGREEMENT</b>  | Code Lease   |
| <b>1.2.</b>                               | <b>LANDLORD NAME</b><br><br><b>EMAIL ADDRESS AND POSTAL ADDRESS</b>                               | <p>ALDENHAM PARISH COUNCIL</p> <p>The Radlett Centre,<br/>2 Aldenham Avenue<br/>Radlett<br/>Hertfordshire<br/>WD7 8HL</p>  |
| <b>1.3.</b>                               | <b>THIRD PARTY</b><br><br>If applicable please complete with the same information as in 1.2 above |  |
| <b>1.4.</b>                               | <b>TENANT</b>   | <p>On Tower UK Limited (company number 03196207)</p> <p>Registered Office: Crawley Court, Winchester, Hampshire SO21 2QA</p>   |
| <b>1.5.</b>                               | <b>SITE ADDRESS AND POSTCODE</b>  | <p>The Radlett Theatre,<br/>1 Aldenham Avenue<br/>Radlett</p>  |

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|      |                            | Hertfordshire<br>WD7 8HL   |
| 1.6. | <b>SITE</b>                | The area of land shown edged red on Plan with rights to install associated Equipment on the Landlord's Adjacent Property<br><br>Access route shown in brown. Access route over Common Parts (as defined in the lease) and through the building as shown edged blue on the Plan. Alternative route as to be designated by the landlord acting reasonably and no less commodious than the Access.  |
| 2.   | <b>TERM AND START DATE</b> | A term of 15 years commencing on completion of the lease.  |
| 3.   | <b>ACCESS RIGHTS</b>       | The Tenant and all those authorised by the Tenant will have unrestricted rights of unaccompanied access at all times (24/7) over the permitted route on foot and with vehicles plant and equipment (including the right to park and turn vehicles thereon as necessary). If the Landlord installs gates and or barriers across access it must be fitted with a multi-lock device enabling the Tenant to have access at all times, and to make access available through the Landlord's Adjacent Property, including Buildings, at all times.<br><br>And to enter other areas of the Landlords' Adjacent Property as are reasonable to operate the Equipment or Rights under the Permitted User and for parking if necessary.<br><br>The Landlord covenants to observe and perform the following provisions in respect of access by the Tenant:<br><br>i) Not to interfere with, or obstruct the Access;<br>ii) To provide the Tenant either with 2 copies of each of the keys to any gates (or if a combination lock, the combination code/s) giving access to the Property and/or the Installation to permit the Tenant to have full and free access to the property and the Installation in exercise of the Rights;<br>iii) Not to change the locks on any gates giving access to the Property and/or the Installation without first supplying to the Tenant any keys (or provide the new combination code/s) to any new locks;<br><br>The Landlord shall be liable for any Tenant's costs incurred as a result of the Landlord intentionally blocking the Access or otherwise deliberately interfering with the Tenant's Access. |
| 4.   | <b>REPAIR</b>              | Tenant to keep the Installation (including any additions after the date of this Lease) in good repair<br><br>When visiting the Property to ensure that the Property is left clean and tidy<br><br>To carry out all works in a proper and workmanlike manner causing as little nuisance as reasonably practicable to the Landlord and adjoining occupiers, and making good all damage caused in the exercise of the Rights to the reasonable satisfaction of the Landlord.  |



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| <b>10.</b>   | <b>SHARING</b>                    | The Tenant is permitted to share occupation and use of the Property (as defined in the Lease including the Installation and demise) and the Rights with providers of electronic communications networks for the purposes of the provision by them of their networks.   |
| <b>11.</b>   | <b>INSTALLATION</b>               | Any electronic communications apparatus (as defined in the Electronic Communications Code) and for the avoidance of doubt the Installation shall remain the property of the Tenant and/or others using the Property for the Permitted Use subject to not overloading the structural capacity of the building.  |
| <b>11.1.</b> | <b>EQUIPMENT RIGHTS (UPGRADE)</b> | The Tenant (and those authorised by the Tenant) will have the right to keep use substitute install operate inspect maintain repair replace relocate adjust alter renew upgrade remove and add whatever communications equipment (together with all ancillary equipment) is required for the Permitted Use for no further cost or fee.  |
| <b>12.</b>   | <b>FEE SUSPENSION</b>             | The Rent shall cease to be payable in circumstances when the Tenant is prevented from properly enjoying the use and occupation of the Site outside of the Tenant's control.  |
| <b>13.</b>   | <b>INSURANCE</b>                  | The Tenant will adequately insure against risks in respect of third party and public liability in connection with any death or personal injury loss or damage to persons or property arising out of the exercise of the rights granted up to a maximum £5 million pounds.  |
| <b>14.</b>   | <b>INDEMNITY</b>                  | The Tenant will indemnify the Landlord against the Tenant's legal liabilities for damage and injury occasioned to the Landlord, the Landlord's property and in respect of third party claims arising directly out of any act default or negligence of the Tenant in the use of the site and the exercise of the rights granted, with the Tenant reserving the right to defend claims jointly with the Landlord at the Tenant's cost. |
| <b>14.1.</b> | <b>LIABILITY</b>                  | Neither party will restrict its liability to the other for negligence causing death or personal injury. The maximum aggregate liability of the parties in relation to the subject matter of the lease will be limited to £5 million pounds in relation to any event or series of connected events. Economic or consequential losses (including loss of profits) are excluded.  |
| <b>15.</b>   | <b>PLANNING</b>                   | The Tenant will secure all necessary consents and observe any conditions imposed by the Planning Authority.  |
| <b>16.</b>   | <b>HEALTH AND SAFETY</b>          | The Tenant will comply with all applicable health and safety legislation and regulations issued by relevant health and safety bodies including any relevant CDM regulations  |
| <b>17.</b>   | <b>INTEREST</b>                   | If rent is in arrears for more than 28 days from date of demand, then interest will be paid at 3% above base rate.   |

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| 18.   | <b>TENANT BREAKS</b>       | <p>On any anniversary of the Term Commencement Date PROVIDED THAT the Tenant has given to the Landlord not less than 6 months' previous notice save where the original Term of the Lease (ignoring any period of statutory continuation) has expired where the Tenant may give immediate notice;</p> <p>Immediately if any licence, permit or other authorisation under which the Tenant or its licensees has the right to run an electronic communications system or any replacement thereof expires or is terminated, withdrawn or revoked.</p> <p>If, at any time, following damage to or destruction to the Installation, or to the Landlord Adjoining Premises preventing access to or from the Site, or the Tenant considers that it is impossible or impractical to reinstate the Installation by giving three (3) months' written notice to the Landlord.</p>   |
| 19.   | <b>RIGHTS FOR SERVICES</b> | <p>The Tenant will have all necessary rights for the provision of power and communications, services to the equipment by whatever media it may reasonably require including rights to maintain, repair, alter, replace, upgrade and install new services. All lines and cables will be installed along such routes over the Landlord's premises as may be agreed between the parties, such agreement not to be unreasonably withheld or delayed.</p> <p>If the Tenant requires the Landlord will (upon payment of the Landlord's reasonable and proper legal costs by the Tenant) grant such wayleaves to any statutory undertakings, public electricity supply authority and/or any public electronic communications operator for the installation of Conduits, over or under the Landlord's Adjoining Premises, as may be necessary to enable the operation of the Installation for the Permitted Use and/or to enjoy the Rights;</p> <p>The Landlord will enter into such wayleaves with power and communications, service providers as may be reasonably required and upon the usual terms of such service providers without charging any fine or premium for the grant of such rights.</p> |
| 19.1. | <b>GENERATOR</b>           | <p>The Tenant will have the right to permanently locate, operate and maintain a stand by generator along with and associated fuel storage on the Site or Landlords additional land in a suitable location (to be agreed with the Landlord, except in the case of emergency, such agreement not to be unreasonably withheld or delayed) in the event it is required for the Permitted use and is unable to be situated within the curtilage of the Property.</p>   |
| 19.2. | <b>ARBOREAL WORKS</b>      | <p>The Tenant will be permitted to carry out any necessary pruning or trimming of trees or other plantings within the Landlord's control or ownership if they interfere or may interfere in any way with the effective operation of the Installation. All such work to be agreed with the Landlord not to be unreasonably withheld or delayed, and all cut timber and trimmings to remain the property of the Landlord unless the Landlord otherwise directs.</p> <p>The Tenant to obtain any necessary TPO consents if required</p>  |
| 19.3. | <b>EMERGENCY TEMPORARY</b> | <p>Right in the case of Operational emergency to erect a Mobile Base Station (whether vehicular mounted or otherwise) on the Site or the Landlords Adjoining Property</p>   |

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|            | <b>(MOBILE) BASE STATION</b>  |   |
| <b>20.</b> | <b>RATES AND UTILITIES</b>    | The Tenant will be responsible for or indemnify the Landlord against all rates and other outgoings arising as a direct result of the exercise of the rights granted.  |
| <b>21.</b> | <b>VAT</b>                    | All sums payable under the lease are exclusive of VAT and an obligation to pay any sums shall include an obligation to pay VAT properly chargeable on such sums on production of a valid VAT invoice.   |
| <b>22.</b> | <b>DISPUTE RESOLUTION</b>     | The parties are to follow the RICS dispute resolution procedure without prejudice to the rights contained in Parts 4 and 5 of the electronic communications code.   |
| <b>23.</b> | <b>YIELD UP</b>               | <p>At the end of the Term (howsoever it comes to an end) IF the Tenant has NOT removed the Installation and restored the Property the LL may give notice to the Tenant requiring it to remove the Installation and restore the Property specifying a reasonable period within which the Tenant must complete the works [and providing that the Parties agree the Tenant shall not be required to</p> <ul style="list-style-type: none"> <li>• remove any parts of the Installation which are more than 1m below the Property or the Landlord's Adjoining Premises;</li> <li>• Reinstate the Access;</li> <li>• Remove or reinstate any substation or any items contained within any substation or which otherwise belong to any Statutory Undertaker;</li> <li>• Remove the fencing;</li> <li>• Remove any building which form part of the Installation]</li> </ul> <p>The Tenant shall not be liable for any delay arising as a result of the failure or delay of the Electricity supply company disconnecting the installation from the electricity supply.</p> |
| <b>24.</b> | <b>RIGHT OF FIRST REFUSAL</b> | If the Landlord wishes to dispose of the Site then it will first offer it to the Tenant for purchase at an agreed price.  |
| <b>25.</b> | <b>CONDITIONS</b>             | <p>The following conditions are to be satisfied before these HOTs are accepted:</p> <ol style="list-style-type: none"> <li>1. Tenant's management approval;</li> <li>2.</li> </ol>  |
| <b>26.</b> | <b>TARGET FOR COMPLETION</b>  | TBC   |
| <b>27.</b> | <b>LANDLORD'S SOLICITOR/</b>  | TBC   |
| <b>28.</b> | <b>LANDLORD'S SURVEYOR</b>    | TBC   |
| <b>29.</b> | <b>TENANT'S SURVEYOR</b>      | <p>James Hill<br/>for Gateley Hamer Limited<br/><a href="mailto:James.Hill@gateleyhamer.com">James.Hill@gateleyhamer.com</a><br/>020 7653 1773</p>  |