

Committee(s)	Dated: 20/05/2020
Epping Forest and Commons Committee	
Subject: Proposed Installation of Gigaclear network installation in Epping Forest SEF 14/20	Public
Report of: Colin Buttery, Director of Open Spaces	For Decision
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Summary

This report is necessary to update your Committee regarding a request by ultra-fast broadband infrastructure provider Gigaclear Limited to install approximately 9.2km of buried and underground services infrastructure into land held in trust by the City of London Corporation across Epping Forest and its associated Buffer Land. All the activity is located within the Epping Forest District Council and Essex County Council local authority jurisdictions and is expected to yield initial income of £35,195, which is comparable with national wayleave charges.

The proposed installation will form part of Essex County Council's 'Superfast Essex' broadband improvement programme, which in turn forms part of the Government's national Superfast Broadband Programme designed to improve access by rural communities to the economic and social benefits of ultra-fast broadband internet connection where conventional suppliers have no plans to improve access. The majority of the installation can be accommodated within Forest and Buffer Land road verges and negotiation have diverted installations away from Site of Special Scientific Interest and Special Area of Conservation land.

Recommendation(s)

Members are asked to:

- i. Approve the use of Forest Land for the installation of ultrafast broadband infrastructure by Gigaclear as part of the National Superfast Broadband Programme.
- ii. Agree an outline £35,195 installation fee subject to site negotiations.
- iii. Delegate authority to the Town Clerk in consultation with your Chairman and Deputy Chairman to agree the apparatus location and final wayleave figure provided it is with 10% of the current proposal.
- iv. Enter into a formal, legal agreement with Gigaclear for the ongoing management of their infrastructure, with all costs to be borne by Gigaclear Ltd.
- v. Instruct the Comptroller and City Solicitor to undertake any necessary documentation to conclude the agreement.
- vi. To delegate powers to The Superintendent of Epping Forest to approve any minor additions or modifications to this network as required.

Main Report

Background

1. The Government's National Superfast Broadband programme is designed to improve access by rural communities to the economic and social benefits of ultra-fast broadband internet connection where conventional suppliers have no plans to improve access. It is planned to see 15 million premises connected to full fibre by 2025, with coverage across all parts of the country by 2033 and that the majority of the population will have 5G coverage by 2027. The Future Telecoms Infrastructure Review addressed key questions about the evolution of the UK's digital infrastructure such as the convergence between fixed and mobile technologies, and the transition from copper to full fibre (gigabit-capable) networks.
2. Superfast Essex is a broadband improvement programme run and part funded by Essex County Council. The Superfast Essex programme aims to make superfast broadband available to as much of Essex as possible. The term 'superfast' refers to broadband download speeds of 30 megabits-per-second (Mbps) and above. There have also been funding contributions from local councils towards some phases of work. Superfast Essex is working with two network operators, Openreach and Gigaclear.
3. Gigaclear Limited is a provider of ultrafast broadband; it was awarded the contract as operator for the Epping Forest District for the Superfast Essex Programme. Gigaclear intends to build a brand-new full fibre network which is separate to the existing network from Openreach and other broadband operators. Ultrafast broadband is defined as speeds of over 100Mbps and is provided using Fibre to the Premise (FTTP) technology. This requires installation of a completely new infrastructure throughout the EFDC area.
4. The first negotiations between Gigaclear Ltd and City Corporation commenced in 2016, regarding installation of a small amount of infrastructure in Forest Land around the village of Upshire. Gigaclear sought the City Corporation's approval to enter into a standard wayleave agreement in line with the Telecommunications Act 1984, which the City Corporation felt was not in the City's best interests. Following liaison between the City Solicitor's Department and Gigaclear's legal counsel a draft Wayleave agreement with the City Corporation has been proposed.
5. Further negotiation with Gigaclear indicated that the provider proposed to complete the installation of its brand-new network more widely across Forest and Buffer Lands, by December 2021. The Covid-19 national emergency has not impacted on this programme, indeed Government policy states that broadband is now considered to be "essential works" and faster connections are likely to be required by residents as many continue to work from home.

Current Position

6. Following Gigaclear's clarification of its proposed network, further negotiations in February 2020 finalised the total installation proposed within land held in trust by the City Corporation as circa 9.2km (5.7miles) affecting areas of Forest in Loughton, Chingford, Sewardstone, High Beach & Upshire.
7. Gigaclear have indicated that a viable alternative to the use of Epping Forest and Buffer Land is not available. Initially, Gigaclear had planned to cross Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) designated areas at Warren Wood Slopes. However, following a detailed response to the proposals, an alternative route is now proposed that avoids SSSI/SAC-designated land.
8. Most of the infrastructure installation is proposed to be in roadside verges. However, it will also affect wayleaves to residential properties which are constructed of various surface types. In two locations: Epping Long Green (East & West) Epping Upland, Gigaclear have proposed crossing areas of Forest for lengths of 850m± & 568m±. The land at Epping Long Green does not form part of the (SSSI) or (SAC) but includes parts of the Forest where Countryside Stewardship income will be sought for grassland management.

Options

9. **Option 1: to approve the installation of ultra-fast broadband infrastructure, along the proposed routes as negotiated by City of London officers** – this option would allow most of the verge and wayleave installation of around 9.2km± in line with version 10 of the wayleave agreement (see Appendix 1). **This option is recommended**
10. **Option 2: to refuse the use of City Corporation land for the installation of ultra-fast broadband infrastructure.** This option would greatly increase the cost of installation to the operator and potentially restrict internet connections to properties reliant on Forest Wayleaves. In response there is a strong likelihood that Gigaclear could use new Electronic Communications Code powers under the Communications Act 2003 to install the infrastructure without City Corporation consent. **This option is not recommended**

Proposals

11. Gigaclear have proposed a standard meterage fee of £3.90 + £468.00 for any cabinets, this would equate to a total of approx. £35,195 income to the City Corporation for the installation, before any additional compound fees and staff time that might be required. There will be no further annual wayleave charge levied on this installation.
12. However, it is important to note that all figures may be subject to change since Gigaclear is yet to complete a validation exercise by visiting the proposed sites

and confirming the exact routes, surface types and meterage + cabinet options. Once Gigaclear have completed validation proposed network, they will be in a position to confirm the total meterage and consideration payment for that particular cabinet area. This report seeks your approval for delegated powers to agree the scheme layout and hence the final installation charge provided it is with 10% of the total provided in paragraph 11.

13. It proposed to include the income fee figure as part of the wayleave agreement, as well as conditions of re-instatement etc. Separate licences for separate use of Forest Land for the storage of materials and the placement of compounds, would be issued on a case-by-case basis locally at a rate of £2.50 per square meter per day, in line with the agreed licence fee charges of 2020-21 as brought to your Committee in November 2019.

Corporate & Strategic Implications

City of London Corporate Plan 2018-2023

14. This proposal helps achieve the aims and priorities of the Corporate Plan by Contributing to a flourishing society -3. People have equal opportunities to enrich their lives and reach their full potential and -4. Communities are cohesive and have the facilities.
15. Shape outstanding environments: -9. We are digitally and physically well-connected and responsive.

Open Spaces Department Business Plan 2019-20

16. Part C. Business practices are responsible and sustainable: j) Maximise the value and opportunities of our built and natural assets, k) Deliver opportunities arising from improved management capability from the City of London Corporation (Open Spaces) Act 2018.

Implications

17. **Legal:** In December 2017, a new Electronic Communications Code took effect under The Communications Act 2003 to make it easier for network operators to install and maintain apparatus such as phone masts, exchanges and cabinets on public and private land. The Electronic Communications Code is set out in Schedule 3a to The Communications Act and is designed to facilitate the installation and ensure the maintenance of electronic communications networks.
18. In the event that agreement cannot be reached with the owner or occupier of private land, the Code allows an operator to apply to the Court to impose an agreement which confers the Code right being sought or for the Code right to bind the landowner or occupier.
19. Given the scale of this project in the wider County and National context it is possible that any position of the City Corporation to not enter negotiations with

Gigaclear could potentially result in Gigaclear's application for Code Powers to impose an agreement upon the City Corporation.

20. **Financial:** The proposed fee of £35,195 will be credited to the Epping Forest Local Risk budget for investment in the management of Epping Forest. It is intended that all costs incurred by the City Corporation in the negotiation and installation and on-going maintenance of the project are borne by Gigaclear Ltd.
21. The City Corporation collects Countryside Stewardship Scheme (CSS) payments for the management of the grassland on areas dissected by the Gigaclear proposed cable routes, known as Gibbons Bush Greens and Severs Green. The installation of the Gigaclear infrastructure through this land will require Epping Forest Officers to apply for a Minor and Temporary Adjustment to the CSS. It is intended that the City Corporation is compensated by Gigaclear for this loss of income + cost of officer time to make the amendments
22. Gigaclear's proposed meterage fee is in line with rates agreed with the Countryside Landowners Association (CLA) & National Farmers Union (NFU)
23. The proposed average charges for officer's time would be at £40.00 per hour for Epping Forest Officers.
24. City Solicitors will be charging The Open Spaces Department for drawing up the Wayleave Agreement.
25. **Health:** Broadband networks provide more efficient and less expensive ways to deliver essential public services such as health care, education, public safety and emergency services.
26. **Charity:** Epping Forest is a registered charity (number 232990). Charity Law obliges Members to ensure that the decisions they take in relation to the Charity must be taken in the best interests of the Charity.

Conclusion

27. The Superfast Broadband Programme is committed to run until 2026, with the UK Government promising faster connections for rural communities and the improvement national digital networks to boost financial productivity. Increasing pressure is being applied to county councils and the contractors they employ to deploy this ensure the infrastructure is installed within the soonest possible timescale.
28. The Electronic Communications Code 2017 will ensure the role out of this infrastructure by granting greater powers to network providers. However, emphasis remains on maintaining good provider/customer relations. As a result, at this juncture, there is an opportunity for the City Corporation to assist with the role out of this programme without compromising the integrity or

protection of Epping Forest as an open space whilst optimising income from the installation for the Epping Forest Charity.

Appendices

Appendix 1 – Gigaclear Wayleave v10

Appendix 2 – Gigaclear COL Titles v3 (maps).

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