

Committee(s): Housing Management and Almshouses Sub (Community and Children's Services) Committee	Dated: 14/01/2022
Subject: Wayleave Agreements – Social Housing Estates	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	1, 2, 12
Does this proposal require extra revenue and/or capital spending?	N
If so, how much?	N/A
What is the source of Funding?	N/A
Has this Funding Source been agreed with the Chamberlain's Department?	N/A
Report of: Director of Community and Children's Services	For Decision
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Summary

The purpose of this report is to seek Member approval to two proposed Wayleave Agreements between the City of London Corporation (the Corporation) and British Telecommunications PLC and, the Corporation and Virgin Media respectively, in respect of the installation of electronic communication apparatus on various defined buildings across the Corporation's social housing estates.

Recommendations

Members are asked to:

1. Agree that the Corporation enters into separate 'Wayleave Agreements' with British Telecommunications PLC and Virgin Media, in respect of the installation of electronic communication apparatus on various defined buildings across the Corporation's social housing estates.
2. Approve and agree the specific Wayleave Agreement between the Corporation and British Telecommunications PLC (attached as Appendix 'A' to this report), in respect of the installation of electronic communication apparatus on various defined buildings across the Corporation's social housing estates.
3. Approve the use of the same Wayleave Agreement between the Corporation and Virgin Media, in respect of the installation of electronic communication apparatus on various defined buildings across the Corporation's social housing estates.

4. Delegate authority to the Director of Community & Children's Services to approve and agree further 'Wayleave Agreements' in the agreed format, as appropriate, in accordance with relevant legislation and, in the best interests of the Corporation.

Main Report

Background

1. The Government has set a target for at least 85% of UK premises to have access to gigabit-broadband by 2025 and has stated that it will "seek to accelerate roll-out further to get as close to 100% as possible". The Government's policy is that gigabit-broadband infrastructure will be mostly built using private investment. Private companies decide when and where to build infrastructure, based on commercial factors such as supply and demand.
2. The two biggest industry leaders, Openreach and Virgin Media, provide regular public reports on their rollout plans and, are key players in the delivery of this target. As a result, Openreach and Virgin Media will contribute significantly to helping deliver the switch from the current copper network to gigabit-capable services. The retirement of the copper network is scheduled for 2025 and both Openreach and Virgin Media will be fundamental in enabling this across the UK.
3. Both Openreach and Virgin Media have approached the Corporation with a request for a wayleave agreement, to enable them to install their equipment on various defined buildings across the Corporation's social housing estates.

Considerations

Electronic Communications Code

4. The Electronic Communications Code, known within the industry as 'The Code', is set out in Schedule 3A of the Communications Act 2003. It is essentially, a set of rights that are designed to facilitate the installation and maintenance of electronic communications networks. The Code confers rights on providers of such networks and, on providers of systems of infrastructure, to install and maintain apparatus on, under and over land and results in considerably simplified planning procedures.
5. Wayleaves are the most common form of access agreement for telecoms infrastructure and, are usually entered into consensually between the parties. If an agreement cannot be reached consensually, the telecoms operator may apply to the court to seek an imposed agreement through powers contained in the Electronic Communications Code (Schedule 3A to the Communications Act 2003, as amended).
6. It is considered best practice to have multiple wayleave agreements with different providers in order to ensure competition and a reasonable choice for residents, as well as, safeguarding the network provision for the future, in the event of any commercial changes.

Current Position

7. The Corporation currently, has wayleave agreements with two providers: Community Fibre and Hyperoptic. There was a third wayleave agreement with Vision Fibre however, this company has since been sold and therefore, the wayleave agreement is no longer valid. Vision Fibre only installed its equipment on one of the Corporation's social housing estates (Golden Lane Estate).
8. Currently, the Corporation has approximately 74 sites of interest, which include MDU's (Multi Dwelling Units) and SDU's (Single Dwelling Units), of which:
 - one site has three fibre providers.
 - 12 sites have two fibre providers.
 - 19 sites have 1 fibre provider.
 - four sites have one fibre provider in some units (i.e., not full coverage).
 - 37 sites have no fibre broadband provider.
9. Apart from the MDU's, there is no current fibre broadband provision for any of the SDU's and their residents.
10. The existing programme that is being carried out by Community Fibre and Hyperoptic, is managed by an independent consultant, who is funded directly by the respective providers but, works on behalf of the Corporation to reduce resource requirements. The independent consultant oversees the installation process, as well as liaising with residents and the Corporation's own staff.

Proposal for new wayleave agreements

11. Two companies, Openreach and Virgin Media, have approached the Corporation with a request for a wayleave to enable them to install their equipment on various identified buildings across the Corporation's social housing estates.
12. The scope, type, and content of the standard Wayleave Agreement has been agreed and approved by the Comptroller and City Solicitor. The proposed Wayleave Agreement between the Corporation and British Telecommunications PLC (of which Openreach is a wholly owned subsidiary) is attached at Appendix 'A' to this report for members consideration and approval.
13. It is also proposed that members approve the use of the same standard Wayleave Agreement between the Corporation and Virgin Media, in respect of the installation of electronic communication apparatus on various defined buildings across the Corporation's social housing estates.
14. It is hoped, subject to the formal approval of this Sub Committee, that the roll-out of the new fibre installations will commence within the next three months.

Benefits and Value for the Corporation and its Residents

Virgin Media

15. Virgin Media has confirmed they it is able to provide fibre connectivity to all SDU's owned by the Corporation. This includes a large proportion of residents who are currently considered to be 'digitally-disadvantaged'. By providing fibre connectivity directly to SDUs, the Corporation will help ensure a faster route to 100% full-fibre coverage.
16. Virgin Media offers three potential alternative methods of installation to suit the various buildings and situations. This means that those buildings with only one or, no current fibre providers, should be able to achieve full fibre to all the homes. This also means that for the majority of buildings, where a suitable Integrated Reception Service (IRS) is in place, there will be no need for additional cabling on buildings and minimal associated external civils/ground works.
17. Virgin Media adheres to the social value commitment of offering discounted and accessible packages to all social housing residents on low income or as determined by the Corporation. For example, for those residents in receipt of Universal Credit, "Virgin Media Essential Broadband", with a speed of 15Mbps, is available for a fixed price of £15 per month, with no fixed-term contract and, no price changes whilst the benefit payments are being received. Since 2015, Virgin Media has been a partner with the national disability charity, Scope, supporting disabled people with digital skills and the confidence to get in and stay in work.
18. As well as covering the relevant external consultancy fees, Virgin Media will contribute £15 per premise connected under this programme towards a digital fund that can be used on local social value projects.

Openreach

19. Openreach is a wholesale provider and, an open network, which means that it will install the necessary infrastructure and then, make it available to a number of different Internet Service Providers. This will offer residents a much wider personal choice.
20. Openreach has a clear delivery plan for the next 5 years which, is published on its website. Currently, subject to formal approval, the Corporation properties that are scheduled for fibre installation are set out in Schedule 1 of the Wayleave Agreement attached at Appendix A to this report.

Additional Benefits

21. These proposed wayleaves are cost neutral to the Corporation and its residents, including the cost of ongoing future maintenance. Both Openreach and Virgin Media are updating their existing equipment, which means that the need for additional cabling and infrastructure is limited and, will result in an improvement to any existing services that residents currently purchase from them.

22. The Project Management resource will continue to be paid for by the providers, which will ensure a seamless and continuous link for both staff and residents before, during and after the installation work takes place. This will also help the providers to prioritise their installations, limiting the disruption to residents, and ensuring all installation packs are checked and are compliant prior to installation.

Appendices

Appendix A: Wayleave Agreement between the Corporation and British Telecommunications PLC

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