Mobile Mast Lease Special General Meeting 15th October 2019

Version 0.1

Current position

- Mobile mast is erected near greenkeeper shed off Fairfield Road
- Land on which mast is erected is leased to CTIL (Vodafone/Telefonica)
- Lease to CTIL expires Nov 2021
- £4000 a year
- Before Nov 2021 there will be a need to decide on how to progress

In meantime... there has been a major change in the legislative and financial environment.

Current Law governing lease - our solicitor

- The Current arrangement with Vodafone was entered into on 07 November 2011 (“**the Vodafone Lease**”) and has the benefit of the protection of two separate pieces of legislation in the Business Tenancies (Northern Ireland) Order 1996 (“**the 1996 Order**”) and the Electronic Communication Code as contained in the Telecommunications Act 1984 (“**the Old Code**”)
- *The 1996 Order*
- The Vodafone Lease falls within the protection of the 1996 Order and so affords them Security of Tenure and a right to request a new Lease from Bangor GC. If Vodafone were to request a new Lease under the 1996 Order, Bangor GC would only be able to oppose the granting of a new Lease if they could establish 1 of the 9 grounds set out in the 1996 Order. These include (but are not limited to):-
- persistent delay by Vodafone in paying rent due;
- substantial breaches by Vodafone of the terms of the Lease;
- Bangor GC intends to demolish a building/structure comprising a substantial part of the Property and in order to do so require possession of the Property (I.e. Re-development).
- (It should be noted that there is a lot of case law indicating that in order to be successful in establishing the re-development objection, Bangor GC must evidence more than an intention to re-develop. They must show a commitment to go through with the works and it is generally accepted that planning permission must be obtained)

Current Law governing lease – our solicitor

- *The Old Code*
- Under the Old Code, Bangor GC may have a power to require “alteration” (which includes the moving/removing/replacing of Vodafone’s apparatus) to enable improvements (i.e. development). This is done by serving Notice on Vodafone requiring them to remove their apparatus. If Vodafone serve a counter-notice within 28 days, then a Court Order will be required to remove the mast. The court will only make an order if it is satisfied that: -
- the alteration is necessary to enable the proposed improvements to the land – in practical terms, there must be a proposed improvement or redevelopment of the land necessitating the movement, removal or replacement of the apparatus;
- the alterations will not substantially interfere with any service likely to be provided by Vodafone; and
- Vodafone has the necessary rights to remove the apparatus.
- There are other provisions within the Old Code which may allow Bangor GC to insist on the removal of apparatus from their lands at the end of the Vodafone Lease. Similarly, this is done by serving notice on Vodafone, however if Vodafone serve a counter notice within 28 days, a court order will be required to remove the mast. Unfortunately, this option is further complicated as there is an argument that Bangor GC are not “entitled” to require the removal the apparatus due to the security of tenure afforded to Vodafone by the 1996 Order.
- The exposure to court proceedings will add to the time and cost of removing Vodafone from the site with no guarantee of a favourable outcome.

- Actual experience of renewals has confirmed that CTIL are very prepared to defend their position aggressively

Digital Economy Act 2017 New Electronics Communications Code

- **Government's intention -** national delivery of communications infrastructure – like any utility
- **New Electronics Communications code** favouring operators
- **Valuations:** based on value of land to landowner(assuming no mast)
- **Rights**: more operator rights to assign leases, share sites and upgrade equipment without landowner consent
- **Termination** process for the landowner is more onerous

- We will be negotiating our next lease under this new code

Market environment

- Telecoms operators are under pressure
- Competition from other technologies
- Falling prices
- High infrastructure costs
- New technology
- Industry consolidation
- Falling share prices

Landowners unlikely to get any favours in this environment

The market is still fluid – not stable – drifting down

Experience of new code

- Rents have fallen much more than expected
- Islington Council rent reduced by 90%
- Offers of £30pa and similar small amounts for renewal of leases previously earning £000's
- Very aggressive approach adopted by CTIL to renewal both financially and legally

Next Steps

If, within the next 28 days, you:

i. do not respond to the Notice; or

ii. respond to confirm that you do not agree to enter into the agreement sought in Annex 2 of the Notice;

Cornerstone will be entitled to apply to the Court for the Order imposing the agreement upon you.

Also on the agenda

- We have been approached by a company called AP Wireless to take over the lease

AP Wireless

- wholly-owned and funded by one of the world's leading private equity houses
- $148 billion in assets under management
- invested in a portfolio of over 5,400 lease sites in 20 countries
- in the UK has a portfolio of over 1,600 lease sites.

AP Wireless Offer

- £38000 paid over 3 years for 50 year lease. Their interest will last only as long as the mast is there.
- Equivalent with CTIL is £10k to £17k with more risk
- How can they offer this
  - Big organisation – deep pockets
  - Been preparing for this for years
  - Dedicated litigation team – set up for a fight with operators – in court with CTIL now
  - Have the technical expertise and contacts
  - 000's of sites and still buying some sites
  - Strategy is strength in numbers is best defence v new code
  - Negotiate on portfolio basis

What are our options

- Option 1 – let the lease run down and renew with CTIL
- Option 2 - let the lease run down and remove mast
- Option 3 – go with AP Wireless offer

Option 1 - What we can expect on renewal with CTIL

- A low offer of around £30pa to £100pa
- Confirmed directly with CTIL agent who are totally confident in the protection the legislation gives them – “dramatically reduced” rent
- Swift recourse to court orders if we do not agree
- Legal fees if we choose to argue
- Unlikely to get the offer up substantially – maybe £400pa but maybe not – high risk
- A lease term of 10 years to allow for further reductions/technology change. In reality we would have no leverage in renewal discussions.

Option 2 – Remove the mast at end of lease

- Our solicitor has clarified the law around the current lease under current law.
- We will have extreme difficulty and cost in attempting to remove the mast.

Option 3 –Go with AP Wireless offer

- £38k over three years
  - This is more than we could negotiate on renewal
- It’s for 50 years
  - While a long time, in reality we would have no leverage on the renewal of multiple shorter leases
- Our conclusion
  - AP Wireless offer is the best financial solution
  - Understand that finance may not be only concern to members in this matter – but as we cannot get rid of the mast, we might as well get the maximum return on it.
  - We look at whether it is a fair offer in the next few pages.

Is offer of £38k fair?

- What are other landlord organisations receiving
  - Not everyone happy to share…but
  - Checked offer three other organisations
  - Offer is in line

Is offer of £38k fair?

- Market tested with two similar companies
  - Phone Mast Company
    - offered to conduct negotiations
    - At cost of £1400
    - Their anticipated result –increase the £38000 by “not a great deal”
    - Separate projected offer of an income stream over 15 yrs for 25 year lease – but lower overall value and more risk
  - Tasc Infrastructure
    - Substantially below APW offer
    - Stated unable to match it

Is offer of £38k fair?

- Lease valuation companies
  - Suggested we get a professional valuation
  - Contacted 4 companies
  - Colliers – values masts on buildings at nil value as market too unstable
  - Whelan – no expertise
  - Frazer Kidd, outstanding response
  - CBRE – did not come back

  - Valuing a mobile mast is different to valuing a building

Would CTIL make a counter offer?

- Transcript of conversations with CTIL agent representative
- 3rd/4th October 2019

- Cluttons are the agent for CTIL and responsible for managing all CTIL property interests, including lease renewals. All negotiations are conducted via them.
- BGC general manager (GM) explained the current position with the lease and advised them of a 3rd party offer to purchase the lease. GM enquired whether there was interest in making a counter offer.
- The response was:
  - No interest, we will not be making a counter offer
  - We will deal with the landlord nearer the expiry date of the current lease
  - We are confident that the new legislation, the Digital Economy Act 2017 will protect our interests
  - We can advise you now that in the vast majority of cases landlords will see the rental value **"dramatically reduced"** when the current lease expires – as rents will be based on the value of the land to the landlord. The only exception will be where the value of the land to the landlord is for some reason very high.
  - We are relaxed about whether you accept the offer or not – but suggest you take it if it appears reasonable.

Conclusion

- We can wait for CTIL renewal – not a good option
- We can go for an annual payment approach
  - Introduces risk – contract termination /insolvency/technology change
  - And is less money at present value
- We can consider shorter lease periods
  - Less money now
  - Uncertainty of what is going to happen with businesses and technology
  - But rents going up for mobile masts is not likely
  - So higher risk to overall returns also
- Therefore our view is – reduce the uncertainties – maximise the reward in as short a timescale as is reasonable.

In summary

- The market is changing and not in our favour
- Our rental stream is at risk in the short term and even more in the long term
- We want to minimise the reduction to our income in a very uncertain environment
- On our own we will get rent worth £10k to £17k over 50 years at today's value
- We have an offer of £38000 for 50 year lease payable over 3 years
- No better offers appear likely
- The offer is a reasonable balance between maximising income and getting the money asap before risks increase
- It won't be on table indefinitely
- Recommendation – approve the lease