

FAREHAM

BOROUGH COUNCIL

2023/24
Decision No.
2463

Record of Decision by Executive

Monday, 3 July 2023

Portfolio	Policy & Resources
Subject:	Lease of Open Space, Warsash Recreation Ground
Report of:	Director of Planning and Regeneration
Corporate Priority:	Dynamic, prudent and progressive Council

Purpose:

The report seeks authority to publish a notice under Section 123 of the Local Government Act 1972 (as amended) in a local newspaper, which specifies that the Council is proposing to grant a lease for a period of 10 years on a small section of open space at Warsash Recreation ground to allow a Telecommunications Mast and associated apparatus to be erected.

The report also seeks delegated authority to the Executive Member for Policy and Resources to consider any representations received in response to the published notice, to determine whether the public interest in granting the lease outweighs any negative impacts raised in representations received, and to therefore decide whether to grant the lease to install telecommunications apparatus on Warsash Recreation Ground.

Mobile network coverage has been provided in Warsash for many years by a roof top base station at Warsash Maritime Academy in Newtown Road. The site owner is looking to dispose of part of the site for residential development. The redevelopment of part of the Warsash Maritime Academy site will involve the demolition of the building where the roof top station is currently located.

The Companies that deliver mobile telephone coverage/internet services have highlighted that to avoid the creation of a large 'coverage gap' in Warsash, a new mast must be provided prior to the removal of the existing apparatus.

Fareham Borough Council, in its capacity as the local planning authority, received an application to install a 20m high telecommunications mast and associated apparatus at the Warsash Recreation Ground on Osborne Road, in July 2021. For the reasons set out in the Executive Briefing Paper, the telecommunications operator is entitled to proceed to undertake the works from a planning perspective. The Council has subsequently been approached in its capacity as landowner of the proposed site to grant a lease for the telecommunications mast and associated apparatus.

The Government has granted extensive powers to mobile service providers to enable them to install their apparatus on third party land. The relevant legislation is The Electronic Communications Code 2017 (known as 'The Code'). In short, requests from mobile services providers are difficult to resist and to achieve this the prejudice caused must outweigh the public benefit of having access to a choice of a high-quality telecoms network and not be capable of monetary compensation.

The Council has commissioned specialist legal advice who have advised that the likelihood of resisting this request is very low. Given the above, the terms of the lease have been provisionally agreed in principle but prior to granting this the Operator has accepted the Council will need to comply with the provisions of Section 123 of the Local Government Act 1972 (as amended). This requires the Council to advertise the intention to grant a lease of Open Space for two consecutive weeks in a local newspaper and to consider comments received in response to assess any positive or negative impacts of the proposals.

Options Considered:

As recommendation.

Decision:

RESOLVED that the Executive:

- (a) authorises the publication of a notice under Section 123 of the Local Government Act 1972 (as amended) in a local newspaper for two consecutive weeks; and
- (b) agrees to delegate authority to the Executive Member for Policy and Resources to consider any representations received in response to the notice referred to in recommendation (a) above, to determine whether the public interest in granting the lease outweighs any negative impacts raised in representations received, and therefore to decide whether to grant the lease to install telecommunications apparatus on Warsash Recreation Ground.

Reason:

There are limited grounds for objection to the proposed mast under The Electronics Communications Code 2017, but the Council must observe the provisions of S.123 of the Local Government Act 1972.

Confirmed as a true record:

Councillor SDT Woodward (Executive Leader)

Monday, 3 July 2023