

Executive Report

Ward(s) affected: Onslow

Report of Director of Strategic Services

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Urgent Decision – Grant of Protected Lease of land at Midleton Industrial Estate to UKPN for a sub-station

Executive Summary

Midleton Industrial Estate is located to the North of Guildford town centre close to the A3 Wooden Bridge Interchange. The industrial estate is currently being redeveloped in four phases, with a total of 37 new industrial units being constructed. To meet the power requirements for the development, a new substation is required for the site.

UKPN have been instructed by the Council to install the substation for the development; however, before this can be installed a lease is required between the Council and UKPN. The lease will allow UKPN to install and maintain a substation on behalf of the Council. The installation has been paid for by the Council at a cost of £132,000 and the supply will only be for the benefit of the Council's development and the industrial units that are being constructed.

The lead-in time for the substation is 34 weeks and work will only begin when the lease has been agreed.

The Managing Director has taken an urgent decision under powers within the scheme of delegation to officers to grant a lease to UKPN for 99 years at a peppercorn rent, which will allow rights of access to and from the substation. UKPN will also be responsible for making good any damage caused to the landlord's reasonable satisfaction.

Recommendation to Executive

That the Executive notes that the Managing Director, in consultation with the Leader and the Monitoring Officer, used his urgent decision powers on 26 March 2021 to approve the grant of a 99 year lease at a peppercorn to UKPN in respect of a small plot of land at the Midleton Industrial Estate, Guildford.

Reason for Recommendation:

The approval of the new lease to UKPN to provide a power supply and allow the development to continue on schedule and ensure that we do not have increased development costs caused by the delayed installation of the sub-station.

Is the report (or part of it) exempt from publication? No

1. Purpose of Report

- 1.1 To report to the Executive the urgent decision that was made on 26 March 2021 to agree a 99-year lease with UKPN to construct a substation at the Midleton Industrial Estate.

2. Strategic Priorities

- 2.1 The grant of a lease to UKPN for 99 years will secure the power supply for the new Midleton Industrial Estate which is currently under construction. This will generate income for the Council and allow us to let 37 new industrial units. The units are best suited for small businesses and will help the Council meet its target of “providing modern industrial units for expanding businesses” (Corporate Plan 2018-2023).

3. Background

- 3.1 Midleton Industrial Estate is currently under redevelopment, two industrial units have already been completed and there are a further 35 under development.
- 3.2 Urgent approval has been given by the Managing Director in consultation with the Leader and the Monitoring Officer for a lease to be granted to UKPN for 99 years to allow a sub-station to be constructed on the site.
- 3.3 A copy of the Delegated Authority is set out in Appendix 1, and the proposed location for the substation is within Appendix 2.
- 3.4 The reasons for the urgency were as follows:
- 3.5 By virtue of s123 of the Local Government Act 1972, the Council is empowered to dispose of land provided it obtains the best consideration reasonably obtainable. In this case, UKPN will not enter into a lease for a rental or premium. The Council as landlord is installing the substation for its own use and the terms of the lease will restrict the use only as a substation. It could be argued that this agreement has nil value. However, by virtue of the fact that UKPN is renting the land, it does stand to reason that the 99-year lease has some value. Therefore, the lease is considered to fall within the requirement for approval by the Executive to be granted at less than best consideration and falls outside of any delegated powers to officers.

3.6 However, there is an immediate need to agree terms for the substation as UKPN has a 34-week lead-in time and will only progress the installation once the lease has been signed. Every week that we delay the signing of the lease has a knock-on effect on the development programme and, in turn, will lead to rising development costs.

3.7 Therefore, to expedite the matter, the Managing Director provided approval on 26 March 2021, using his delegated powers to act in relation to matters of urgency, with the decision being reported to the next Executive meeting.

4. Consultations

4.1 The Lead Councillor and Monitoring Officer have been consulted on the urgent decision. The local ward councillors have been informed of the decision.

5. Key Risks

5.1 The risks for the decision are outlined within Appendix 1.

6. Financial Implications

6.1 The Financial implications are highlighted within Appendix 1. Failure to agree the lease with UKPN now would cause the development costs to rise and delay the receipt of rental income.

7. Legal Implications

7.1 By virtue of s123 of the Local Government Act 1972, the Council is empowered to dispose of land as long as it meets its overriding duty to obtain the best consideration that can be reasonably obtained for it.

7.2 The duty to seek best consideration is subject to certain exceptions. These are conveyed in the General Disposal Consent (England) 2003, which makes provision for the Council to dispose of land where the consideration is less than the best that can reasonably be obtained, known as an 'under-value'.

7.3 The Council has an approved procedure in its Constitution that it follows when considering and approving disposal of land and buildings for less than best value under officer delegation. However, the officer delegation is limited to transactions for a term of 15 years or less and in these circumstances, the proposed transaction is that a lease be granted to UKPN for a term of 99 years.

7.4 Therefore, the lease falls within the requirement for approval by the Executive to be granted at less than best consideration and falls outside of any delegated powers to officers. However, urgent approval has been given by the Managing Director in consultation with the Leader of the Council and the Monitoring Officer for a lease to be granted to UKPN for 99 years for the reasons mentioned in paragraphs 3.4 to 3.7 above.

7. Human Resource Implications

- 7.1 There will be staff resource implications arising from progressing the new lease to UKPN. This will be managed within existing staff resources.

8. Equality and Diversity Implications

- 8.1 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report.

9. Climate Change/Sustainability Implications

- 9.1 The installation of the substation will also power the twenty electric vehicle charging points that will be located on the industrial estate. The new units are predicted to have an EPC rating of 'A' which will dramatically improve the energy performance of the units on the estate.

10. Summary of Options

- 10.1 Under the circumstances there was no alternative option. The Council is only able to enter into an agreement with UKPN. The risk of not agreeing the lease, would impact the viability of the redevelopment.

11. Conclusion

- 11.1 The grant of a 99 year lease to UKPN for the piece of land at the Midleton Industrial Estate will allow the redevelopment of the site to complete on time and allow the units to be let in October 2021. Delays agreeing the lease to UKPN will increase the development costs, which we expect to be approximately £5,000 per week. It would also delay the receipt of rental income from the new units.

12. Background Papers

None

13. Appendices

Appendix 1: Copy of the record of the urgent decision taken by the Managing Director

Appendix 2: Proposed location for the substation