

Report to CHARITABLE TRUST COMMITTEE

Werneth Lifelong Learning Centre, Werneth Park, Frederick Street, Oldham

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Reason for Decision

To seek permission from the Charitable Trust Committee to agree to amend the route that a fibre-optic cable will take through Werneth Park into Werneth Lifelong Learning Centre, and obtain the necessary agreements from the Committee to amend the wayleave agreement.

Recommendations

It is recommended that the Charitable Trust Committee:

1. Decide whether or not to agree to the proposed amendment to the fibre optic cable route in Werneth Park / Werneth Lifelong Learning Centre and grant its consent to amend the wayleave agreement to reflect the proposed new route.

Werneth Lifelong Learning Centre

1 Background

- 1.1 Werneth Park, including the Lifelong Learning Centre, was gifted to the Council on the 8th January 1936, by Dame Marjory Lees. The Council consequently holds the park and its associated buildings in Trust and this is registered with the Charity Commission under Registered Number 521273 (described as Werneth Park).
- 1.2 Oldham Council is taking part in a Greater Manchester wide Local Full Fibre Network (LFFN) programme to provide fibre connectivity to public buildings, partly funded by a grant from central government and partly funded by the council. Virgin Media Business Limited was awarded the contract to deliver this infrastructure following a competitive tender process.
- 1.3 Werneth Lifelong Learning Centre is situated on the charity land edged red on the plan appended to this report, labelled "Community Centre" on the plan (Appendix 1).
- 1.4 Physical Infrastructure Access (PIA) is a mechanism that allows third party communications providers, including Virgin Media, to utilise Openreach's existing access infrastructure (e.g. ducts and telegraph poles) to lay their own cables.

2 Current Position

- 2.1 Werneth Lifelong Learning Centre has been put forward for inclusion in the LFFN programme. An initial survey of the site was undertaken to identify a proposed route into the building.
- 2.2 Werneth Lifelong Learning Centre and Werneth Park are owned by the Council in its capacity as a Charitable Trust. The Council is therefore required to seek consent from the trustees (Charitable Trust Committee) to agree a disposal which will enable the Council to enter into the proposed wayleave agreement.
- 2.3 At the meeting held on 12 July 2021, the Charitable Trust Committee after considering a surveyor's report agreed to the disposal and gave its consent to enter into a wayleave agreement with Virgin Media Business Limited (the Supplier) and Virgin Media Limited (the Operator) for the agreed route which is shown in Appendix 2.
- 2.4 Following the meeting, having received all necessary consents, Oldham Council entered into a wayleave agreement with Virgin Media Ltd and Virgin Media Business Ltd for the route that was agreed in Appendix 2.
- 2.5 Under the current agreement, Virgin Media would need to install some underground ducting into the cellar. This would involve excavating part of the car park to lay the ducting, and drilling a hole in the cellar wall through which the ducting would be presented.

3 **New proposals**

- 3.1 There is an existing Openreach duct running from Frederick Street, through Werneth Park, which presents itself in the cellar of Werneth Lifelong Learning Centre.
- 3.2 In order to minimize disruption, Virgin Media have proposed to amend the route for the LFFN connection. The proposed route will take advantage of PIA to utilise the existing Openreach duct to route its cable directly into the cellar of Werneth Lifelong Learning Centre. Please see Appendix 3 for full details of the proposed amended route.
- 3.3 If Virgin Media are permitted by this Committee to route their cable through the Openreach ducting, this would mean that the cable could be fed through existing ducting for the full route through the park, directly into the cellar of the Lifelong Learning Centre.
- 3.4 Using the existing Openreach ducting would reduce disruption to users of the park and the Lifelong Learning Centre as it would not be necessary to excavate a section of the car park to install ducting.
- 3.5 Making use the Openreach ducting would also be beneficial to the fabric of the building, since it already presents into the cellar. Therefore there would no longer be a need to drill a new hole in the wall for the new ducting.

4 **Decisions and Options**

- 4.1 Following the surveyor's advice that was presented to the Committee on 19 July 2021, the Committee has already agreed that it would be in the charity's best interests to agree to the disposal and given its consent to enter into the wayleave agreement.
- 4.2 The wayleave agreement that was entered into is specific to the route that was previously agreed to by the Committee, as identified in Appendix 2. The terms of the agreement do not allow Virgin Media to deviate from the agreed route.
- 4.3 Therefore the Committee is now being asked to decide:

Option 1

- agree to the proposed amended route as identified in Appendix 3
- give its consent to Council officers to amend the wayleave agreement to reflect the new route.

Option 2

- not agree to the proposed amended route

5 **Preferred Option**

- 5.1 The preferred Option is Option 1 – to agree to the proposed amended route and to give its consent to amend the wayleave agreement to reflect the new route.

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- 5.2 Agreeing to the new route would remove the need to excavate a section of the car park to install the new ducting and also remove the need to drill a new hole in the cellar wall.

6 **Next Steps**

- 6.1 If the committee agrees to Option 1 then the Council will amend the wayleave agreement with Virgin Media Ltd and Virgin Media Business Ltd to reflect the new route as identified in this report and will then proceed with the installation.
- 6.2 If the committee agrees to Option 2 then the Council will instruct Virgin Media Business Ltd to proceed with the installation in accordance with the original proposals that have already been approved in the wayleave agreement.

7 **Financial Implications**

- 7.1 There are no direct financial implications arising from the recommended option . Any costs arising from the proposal to agree to the proposed amended route and to consent to amend the wayleave agreement to reflect the new route is contained within the agreed contract price.
(AC)

8 **Legal Services Comments**

- 8.1 The report of John Fletcher, Fletcher CRE prepared for the Committee confirmed the terms on which the wayleave was proposed, was the best that could reasonably be obtained for the Charity.
- 8.2 On this basis, the Charitable Trustees, in accordance with the guidance issued by the Charity Commission, and in compliance with Section 119 of the Charities Act 2011, agreed to enter into the wayleave.
- 8.3 The proposed amendment will make use of an existing duct, which will reduce the footprint of land that would be subject to access rights to areas where communications infrastructure is already installed. There is therefore unlikely to be a detriment to the Charity in the proposed change of route, reducing the necessary infrastructure to both the car park and to the exterior of the building.
- 8.4 The Charitable Trustees need to consider the proposals and confirm whether they agree to the alteration on the basis that this is in the best interests of the Charity.
(RB)

9. **Co-operative Agenda**

- 9.1 N/A - The co-operative agenda relates to Executive functions of the Council and is not applicable to charitable assets

10 **Human Resources Comments**

- 10.1 N/A

11 **Risk Assessments**

11.1 All works will be carried out according to approved risk assessments and method statements. (DM)

12 **IT Implications**

12.1 IT active equipment is located within the Comms Cabinet within the basement. The only changes required for the future would be upgrades / replacements to active equipment already in use.
(JC)

13 **Property Implications**

13.1 The installation of LFFN fibre connectivity to the building, would not be to the detriment of the building as detailed within this report and will benefit from the fibre installation. The proposed amended route will make use of an existing Openreach duct that presents into the cellar. Consequently, there would be no need for an additional penetration into the cellar wall to install the Virgin Media duct.
(RS)

14 **Procurement Implications**

14.1 None

15 **Environmental and Health & Safety Implications**

15.1 The proposed amendment would remove the need to excavate a section of the car park to lay the new ducting. The proposed route will follow the existing communication routes into the building. The existing Openreach ducting presents directly into the cellar where the IT network cabinet is located so there would be zero visual impact to the outside of the building, and no scarring of the surface where the new ducting would have been installed.

15.2 All works will be carried out according to approved risk assessments and method statements. (DM)

16 **Equality, community cohesion and crime implications**

16.1 None

17 **Implications for Children and Young People**

17.1 None.

18 **Equality Impact Assessment Completed?**

18.1 No

19 **Key Decision**

19.1 No

20 **Key Decision Reference**

20.1 N/A

21 **Background Papers**

21.1 Deed of Gift – Werneth Park, 8 January 1936



DEED OF GIFT
wernth park 8th Jan

22 **Appendices**

22.1 Appendix 1 – Red edged plan of Werneth Park and Werneth Lifelong Learning Centre



1446 Werneth
Lifelong Learning Cē

22.2 Appendix 2 – Current approved wayleave plans



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22.3 Appendix 3 – Proposed amended route for wayleave agreement



Proposed New
Route.pdf