

DERBYSHIRE COUNTY COUNCIL

CABINET MEETING

21 October 2014

Report of the Strategic Director – Economy, Transport and Environment

DIGITAL DERBYSHIRE (JOBS, ECONOMY AND TRANSPORT)

(1) **Purpose of the Report** To update Cabinet on progress of the Superfast Extension Programme (SEP) and to specifically seek approval to progress the Invitation To Tender (ITT) under the Council's Financial Regulation (Protocol 2) for the delivery of the SEP.

(2) **Information and Analysis**

Strategic Context

Overall, the Digital Derbyshire programme is progressing very well; over 12,000 properties have already been connected and cabinet deployment is progressing ahead of planned timescales.

Within this context, the availability and take up of superfast broadband is increasingly becoming a key driver for enterprise and growth. High speed broadband has significant benefits for business productivity through supporting the development of new, more efficient, business models, enabling businesses to re-engineer their processes to improve efficiency and competitiveness.

Faster broadband helps support the creation of new business and provides easy access to market information. Continual improvements in broadband services for both business and domestic markets also help stimulate business innovation and improve overall levels of productivity in the economy.

Extending superfast broadband to underserved areas (typically rural) can safeguard employment in areas which would otherwise be at an unfair disadvantage by supporting inclusion enabling greater e-commerce and increasing interaction with/accessibility to public services through on-line services.

Background

On 9 August 2013, the Council signed a contract with British Telecom worth £27.68m, to extend fibre broadband to an additional 88,000 premises - taking

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the overall fibre coverage to just over 95% of Derbyshire. This contract aimed to provide speed uplifts of greater than 2 mega bits per second (mbps) to the remaining premises.

As part of the match funding requirement, the Council secured £2.5m European Regional Development Fund (ERDF) capital funding to support roll-out. However, there has been an issue delivering the regional ERDF programme 2007-13 and pressure now exists to draw down the allocation against eligible defrayed expenditure by the end of December in line with N+2. Negotiations are continuing with BT, BDUK and the Department for Communities & Local Government (CLG) to identify a mechanism for full draw down to be achieved. Further guidance will be issued shortly which will hopefully resolve the issue. If there continues to be a risk that the Council can no longer meet ERDF requirements for the use of allocated grant there will be a shortfall that will fall on the Council's own resources, probably the general reserve. Such a shortfall will likely be a maximum of £2m.

Government recently announced a further £250m to improve the availability of superfast broadband (speeds in excess of 24mbps) to 95% (or more) of premises by 2017. The Government has called this the Superfast Extension Programme (SEP) and it will be managed through Broadband Delivery UK (BDUK) along similar lines to the existing infrastructure and delivery programme. On 25 February 2014, BDUK announced 'county level' allocations and confirmed an allocation for Derbyshire/Derby City of £2.19m from the SEP fund.

Progress – Superfast Extension Programme

On 25 March 2014, Cabinet agreed to submit an Expression of Interest to the Superfast Extension Programme on behalf of Derby and Derbyshire. This application was subsequently submitted and approved by BDUK in April 2014.

Cabinet agreed, on 15 July 2014, to submit a Formal Funding Request application to BDUK; this successfully secured the allocated grant of £2.19m.

Additionally on 15 July 2014, the Council received confirmation that £2.19m match funding had been secured from the D2N2 Local Economic Partnership (LEP) to support Digital Derbyshire Superfast Extension Programme from the 2015/16 Local Growth Fund (LGF).

Following the Open Market Review (OMR); the Council, using the market responses to the OMR, has established a baseline intervention area in line with state aid regulations for the superfast extension programme. This will ensure that premises currently or planned (by commercial operators) to received speeds of less than 15mbps are eligible for support from the Councils programme.

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To further consult and meet state aid regulations the Digital Derbyshire Public Consultation was launched on 5 September 2014. The consultation closed on 5 October 2014 and any responses will be fed into the intervention area and provide the legal baseline for the phase 2 programme. The purpose of the public consultation is to:

- 1) Provide commercial operators an opportunity to check our representation of the information provided through the Open Market Review.
- 2) Allows any commercial operator who did not respond to the Open Market Review a second opportunity.
- 3) Highlights the eligible areas to those interested.

On 22 August 2014, the Digital Derbyshire Programme Board considered a detailed report by the Programme Manager regarding procurement options and timescales for phase 2 procurements.

The Board agreed that the most effective option which carries the lowest risk to the Council is to undertake a mini competition using the existing, National Framework set up by BDUK. For clarity, this was the procurement route followed by the Council to secure the existing contract.

Invitation to Tender

The delivery of the SEP is a Government priority and ministers are keen for all BDUK projects to progress and contract the delivery of the programme by the end of the financial year. It is therefore imperative that Digital Derbyshire progresses within this timescale in order to meet specific checkpoint targets identified by BDUK. To ensure the Council progresses in line with the BDUK timescales the Council has to prepare for the next assurance checkpoint B2 on 13 November 2014; this include finalising the Invitation to Tender, refine the intervention area and submitting the state aid application.

A key issue in this regard will be de-scoping Derby city to ensure the intervention is acceptable for State Aid purposes. After initial difficulties, officers are now pressing Derby City Council for the information required to finalise this element of the evidence to support the ITT.

The Council will be progressing the ITT under Financial Regulations: Protocol 2 (use of a non-Derbyshire County Council framework).

Once the Council has received approval via the BDUK checkpoint process, Cabinet agreement is sought to approve the launch of the Invitation to Tender. As the Council is procuring from the national BDUK framework the ITT is a standard template document which has been populated with Derbyshire specific information from the Local Broadband Plan and with information following the outcome of the OMR and supplier engagement.

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Date	Milestone	Brief Description
17 June 2014 – 6 August 2014	Open Market Review	Consultation with suppliers to refine and clarify “white areas” eligible for public investment.
5 September 2014 – 5 October 2014	Public Supplier Consultation	Further consultation with suppliers for legal baseline of eligible areas (state aid requirement). Submission of evidence to BDUK
14 November 2014	Issue Invitation To Tender	Final Invitation To Tender for framework suppliers to respond.
6 February 2015	Receive final tenders and conclude evaluation	All tender responses received and evaluated, progress governance and standstill.
Feb/March 2015	Cabinet approval to award contract	
March 2015	Contract signed	Preferred supplier in contract with the Council.

(3) **Financial Considerations** BDUK has awarded £2.19m to the County Council towards the programme and a further £2.19m has been awarded from D2N2 Local Enterprise Partnership. Approval is sought to issue the ITT and any costs will be contained within existing budgets.

(4) **Legal Considerations** In relation to the existing ERDF funding, once the position has been clarified with DCLG it will be necessary to consider what payments are permissible under the current contract with BT.

The issue of an Invitation to Tender does not of itself create any legally binding obligations on the Council beyond those already committed to in respect of the Digital Derbyshire Programme.

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, environmental, health, property and transport considerations.

(6) **Key Decision** Yes.

(7) **Call-In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

(8) **Background Papers**

- Previous Cabinet reports

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- Local Broadband Delivery Plan
- Contract to deploy broadband services
- Letter from BDUK to Ian Stephenson, 25 February 2014
- BDUK SEP Allocations

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(9) OFFICER'S RECOMMENDATION That Cabinet:

- 9.1 Notes the strong progress already made on delivering Digital Derbyshire and the increasing pressure from Government and other funding streams such as ERDF to ensure timely delivery.
- 9.2 Notes the potential call on the General Reserve should ERDF timescales prove unachievable.
- 9.3 Notes specifically, the continuing development of the Superfast Extension Broadband Programme and the urgent timescales for delivery.
- 9.4 Agrees the delivery timescales for progressing and completing the Invitation to Tender for the Digital Derbyshire Superfast Extension Programme through the BDUK procurement framework.
- 9.5 Receives further reports on progress of the SEP application and any subsequent implementation.
- 9.6 Notes the next stage in the process for Cabinet approval would be upon completion of procurement to seek approval to award the contract.

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