

CABINET
29 June 2017**CONNECTING WORCESTERSHIRE PHASE 3 BROADBAND PROGRAMME**

Relevant Cabinet Member
Dr K A Pollock

Relevant Officer
Director of Economy and Infrastructure

Recommendation

1. **The Cabinet Member with Responsibility for Economy and Infrastructure recommends that Cabinet:**
 - (a) **notes the progress to date of the Superfast Worcestershire Programme as set out in Paragraphs 7-13 and Appendix A;**
 - (b) **delegates authority to the Director of Economy and Infrastructure, in consultation with the Cabinet Member with Responsibility for Economy and Infrastructure, to undertake evaluation of tenders for the Phase 3 Broadband contract and, subject to being satisfied as to value for money and fully securing external public funding, to (i) finalise and execute that contract, and (ii) to approve future potential change controls to ensure pace is maintained from contract award in Summer 2017 until the end of the contract;**
 - (c) **recommends to Council the addition of £2.6m to the Capital Programme for the purposes of Phase 3 of the Broadband Programme, the funding of which comes from Broadband Delivery UK (BDUK) £1.5m and European Regional Development fund c.£1.1m (ERDF);**
 - (d) **authorises the Director of Economy and Infrastructure, in consultation with the Cabinet Member with Responsibility for Economy and Infrastructure, when the solution to Phase 3 is known, to reinvest the remaining underspend from the previously allocated £8.5m County Council capital funding and up to £4m of Worcestershire County Council's proportion of further claw-back from Phase 1 and Phase 2, if it becomes available, in accordance with Option 3 in the report; also to agree to entering required discussions with other public funding bodies with regard to their proportion of claw-back; and**
 - (e) **authorises the Director of Economy and Infrastructure to take all necessary actions to progress the Broadband Programme.**

Why is this decision important?

2. The *Connecting Worcestershire* programme has made significant progress, in particular the existing two phases of work that are contracted with BT to make superfast broadband infrastructure available to 95% of premises in the county by December 2018. To go beyond the currently expected 95% coverage requires Cabinet approval and support to finalise and let a Phase 3 superfast broadband contract to reach an anticipated 96% of premises. An additional commitment to reinvest the remaining underspend from the previously allocated £8.5m County Council capital funding for Phase 1 and up to £4m of Worcestershire County Council's proportion of further claw-back from Phase 1 and Phase 2, if it becomes available, is also required to support the achievement of 96% and to go further still. It is recognised that despite the investment to date the cost associated with passing each premises is expected to continue to increase as the project extends further, 'Value for Money' remains a key consideration and a commitment is not being made to reach 100% of premises, just as other utilities do not reach all premises.

Council Vision

3. Our Vision remains to *"deliver faster broadband for the county to ensure Worcestershire is, and remains, 'Open for Business'"*. Increasing the coverage of superfast broadband infrastructure across Worcestershire will allow business competitiveness to be maximised nationally and globally, by incorporating more businesses around the county.
4. Excellent digital connectivity will be one of the key drivers of economic prosperity and competitiveness going forward, as well as ensuring the county remains a location in which people would aspire to live, work and visit.
5. The social benefits of good connectivity should also be acknowledged, children can be disadvantaged if they do not have access to broadband at home; this impacts both their ability to do homework and learn independently, but also deprives them of the social networking world that young people rely upon. Improved broadband will have significant impact on educational and wider well-being for children in rural communities. There is an increased expectation for students to participate with online educational forums, virtual learning environments and access to course resources and class work.
6. Compared with the rest of England, the project area has a relatively elderly age profile; broadband services will play an increasingly important role in supporting older and vulnerable people by providing access to online services, shopping, banking etc. as well as services provided by Worcestershire County Council and other public partners; potentially supporting people to stay at home for longer by enabling the introduction of new health and Social Care services, such as, tele-medicine or tele-care. A good broadband connection enables people to stay in touch with family and friends, whether locally or those based around the world, improving the quality of life and enabling a work-life balance.

Background

7. In November 2011, the Cabinet allocated up to £8.5m to fund the delivery of the fibre broadband infrastructure, with the addition to the Capital Programme approved

by Council, £8m was committed to the broadband contract in August 2013 and £500k was retained to support the costs required to deliver the programme and demand stimulation activities to increase take-up of superfast broadband.

8. In 2013, the Council entered a 10 year contract with BT to extend fibre broadband across Worcestershire to ensure that at least 90% of the county's residents and businesses could access faster fibre-based broadband. The contract was also being funded by £4.4m of eligible capital expenditure from BT and £3.4m from Broadband Delivery UK (BDUK); BDUK added an additional £1.1m at a later date, following an application for further funding from the Council. This is Phase 1 of the programme.
9. Following the original contract for 90% coverage for residential and business premises, the Council subsequently secured an additional £4.8m from BDUK and through the Local Growth Fund to invest further into extending superfast speeds across Worcestershire – Phase 2. This further investment is aimed at extending a better service to 95% of the county's businesses and residents, when the contract was agreed we expected that 94% of the county able to access superfast speeds (in excess of 24Mbps) by an accelerated date of Autumn 2017, from an original projected date in Summer 2018.
10. The current contracts give the Council the opportunity to recoup some of the investment through "take-up clawback", if take-up of superfast broadband exceeds 20% of premises within the project areas.
11. Due to the progress of delivery, as well as higher than expected take-up rates (Phase 1 current take-up is currently in a region of 42%, against the projected 13% at this stage); BT offered the Council the opportunity to recoup funds early and invest in extending fibre coverage even further.
12. In November 2015, Council agreed the addition to the Capital Programme for the purposes of extending Phase 2 by reinvesting up to £3.25m from clawback funds to further coverage of fibre broadband across Worcestershire. Cabinet in October 2015 delegated authority to the Director of Commercial and Change in consultation with the relevant Cabinet Member and CFO to make the final decision on reinvestment in order to achieve this; the resultant change "gainshare reinvestment" was completed in March 2017.
13. In addition to the gainshare reinvestment, that is anticipated to increase superfast coverage to 95%, Council officers have applied for further funding to extend broadband coverage into areas of need. The consequence of this is the proposed Phase 3 contract leading to further deployment of superfast broadband.

Phase 3

14. A third phase of provision of superfast broadband services has been made possible through the Council's funding applications and request to BDUK. This provides the Council with the opportunity to procure and appoint a supplier to extend services into areas without access to 24Mbps as a result of commercial deployment or our existing plans. This Phase 3 aims to extend superfast broadband to as many Worcestershire business premises as possible (ensuring ERDF compliance to draw down the funding), whilst, at the same time, deploying superfast infrastructure to as many residential areas of Worcestershire as is possible within the parameters of the

allocated funding. Dependent upon supplier responses and the solutions offered it is anticipated that this phase could make superfast speeds available to 96% of premises; it is recognised that despite the investment to date and this potential investment we are not expecting to reach 100% superfast broadband coverage.

15. Approximately £1.1m from the ERDF has been approved in principle. A requirement of the ERDF funding is that it is fully matched, which has been provisionally secured from BDUK for £1.5m, increasing the amount of funding to be added to the Capital Programme by £2.6m. The total budget for the Phase 3 procurement will be £2.5m, as £100k is being utilised to match the County Council programme resource.
16. ERDF funding must be utilised to benefit business premises which meet the needs of their eligibility criteria. It is accepted that the nature of deployment may mean that residential premises may also benefit as a result of reaching the business premises. BDUK's priority remains to extend superfast broadband coverage to as many premises as possible.
17. Private sector investment is also required for this gap funded procurement, further increasing the overall capital budget for the project; the suppliers will submit their financial models and proposed contributions as part of the tender response.
18. It should be noted that, as this is an "investment gap procurement", similar to the previous procurements, the Council will not own or manage the infrastructure, it will be owned by the preferred supplier.
19. On 26 April 2017, Connecting Worcestershire programme issued Phase 3 Invitation to Tender (ITT), bid responses are expected in July 2017 and a cross-organisational tender scoring and evaluation team are scheduled to score and evaluate the tenders received, against the pre-agreed evaluation criteria. BDUK would support Worcestershire's team, with their benchmarking/value for money analysis and a comparison report, ensuring the preferred bid represents good value for money for Worcestershire's taxpayers. Further assurance would also be carried out, by the programme team, to ensure ERDF conditions are being fulfilled reducing the risk of any funding being clawed back.
20. Due to the public sector funding requirement to address the market failure in areas without superfast broadband, state aid compliance approval is being sought through BDUK's umbrella notification (part of the checkpoint C assurance process during August).
21. Based upon the above narrative, Cabinet approval is therefore being sought to undertake the evaluation of tenders, finalise and execute the contract, with authority to approve future potential change controls to the contract to ensure pace is maintained from notification of contract award in summer 2017 until the end of the contract.

Reinvestment: Recommended Option

22. Due to Phase 1 efficiencies, at least £3.8m of the public sector funding contribution remains unspent and can therefore be classed as 'underspend'. Approximately 35% of this underspend, if not spent on extending fibre coverage, will need to be returned to BDUK in accordance with grant conditions. It is anticipated that at least £500k of

this underspend will need to be allocated to the committed resource identified in Appendix A.

23. Reinvestment of the underspend funds and up to £4m of Worcestershire County Council's proportion of any further claw-back generated from Phase 1 and Phase 2, if it becomes available, would allow further investment into superfast broadband to further increase coverage to areas of the county that are not anticipated to receive superfast speeds from existing phases or the proposed solution of Phase 3.
24. Cabinet are reminded of the options for how this could be reinvested or reallocated, rather than immediately reinvesting into the existing contract with BT as was first anticipated when Phase 1 was originally proposed. When the proposed Phase 3 contract and solution is agreed there are a number of options to note, these are included in Appendix B and that as a consequence of decisions parts of funding may need to be allocated to fund the resources required to manage and deliver the extended programme or be returned to funders.
25. On consideration of the Options detailed at Appendix B and the finalisation of the Phase 3 contract, Option 3 is recommended as this allows for a considered approach to reinvestment, subject to Value for Money and community needs across existing broadband contracts and the proposed 'Phase 3' contract to extend superfast broadband coverage across Worcestershire, in areas not expected to benefit from Phase 1, Phase 2 or Phase 3 plans. As well as allowing for funding to be allocated to fund the resources required to manage and deliver the programme for maximum benefit to Worcestershire's residents and businesses. The Strategic Stakeholder Board for broadband and feedback from relevant officers will be able to support the decisions delegated to the relevant Director and Cabinet Member. Noting that further connectivity projects such as mobile/5G may be required; or if additional BDUK funding is allocated it will likely require new unmatched capital funding to draw down. Therefore, further funding applications or requests for new capital money may be required in future.
26. If Cabinet approves further investment into extending superfast broadband further into Worcestershire to benefit remaining businesses and residents, delegated authority is sought for the Director of Economy and Infrastructure, in consultation with Cabinet Member with Responsibility for Economy and Infrastructure, to implement Option 3, to extend coverage beyond the solution agreed in Phase 3, as well as allowing for funding to be allocated to fund the resources required to manage and deliver the programme.

Summary of Risks

27. The high level risks associated with the further deployment have been identified as:

Risk	Mitigation
Ensuring procurement pace is maintained leading up to contract award in late August/September	A dedicated programme resource and professional financial, legal and procurement resource are allocated to support
Ensuring Value for Money in a single supplier scenario, should this occur.	Market engagement undertaken and multiple bidders are interested. Should only one bid be received this will progress through a thorough evaluation process as well

	as national benchmarking activity carried out by BDUK
Managing more than one superfast contract concurrently within the county adds complication and may cause operational complexities with either a 'new' or 'existing' supplier	The dedicated programme resource has experience of managing previous superfast contracts. Equally BDUK continue to support the wider programme and there are other areas with more than one contract operating, in some cases with more than one private sector partners.
Not Managing Stakeholder Expectations	Continue to resource via the Project team to respond to queries and be transparent and proactive regarding any current and future deployments and their scope.
Not meeting the ambitious number of required business premises delivered via the Phase 3 programme	Procurement process, Department of Communities and Local Government (DCLG) are aware of the scope of the project and challenges, however may not agree to progress with a revised output target
Potential clawback of ERDF funding if eligible business premises are not delivered (or cease operating prior/during deployment).	It is suggested that up to £1m of any 'underspend' is retained to act as contingency until each output is delivered
Further funding released by BDUK for Fibre to the Premises and 5G (expected)	Existing 'underspend' funds have already been used as 'match'. If new funding is allocated to Worcestershire, new unmatched funding will be required should WCC choose to access the new allocation of funding. If WCC choose to pursue this funding additional funding bids or requests will need to be made.

Next Steps

28. Next steps, subject to approval, include:

- Ensure value for money is tested and evidenced in the final proposals for Phase 3 contract
- Following State Aid Approval and BDUK's confirmation that checkpoint C has been passed, award the contract to the preferred bidder and finalise the contract for Phase 3.
- Establish the Joint Programme Management Office between the preferred supplier and a County Council resource.
- Based upon the final agreed deployment for Phase 3, Council officers will review the remaining area without access to superfast broadband and will progress recommendations through the Broadband Stakeholder group and the relevant Director and Cabinet Member in respect of any 'reinvestment' from Autumn 2017.

Legal, Financial and HR Implications

29. The Legal implications for Phase 3 to be progressed include committing Legal resource to the contract finalisation process. If agreed the contract will run for the period of deployment plus 7 years and is anticipated to require occasional support from Legal Services. Additional Legal support would also be required to progress either of the options presented under the 'reinvestment of underspend' opportunity.

30. The Financial implication of progressing Phase 3 is that £2.6m would be added to the Capital Programme, this would be of no net cost to WCC as external public funding would be drawn into the programme. However it does require that £500k of Worcestershire County Councils proportion of 'Underspend from Phase 1' is allocated to supporting the broadband programme resource to maintain contract management arrangements for Phase 3 and the previously approved Gainshare investment.
31. In relation to the subsequent 'reinvestment of underspend and further claw-back from Phase 1 and 2' the 'underspend' funding is already in the Capital Programme, listed against broadband. Any further return from claw-back monies as a result of positive take-up would either be directly reinvested by BT or returned to the County Council and allocated as required. Worcestershire County Council Finance will ensure that all statutory accounting requirements are complied with. If the County Council chose not to allocate this money to broadband then an amount c.35% would need to be returned to BDUK.
32. There are no further immediate HR implications as a result of progressing either opportunity, other than the WCC programme resource may need to be extended if deployment continues past June 2019.

Privacy and Public Health Impact Assessments

33. In addition to the potential social benefits identified in paragraphs 5 and 6 With Worcestershire County Council moving more of its services online, people can now use online services to pay their council tax, order goods, order library books, report problems with housing, claim benefits just to mention a few. There are still some groups that find it hard to go online and require support. The County Council is committed to developing an active Digital Inclusion strategy; enabling people to receive training at libraries and other venues and to access the internet through public access points. Enabling greater access to improved broadband speeds in more areas will reduce the number of groups that are unable to access these services due to their geographical location within the county. Equally, earlier in the programme partners within the Digital Inclusion partnership have taken advantage of improved broadband connectivity by installing community internet hubs and facilitated sessions showing what is possible online, improved broadband speeds ensures these experiences of services are not hampered by poor connectivity interrupting and discouraging a new way to access services.

Equality and Diversity Implications

34. An Equality Relevance Screening has been completed in respect of these recommendations. The screening did not identify any potential negative Equality considerations requiring further consideration during implementation. It was noted the improvement of broadband infrastructure has the potential to allow individuals with protected characteristics increased options in regard to availability of services, both public and those available commercially.

Contact Points

County Council Contact Points

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Background Papers

In the opinion of the proper officer (in this case the Director of Economy and Infrastructure) the following are the background papers relating to the subject matter of this report:

Agenda and background papers for the meetings of Cabinet held on: [24 November 2011](#), [24 May 2012](#), [8 November 2012](#), [18 July 2013](#), [5 February 2015](#), [15 October 2015](#)

APPENDIX A

Background Information

- A1. 'Connecting Worcestershire' is an ambitious programme to implement a multi-million pound superfast broadband network, which will be amongst the best in the country. This programme is a key priority and sits firmly within the Council's plans for sustained economic growth across the county, as detailed in 'Shaping Worcestershire's Future'; further reinforcing the Government's aim to create the best broadband network in Europe'.
- A2. Worcestershire's business and political leaders have been committed to the programme and both the Council and Worcestershire Local Enterprise Partnership have made a multi-million pound contribution to the programme, recognising the importance of superfast broadband to ensure Worcestershire continues to be a world class place to do business.
- A3. Further progression across the county through the Connecting Worcestershire Programme will result in a significant step change in our broadband infrastructure within harder to reach areas, which in turn will facilitate a drive in economic growth and improve the quality of life for all our residents over the next decade.
- A4. Both the Council's Corporate Plan and the Strategic Economic Plan clearly support technology-led growth as a key economic enabler for the county and specifically highlight the importance of broadband to local residents, communities and businesses.
- A5. Having excellent broadband throughout the county underpins the significant developments in technology to manage health and look after people better, which in turn enables vulnerable people to take a more active role in their own care; reduce social isolation and stay independent for longer, in their own homes.
- A6. The programme has delivered against targets and under the original budget within the contract. Having ensured 96% of the county has access to fibre-based infrastructure, equating to a further c.62,000 premises, with 48,000 premises able to access superfast speeds, also increasing superfast coverage to c.91% as a result of the programme (June 2016). BDUK's Broadband Assurance Board reviewed Worcestershire's progress on 3 September 2015 and in a letter to the Council congratulated Worcestershire on very good progress with regard to coverage target achievement as well as clearly demonstrating programme value for money.
- A7. Worcestershire was unique nationally in its contract with BT, setting an objective to extend faster broadband to business premises. This resulted in an increase of faster fibre based broadband available to Worcestershire businesses from 44% of businesses in June 2013 to 90% in July 2016.
- A8. Despite the excellent track record, it is recognised that even with the current investment into the broadband infrastructure, around 15,000 premises, spread across all six districts, will be unable to access broadband speeds in excess of 24Mbps in December 2018. Council officers continue to receive regular enquiries from these communities and businesses often referring to their inability to sustain and/or grow due to the lack of effective broadband infrastructure.

- A9. In October 2015, delegated authority was granted to the Director of Commercial and Change, in consultation with the Cabinet Member with Responsibility for Economy, Skills & Infrastructure to reinvest up to £3.25m of efficiency and gainshare funds, due to be returned to the 'investment fund'; to extend broadband coverage further and secure the best deal for the county through the "gainshare reinvestment" (thanks to take-up of fibre services being better than anticipated).
- A10. As a result of concluding these actions, c.3,300 of additional residential and business premises will now benefit from superfast speeds of at least 24Mbps by December 2018. The total value of the gainshare reinvestment from the public funding into the capital spend of the project is c.£2.9m, within the authorised amount of £3.25m, BT have contributed a further £0.8m of private funding increasing the total reinvestment to £3.7m. In order to execute the change and continue supporting the roll out of the fibre infrastructure through the already contracted deployments, as well as any potential, future deployments (e.g. the Phase 3 contract), £500k of the underspend from Contract 1, already within the Capital Programme, will need to be allocated to support the project management/delivery costs up until December 2019, the authority to allocate this amount is part of the reinvestment request and recommended Option 3 within the main body of the report. As this allocation is part of the original capital funding matched by BDUK and it is not being used to directly fund infrastructure, it is anticipated that c.£270k of underspend within Phase 1 will need to be returned to BDUK.

Take-up

- A11. The Superfast Worcestershire partnership continues to progress delivery of superfast services to many of the county's businesses and residents. It is recognised that for our communities to take full advantage of the new infrastructure they need to understand the benefits this will bring. Continued communication of benefits and stimulation of the demand must be sustained to encourage take-up and bring the infrastructure to life for our communities.
- A12. Current take-up remains above the national average of programmes working to similar timelines and has risen by 5% since December 2016 to nearly 42% at the end of April 2017. This continues to steadily increase each month.
- A13. Case studies from local businesses continue to illustrate the benefits of faster broadband:
- "We can now think about expanding the range of services we offer, and can therefore look forward to a healthier bottom line. These days, practically every service we deliver needs a decent level of broadband service. Now we're certain about decent speeds, we can plan with confidence."* Andrew Troughton, Carver Knowles
- "We do design work in-house, but need to outsource some of it. We hadn't realised how much quicker fibre was, the download speeds are quite astonishing!"* Anna Marshall, Steaves Shirts
- "I use the Internet for everything and it's important to me that it's reliable and as fast as possible as I am running my business from home."* Ellen Halpin-Barnett, Luxury Hampers and Gifts
- "I don't have any worries about the future of my business as I know I have the infrastructure to do what I need to do. I can't imagine trying to run my business without it!"* Tracy Reck, Naturally Exuberant

Appendix B

Reinvestment Options

- **Option 1:** Not to invest the funds into broadband, therefore returning a proportionate percentage (c.35% in respect of contract 1) back to BDUK; noting that when current deployment is complete c.15,000 premises of Worcestershire premises will not have access to at least 24Mbps.
- **Option 2:** Invest, subject to commercial considerations, the remaining funds from the previously allocated £8.5m of Council capital funding (i.e. underspend) and further claw-back monies (positive take-up claw-back) via a fourth procurement to appoint a suitable supplier to model and extend coverage beyond the already contracted fibre infrastructure. Although this option would contribute towards extending the fibre footprint, it would require additional resource and it would be projected, as a result of economies of scale, to be less beneficial.
- **Option 3:** Use one of, or a combination of a number of mechanisms available to the Council to reinvest, subject to commercial and community considerations, part or all of the remaining funds from the previously allocated £8.5m of the Council capital funding (i.e. underspend) and up to £4m of any possible further claw-back monies due to be returned to Worcestershire County Council including:

(a) The existing 'Superfast Worcestershire contract 2 with BT;

(b) The currently underway, phase 3 procurement. This would allow more funds to be modelled at a later date, in addition to the already allocated (in principle) £2.5m from BDUK and ERDF; provision for this has been included within the Invitation to Tender documents;

(c) Alternative 'Connectivity' related projects, including a fourth procurement if deemed the correct approach, to be approved by the relevant Cabinet Member and Director;

(d) 'Local Body Partnerships', where a Community Fibre Partnership Support Fund is set up to complement BT's Community Fibre Partnership scheme with a group of residents or business owners, to find a solution to bring fibre broadband to their area, especially when they are not included in any existing upgrade plans. This usually needs to be jointly funded, where BT covers the costs in line with its commercial model and the community provides the remaining gap funding. Worcestershire's Community Fibre Partnership Support Fund would be designed to match the community's contribution, subject to value for money and up to a maximum agreed amount. This could then be change controlled into the existing contract to allow the programme to benefit from the take-up claw-back.