



CABINET – 23 JUNE 2017

SUPERFAST LEICESTERSHIRE PROGRAMME EXTENSION

REPORT OF THE CHIEF EXECUTIVE

PART A

Purpose of the Report

1. The purpose of this report is to seek the Cabinet's approval for the implementation of, and funding for, a new Phase 3 of the Superfast Leicestershire Programme which will facilitate the delivery of superfast broadband access to the 'final 3%' of properties in the County.

Recommendations

2. It is recommended that:
 - (a) The implementation of the proposed Phase 3 part of the Superfast Leicestershire Programme for broadband extension with a total value of £5.633m, be approved subject to a value for money exercise being undertaken before and following the procurement process;
 - (b) The County Council underwrite £2.461m of the future contractual gainshare clawback funding and underspend expected to be released to the Authority in 2023 as part of the contractual clawback mechanisms contained in the Phase 1 contract with BT;
 - (c) The Chief Executive, following consultation with the Leader of the County Council and the Director of Law and Governance, be authorised to take all actions and/or decisions necessary to give effect to any matter relating to Phase 3 of the Superfast Leicestershire Programme;
 - (d) It be noted that:
 - (i) the district councils will be offered the opportunity to invest in the proposed Phase 3 extension Programme;
 - (ii) OJEU (Official Journal of the European Union) procurement processes will be used in accordance with the Broadband Delivery UK (BDUK) 2016/2017 Procurement Pipeline.

Reasons for Recommendations

3. The County Council has prioritised the continued expansion of superfast broadband provision in rural areas, including within its Strategic Plan and Medium Term Financial Strategy.
4. The proposal to underwrite £2.461m of the future contractual gainshare clawback will stimulate the market and improve the prospect of bids being received for the rollout of superfast broadband to the final 3% of the County which would otherwise remain with access to only slow broadband speeds.
5. Delegated authority to the Chief Executive is sought to facilitate the timely and effective procurement and delivery of Phase 3 of the Programme.
6. To note the opportunity for further investment by district councils, which would attract match funding and enhance the deliverability of the Programme.

Timetable for Decisions (including Scrutiny)

7. It is expected that, subject to the Cabinet's approval of the above recommendations, the contract or contracts with supplier(s) will be completed by Spring 2018 following the necessary consultation and procurement processes, and deployment of Phase 3 should then commence in Summer/Autumn 2018. Where possible, the timeline will be shortened, with the aim of awarding contracts as soon as practicable.

Policy Framework and Previous Decisions

8. The deployment of superfast broadband across Leicestershire is identified as a key priority in the Council's Strategic Plan, the Medium Term Financial Strategy 2017/18 – 2020/21 (MTFS), the Enabling Growth Plan and the Leicester and Leicestershire Enterprise Partnership's Strategic Economic Plan.
9. In January 2012 the Cabinet approved the allocation of up to £4m within the Council's Medium Term Financial Strategy (MTFS) to deploy superfast broadband (Phase 1) and agreed that a submission be made to the Government to increase its allocation to Leicestershire under the BDUK scheme, and that procurement be progressed through the Government's national procurement BDUK Framework.
10. In January 2013 the Cabinet approved the initiation of procurement of the Superfast Leicestershire Programme and for the Authority to enter into Collaboration Agreements with the district councils and City Council.
11. On 15 July 2014 the Cabinet approved the implementation and funding for Phase 2 of the programme (formally known as Superfast Extension Programme).

Resource Implications

12. The total value of the proposed Phase 3 part of the Programme will be £5.633m and the sources of funding for this are as detailed in the table below. Any additional funding provided by district councils would be in addition to this.

Description	Funding Source	Funding
Underspend	Phase 1 contract	£2m
Unused Basic Broadband (Satellite scheme). This scheme is now funded centrally by government.	Phase 1 (infill funding)	£590k
Deployment Acceleration savings (efficiencies achieved through the accelerated implementation of Phase 2)	Phase 2 (project saving)	£82k
Community Project Fund	Phase 2 committed but unallocated funding	£500k
Phase 1 Gainshare Clawback Underwrite	County Council underwrite	£2m
Phase 1 Underspend Underwrite		£461k
Total		£5.633m

13. Phase 3 of the project will be included in the capital programme as part of the refresh of the MTFs for 2018-22. Funding for the scheme will be £3.172m from the existing broadband earmarked fund. This leaves a balance required of £2.4615m which can be funded from the overall balance of earmarked funds as some funds are held over the longer term. When the gainshare clawback and underspend payment is received from BT in 2023 this funding will be returned to the overall balance of earmarked funds. The overall level of earmarked funds are estimated to be c£16m in 2023.
14. The Phase 3 project will have resource implications for the Superfast Leicestershire Project Team which will be reviewed as part of the business planning undertaken in preparation for this part of the project. This is likely to include an increase in current staffing levels for the Broadband Project Team which would be funded through revenue reserves.
15. The Director of Corporate Resources and the Director of Law and Governance have been consulted on the contents of this report.

Circulation under the Local Issues Alert Procedure

16. None.

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PART B

Background

17. The deployment of superfast broadband across Leicestershire is a key strategic priority for the County Council. It is an essential driver for business growth, jobs creation and inward investment for the area. It will help local businesses to innovate and grow, and it will transform public services and ensure residents have improved access to services.
18. The Programme has leveraged significant private sector investment in Leicestershire from its Phase 1 and Phase 2 delivery partner, BT. Commercially, through network providers such as BT, Virgin Media, Gigaclear and others, 81% of the City and County were served with access to superfast broadband by 2013.

Phase 1 and Phase 2 of the Programme

19. In August 2013, the Council signed a £16.9m contract with BT to increase superfast broadband coverage of at least 24Mbps, to over 90% of premises in the County (Phase 1). This was supported by £4m of investment from the County Council, £1.3m from the European Regional Development Fund (ERDF), £3.3m from the Government through Broadband Delivery UK (BDUK) (part of the Department for Culture, Media and Sport (DCMS)), and £8.3m from BT (in capital and operational investment). In February 2014 a variation was made to this contract to incorporate a further £1.1m of district council investment which secured a further £0.6m of investment from BT. This combined investment ensured that, by March 2016, in total, Phase 1 had delivered access to 92% of all properties in the County, with 65,000 homes and businesses directly benefiting.
20. In June 2013 the Government revised its broadband objectives, seeking to deliver superfast broadband to 95% of UK premises by 2017. In order to achieve this, £250m was allocated by BDUK to local authorities, and £5.1m of this was secured by the County Council for both Leicester and Leicestershire. The breakdown was £3.7m for Leicestershire and £1.4m for Leicester City. Local authorities were required to match this investment in order to draw down the secured Government allocation.
21. In March 2015 the Phase 2 contract was awarded to BT but this included only the County element of the planned broadband deployment. The contract was later extended in 2016 to incorporate the City element.
22. Phase 2 of the Programme will be completed in September 2018 and in total, will bring superfast broadband access to over 19,000 properties in the City and County. This means that overall coverage will reach 97% of properties in the area, exceeding the target set by the Government.

Proposals for Phase 3 of the Programme

23. When the Phase 2 deployment is complete, there will remain a 'final 3%' of the County which will not have access to superfast broadband speeds. This represents around 13,000 properties which are in general located in the most difficult to reach rural areas. Whilst the Phase 3 Open Market Review process will identify any new commercial builds in these areas, it is clear that there is a market failure which requires further public intervention.

Procurement

24. Phase 1 and Phase 2 contracts were awarded through the national procurement Framework established by BDUK which is no longer in place. The Authority must therefore follow the usual OJEU procurement processes for Phase 3 and this will begin in July 2017 with a view to contract(s) being signed in February/March 2018.
25. Discussions will be held with suppliers during the procurement process to explore how deployment can be accelerated. The successful supplier will have a project initiation phase including network design and planning that will need to be completed before any actual physical build and delivery. This could further affect the delivery timetable.

Funding

26. It is proposed that the funding for Phase 3 of the Programme will come, in part, from underspend during Phase 1 of the project which was achieved through BT delivery optimisation and robust assurance and project management from the Council's Broadband Team (£2.461m). £2m of this is in the Council's reserves; £461k has been placed in an Investment Fund to be held by BT until 2023.
27. Funding currently committed, but unallocated as part of Phase 2 of the project (£500,000) will also be reallocated to this Phase of the project. £590,000 and £82,000 from Phase 1 and 2 respectively is also available for reinvestment.
28. In addition it is recommended that the Council underwrite £2m of the money it expects to receive under contractual gainshare clawback mechanisms included within the contract with BT for Phase 1 of the Programme and the £461k of Phase 1 underspend that has been placed in the Investment Fund (referred to above).
29. The Phase 1 and Phase 2 Superfast Leicestershire contracts included contractual gainshare clawback mechanisms which provide for the return of funding by the programme supplier (BT) to the Authority when take-up of the new broadband service with that supplier exceeds projected rates. In essence this enables the return of public funds to the Authority when revenue generated from the programme surpasses projected levels.

30. The terms of the contracts stipulate that gainshare accrues once take-up surpasses set contractual rates and is held in an Investment Fund by the supplier for seven years after the deployment stage of the contract ends (i.e. for Phase 1 this will be July 2023).
31. In respect of Phase 1, the Council together with BDUK have calculated the amount of gainshare clawback that is likely to be available in the Investment Fund and based on current take-up of fibre broadband services delivered through Phase 1, it is expected that the fund will accrue an estimated £4.5 to £5m. This is based on conservative estimates which do not account for the continuing growth in take-up over the next six years. (It is too early to assess the gainshare clawback funding that is likely to accrue from Phase 2 of the project.)
32. It is proposed that £2m of this funding, as well as £461,000 of Phase 1 underspend held in the Investment Fund, be underwritten by the County Council so that superfast broadband delivery within the proposed Phase 3 project can be maximised now, rather than waiting until these funds are returned in 2023.
33. All district councils will be given the opportunity to invest in the proposed Phase 3 project. In 2014 and 2015 BDUK confirmed that it would provide full match funding up to £1.5m if further local funding was secured. This match offer has not been formally withdrawn and it is expected that BDUK will honour previous commitments to match any new funding made available by local councils.
34. Implementation of Phase 3 will be subject to value for money assessments that will take place before and after the procurement process. These will include evaluation of the cost per property. Given the limited number of potential suppliers and the rurality of the remaining areas, there is a potential risk that the procurement may not secure a viable delivery partner. It is highly unlikely that all remaining 13,000 properties would be covered by the investment proposed.

Economic Benefits

35. It is generally accepted that access to superfast broadband provides a dramatic financial benefit to the country supporting economic growth and local businesses and this is particularly so for those in rural areas. The Department for Rural Affairs has noted that "*[Superfast broadband] can dramatically level the playing field for rural businesses, giving them access to a huge range of new services and allowing them to cut costs, improving efficiency and offer a better service to customers*".
36. Due to market failure it is clear that without Phase 3, around 13,000 properties will remain without access to superfast broadband, and whilst the project will not reach all of these properties, it will ensure that many more homes and businesses enjoy the economic benefits of improved productivity and

competitiveness that are enjoyed by businesses located elsewhere in the City and the County.

Background Papers

Report to the Cabinet on 13 September 2011 - Funding for families with complex needs and other programmes

[http://politics.leics.gov.uk/Published/C00000135/M00003127/AI00029172/\\$HFamilieswithComplexNeeds.doc.pdf](http://politics.leics.gov.uk/Published/C00000135/M00003127/AI00029172/$HFamilieswithComplexNeeds.doc.pdf)

Report to the Cabinet on 17 January 2012 – Broadband Leicestershire Programme

[http://politics.leics.gov.uk/Published/C00000135/M00003491/AI00030112/\\$Fbroadbandleicestershireprogramme.doc.pdf](http://politics.leics.gov.uk/Published/C00000135/M00003491/AI00030112/$Fbroadbandleicestershireprogramme.doc.pdf)

Report to the Cabinet on 16 January 2013 – Broadband Leicestershire Programme

[http://politics.leics.gov.uk/Published/C00000135/M00003628/AI00033437/\\$FbroadbandLeicestershireprogramme.doc.pdf](http://politics.leics.gov.uk/Published/C00000135/M00003628/AI00033437/$FbroadbandLeicestershireprogramme.doc.pdf)

Report to the Cabinet – Broadband Leicestershire Programme

<http://politics.leics.gov.uk/documents/s94400/10%20Broadband%20superfast%20extension.pdf>

Relevant Impact Assessments

Equality and Human Rights Implications

37. The deployment of improved broadband connectivity will help ensure all Leicestershire residents and businesses have access to a range of online digital services. A full Equality and Human Rights Impact Assessment (EHRIA) will be considered in accordance with County Council's Equality, Diversity and Human Rights Strategy.