

WRITTEN STATEMENT OF A KEY DECISION CABINET

ITEM:	BORDERS BROADBAND CONTRACT AWARD AND PARTNERSHIP AGREEMENT
Members Present:	Councillors: JG Jarvis (Leader), H Bramer, RB Hamilton, PM Morgan, GJ Powell, PD Price (Deputy Leader)
Date of Decision:	13 September 2012
Exempt:	No
Confidential	No
<p>This is a key decision because</p> <p>It is likely to be significant in terms of its effects on-</p> <p>Two or more Wards or electoral divisions;</p> <p>One Ward (unless the number of those affected is very small or it is impractical to treat this as a key decision).</p>	
<p>The item was included in the Forward Plan AND notice was served in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012</p>	
Urgency/Special Urgency: (As defined in Constitution)	Yes
Purpose:	The purpose of this report is to seek agreement to conduct final negotiations for the delivery of improved Broadband infrastructure; and in so doing authorise Herefordshire Council's financial contribution to the project and to progress the terms of a Partnership Agreement between Herefordshire Council and Gloucestershire County Council to oversee the delivery of the Borders Broadband project.
Decision:	<p>THAT:</p> <p>(a) Herefordshire Council's capital contribution to the project be increased to £10,100,000 (from current allocation of £6m) to match fund BDUK's contribution to the deployment of broadband to Herefordshire premises through the proposed contract with the Bidder and via a bursary scheme to the value of £350,000 as part of the match funding required by BDUK;</p> <p>(b) Cabinet note the terms of contract negotiated to date, the risks identified in this and the exempt report and the outstanding contractual issues;</p> <p>(c) The Director for Places and Communities in consultation with the Cabinet Member for</p>

	<p>Education and Infrastructure and the statutory officers be authorised to conclude a contract with the remaining Bidder SUBJECT TO</p> <ul style="list-style-type: none"> (i) the agreement of Gloucestershire County Council certified in writing by its Chief Executive; (ii) this being satisfied that the mitigation of the outstanding risks as identified in this report are the best that can reasonably be achieved; (iii) the deal represents value for money, having particular regard to the payment mechanism controls and premises cap referred to in these reports; (iv) the conclusion of a suitable partnership agreement with Gloucestershire County Council; <p>(d) The Director for Places and Communities be authorised to negotiate and conclude a partnership agreement with Gloucestershire County Council for the governance of the project, the terms of which are to be subject to the approval of the Statutory Officers;</p> <p>(e) Cabinet note the content of the accompanying exempt report.</p>
<p>Reasons for the Decision:</p>	<p>A detailed open procurement process using the Competitive Dialogue Procedure has been pursued which has resulted in only one viable Bidder. The offer from the remaining Bidder contains what they have assessed as their most cost effective coverage model considering Herefordshire’s demographics, settlement pattern, existing infrastructure footprint and geography.</p> <p>It is recommended that negotiations continue to a conclusion to ensure that value for money is achieved and that the risk of reduced NGA coverage in deeply rural areas is mitigated.</p> <p>A more detailed summary, financial, legal and risk analysis is contained in the accompanying exempt report containing commercially confidential information supplied by the Bidder.</p>
<p>Options Considered:</p>	<p>Options for contract award - to reject the offer made by the Bidder.</p> <p>If this option were taken there are three alternative courses of action.</p> <ul style="list-style-type: none"> • The Authority could look to procure a solution under the recently agreed national framework. However, it is highly

	<p>unlikely that this would result in a better deal for Herefordshire. The only alternative Bidder on the framework has already withdrawn from the Borders Broadband procurement for commercial reasons.</p> <ul style="list-style-type: none"> • The Authority could decide not to pursue a contract at this time with the Bidder, waiting for commercial NGA deployment to occur in the market towns (timescale unknown) and piecemeal development by wireless / satellite providers delivering USC to rural areas. If this course of action is pursued the county would not receive the BDUK financial support. • The Authority could re-run the procurement based on a different type of project e.g. subsidised wireless to deliver USC to areas where USC speeds cannot be accessed. This would not be considered an NGA deployment by the EU and as such would not be State Aid compliant as an investment into NGA due to issues of scale and open access. As a result, the BDUK funding would be withdrawn.
Declaration of Interest:	None
Date the key decision is due to take effect:	13 September 2012

COUNCILLOR JG JARVISDate: 13 September 2012
LEADER OF THE COUNCIL

This item is not subject to call-in.