

Written statement of a key decision
Cabinet member economy and communication

Title	Fastershire Broadband Contract Change 2019
Decision maker	Cabinet member economy and communication Information about cabinet, including the names and contact details of the cabinet members, can be found here: http://councillors.herefordshire.gov.uk/mgCommitteeDetails.aspx?ID=251
Date of decision	7 March 2019
Report exemption class	Open
Reason for being a key decision	<p>This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.</p> <p>This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.</p>
A notice was served in accordance with Part 3 (Key decisions) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.	
General exception or special urgency (as defined in the constitution)	No
Purpose	<p>To review and agree recommended changes to the broadband delivery contracts with Gigaclear taking note of change of deployment, premises details, time line and costs.</p> <p>The decision is to alter the council's existing contracts with Gigaclear to expand their scope both in terms of the level of public subsidy (£1.975m) and the number of eligible premises that would be reached with full fibre broadband. Agreeing this change would leverage no less than £1.85m private sector investment, see an extra c.700 premises becoming capable of accessing superfast broadband for the first time and c. 3,500 premises upgraded to full fibre across Herefordshire and Gloucestershire.</p>

	<p>The decision will also mean altering the delivery plan to accommodate slippage on the current programme and the new delivery, extending the ultimate completion date from March 2020 to March 2022. In order to mitigate the impact of any future changes to the timelines, a series of communications process improvements are also recommended.</p> <p>In relation to recommendation (b) any approved schedule must ensure that the network/s that have been introduced or expanded to include the area around Newland must be complete by June 2020. This is in order to utilise the European Agricultural Fund for Rural Development (EAFRD) funding made available for what had been designated as Cluster G8.</p> <p>The change will also alter the Fastershire vision recognising the extended contract time scale and on-going deployment of superfast and full fibre broadband.</p>
Decision	<p>That:</p> <p>(a) Agree the Gigaclear contract change request subject to state aid approval, based on:</p> <ul style="list-style-type: none"> • Making an additional public subsidy of up to 10% of the original contract value (£1.86m) available from the existing capital allocation to leverage a minimum £1.85m extra private sector investment in order to extend the full fibre broadband network to no less than 4,663 extra premises of which at least 679 premises do not currently receive superfast broadband • Extending the contract with Gigaclear from March 2020 to March 2022 • Embedding a new communication protocol outlined in paragraph 18 into the contract change • Ensuring that ‘community 215’ covering premises in Newland (Gloucestershire) is delivered by the end of June 2020; <p>(b) The contract changes are only agreed based on the 25% milestone for Lot 3d being claimed before April 2019;</p> <p>(c) Approve revised Fastershire Vision as set out in para 19; and</p> <p>(d) The Assistant Director Corporate Support be authorised to take all operational decisions necessary to implement the above recommendations including, following consultation with the chief finance officer, agreement of a revised project finance model.</p>

Reason for the decision	<p>As set out in the report. Documents relating to this decision are available at</p> <p>http://councillors.herefordshire.gov.uk/mglIssueHistoryHome.aspx?Ild=50028955</p>
Options considered	<ol style="list-style-type: none"> 1. The council could opt to reject the change request, including the extended timescale proposed by Gigaclear. However, as a number of milestones have already been missed, without approving a change in the timescales as a minimum, the council would need to notify Gigaclear of contractual default. With no remedy available for the loss of time to date, this could only result in placing Gigaclear in breach of the contract. The council could seek to use its rights under the step in clause of the contract to procure an alternate contractor to complete the contract and charge Gigaclear the cost. Alternatively, the council could decide to cancel the contract. However, while the Council wouldn't have to pay any funding to Gigaclear as a result (regardless of the extensive delivery that has been achieved so far) it is unlikely that a similar quality of service could then be procured from any other supplier. These courses of action would clearly restrict the Council's ability to achieve its vision for superfast broadband access, therefore both options were rejected. 2. The Council could also opt to alter the milestone dates and end date but not to expand the scope in terms of additional coverage and subsidy. This would marginally improve the delivery timescales of the original areas. The Council could instead seek to use the residual funding a different way for instance via an expanded grant scheme or new procurement. However, while useful for resolving bespoke issues, grant schemes are not the most efficient tool through which to achieve extensive broadband coverage due to the excessive cost of bespoke solutions. Moreover, the nature of telecommunication contract including following OJEU procurement requirements are technically difficult and lengthy and therefore should not be entered into lightly. Also, the latest OJEU process for the clusters demonstrated that there is a limit to the appetite of suppliers to enter into contracts to tackle an ever decreasing and dispersed set of properties. Therefore, extending the contract is deemed to be an efficient way to secure additional coverage and as such this option was rejected.
Declarations of interest (see below)	
Call-in expiry date (decisions are not subject to call-in where special urgency provisions apply)	13 March 2019

Councillor:

Date 7 March 2019

Cabinet member economy and communication
(Councillor DG Harlow)

- a record of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision;

and

- in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.