

Decision maker:	Cabinet member environment, economy and skills
Decision date:	14 November 2019
Title of report:	Fastershire Broadband Strategy 2019-2022
Report by:	Operational Manager

Classification

Open

Decision type

Key

This is a key decision because it will affect communities living or working in an area comprising one or more wards in the county. The decision will also involve up to £12m of Fastershire's residual funding being made available to communities residing in the final 3-4% enabling them to access high speed broadband.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Wards affected

(All Wards);

Purpose and summary

To approve the latest iteration of the Fastershire Broadband Strategy which will direct the approaches available to the Fastershire project to drive the deployment of high-speed broadband infrastructure throughout Herefordshire and Gloucestershire through to 2022. The Strategy introduces a new Stage (Stage 5) which proposes the establishment of a Grant available to communities that remain outside of any current plan to be upgraded to superfast broadband. The grant will utilise a Dynamic Purchasing System to identify the best value supplier of services and will be offered on a first come first served basis.

The Fastershire project is a partnership between Herefordshire Council, Gloucestershire County and national government to provide a fibre broadband network where commercial companies would not use their own investment. For Herefordshire, from a starting point in 2012 of 0.6% premises with access to superfast broadband, coverage now stands at 90%. The revised strategy aims to continue to increase the coverage through delivery of existing contracts along

with a new grant scheme to communities introduced in 2020. Commercial providers will also be operating their own schemes which will add to the superfast and ultrafast coverage.

Recommendation(s)

That:

- (a) the Fastershire Broadband Strategy 2019-22 at appendix 1 be agreed;**
- (b) the criteria for Fastershire Community Broadband Grant are agreed (paragraphs 21-27); and**
- (c) the Assistant Director Corporate Support be authorised to take all operational decisions necessary to implement the grants scheme and award grants up to a maximum of £500,000 in accordance with agreed criteria and available funds.**

Alternative options

1. That the broadband strategy is not agreed. This is not recommended as there would be a policy vacuum in a high profile area that remains of critical importance to many residents and businesses, along with being included in the new corporate plan in its draft form.
2. There is focus on Gigabit Capable deployment only from this point onwards. The strategy could seek to apply this to all premises. It is not recommended that this applies to premises that already have a 30Mbps capability. This approach would have severe state aid implications and would see areas with good capability upgraded before those that are in desperate need. Instead, every opportunity will be taken to deploy full-fibre or other Gbps capable technology to those premises which currently cannot achieve superfast.
3. The council could elect to stop working on improving broadband access beyond the end of the current contracts. This is not recommended as despite predicted coverage of 96% at the end of the current contracts in Herefordshire premises will remain that have limited access to reasonable broadband speeds. While the 10Mbps Universal Service Obligation will go some way to meet the gap, there is no indication of time scales and 10Mbps will soon be seen to be inadequate. Therefore, this approach is not recommended as there is no guarantee that remaining premises will be reached.

Key considerations

4. Herefordshire Council and Gloucestershire County Council are in a formal agreement to jointly contract deployment of a fibre broadband network across the two county areas. This is delivered through the Fastershire project with Herefordshire Council as the delivery partner through an equally funded team. This report will primarily address issues affecting Herefordshire, though the strategy itself covers the two counties.
5. The programme to date has provided Gap Funding to commercial providers to invest in areas they would otherwise not deploy to because of the limited return on investment. This is particularly relevant to rural areas that are costly to reach because of premises being spread out across the county and the limited existing infrastructure onto which a network could be built. The Gap Funding provides the incentive to invest, in effect a subsidy. The network is owned by the commercial company but has to be open to other retail providers to offer services to residents and businesses.

6. The providers have and will continue to invest in areas they consider “commercially viable”. The council regularly requests information on commercial intent via an Open Market Review (OMR) and use this information to assess where to invest public subsidy. Information gathered from OMRs is used for state aid purposes (legally public funds cannot be used where private sector investment is already taking place).
7. The project manages a base-line of all serviceable premises in the county and what degree of access that can (or soon will) be achieved by that property via commercial provision and / or the subsidised contracts. This process has some inherent difficulties however. For instance, information shared by commercial providers can be incomplete or inaccurate, property addresses change or differ between data holders, new premises are built, others demolished, segmented or consolidated. Also, providers have and will change their commercial plans over the course of time, which can lead to premises falling out of existing plans.
8. For Herefordshire the main commercial deployment by BT took place in parts of Hereford, Leominster and Ledbury.
9. Building Digital (Broadband Delivery) UK (BDUK) is an arm of the Department of Culture, Media and Sport, and as part of national government share the ambition with the councils in creating a high speed broadband network. BDUK therefore match fund deployment in local authority areas.
10. The first Fastershire contract was awarded to BT in 2012 as the only final bidder. In 2012 Herefordshire only had 0.6% of premises with superfast broadband of 30Mbps and above (one of the lowest start points in the country). By the end of this contract in 2017 87% of premises had access to superfast broadband.
11. BT uses two technologies. FTTC (fibre to the cabinet) which is partly reliant on copper telephone lines connecting properties to a green BT cabinet where they meet the fibre. This technology can provide up to 80Mbps but the speed capability decreases with distance. The other technology is FTTP (fibre to the premise) – this had to be used to a higher degree in the county due to its rural geography and lack of infrastructure. This allows a direct fibre link to the home which provides up to 330Mbps but is expensive and time consuming to deliver compared to FTTC.
12. The contract was divided into milestone areas to ensure that rural areas were not left to the end and potentially dropped from the programme. Overall BT over delivered the number of premises in the contract, but marginally under delivered in certain milestone areas leading to a compensation value which can be reinvested in the network.
13. Gigaclear was first contracted by Fastershire in 2015 to deliver in the Cotswold area and then again in 2017 to deliver a far wider area across the two councils ([cabinet member decision](#)).
14. These contracts were a result of delivering the 2014 Fastershire Broadband Strategy (ref decision notice: 10 June 2014). This iteration of the strategy introduced different stages of the project, to extend access to superfast broadband to well over 90%. However, it was always understood that this would not achieve 100% coverage.
15. As well as the major contracts with Gigaclear, smaller contracts have been issued to BT to infill parts of Hereford which were not covered by commercial deployment. Also, a contract to Airband for a “cluster” programme using European Agricultural Fund for Rural

Development (EAFRD) funding to reach rural areas that were not yet covered by any existing contract.

2019-2022 Strategy

16. The changes between the existing Fastershire Broadband Strategy and the new version are summarised in the table below.

Stage	FBS 2015-18	FBS 2019-22
1	Commercial Deployment	Commercial Deployment (Superfast & Full Fibre)
2	Fastershire-wide contract using Gap Funding provided by Fastershire	Continue Fastershire-wide contract using Gap Funding provided by Fastershire
3	Regional Lot contracts using Gap Funding provided by Fastershire	Regional Lot contracts using Gap Funding provided by Fastershire including 10% uplift
4	Contract Changes Small Cluster Contracts Business Grants	Small Cluster contracts using Gap Funding provided by Fastershire including 10% uplift
5	N/A	Fastershire Community Broadband Grant and bespoke grant schemes

17. Considerable in-roads have been made in the deployment of superfast and full fibre broadband. Simply managing out the current contracts will make Herefordshire one of the most fibre rich rural areas in the country with over 50% of rural premises being able to access a Gigabit connection.
18. The 2019-22 strategy (appendix 1) outlines the next stages of broadband deployment. The timing is important as the industry is undergoing a step-change nationally with an increased appetite to reinvest in areas to bring full fibre broadband to communities across the UK. The National Broadband Scheme 2016 has come to the end of its life and there can be no further supply side procurements until BDUK negotiate a new state aid regime which is unlikely to be in place until well into 2021. For Herefordshire, the strategy period 2019-22 will be a unique time when the county will be one if not the most digitally connected areas in the UK. There will be considerable potential to promote the county on the back of this.
19. To reflect a development and evolution of the Fastershire programme the revised vision is: **Fastershire will enable all residents and businesses in Herefordshire and Gloucestershire to access the connectivity they need and encourage people to use faster broadband to do more online, boost business growth and achieve their potential.**
20. This strategy also includes the following objectives:
- Coverage** – to continue to increase superfast broadband coverage across two counties through a mixture of contracts and grants, opting for Gbps capable or full-fibre broadband where value for money allows.
- Inclusion** – to support residents and businesses to make the most of the broadband network through skills training, awareness raising and enabling community led schemes.

Innovation – to continuously drive innovation in addressing the ambitions of broadband coverage in working with partners, funders, suppliers and the community.

Monitoring – to ensure the maximum results from the work of suppliers by monitoring the contracts and driving value for money in deployments.

Partnerships – to productively work with suppliers, parish and town councils on effective communications, with council departments to co-ordinate the approach to deployment, and planning authorities to ensure new premises have broadband connectivity.

21. Whilst the previous phases of deployment will continue and overlap, a new stage 5 is outlined in the strategy. This stage will use the bulk of the predicted £12m residual funding to offer Fastershire Community Broadband Grants on a first come first served basis to aggregated groups of those premises in both counties which are either not commercially covered or in one of Fastershire's existing contracts. This will be available for use with a pre-procured set of suppliers managed on a Dynamic Purchasing System (DPS) which itself will be procured through Herefordshire Council in the new year.
22. To qualify for the grant, individual properties must be both incapable of accessing 30Mbps+ broadband and not covered by one of Fastershire's existing contracts. Aggregated groups of properties will use the Herefordshire Council managed DPS to identify the costs of providing Gbps capable services from a range of suppliers.
23. Value for Money will be determined largely by the market competition with grant beneficiaries required to accept the most economically advantageous offer.
24. Each community will be very different with some sparsely dispersed others concentrated, many being some distance from existing network others close by. This makes it very hard to arrive at an arbitrary value at which an investment can be determined to be value for money. Nevertheless, the following calculation will be used by the Fastershire Team to provide a degree of comfort (in particular in case there is a single bidder scenario) that public funding is being utilised responsibly.

Total cost to the community / the participating STD premises = Individual Grant Value

25. If the Individual Grant Value is less than £5k, the Grants will be approved. If it exceeds this value, the total number of non participating STD premises covered incidentally by the project will be accounted for in the calculation as follows;

Total cost to the community / (the participating STD premises + non participating STD premises covered as a consequence of the project) = £Secondary test Individual Grant Value.

26. If the secondary test individual grant value is less than £5k, the Grants will be approved. If it continues to exceed this value the solution footprint will be accounted for in the calculation as follows;

(£Secondary test Individual Grant Value / Km2 of the solution footprint) x 0.1 = Third test score.

27. If the third test score is lower than 100, the Grants will be approved otherwise they will be rejected.
28. The Assistant Director Corporate Support will consider each project against the criteria set out above. No individual project will exceed £500,000 in grant funding with most considerably below this threshold.
29. The below table give an outline of deployment activity between 2019-22:

Stage	Title	Activities to 2022
1	Commercial Delivery	Work with commercial providers to use their own investment to populate the counties with full fibre broadband connectivity. Encourage commercial expansion in the market towns specifically by exploiting the fibre backhaul in situ as a result of the Fastershire contracts. Encourage the local planning authorities to adopt innovations in planning policy as they relate to full fibre provisioning of new development sites and support communications providers in their interactions with the local authorities.
2	Fastershire-wide Contract	Promotion of the existing broadband delivery enabled through Fastershire contract (via BT). Extract funds from those contracts through “clawback” for reinvestment.
3	Regional Contracts	Manage the Gigaclear full-fibre rural contracts to their successful conclusion having maximised the opportunities to generate the greatest possible coverage. Conclude the BT urban contracts and explore opportunities to use the contracts as vehicles to stimulate additional full-fibre investment.
4	Small Cluster Contracts	Manage the Airband FTTP contracts to their successful conclusion having maximised the opportunities to generate the greatest possible coverage.
5	Community and Business Grants	Launch Fastershire Community Broadband Grant managed through a “Dynamic Purchasing System” in which localities are funded to pay for Gbps capable infrastructure to be provided to their locality. Launch Phase 2 of the Marches and Gloucestershire Business Grant (MGBG) helping individual and groups of businesses to procure the digital connection services they need and use the grant to stimulate incidental Full Fibre build.

Community impact

30. The Fastershire project aims to improve the opportunities for citizens across the two counties to make use of digital connectivity where supporting education and learning, accessing services, enhancing employment opportunities, supporting preventative health or addressing well-being by tackling isolation. Connectivity also has a key role in the sustainability of communities by helping rurally based businesses to be viable and competitive as well as ensuring people living in rural communities have access to the same broadband services as those in more populated areas.
31. Geographically, commercial providers have tended to use their own investment to provide a superfast broadband network to more populated areas of cities and market towns. However, with the project supporting competition in the market and creating a fibre backhaul there is more opportunity for a range of private sector providers to invest in market towns and cities creating full-fibre connectivity for business, residents, schools and other premises.
32. Herefordshire Council’s corporate plan includes the priority of supporting the growth of the county’s economy. In addition to increasing the number of premises with the potential to access superfast broadband services, improved connectivity will assist with delivery of other activity including accessing services effectively, reducing the need to travel and therefore lowering the carbon footprint, and supporting wellbeing.
33. The introduction of the Fastershire Community Broadband Grant will put more control in the hands of communities. It will not financially cost the community though proactive efforts will be needed to access the funds. Stage 5 of the strategy will target resource to areas that are likely to be hard to reach (because of geography or lack of infrastructure).

Equality duty

34. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
35. The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine 'protected characteristics' (age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have 'due regard' to the public sector equality duty when taking any decisions on service changes.
36. There is considered to be no detrimental effect on protected characteristics, with the deployment of broadband aiming to create equality between people to have the same benefits as others. Office of National Statistics shows that 93% of people in Herefordshire have accessed the internet in the last few months. This leaves c10,000 not using the internet who are likely to be a high proportion of older people.
37. Digital exclusion is an issue where some people do not have access to digital service and opportunities. Below are some of the common barriers to digital inclusion and the council's mitigation:

Barriers	Mitigation
Access – the availability of broadband	The network coverage with public sector investment and commercial organisations making the purchase of a faster broadband connection possible.
Cost – being able to afford hardware and cost of connection	Free wifi at libraries, some council sites (in plan) and Hereford City. PC's also at libraries available for free use.
Skills and knowledge -	Fastershire training events and community grants, and promotion of Fastershire to raise awareness of the opportunity to take up a broadband service.

Resource implications

38. The table below provides a high level view of the budgets that are likely to be available to Fastershire in Herefordshire for new yet to be contracted activity during the course of this strategy period. There may be a degree of variability as the exact value of clawback will be determined by the level of take up experienced in each of the contracts. This

reinforces the need to continue to escalate efforts to encourage greater adoption of the networks that have received gap funding subsidy to date in order to maximise the funding available for reinvestment.

	Residual £	New Funding £
BDUK	506,075	0
Herefordshire Council	3,328,363	4,500,000
ERDF Herefordshire	£0	271,122
Total	3,834,438	4,771,122

39. This summary budget does not require any additional commitment from either council. The values are drawn from residual funding which is already ring-fenced for the pursuit of broadband and committed as match funding against already spent BDUK funding, anticipated claw back and new EU funded grant extensions.
40. c. £12m (the total available across both counties) is a substantial amount of funding. However, it is worth noting that, given the c. 13,500 premises that will remain unserved at the conclusion of the existing contracts, it equates to a little over £1k per property and therefore is unlikely to be enough to resolve the residual coverage gap in its entirety.
41. The revenue cost to operate the team is shared between Herefordshire Council and Gloucestershire County Council covering staffing, legal fees and marketing. Herefordshire also has revenue for digital inclusion such as training, community grants, business advisors and business grants.

Legal implications

42. Broadband delivery is not a statutory function of the council, but the general power of competence is available under the Localism Act 2011 to enable the council to conduct the project as set out in this report.
43. The procurement process and contracts that will result from this project have been delivered in line with OJEU procurement requirements, BDUK requirements and the council's contractual procurement rules.
44. State aid is also a key consideration in this project as public subsidy is being given to the telecommunications industry. The European Union state aid rules are designed to ensure that any use of public funding is targeted at areas of market failure and ensuring positive market outcomes while minimising any distortion to competition. In the context of broadband, the state aid rules require using public funding only to extend broadband coverage in geographic areas where there is no current or planned (next three years) provision of superfast broadband. External legal advisers have confirmed that the proposed arrangements for the latest iteration of the Fastershire Broadband Strategy are compliant with State Aid law.
45. In terms of the grant itself, formal grant funding agreements will be issued to the owners / tenants of the participating properties. These will include a range of conditions and only once these have been signed by the required number of beneficiaries will funds be ring-fenced to the individual project. Additionally, by joining the DPS, the qualifying suppliers will also be agreeing to a range of conditions that are designed to reduce any risk to the council.

Risk management

46. The risk of the recommendations are outlined below:

Risk / opportunity	Mitigation
Remaining gaps in coverage – that despite intervention from the councils there still remain premises that cannot access a broadband service.	This is a recognisable risk as some premises may be so remote they cost a disproportionate amount of money to reach (see below).
Poor Grant Take up – That communities do not engage with the stage 5 grants leaving residual budget and continued gaps in coverage.	Significant communications activity will accompany the deployment of stage 5. Fastershire will also proactively identify compatible localities and instigate activity in those areas.
Value for money – that to reach some premises will cost such a disproportionate amount that raises the question of value for money.	A structures VFM test has been built into the Fastershire Community Broadband Grant approval process.
Adoption – with all the investment there is limited take up of the services meaning a lost opportunity from being a digitally connected county.	Whilst the council provides the broadband network, the business or resident still needs to proactively take up and pay for a service. The mitigation is to promote the availability of the network and demonstrate the value.
Change of national policy – that the new policy becomes irrelevant in light of national government policy.	Until there is a formal change in national policy the council will work towards the agreed local approach which is currently supported by national government.

Consultees

47. Gloucestershire County Council is in agreement with the approach.
48. Ashfords as providers of legal advice for this project have been consulted on the Stage 5 approach and its fit with the state aid regime. They concluded that the approach was consistent and appropriate.
49. BDUK have been consulted on the approach. They are seeking to establish their own DPS in a similar vein but this will only be open to communities with public buildings which for the most part have already been covered in Herefordshire and Gloucestershire. They have agreed to share documentation to aid consistency between the two schemes.
50. Political group consultation was conducted as part of the decision making process. No comments were received regarding the content of the strategy.

Appendices

Appendix 1: Fastershire Broadband Strategy 2019-22

Background papers

None identified.

Please note, a glossary of terms can be found within Appendix 1.