

DECISION MAKER:	Cabinet
DECISION DATE:	3 December 2015
TITLE OF REPORT:	Fastershire Broadband Strategy Revision
REPORT BY:	Assistant director, communities

Classification

Open

Key Decision

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 to which the decision relates and it is likely to be significant in terms of its effect on communities living or working in an area comprising one or more wards in the county.

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

County-wide.

Purpose

To consider further phases of the delivery of high speed broadband across Herefordshire.

Recommendations

THAT, in agreement with Gloucestershire County Council,

- (a) the revised Fastershire Broadband Strategy 2014-18 attached at appendix 1 to this report is adopted;**
- (b) the procurement of Lot 2 covering the Golden Valley and the Forest of Dean commence in January 2016; and**
- (c) authority be delegated to the director for economy, communities and corporate following consultation with the cabinet member for economy and corporate services, to award the Lot 2 contract within the financial envelope set out in paragraph 33 of this report.**

Alternative options

- 1 The original Fastershire Broadband Strategy published and approved in June 2014 remains in place without adjustment; this is not recommended given the recent market changes and progress to date in delivery.

- 2 That an extended contract is awarded BT to reduce procurement costs. This is not recommended as does not provide comparative costs of deployment and terms from a single provider could prove non-advantageous for the local authority and community.
- 3 Cease investment in future broadband network leaving the commercial market to address shortfall in coverage. This is not recommended as based on the returns of the Open Market Review conducted in 2014 there is a high risk that without public subsidy the remaining rural areas will not be covered by commercial providers.
- 4 Reduce the level of funding by the local authority. The cost of deployment will be tested through procurements when providers supply actual costs – the actual funding required will be known in more detail at that stage. BDUK have made available up to £5.52m for Herefordshire as part of their Superfast Extension Programme (SEP) which can be released if matched 50:50 by locally sourced funding (see finance section).
- 5 Increase the level of funding by the local authority. This is not currently recommended given the need to ensure only non-commercial services receive public subsidy and to maximise the benefit of match funding opportunities.
- 6 That the local authority withdraws its involvement, including finance, in broadband delivery leaving the Government to meet its recently stated obligation of 10Mbps for every premise by 2020. This is not recommended as based on timescale and speeds presents a poor offer for residents and businesses in Herefordshire that have yet to access superfast broadband, with no confirmation over how the obligation will be achieved as subject to future consultation.

Reasons for recommendations

- 7 The Fastershire Broadband Strategy 2014-18 was adopted by Herefordshire Council on 10 June 2014. Since then there have been changes to the planned delivery schedule and overall market which require amendments to the strategy to ensure it remains robust.
- 8 To agree arrangements for the procurement of Lot 2, undertaken in accordance with the council's contract procedure rules.

Key considerations

Delivery to date

- 9 Herefordshire Council is in partnership with Gloucestershire County Council to improve the broadband network across the two counties to enable businesses, communities and individual households to benefit from faster broadband. The programme is managed through the Fastershire project with a contract awarded to BT in 2012 to conduct the current phase. The contract is worth £35.42m and covers both counties.
- 10 The public subsidy, consisting of national and local government funding, is used to fund the gap between the capital costs of fibre network and the likely commercial returns.
- 11 The emphasis of the programme in Herefordshire and Gloucestershire has always been to extend the reach of high speed broadband into rural areas. Broadband is a key priority for the business sector in supporting economic growth; as well as aiding access to services; a benefit to schools and education to make the most of on-line

learning tools and supporting digital skills fit for the future; and increasingly being used to aid health prevention and well-being e.g. addressing isolation.

- 12 14 milestone areas were created across the two counties (7 areas in each county) with targets and timescales applied to each area as set by BT. The milestone areas were designed specifically to ensure that both difficult to reach rural areas and easier to reach more populated areas were delivered in tandem.
- 13 Based on BT's modelled output, between 85-90% of premises in Herefordshire should have access to fibre broadband by the end of 2016. This figure comprises of BT's own commercial deployment and the Fastershire intervention area. The intervention area was created through an Open Market Review in 2011 to establish areas not planned for commercial investment – therefore eligible for public subsidy. This intervention area needed to be agreed by the National Competency Centre to qualify for State Aid under EU regulations.
- 14 BT's Best and Final Offer (BAFO), on which the contract was based, 77.8% of premises in the intervention area for Herefordshire will be able to access next generation access (NGA) of download speeds of 30Mbps and above – this represents 35,424 out of 45,532 premises within the area. BT have used two types of technology to deploy fibre broadband, namely FTTC (fibre to the cabinet) and FTTP (fibre to the premise).
- 15 In addition every premise in the intervention area to have, as a minimum, access to the Government's Universal Service Commitment (USC) of >2Mbps. This is due to be delivered via fibre coverage, existing asymmetric digital subscriber line (ADSL) lines, or a satellite offer.
- 16 This stage of the deployment is due to finish in December 2016 for Herefordshire, and December 2015 for Gloucestershire (with allowance for tolerable variance that will move to March 2016). At the end of the build period BT have 3 months to complete final reports. This will be important in understanding the residual premises that cannot access high speed broadband at the end of the BT contract.
- 17 To date BT have completed over 50% of the current phase with superfast broadband.

Revised Fastershire Broadband Strategy

- 18 Though the overarching objective of the strategy remains the same, namely to reach all those who need it with superfast broadband by the end of 2018, a number of parameters have changed the landscape resulting in the need for a revision. These include:
 - As part of the next phase delivery Fastershire became the first area to award a major BDUK funded contract to an alternative provider based on a lot within the Cotswolds.
 - This process successfully tested the lot based approach but and revealed a change in the market since 2012 with an emergence of companies providing services and technology that are specifically designed for rural delivery.
 - The exercise also showed that the need to define consolidated areas was not as critical as had been imagined.
 - As the contract with BT nears completion there is a greater understanding of the premises that still require an increase in broadband speeds.
 - Additional funding has been secured for Gloucestershire from the South West Superfast Ultra-Fast fund.
 - Greater understanding of funding potential and confirmation of funding via the local enterprise partnership.

- BT's decision not to participate in Stage 3 of 2014 strategy.

19 The difference between the original and revised strategy is outlined below:

Original	Revised
Stage 1: Commercial programme by BT covering Hereford, Ledbury and Leominster.	Stage 1: Commercial programme by BT covering Hereford, Ledbury and Leominster.
Stage 2: Fastershire Broadband contract with BT to December 2016.	Stage 2: Fastershire Broadband contract with BT to December 2016.
Stage 3: Possible extension to the BT contract where economic to do so.	Stage 3 Lot procurements (see below)
Stage 4: Lot procurements: <ul style="list-style-type: none"> • Cotswolds • Golden Valley • West Herefordshire 	
Stage 5: Grants and bursaries	Stage 4: Grants and bursaries

- 20 The current Fastershire delivery is based on phased deployment in geographic milestone areas. Once an area is complete, next stage procurements can take place. Therefore the following lot areas have been devised:
- Lot 1: Cotswolds (already procured, work started and first premise in December 2016)
 - Lot 2: Forest of Dean and Golden Valley (procurement aimed for January 2016)
 - Lot 3 Residual Gloucestershire, Area 1 (Ross on Wye and surrounding areas) and 11 central Herefordshire (procurement aimed for June 2016)
 - Lot 4: Residual Herefordshire (procurement aimed for March 2017)
 - Lot 5: targeting economic demand density (autumn 2017 for Herefordshire).
- 21 Though the actual procurements will give accurate coverage, it is estimated that the delivery via the lots will take the coverage to 97% of premises in the county. Stage 4 will be provide grants and bursaries for the remaining premises to have support to access high speed broadband where there is an identifiable need.
- 22 BDUK have confirmed funding for Lot 2 and that the State Aid General Block Exemption can be used (rather than waiting for a new state aid requirement with a date not yet confirmed). For Herefordshire, a small area in the Golden Valley has been selected because it was originally part of the bid for funding for RCBF (rural community broadband fund).

Issues to highlight

- 23 **Inclusion of former commercial areas.** The 2011 open market review formally consulted with the commercial providers over their plans for investment in the county. This identified where BT planned to deliver fibre broadband using their own funds. The re-run of the Open Market Review in 2014 showed that some of deployment has been withdrawn from their plan. The revised Broadband Strategy agrees to include those areas as part of the new programme.
- 24 **Definition of superfast.** Fastershire's definition of superfast (sometimes referred to as NGA) is 30Mbps and above. It is recommended to retain this definition.
- 25 **Premise level information.** That the procurements of lots will be based on premise

level information (rather than postcodes) which will help in gauging a full understanding of the planned deployment and being able to communicate that to the public.

Community impact

- 26 Herefordshire Council's Corporate Plan includes the priority of creating and maintaining a successful economy that supports economic growth and connectivity (including broadband). In addition, the improved broadband network will have a positive impact in meeting other corporate plan objectives including:
- Growing businesses, jobs and wage levels
 - Accessible services
 - Sustainable educational provision
 - More people retaining their independence through greater choice and control
 - Reduced child poverty
 - Families and communities that are able to support all children and young people effectively
 - Increased equality of opportunity.
- 27 Improvement to broadband was identified as a key element of the Economic Development Strategy for Herefordshire (published 2011). A core source of evidence for the priorities in the strategy came from the Herefordshire Employers Survey 2010. Around 10% of Herefordshire's businesses responded to this survey and it represents the most comprehensive picture yet of the county's economic factors. 81.5% of the respondents said they needed broadband internet access in order to effectively operate.
- 28 An Economic Impact Assessment has been developed to estimate the significant impact on the local economy which may result from the project. It estimates a Gross Value Added (GVA) uplift for Herefordshire of £13m per annum and a cumulative GVA uplift of £120m over ten years. The economic benefit of investment in NGA broadband assumes 90% coverage of NGA and a 10% increase in take-up and optimisation above the 20% base case. Delivering 100% NGA coverage would lift the year figure to an estimated £134m.
- 29 The successful delivery of the Broadband Strategy 2014-18 will have a significant impact on residents and businesses in the most deeply rural areas of Herefordshire. Digital access has a role to play in addressing issues of isolation and access to services for citizens, specifically in rural areas, and is increasingly being used as a tool to address health and preventative health. Without the strategy and the resources aligned to it, there will be a digital divide between those with access to NGA broadband and those with USC (Universal Service Commitment as set by the Government at 2Mbps) specifically as USC over time will not be enough to satisfy future demands. The government's "The Digital Communications Infrastructure Strategy" on 18 March 2015 addresses future ambitions for Broadband coverage including a Universal Service Obligation of 5Mbps and by 2017 superfast coverage to have reached 95% of premises in the country. The Government has since (November 2015) announced consultation on an Obligation of 10Mbps for everyone by 2020.

Equality and human rights

- 30 When the original 'Borders Broadband Contract Award and Partnership Agreement' (September 2012) was agreed an Equality Impact and Needs Assessment was completed this remains current. That assessment demonstrates a range of positive impacts in tackling the inequality of broadband coverage. Primarily, by improving the

broadband network, people will have better access to services and greater equality of opportunity.

- 31 Additional reach will enhance the findings of that assessment. A key element is to ensure residents and businesses take full advantage of accessing services and conducting business online. As part of the Fastershire project the local authority have led on a number of digital inclusive initiatives covering:
- Community Technology Grant – for community and village halls to have digital equipment available to residents and online capability where possible
 - Go-online@Fastershire community grants – grants to community groups to encourage access online
 - Training programme – programme of courses and classes open to participants free of charge
 - Faster Women – targeted programme funded by the Government's Equalities Office to maximise the skills of women entrepreneurs in Herefordshire and Gloucestershire
 - Faster Farmers – targeted activity to engage farmers to go online run by the Rural Hub
 - CREATE – cross nation programme involving 6 partners to support small business in rural areas to make the most of ICT, funded by EU with Herefordshire Council as the lead partner
 - Faster Business – as a follow-on from CREATE a business support programme across Herefordshire and Gloucestershire
 - Wifi Libraries – libraries in Hereford, Ledbury, Leominster, Ross, and Kington with free wifi access. Also wifi in Leintwardine library funded by the community, and planned wifi for Belmont, Weobley and Colwall libraries.

Financial implications

- 32 BDUK have ring-fenced maximum capital funds of up to £5.52m for Herefordshire's future network deployment. The requirement is for the local authority to source match fund (50:50). To date the county has an approved allocation from the LEP of £1.67m, and is seeking funds from ERDF (European Regional Development Fund) and EAFRD (European Agricultural Fund for Rural Development). £1m has been included in the capital programme proposals for approval by Council on 18 December 2015. A further £2.85m of match funding is to be identified as the programme progresses, with the opportunity to make a case for future funds in subsequent capital programmes. These will be based on a case made for each lot once bids are received, with a value for money test applied.
- 33 Separately, the Government has made additional funds available to the South West region for ultrafast deployment, as a member of that region Gloucestershire has been allocated £2m which requires match-funding. This has been combined with £0.52m of funds previously allocated to Herefordshire from BDUK as a result of a bid for Rural Community Broadband. As a consequence public funds are anticipated to be available for Lot 2 of £4.52m, subject to approval by Gloucestershire County Council in December 2015.

Legal implications

- 34 The procurement for all Lots in Stage 3 will need to follow proper process in compliance with the Public Contract Regulations 2015 and the council's own contract procedure rules.
- 35 The Council derives its powers from the General Power of Competence as set out in section 1 of the Localism Act 2011.

- 36 The council will need to ensure its compliance with grant conditions imposed by BDUK.
- 37 State Aid is a key consideration in this project as public subsidy is being given to the telecommunications industry.
- 38 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.
- 39 The specification will need to be designed to comply with the General Block Exemption.

Risk management

Open Procurement risk: If only one bidder makes a submission via open procurement then it could result in non-comparable costs making a judge on value for money difficult.

Mitigation: The costs and terms will be presented for a decision on value for money and acceptability of contract terms.

Non completion of Stage 2: If BT fails to meet contracted delivery dates then there could be a delay in procurement.

Mitigation: The current contract includes considerable default mechanisms, with BT confirming they are confident in meeting the end date.

Not enough funding: If the procurement shows there is not enough funding then there will be a challenge in meeting the ambitions of the broadband strategy.

Mitigation: A costed model will be produced that shows the level of deployment achievable with the funding.

BT challenge non extension of contract: If contract(s) are not awarded to BT then they could decide to challenge this decision.

Mitigation: The original strategy outlined that an extension of contract would be possible based on certain terms and no commitment made. Precedence is set in that BT did not challenge the award of contract for Lot 1.

Consultees

Gloucestershire County Council – are in agreement with the approach.

BDUK (part of Department of Culture, Media and Sport) as funder and partner.

Business Board on revised strategy (November 2015)

Business seminar (November 2015)

Appendices

1. Fastershire Broadband Strategy 2014-18 (revised)

Background papers

None identified.

Glossary of Terms

BAFO – Best and Final Offer
BDUK – Broadband Delivery UK
DCMS – Department of Culture, Media and Sport
ERDF - European Regional Development Fund
EAFRD - European Agricultural Fund for Rural Development
FTTC – Fibre to the Cabinet
FTTP – Fibre to the Premise
ISP – Internet Service Provider
LEP – Local Enterprise Partnership
NGA – Next Generation Access
RCBF – Rural Community Broadband Fund
SEP – Superfast Extension Programme
THP – Total Homes Passed
USC - Universal Service Commitment