

Record of officer decision

Decision title:	Change Request approvals for the Stage 3 Gigaclear contracts
Date of decision:	23 April 2021
Decision maker:	Assistant Director Corporate Support
Authority for delegated decision:	<p>Chief Executive Scheme of Delegation – updated 29 September 2020 point SA78 delegated authority to Assistant Director Corporate Support for County-wide broadband deployment and digital inclusion.</p> <p>Delegated authority to the Assistant Director Corporate Support to take operational decision to delivery recommendation (a) within cabinet decision report of 18 December 2019.</p>
Ward:	All
Consultation:	<p>Gigaclear (supplier)</p> <p>Gloucestershire County Council (partner organisation)</p> <p>BDUK (division of Government)</p> <p>Ashfords (legal advice for the Fastershire project)</p>
Decision made:	<ul style="list-style-type: none"> • Award additional funding of £1,551,027 to Gigaclear for the Lot 3 contracts as part of the Fastershire programme to provide full fibre broadband to a total of 5,486 premises of which 835 do not yet have superfast broadband. • That 493 premises identified as white by BDUK will be contracted formally via a series of Deeds of Variation • That the Lot 3d changes will be incorporated with the Lot 3e project finance models and Deed of Variation to enable the imminent closure of Lot 3d.
Reasons for decision:	<p>Fastershire the deployment of broadband across Herefordshire and Gloucestershire, using public funds where commercial providers wouldn't invest independently because of the cost of delivery would be more than their return on investment.</p> <p>The decision was made by both Herefordshire Council and Gloucestershire County Council in December 2019 to increase the budget of the Gigaclear contracts by up to 10% in order to reach more premises.</p> <p>http://councillors.herefordshire.gov.uk/ieDecisionDetails.aspx?ID=6494</p> <p>The recommendations were that:</p> <p>(a) £1.8m of additional subsidy is used to extend the scope of the Gigaclear contracts (subject to state aid approval), in order to extend the full fibre broadband network to no less than 5,485 extra premises of which at least 872 premises do not currently receive superfast broadband;</p> <p>(b) The Assistant Director Corporate Support be authorised to take all operational decisions necessary to implement the above recommendation.</p> <p>It is the premises with under 30Mbps (referred to as NGA White) that the funding was targeted to reach with the additional 'NGA Grey' premises (already able to access >30Mbps) receiving an uplift from FTTC (fibre to the cabinet) to FTTP (fibre to the premise). This 'overspill' will ultimately reduce the longer term challenge as the target moves from superfast to full fibre capability in the future.</p>

	<p>Following an adaption of the project finance models to cater for BDUK's request to focus the contracts on a subset of 493 benefitting premises, the required funding has reduced to £1.55m and an increase in Gigaclear's proposed contribution by £189k. Aside from the 'white' premises, a further 4,993 will also benefit. A total of 835 of the 5,486 benefitting premises do not currently have access to superfast broadband.</p> <table border="1" data-bbox="512 365 1297 645"> <thead> <tr> <th>Lot</th> <th>BDUK White to be contracted</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Lot 2/3c South Herefordshire and Forest of Dean</td> <td>294</td> <td>3151</td> </tr> <tr> <td>Lot 3d North Gloucestershire</td> <td>46</td> <td>442</td> </tr> <tr> <td>Lot 3e South Gloucestershire</td> <td>97</td> <td>1031</td> </tr> <tr> <td>Lot 4 North Herefordshire</td> <td>56</td> <td>862</td> </tr> <tr> <td>Total</td> <td>493</td> <td>5486</td> </tr> </tbody> </table> <p>It is agreed that these changes be formally encapsulated in a series of Deeds of Variation. It is also agreed that the changes proposed within the Lot 3d area are incorporated into the Lot 3d Deed so it does not inhibit the closure of the near complete Lot 3d.</p>	Lot	BDUK White to be contracted	Total	Lot 2/3c South Herefordshire and Forest of Dean	294	3151	Lot 3d North Gloucestershire	46	442	Lot 3e South Gloucestershire	97	1031	Lot 4 North Herefordshire	56	862	Total	493	5486
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<p>Highlight any associated risks/finance/legal/equality considerations:</p>	<p>Finance: The uplift in cost is less than originally anticipated and can be accommodated within the existing Fastershire budget.</p> <p>Equality: Ability of broadband is a key factor in digital exclusions; the Fastershire project aims to address this with superfast and full fibre broadband investing in areas the commercial providers would not see a return on their investment.</p> <p>Legal: Draft Deeds of Variation has been developed by Ashfords (legal support to the project). They have also provided legal advice on the change vis a vis state aid. The National Broadband Scheme (NBS) 2016 came to a close in December 2020, and with it the oversight of the NCC (National Competence Centre). Ashford's view is that, as the council agreed these changes in 2019, and that Paragraph 89 of the Broadband Scheme does not set out when an 'extension to a contract' crystallises, it is reasonable to implement the Deeds. Furthermore the change in value does not exceed 10%, a fundamental of the provisions of the NBS.</p>																		
<p>Details of any alternative options considered and rejected:</p>	<p>Withdraw the change. This would cause some consternation in those areas that are dependent on the change. This could be achieved through the new stage 5 grant but would unlikely achieve a better value for money position via the grant route – which would require extra time and effort beyond what has already been invested in the change which has been significant. Withdrawing the change would also require a governance decision to revert the previous decision regarding timeframe extensions.</p>																		
<p>Details of any declarations of interest made:</p>	<p>None</p>																		

Signed..... Date: 23.04.21