

DIRECTOR DECISION REPORT

Superfast Broadband additional funding procurement approach and recommendation

26th May 2016

Introduction

- 1 The purpose of this report is to consider the procurement option for the additional funding available to South Gloucestershire Council to further extend the coverage of superfast broadband.

Background information

- 2 Phase 1 programme delivery split:

<u>Cabinet Split</u>	<u># of Cabs</u>	<u>%age</u>	<u>THPs</u>	<u>%age</u>
Sub-urban cabs	35	41%	7,500	42%
Rural cabs	31	37%	6,400	36%
Very rural cabs	19	22%	4,000	22%
	85	100%	17,900	100%

- 3 At the end of March 2015, the Council selected BT as its preferred supplier to deliver its Phase 2 Superfast Extension programme using the Broadband UK (BDUK) (central government department of Culture Media and Sports) National framework for £1.01m.
- 4 The Council has since been successful in securing an additional £1.41m of funding through BDUK and the West of England LEP Local Growth Fund 2.
- 5 In addition to this, the council has also been successful in provisionally securing a further £1.5m to target businesses from BDUK's South West Ultrafast funding, assuming the Council is able to match-fund it with a £1m. At present a match of £101k has been identified. The Council has approached the WoE LEP for a further £555k of match funding.
- 6 The Council has completed supplier's market analysis to understand what independent suppliers may be able to offer us, any potential risk, opportunity to deploy hybrid solutions using multiple technology for greater broadband coverage, and whether they would be interested in working with South Gloucestershire should the Council opt for and OJEU procurement.
- 7 The following is a summary of the suppliers that met with South Gloucestershire Council to provide an overview of their organisation, their deployment technologies, indicatively how future proof it is, and their current deployments.

South Gloucestershire Council further investment in Broadband

Suppliers	Technology	Future Proof	Current Deployment
Airband	Wireless Radio	No	Worcester, Shropeshire, Devon nation parks, Cornwall
BT	Fibre (FTTC, FTTP, FTRN, Gf	Yes	UK wide
Callflow	FTTC / FTTP / Ultrafast	Yes	Berkshire, Kent, Devon, Cornwall, Somerset
Gigaclear	FTTP / Ultrafast	Yes	Berkshire, Devon, Somerset, Gloucestershire, Herefordshire
UK Broadband	4G / LTE	No	Swindon

- 8 These meetings demonstrated that independent suppliers were interested in working with South Gloucestershire Council through an OJEU procurement.
- 9 Two broadband briefing sessions were held by the Council's programme team on 14 March 2016 for members and representative of town and parish councils where an update was provided on:
1. The council's broadband rollout programme;
 2. Overview of Phase 1 including an update on project closure;
 3. Overview of our Phase 2 SEP progress update;
 4. An update on potential additional funding and next steps
- 10 These briefing sessions provided an opportunity for the Council's programme team to discuss what members considered as being of relative importance or priority that should be taken into consideration when assessing suppliers for potential additional funding. Whilst there were differences of view, overall the emerging list of priority/importance that was captured from the discussion was:
1. Ensure a future proof solution is delivered.
 2. Supplier's financial security / stability
 3. Ability to offer multiple ISPs choice to customers
 4. Prioritisation of delivery area:
 - i. Value for money as its supporting take-up rate which is generating funding to further extend superfast broadband deployment.
 - ii. No differential between residential and businesses as superfast broadband has the same level of importance (supported as well through potential ultrafast funding which would be targeted at businesses)
 - iii. Broadband uplift factor
 - iv. Speed of delivery on the ground
 - v. Ease and cost of installation, line rental availability

South Gloucestershire Council further investment in Broadband

- vi. Ability to extend community schemes to neighbouring areas not covered.
- 11 The Resources Sub-Committee delegated authority to the Director of Corporate Resources in consultation with the Chair of the Committee to determine the further development and implementation of phase 2 of the broadband roll out.
- 12 Resources Sub-Committee approved that an OJEU procurement exercise could be undertaken for the provision of improved broadband coverage across South Gloucestershire. The decision taken was to consider a mixed procurement approach of open market and national BDUK framework agreement.
- 13 It is intended that South Gloucestershire Council will hold a supplier day prior to the formally starting an OJEU process in order to inform suppliers of its remaining intervention area and available funding to invest in through an open procurement.
- 14 The council will need to await confirmation of new State Aid agreement between BDUK and EC in order to understand the revised terms and conditions that will need to be adhered to for any open market procurement. The timeline for this is likely to be late May 2016.
- 15 A further 'Open Market Review (OMR)' and another public consultation will also need to be completed to confirm and define our remaining intervention area in which the additional funding can be spent. The intention is to request information at a premise rather than postcode level.
- 16 The Council's independent Telecommunication Consultant will evaluate the remaining intervention areas in order to establish any potential grouping of areas and priority setting.

OJEU Procurement Invitation to Tender Assessment

- 17 If the council follows an open procurement approach it will still need to work closely with BDUK through the OJEU Bid process and will be benchmarked against BDUK information nationally.
- 18 An evaluation team consisting of officers from the Broadband Project Team, Legal, Procurement, Finance, BDUK Procurement and Assurance team and the Council's Independent Broadband Consultant will be required. The bid will need to be evaluated from a technical perspective to ensure maximum coverage and optimal Value for Money (VfM) and its compliance with the Council's procurement guidelines.
- 19 Officers will compare any bid response against the list of priority areas agreed by Resources Sub Committee to ascertain how many of any remaining priority postcodes will be covered.

South Gloucestershire Council further investment in Broadband

Technical/ coverage perspective

- 20 In total, after the current Phase 2, the broadband coverage in South Gloucestershire will reach 93%.
- 21 The additional funding should enable South Gloucestershire to achieve the Government's target of 95% superfast broadband coverage by December 2017.

Financial Breakdown

- 22 The Council signed a National framework contract with BT for £1.01m to deliver its initial Phase 2 SEP.
- 23 As part of the phase 1 contract, the council also receives funding back from BT based on take-up, this is known as gainshare. It is also projected that there may be an underspend on the phase 1 contract, and some funds are also held for delivery of the Universal Service Commitment. It should be noted that BDUK have advised these funds need to be reinvested with our current supplier through Phase 2 SEP.
- 24 In addition to this, the Council has been successful in securing an additional £1.31m funding from BDUK and WoE LEP Local Growth Fund 2.
- 25 There is complexity in relation to funding from WoE LEP which has to be spent by FYE 2016/2017 and BDUK funding by Q4 FY17/18.
- 26 In addition to this, the council has been successful in attracting £1.5m of funding from BDUK South West Ultrafast Funding if it can be matched by £1m. This funding is for rollout of ultrafast services to businesses within the intervention area. The Council has approached the WoE LEP for a further £555k match funding. The Council is continuing to work with BDUK to secure the funding without the full £1m match funding as the Council over matched by £1.36m for our Phase 1 programme.

Programme Management

- 27 The established BT South Gloucestershire programme team has considerable experience in delivering public and private investment and infrastructure programmes and understands that the key to delivering a successful programme lies in fostering strong relationships with the broader South Gloucestershire communities and beneficiaries.
- 28 Additional support will be required to assist with the operational management of any new OJEU Supplier(s). We also intend to use the existing programme team where possible for this programme allowing us to align and integrate certain activities across the 2 contracts such as reporting and governance should this be required.

South Gloucestershire Council further investment in Broadband

- 29 Further assessment will be undertaken to determine whether additional support should be on a part-time or full-time basis which will be funded through the programme.
- 30 Each time a new procurement is undertaken the council will be required to understand the intervention area to comply with State Aid rules, this is likely to require a consultation exercise. The council is required to put a minimum of the funds available through the SEP framework to BT, it could choose to put more funds through this route, or the remaining funds through a new OJEU procurement. Under the current SEP contract, the maximum additional new funds that can be change controlled in is £1m moving forward.
- 31 Any new funds going to BT will need to be modelled to understand what they will deliver, and then a new intervention area drawn up for the OJEU exercise to ensure potential bidders know of where every premise in South Gloucestershire that gets less than 30Mbps and then those who gets less than 15Mbps.

Investment Options

- 32 The following three investment options are available to the Council (further information in paragraphs below):
1. Invest £1m into Phase 2 SEP using funding that contractually has to be re-invested with BT. The £1m consists of gainshare and underspend from Phase 1 contract and some from our Infill funding which has been held back for Universal Service Commitment

All additional funding of c£3.4m through an OJEU procurement.
 2. Invest £1.49m into Phase 2 SEP using funding that contractually has to be re-invested with BT. £1m consists of gainshare and underspend from Phase 1 contract and some of our Infill funding which has been held back for Universal Service Commitment and additional funding.

Invest the remaining additional funding of c£2.9m through an OJEU procurement.

The £1.49m investment value is based on some preliminary assessment that BT presented to the Council earlier this year to demonstrate what additional coverage can potentially be achieved within the Phase 2 delivery timeline.

Contractually a maximum of £1m of additional funding (this excludes funding relating to phase 1) can be invested into Phase 2 SEP under the old State Agreement.
 3. Invest £2m into Phase 2 SEP using funding that contractually has to be re-invested with BT. £1m consists of gainshare and underspend from Phase 1 contract and some from our Infill funding which has been held back for Universal Service Commitment and additional funding.

South Gloucestershire Council further investment in Broadband

Invest the remaining additional funding of £2.4m through an OJEU procurement.

Impact for each of the above three investment options as detailed below.

Option 1;

- 33 The council can invest £1m into Phase 2 SEP using a contract change process using funding that contractually has to be re-invested with BT. The £1m consists of gainshare and underspend from Phase 1 contract and some of our infill funding which has been held back for Universal Service Commitment
- 34 Based on previous decision with BT, £1m investment would cover a few of our priority areas.
- 35 The Council's additional funding of £3.4m will be invested through an OJEU procurement under new State Aid agreement.
- 36 Some of the advantages of letting through the national BDUK framework are:
- BT has proven under the Phase 1 contract for SGC that they can deliver on time, within budget and exceed delivery targets.
 - BT's approach is to build upon what they have delivered for Phase 1 and Phase 2 using their 'business as usual' approach by extending their commercial rollout methodology.
 - Some of the advantages of an OJEU procurement: Smaller, local broadband suppliers will get an opportunity to bid for the contract.
 - With an OJEU, we can be more specific about what areas we want covered (however, this approach would not necessarily guarantee the most VFM).
- 37 Some of the disadvantages of an OJEU procurement:
- At present, the new State Aid agreement between BDUK and the European Commission will not be in place until the end of June 2016.
 - An OJEU procurement will take three to six months to complete.
 - Deployment work would not begin until Q4 FY 2016/17
- 38 The main disadvantage of this option is a three to four month delay before an OJEU procurement can begin. This delay is due to the time required for BT to model the £1m for investment into Phase 2 SEP.

South Gloucestershire Council further investment in Broadband

39 The Council will need to have a clear understanding of coverage areas for the £1m re-investment before initiating an OMR and market consultation (future bidder will need to be clear what the new intervention area is).

40 This delay may impact the Council's ability to meet the required spend profile.

Option 2;

41 As with Option1, the council invest funding into Phase 2 using funding that contractually has to be re-invested with BT.

42 Invest £1.49m into Phase 2 SEP using funding that contractually has to be re-invested with BT. This would consist of gainshare and underspend from Phase 1 contract and some of our Infill funding which has been held back for Universal Service Commitment. Together with a further amount of additional funding through a contract change request under the old State Aid agreement.

43 The Council's additional funding of c£2.9m will be invested through an Official Journal of the European Union (OJEU) procurement under new State Aid agreement.

44 The £1.49m investment value is based on some preliminary assessment that BT presented to the Council earlier this year to demonstrate what additional coverage can potentially be achieved within the Phase 2 delivery timeline.

45 Some of the additional advantages of letting through the national BDUK framework on this basis are:

- Based on the preliminary assessment completed by BT, limited modelling time would be required in order to provide a clear understanding of target coverage areas.
- The main advantage of this option is that it will let the Council start OMR and followed by market consultation early June. Enabling OJEU procurement to start as soon as State Aid agreement is confirmed mid to late June.
- This option will enable the Council's to meet the required spend profile for WoE LEP and BDUK funding.
- This option large sum funding for OJEU procurement which could be attractive to potential bidders.

Option 3;

46 As with Option1, the council invest funding into Phase 2 using funding that contractually has to be re-invested with BT.

47 Invest £2m into Phase 2 SEP using funding that contractually has to be re-invested with BT. This would consist of gainshare and underspend from

South Gloucestershire Council further investment in Broadband

Phase 1 contract and some of our Infill funding which has been held back for Universal Service Commitment. Plus further additional funding through a contract change request under the old State Aid agreement.

- 48 Contractually a maximum of £1m of additional funding can be invested into Phase 2 SEP under the old State Agreement.
- 49 The Council's additional funding of c£2.4m will be invested through an OJEU procurement under new State Aid agreement.
- 50 As previously, some of the advantages of letting through the national BDUK framework are:
- BT has proven under the Phase 1 contract for SGC that they can deliver on time, within budget and exceed delivery targets.
 - BT's approach is to build upon what they have delivered for Phase 1 and Phase 2 using their 'business as usual' approach by extending their commercial rollout methodology.
- 51 Some of the advantages of an OJEU procurement:
- Smaller, local broadband suppliers will get an opportunity to bid for the contract.
 - With an OJEU, we can be more specific about what areas we want covered (however, this approach would not necessarily guarantee the most VFM).
- 52 Some of the disadvantages of an OJEU procurement:
- At present, the new State Aid agreement between BDUK and the European Commission will not be in place until the end of June 2016.
 - An OJEU procurement will take three to six months to complete.
 - Deployment work would not begin until Q4 FY 2016/17
- 53 The main disadvantage of this option is a three to four month delay to starting the OJEU procurement due to BT being able to model the £2m re-investment. The Council needs have a have a clear understanding of coverage areas for £2m re-investment before initiating an OMR and market consultation. In addition to this it would make the process of 'lotting' the OJEU procurement more difficult, as the remaining superfast sum is likely to be too small to be attractive to the market place in its own right.
- 54 This delay may impact the Council's ability to meet the required spend profile for WoE LEP and BDUK funding.

Modelling

South Gloucestershire Council further investment in Broadband

- 55 The council's independent telecoms consultant has undertaken independent modelling to support any decisions on which route.

Modelling Process Approach

1. South Gloucestershire has detailed data with respect to the infrastructure funded by its investments to date. This includes exact locations of infrastructure and speed estimates for every premise connected.
2. Commercial build data has not been made available by BT, hence the most up to date information we have is from the Open Market Review we did in 2014. This has been analysed and graded to estimate areas where coverage from commercial build is most likely. Virgin Media deployment is easier to map as any postcode with any VM build whatsoever has to be removed to comply with state aid regulation as advised by BDUK.
3. This leaves approximately 4500 premises with poor broadband to address. The remaining addresses (approx. 4000) which are receiving over 15Mbps (but not superfast) can be brought into the intervention area to optimise available funding and increase supplier interest.

Approach

4. The independent analysis has indicated it supports the Option 2 for investment of additional funding. This will allow delivery to progress quickly based on the preliminary assessment that BT has completed. Whilst this will remove premises from the Intervention Area it will also maintain momentum and ensure the fastest possible remedy for these areas.
 5. We regard the remaining area as attractive to the emerging market of alternative network operators and also to BT. Any new procurement will look to approach as close to 100% coverage as is practically possible within the funding, although this is subject to maintaining competitive tension and crafting a compelling procurement which will tease the most investment from the winning bidder.
- 56 As part of the original SEP decision taken by Resources Sub Committee a number of priority villages were identified. Our current Phase SEP contract is likely to provide improved performance to the following priority villages:
- Acton Turvill
 - Upton Cheyney/ Bitton
 - Easter Compton
 - Other areas of Almondsbury
 - Northwick
 - Ingst

South Gloucestershire Council further investment in Broadband

- Olveston
- Alveston
- Charfield
- Tortworth

57 This would leave the following priority villages which will remain to be achieved through the next phase of work. These will be included within the documentation given to future tenderers, but clearly guarantees cannot be given at this time that submissions will meet delivery to these areas. A recent Council meeting also received local submissions in respect of Codrington, which will be made available to potential contractors:

- Oldbury-upon-Severn
- Aust,
- Elberton
- Tytherington
- Remaining parts of Pilning and Severn Beach
- Horton,
- Remaining parts of Wickwar
- Dyrham
- Hinton
- Remaining parts of Marshfield

58 It should be noted that the above does not provide a guarantee as to these areas being delivered under phase 2, as further project work will be required to confirm their relative VFM, and sufficient funds may not be available to cover all areas set out. As these areas are reviewed, it is possible that neighbouring communities could also see some benefit/uplift in their broadband speeds depending on their distance from the upgraded infrastructure. Equally areas not listed could be covered, so long as they form part of the intervention area, if they can be justified on VFM grounds and funding allows.

59 Assessment criteria for any future OJEU will be developed to support the feedback from previous member sessions.

Consultation

60 The Chair of Resources Sub-Committee has been consulted on the findings of the bid assessment, and its impact on delivery of the scheme compared to that set out in the Resources Sub Committee. They have also been consulted on next steps and the route forward.

61 Two stakeholder workshops have also been held with local councils and representative of town and parish councils which are set out above and will feed into the assessment criteria for any future bid award.

South Gloucestershire Council further investment in Broadband

- 62 A recent public consultation for the Council's gainshare funding has just finished and this indicated supplier's currently have no additional new plans to deploy superfast broadband within our remaining intervention area.
- 63 BDUK will be consulted and be involved through consultation, agreeing intervention area, procurement process of drafting ITT, bid assessment and contract finalisation. The final position will have to be submitted to the DCMS BDUK Assurance Board who will approve the bid before contract can be awarded.

Legal Implications (Andrew Griffiths)

- 64 The council will ensure that proper procurement regulation, and assessed of contracts in line with, OJEU, BDUK and the Council's procurement policies and procurements.
- 65 If agreed with the potential supplier, the contract will be sealed by legal services under delegated powers.

Human Resource Implications (Claire Kerswill)

- 66 There are no direct human resource implications from this report at this time. However, additional support will required to assist with the operational management of new OJEU Supplier. We intend to use the existing programme team where possible for this programme allowing us to align and integrate certain activities across the 2 contracts such as reporting and governance.
- 67 Further assessment will be undertaken to determine whether additional support should be on part-time or full-time basis which will be funded through the programme.

Sustainability, Social and Economic Implications

- 68 These were set out in the original decision report of Resources Sub Committee to start the procurement process and still stand as part of this decision.
- 69 This proposal will enable further extension of superfast broadband across South Gloucestershire. The national priority is for 95% superfast broadband, South Gloucestershire will be able to achieve 93% with its available funding. BDUK have advised that it will support South Gloucestershire to try to achieve 95% superfast coverage. The possible award of additional match and LGF2 funding later in the process will move the council closer to this target, with the potential to exceed it.
- 70 High speed broadband will continue to play an important role by supporting a wide range of local and national priorities such as Help to Live at Home, reducing isolation, employees working from home and carbon reduction.

South Gloucestershire Council further investment in Broadband

Equality Impact Assessment

71 The primary purpose of this project is to provide access to broadband services in those areas in South Gloucestershire where the private broadband market has no plans to deliver. Therefore the aim of this project is to ensure that as many homes, businesses and residents have access to reliable broadband services as possible, and it should therefore have a positive impact.

Director Decision

Following the detailed analysis of the three options available, the Council will pursue Option 2 by investing a further £1.49m into Phase 2 SEP through a change control, and the remaining c£2.9m to be invested through an Official Journal of the European Union (OJEU) procurement.

BT has already completed some preliminary assessment for £1.49m which will enable the Council to extend superfast broadband coverage faster whilst waiting the new state aid agreement to be confirmed between BDUK and EC and also meeting the future funding spend profile timeline.

David Perry

Director of Corporate Resources.

Decision of the Director for CECR

I make the decision as recommended having been advised and taken account of all relevant factors.

Signed:



Date: 31st May 2016

Appendixes Exempt for Financial Sensitivity