

## CABINET

15 August 2017

### DIGITAL RUTLAND UPDATE

#### Report of the Chief Executive

Strategic Aim:	Sustainable Growth	
Key Decision: Yes	Forward Plan Reference: FP/260517/04	
Exempt Information	Appendix B of this report contains exempt information and is not for publication in accordance with Part 1 of Schedule 12A of the Local Government Act 1972.	
Cabinet Member(s) Responsible:	Mr O. Hemsley, Deputy Leader and Portfolio Holder for Growth, Trading Services and Resources (except Finance)	
Contact Officer(s):	Libby Kingsley , Digital Rutland Project Manager	01572 720983 lkingsley@rutland.gov.uk

#### DECISION RECOMMENDATIONS

That Cabinet:

1. Notes the update on the Digital Rutland.
2. Approves capital funding requirement as outlined in Exempt Appendix B to enable a further phase of deployment of superfast broadband coverage.
3. Approves £25k of additional revenue budget to cover project management, consultancy and legal support to implement and monitor delivery.
4. Delegates to the Chief Executive in consultation with the Portfolio Holder the authority to sign a Change Form to the existing contract to effect the further investment, subject to full project assurance, state aid approval and value for money assessments.

## **1 PURPOSE OF THE REPORT**

- 1.1 To update Cabinet on the progress made to date on the Digital Rutland project.
- 1.2 To make a recommendation for Phase 3 to maximise the fibre deployment and superfast broadband coverage.
- 1.3 To consider a request for revenue funding for the associated project management, consultancy and legal support.

## **2 BACKGROUND AND MAIN CONSIDERATIONS**

- 2.1 The Digital Rutland project commenced delivery of improved broadband across Rutland in March 2013. Through our contract with BT there have been significant improvements across the County over the initial two phases of the project.
- 2.2 Now is the appropriate time to review progress and consider how we conclude the project and meet our objective of delivering improved broadband across Rutland in the areas of the County we are able to influence.

## **3 PHASE 1 & 2 OUTCOMES**

- 3.1 The original BDUK aim was for superfast broadband (defined as speeds of more than 24Mbps) to 90% of UK premises and to ensure universal availability of standard broadband with speeds of at least 2Mbps.
- 3.2 On completion of Phase 1 and Phase 2 circa 10,658 premises in the areas of Rutland we are able to intervene and invest in can access fibre broadband services with circa 9,672 (90%) currently able to access broadband speeds of 24Mbps and above.
- 3.3 Take up of fibre broadband where we have been able to intervene and invest at 57.1% is the highest in the UK. Take up continues to increase across the County. We anticipate that over time this increasing take up will be sustained.
- 3.4 Publicly available figures put the superfast broadband coverage in Rutland currently at circa 94% just below the BDUK government target of 95%.

## **4 GAINSHARE FURTHER INVESTMENT OFFER**

- 4.1 Our contract with BT included a provision whereby if actual take up exceeded the take up levels anticipated within the business model on which our contract was based then the amount of public subsidy required would be subsequently reduced to reflect this. This is called Gainshare. Gainshare is available to be reinvested into later phases of the Digital Rutland project.
- 4.2 At the date of this report the Digital Rutland Gainshare is estimated at £613k. BT have agreed with BDUK that this Gainshare can be released early as 'Accelerated Gainshare'.
- 4.3 Based on the available Gainshare BT were asked to model what might be achieved with further investment. For the purposes of this report BT has modelled

two scenarios Option B and C. These are demonstrated in **Appendix B** to this report. Option A – the ‘do nothing’ Option is shown for comparator purposes.

- 4.4 The recommended option is Option C which would provide maximum superfast broadband coverage to the remaining eligible premises in the project intervention area and contributes to a higher County coverage which will well exceed the BDUK UK coverage target of 95%. As a result Rutland would be positioned well relative to other parts of the UK ensuring it remains competitive and attractive to our businesses, potential inward investors and the Rutland Community.

## **5 STATE AID COMPLIANCE**

- 5.1 Work has been undertaken to ensure that the recommended option is State Aid compliant. In 2016 the BDUK received confirmation of the National Broadband Scheme for the UK for the period 2016-2020. The Digital Rutland project has operated under the umbrella of the approved National Broadband Scheme for the UK.
- 5.2 Open Market and Public Consultations conducted by the Council to date have been assessed by the NCC as consistent with the requirements of the EU Broadband Guidelines pertaining at the time.
- 5.3 The Phase 3 deployment documentation will be assured by the NCC as state aid compliant and confirmed with BT before a Change Form is signed.

## **6 VALUE FOR MONEY ASSESSMENT**

- 6.1 The Digital Rutland project team has worked closely with BT to ensure that the modelling outcomes maximises the number of eligible premises able to access superfast broadband services for the public subsidy requirement.
- 6.2 BDUK will conduct a value for money assurance assessment to ensure the funding requirement is minimised. It will benchmark our data taking into account such factors of rurality and the higher costs associated with delivering Fibre solutions to the hardest to reach areas. This assurance together with the Council's own assurance will be taken into account before a Change Form is signed.
- 6.3 The final contracted commitment for Phase 3 (Option C) - the recommended option is subject to further full project assurance of the detailed plans provided by BT.
- 6.4 An initial review of the average cost per premise connected and per superfast premise connected (Phase 1, Phase 2 and Phase 3 combined) is considered to represent good value for money.

## 7 CONSULTATION

- 7.1 Informal Consultation for the project has been extensive since its inception including a County Broadband Summit and Provider day in 2011, Local Strategic Partnership and wider stakeholder input into the Local Broadband Plan in 2011/12.
- 7.2 Formal consultation with providers and the public to define the project intervention area was undertaken in 2011, 2014 and 2016.
- 7.3 An Open Market Review and Public Consultation on Next Generation Broadband Services took place between 2 November 2011 and 2<sup>nd</sup> November 2012.
- 7.4 An Open Market Review conducted in August 2014 informed the public consultation conducted between 4 December 2014 and 5 January 2014 to redefine the intervention area. The priority was to provide a step change in broadband capability for premises getting relatively slow broadband speeds (<15Mbps).
- 7.5 A further public consultation was conducted between 8<sup>th</sup> April 2016 and 8<sup>th</sup> May 2016 to confirm the areas which did not have Next Generation Access capable of delivering at least 30Mbps or where there were no plans to provide such infrastructure over the next three years.
- 7.6 All known commercial providers were notified for each of the consultations referred to in paragraphs 7.3 to 7.5 above.
- 7.7 The Digital Rutland project continues to engage with stakeholders through its Digital Rutland webpages, Digital Rutland Twitter account, parish council updates and through one to one engagement with residents and businesses.

## 8 ALTERNATIVE OPTIONS

- 8.1 **Test the market with a new procurement exercise** - this option would require a new Open Market Review and Public Consultation (at address level detail) followed by an OJEU compliant procurement process requiring considerable revenue resources. The minimum estimated time to complete a new procurement is estimated to be 12-15 months. The number of remaining eligible premises is relatively small and dispersed over the County making it a less attractive bidding option to alternative providers. This Option is not recommended.
- 8.2 **Option A:** Do Nothing more. This option would leave circa 560 eligible premises in the intervention area without access to superfast broadband. Coverage of Superfast Broadband in the County would be less than the BDUK UK target of 95%.
- 8.3 **Option B:** Tackle sub 15Mbps premises within the project remaining intervention area. This option would leave circa 230 premises in the intervention area without access to superfast broadband.
- 8.4 **Option C:** Tackle sub 24Mbps premises within the project remaining intervention area. This option would leave circa 14 premises in the intervention area without access to superfast broadband.

8.5 **Appendix B** (Exempt Appendix) sets out Phase 3 Options A – C. Option C, the recommended Option, is set out in a higher level of detail.

## 9 FINANCIAL IMPLICATIONS

### CAPITAL

9.1 **Appendix A (Table 1)** sets out the approved capital budget of £2.67m. Phase 1 and Phase 2 Deployment is now completed and the contracted outputs have been delivered with less funding than initially anticipated. The Council therefore has residual funding and Gainshare of £613k available to spend on the Phase 3 of the programme should it choose do so.

9.2 Exempt **Appendix B (Tables 2 and 3)** sets out the funding requirements for Phase 3 (Option B and C) which can be met within the available funding.

9.3 If the Council chooses not to proceed a phase 3 then:

- The gainshare would be paid over to RCC in March 2022 (the expiry date of the contract)
- The amount of gainshare retained by Council may be less if BDUK take a share based on the intended comparative investment ratios (i.e. as it stands BDUK has invested more than originally planned in % terms so could clawback some funding).

The impact on received/retained gainshare under Options B and C is shown in Exempt **Appendix B, Table 1b**.

9.4 If the Council chooses not to proceed with phase 3 then:

- There remains unallocated underspend (residual funding)
- The amount of residual funding retained by Council may be less if BDUK take a share based on the intended comparative investment ratios

The impact on available underspend/retained underspend if Council proceeds with either Option B or C is shown Exempt **Appendix B, Table 1b**.

9.5 It is anticipated that Phase 3 Deployment could complete within 12 months of a Change Form being signed.

### REVENUE

9.6 **Appendix A (Table 2)** sets out the forecast revenue position with no further Delivery - Option A.

9.7 **Appendix A (Table 3)** sets out the forecast revenue position with a Phase 3 delivery (Options B and C) and shows an additional funding requirement of £25k beyond the remaining approved revenue budget.

## **10 LEGAL AND GOVERNANCE CONSIDERATIONS**

- 10.1 Council undertook a compliant Official Journal of the European Union (OJEU) procurement process to determine the award of contract to BT in May 2012.
- 10.2 The notified contract value is not exceeded by undertaking further investment in Phase 3 under the recommend option.
- 10.3 A change control and Gainshare mechanism exists within the contract to enable this further investment. The BT 'accelerated gainshare' approach has been accepted by BDUK subject to detailed review of change form documentation.
- 10.4 The uplifted documentation would be subject to full BDUK and NCC assurance checks and legal review by the Council's representative prior to signing.
- 10.5 The Council has a legal obligation under the terms of its grant agreement with BDUK to ensure continued value for money and state aid compliance in relation to the use of public funds under its contract with BT.
- 10.6 Expenditure evidenced and claimed by BT in relation to a Phase 3 would be subject to on-going assurance reviews by the Digital Rutland project team, BDUK assurance team and Welland Audit.
- 10.7 Joint governance arrangements are in place with all three parties represented at a senior level to review the project's progress and assure delivery is targeted to the state aid approved white postcode and eligible superfast broadband premises. The governance board includes the Council's Portfolio Holder and Chief Executive who together with the Assistant Director of Finance would authorise payments to BT providing a level of separation from the Digital Rutland project team.

## **11 EQUALITY IMPACT ASSESSMENT**

- 11.1 An equality impact assessment screening has been undertaken and there are no adverse effects.

## **12 COMMUNITY SAFETY IMPLICATIONS**

- 12.1 The provision of good broadband infrastructure contributes towards road safety (reduction in journeys required through on-line transactions), and in facilitating technologies, products and services which build resilience in communities.

## **13 HEALTH AND WELLBEING IMPLICATIONS**

- 13.1 Maximising fibre and superfast broadband coverage increases the ability to deliver public services more efficiently and to facilitate the "Internet of Things" whereby devices are talking to each other without human intervention and beneficial to both health and well-being particularly for our most vulnerable residents.
- 13.2 In addition near ubiquitous coverage of fibre technology enables better health, education and economic outcomes deemed critical to closing inequality gaps.

## **14 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

- 14.1 The recommendations if approved would provide the maximum coverage of superfast broadband in the Digital Rutland project intervention area.
- 14.2 To support the delivery of:
- the Council's strategic aims and objectives
  - the Council's Corporate Plan
  - Rutland's Economic Growth Strategy
- 14.3 To support inclusive economic and well-being objectives
- 14.4 To support more effective delivery of public services
- 14.5 To exceed BDUK UK Superfast Broadband coverage objectives of 95%
- 14.6 To enable the accelerated gainshare offer by BT to be taken up and to utilise pre-approved residual capital funding.

## **15 BACKGROUND PAPERS**

- 15.1 Reports previously provided to Cabinet / Council relating to the Digital Rutland Project
- Report 43/2011
  - Report 108/2011
  - Report 192/2011
  - Report 145/2014
  - Report 55/2012

## **16 APPENDICES**

- 16.1 Appendix A
- 16.2 Exempt Appendix B

**A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577**

Exempt Appendix – Appendix B is marked as “Not For Publication” because it contains exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, namely:

- It relates to business and financial affairs of a company

- The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.
- Mapping which is indicative to inform political decision

The public interest test has been applied to this information and it is considered that the need to retain this information as exempt outweighs the public interest in disclosure because to disclose it could breach confidentiality agreements between BT plc and the Council and the change form solution is still subject to full assurance and state aid reviews.