

## CABINET

16 April 2019

# PROCUREMENT OF FULL FIBRE (GIGABIT CAPABLE) NETWORK UPGRADES TO PUBLIC SECTOR BUILDINGS IN RUTLAND AND AWARD CRITERIA

Report of the Deputy Director of Places

Strategic Aim:	<ul style="list-style-type: none"> <li>Sustainable Growth</li> <li>Reaching our Full Potential</li> </ul>	
Key Decision: Yes	Forward Plan Reference: FP/080219	
Exempt Information	Appendices A and B of this report contain exempt information and is not for publication in accordance with Part 1 of Schedule 12 A of the Local Government Act 1972.	
Cabinet Member(s) Responsible:	Mr O Hemsley, Leader and Portfolio Holder for Growth ,Tourism and Economic Development and Resources (Other than Finance)	
Contact Officer(s):	Libby Kingsley, Digital Rutland Project Manager	01572 720983 lkingsley@rutland.gov.uk

### DECISION RECOMMENDATIONS

That Cabinet:

- Notes the receipt of the conditional funding offer of c. £1.78m from the Department for Culture, Media and Sport (DCMS) Local Full Fibre Networks Challenge Fund.
- Approves the pre-procurement business case (Exempt Appendix A).
- Approves to proceed with the procurement for full fibre (gigabit capable) network upgrades to public sector buildings in Rutland and the award criteria set out in the report (Exempt Appendix B) on the basis that any contracts will only be awarded when terms and conditions have been agreed and Full Council has approved the inclusion of this project in the Capital programme.

## **1 PURPOSE OF THE REPORT**

- 1.1 To update Cabinet of receipt of a conditional grant funding offer of c.£1.78m from the Department for Culture Media and Sport Local Full Fibre Networks Challenge Fund to support the upgrade costs.
- 1.2 To obtain Cabinet approval of the pre-procurement business case as set out in the report (Exempt Appendix A).
- 1.3 To obtain Cabinet approval to proceed with a procurement for full fibre (gigabit capable) network upgrades to public sector buildings in Rutland and the award criteria as set out in the report (Exempt Appendix B) on the basis that any contracts will only be awarded when terms and conditions have been agreed and Full Council has approved the inclusion of this project in the Capital programme (Section 7 explains the position in more detail).

## **2 BACKGROUND AND MAIN CONSIDERATIONS**

- 2.1 On the 20<sup>th</sup> November 2018 Cabinet considered a report (212/2018) and noted the opportunity to bid for Central Government (DCMS) Local Full Fibre Networks (LFFN) Challenge funding. Cabinet approved proceeding with a bid, committing revenue resources to the bid development and approved match funding from within the remaining ring-fenced Digital Rutland capital budget.
- 2.2 Following progression of the Council's bid through Checkpoint A of the DCMS LFFN bid process, the Council has received from DCMS a conditional offer letter for c. £1.78 m of Challenge Fund funding.
- 2.3 This offer is subject to the Council's compliance with DCMS LFFN assurance processes and passage through further checkpoints ( LFFN Checkpoint B- readiness to procure and LFFN Checkpoint C - readiness to contract); and the issue and execution of a grant agreement between DCMS and the Council. The grant agreement will set out a requirement on the Council to fully draw down DCMS funding before end March 2021.
- 2.4 Subject to proceeding through DCMS LFFN Checkpoint B assurance and receiving Cabinet approval the intention is then to publish an OJEU (Office of the European Journal) notice of the procurement opportunity by end April 2019.
- 2.5 Subject to receiving compliant tenders, evaluating and identifying a preferred bidder and proceeding through DCMS LFFN Checkpoint C assurance successfully, the intention will be for the Chief Executive to approve the terms and conditions of grant and for a recommendation to Council in July 2019 to include the full project in the Capital programme. This would give Council the option of not proceeding with the project if they so wished. However, the risk is considered to be very low for the following reasons:
  - there is no direct cost to the Council, other than those mentioned in paragraph 6.2;
  - the project is line with the Council's aims to improve digital infrastructure;
  - there could be a risk of funding being lost; and

- the procurement process is not expected to complete until late July so there is time for approvals to be sought.

### **3 AWARD CRITERIA**

- 3.1 The indicative capital budget (DCMS and Council funding) being available in the procurement is set out in Exempt Appendix A.
- 3.2 Consideration has been given to using a framework. However no suitable frameworks have been identified that are open to the Council and can deliver the services (the full fibre gigabit capable network upgrades) within the required timescales. For this reason this approach has been discounted.
- 3.3 Given this, the services will be procured via an OJEU open single stage process with the bidders tendering against a specification. The tenders will be evaluated against a set of award criteria which is set out in Exempt Appendix B. The successful bidder will be expected to follow an open book accounting approach in delivery of the services as set out in the contract documentation.

### **4 CONSULTATION**

- 4.1 Consultation has taken place internally with the Portfolio Holder and officers within the Council, with the Local Full Fibre Networks Project Board and with DCMS.

### **5 ALTERNATIVE OPTIONS**

- 5.1 Since the approval of Cabinet is required there are no other options. However as indicated in para 2.5, Cabinet may not wish to proceed until terms and conditions have been signed and Council has approved the full budget. This is not recommended for the reasons set out in para 2.5.

### **6 FINANCIAL IMPLICATIONS**

- 6.1 The contribution to the network upgrades from Council has been previously approved by Cabinet (Report No. 212/2018). This together with the funding offer for the upgrades from DCMS LFFN Challenge Fund means there are no financial implications for the procurement of the upgrades.
- 6.2 The resources to support the procurement phase can be met within the capitalised project management budget approved by Council (Report 212/2018). The estimated costs of this support is c£37k. If the project at award stage this would have to be funded by revenue resources in addition to the £37k the council has also incurred c. £15k of bid development costs as per report 212/2018.
- 6.3 The contract documents contain a condition precedent on the grant agreement being issued and executed between DCMS and Council.
- 6.4 To demonstrate business need and to be state aid compliant the asset holders are required to take up a full fibre product (minimum of 100Mbps) within a reasonable period of completion of the upgrades either as a part of an upgrade pathway to their

existing contract or on contract renewal.

- 6.5 This will therefore have a small revenue budgetary impact in upgrading the broadband services to 100Mbps for the Council assets to be upgraded. With competition in the retail services market the incremental costs are expected to reduce. The future proofed benefits of full fibre in facilitating digital services more efficiently and effectively and in facilitating collaborations with key stakeholders (education, health and local community services) need to be considered.

## **7 LEGAL AND GOVERNANCE CONSIDERATIONS**

- 7.1 Any decisions to let a contract can only be made where there is a budget to do so. Presently, the Council has no formal budget but an offer of funding (subject to terms and conditions) as indicated above.

- 7.2 Whilst Cabinet can therefore initiate a procurement process in accordance with Contract Procedure Rules, it cannot complete the procurement process by agreeing for a contract until:

- the Chief Executive has agreed the terms and conditions (Cabinet delegated authority in Report 212/2018 to facilitate this); and
- Full Council include this project (as it is in excess of £1m in the Capital Programme).

- 7.3 The risk of the above two conditions being met is considered to be very low.

## **8 DATA PROTECTION IMPLICATIONS**

- 8.1 This report seeks approval for award criteria and the eventual award of a contract. There are no Data Protection Implications.

## **9 EQUALITY IMPACT ASSESSMENT**

- 9.1 This report seeks approval for award criteria and the eventual award of a contract. There are no Equality Impact Implications.

## **10 COMMUNITY SAFETY IMPLICATIONS**

- 10.1 This report seeks approval for award criteria and the eventual award of a contract. There are no Community Safety Implications.

## **11 HEALTH AND WELLBEING IMPLICATIONS**

- 11.1 This report seeks approval for award criteria and the eventual award of a contract. There are no Health and Wellbeing Implications.

## **12 ORGANISATIONAL IMPLICATIONS**

12.1 There are no organisational implications.

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

13.1 The proposals set out in this report will allow Rutland County Council to tender the services and appoint a contractor to undertake the full fibre (gigabit capable) network upgrades as set out in this report.

13.2 This approach will support the strategic and delivery objectives of the DCMS Local Full Fibre Networks Challenge Fund and the Council's strategic objectives as set out in Report 212/2018.

## **14 APPENDICES**

14.1 Exempt Appendix A: Pre-procurement Business case

14.2 Exempt Appendix B: Award Criteria

Exempt Appendix – Appendix A and B are marked as “Not For Publication” because it contains exempt information as defined in paragraph 1/2/3/4/5/6/7 of Part 1 of Schedule 12A of the Local Government Act 1972, namely ...

*The need to maintain a fair and complaint OJEU procurement process up to and including the intended date of publication of procurement documentation and this being made available to the supplier market on a non-discriminatory basis.*

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