

## COUNCIL

14 October 2019

# AWARD OF CONTRACT FOR THE PROVISION OF FULL FIBRE NETWORK UPGRADES TO PUBLIC SECTOR BUILDINGS

## Report of the Strategic Director for Places

Strategic Aim:	Sustainable Growth, Reaching Our Full Potential	
Exempt Information	Appendix A, Appendix B And Appendix C contains exempt information and is not for publication in accordance with Part 1 of Schedule 12A of the Local Government Act 1972.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, Leader and Portfolio Holder for Rutland One Public Estate & Growth, Tourism & Economic Development, Resources (other than Finance and Communications)	
Contact Officer(s):	Karl McGrory, Digital Rutland LFFN Project Manager	Tel: 01572 720 914 Email: kmcgrory@rutland.gov.uk

### DECISION RECOMMENDATIONS

That Council:

1. Approves the award of contract for the Digital Rutland Local Full Fibre Network (LFFN) project.
2. Approves the creation of a capital budget for the Digital Rutland LFFN project as outlined in Exempt Appendix B. Including the match funding requirement from the Council of £446,000.
3. Notes the Department of Culture, Media and Sport (DCMS) funding award of £1,783,000 and the potential further £500,000 funding available from DCMS.
4. Delegates authority to the Chief Executive in consultation with the Portfolio Holder and the Section 151 Officer to accept any additional funds from the DCMS in respect of the Digital Rutland LFFN project
5. Notes the specified outcomes and project timetable in paragraph 3 and 4. Further detailed in Exempt Appendix A.
6. Authorises the Chief Executive, in consultation with the Cabinet Member with portfolio for Rutland One Public Estate & Growth, Tourism & Economic Development, and Resources to execute the contract award on receipt of DCMS Gate C assurance letter.

## **1 PURPOSE OF THE REPORT**

- 1.1 The purpose of the report is to seek approval of the Council to award the contract supporting the delivery of the Digital Rutland Local Full Fibre Networks (DR LFFN) project. A project to procure and deploy full fibre network upgrades to key public sector buildings in Rutland.
- 1.2 To delegate to the Chief Executive Officer in consultation with the Portfolio Holder the authority to:
  - effect the award of contract with the chosen supplier following standstill and on receipt of DCMS Gate C assurance letter.
- 1.3 To approve the capital budget for the Digital Rutland as set out in Appendix B (Exempt Appendix).

## **2 BACKGROUND AND MAIN CONSIDERATIONS**

- 2.1 Previous reports have been presented to Cabinet on this project and the Digital Rutland Strategy 2019-2022.
- 2.2 On the 20<sup>th</sup> November 2018 Cabinet considered a report (212/2018) on the opportunity to bid to the Department of Digital, Culture, Media and Sport (DCMS) Local Full Fibre Networks Challenge Fund for a DR LFFN Project to deliver gigabit capable network upgrades to eligible public sector buildings. The DCMS Challenge fund programme and the DR LFFN project also has the aim of stimulating further commercial full fibre coverage.
- 2.3 Cabinet noted and approved the following recommendations:-
  - a) Notes the opportunity to bid for Central Government (DCMS) Local Full Fibre Networks Funding.
  - b) Approves commitment of existing revenue budget to further support bid development as outlined.
  - c) Approves Council Capital match funding to the bid as outlined in Exempt Appendix A.
  - d) Delegates to the Chief Executive in consultation with the Portfolio Holder the authority to sign a Grant Agreement with DCMS subject to a successful bid outcome, project assurance and value for money assessments.
  - e) Notes that further reports will be brought to Cabinet for approval.
- 2.4 Following progression of the Council's bid through DCMS Checkpoint A the Council received a conditional offer letter in January 2019 for c. £1.78 m of Challenge Fund funding.
- 2.5 On 16 April 2019 Cabinet received report (60/2019), Cabinet noted and approved the following recommendations:-

- f) 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.
- g) Approves the pre-procurement business case (Exempt Appendix A).
- h) 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.

2.6 The Council then proceeded through DCMS Checkpoint B (Readiness to Procure) having:-

- i) Completed the further information requirements conditioned in the DCMS offer letter referred to in paragraph 2.3 above and;
- ii) Received DCMS assurance of the tender documentation
- iii) Received an offer of a further £500k of DCMS funding that could be brought in under change control if bidders were unable to cover all List A and List B public upgrade sites within their tender response.

2.7 The Council then launched an (Official Journal of the European Union) OJEU open procedure procurement in April 2019 with a total contract value of £2.52m comprising the baseline budget of £2.02m and the additional funding of £500k referred to in paragraph 2.5.

2.8 The contract was advertised on the OJEU portal in-line with Contract Procedure Rules and, following publication on the UK E-tendering portal, all known operators in the UK telecommunications marketplace were notified of the tendering opportunity by email.

2.9 Following bidders' feedback and further consultation, amendments to the initial contract terms were made, assured by DCMS and the procurement re-started on 20 August 2019. The steps outlined in paragraph 2.1 were then repeated.

2.10 A total of 54 operators registered on the e-tendering portal to receive the documentation with 41 nil responses, 12 opting out and 1 Tender received by the Tender deadline.

2.11 The E-Tender submission was released by the Welland Procurement team on the return date of 19 September 2019.

### **3 TENDER EVALUATION AND OUTCOME**

3.1 The tender has been evaluated by a panel including representatives of the Digital Rutland team, the Council's advisers (Procurement) and the Council's advisers (Technical) - Analysys Mason and Skeen Computing Services Ltd.

3.2 The tender has been evaluated against the award criteria approved by Cabinet in Report 60/2019 and the completion of the Council's standard questionnaire.

- 3.3 The conclusions from the evaluation panel have been presented to the Portfolio Holder (Leader), Chief Executive and Deputy Leader and thoroughly explored.
- 3.4 The conclusion from the evaluation panel is that the bid meets the Council's requirements as set out in the tender.
- 3.5 The unanimous recommendation from the evaluation panel and project board is, that the Council is recommended to approve the award of a Contract, subject to the project completing DCMS Gate C assurance stage (Readiness to Contract) and receipt of the formal DCMS grant agreement.
- 3.6 Approval is also required to formally award the contract in-line with the indicative timetable for the project (Table 1) to ensure that the implementation plan to award the contract and deliver the upgrades by March 2021 can be achieved.

**Table 1**

The following indicative timetable will be expedited by the Project Board subject to Legal and Procurement agreement.

	Council Decision	14 <sup>th</sup> October 2019
*	Ten day standstill period ends	25 <sup>th</sup> October 2019
	Final DCMS approval	25 <sup>th</sup> October 2019
	Award of Contract	22 <sup>nd</sup> November 2019*
	Contractor Mobilisation	November 2019
	Planning and Survey Commences	July 2020
	Start of Network Upgrades	August 2020
	Completion of Network Upgrades	March 2021
	Final Evaluation	June 2021

*Bidder will not hold price and timescales if we do not execute the contract on or before the 22<sup>nd</sup> November*

#### **4 WHAT THE PROJECT WILL DELIVER?**

- 4.1 The over-riding objective of the Digital Local Full Fibre Networks project is to deliver the full fibre upgrades to eligible key public sector buildings; including libraries, community, education, health.
- 4.2 Table 1 and Table 2 in Exempt Appendix A lists the key public sector buildings connections that will result from the Digital Rutland LFFN project.
- 4.3 To enable wider community benefit. When investing in Full Fibre Infrastructure Build to public sector building(s) it will become easier and cheaper for local communities to connect to full-fibre broadband as the fibre network is now much closer.

- 4.4 When completed the upgrades along with the further commercial stimulus, if realised, are expected to uplift the full fibre coverage from its current level of 19% to up to c.50%. This will put Rutland at the forefront of full-fibre acceleration in the UK.

## **5 CONSULTATION**

- 5.1 Information about the Digital Rutland Local Full Fibre Network project has been distributed to relevant representatives of Town and Parish Councils, Village Halls, Schools and GP Surgeries. Presentations were also made at the Parish Council Forum meetings in November and June 2019.

## **6 ALTERNATIVE OPTIONS**

- 6.1 Since the approval of Council is required there are no other options. However Council may wish to consider the alternative options which are not recommended for the following reasons:
- 6.2 Option A: To not award a contract and proceed with a further procurement. The market was widely notified of the tender opportunity on both the EU and UK portals. The single tender has been evaluated on a value for money basis. Another procurement would have to be justified and it is unlikely that other bidders will come forward given that this would lead to significant delay and impact on the ability of any supplier to effect delivery within the required DCMS timescales. This risks losing out on significant external investment from DCMS.
- 6.3 Option B: To not award a contract and not proceed with a further procurement. This would result in sunk costs estimated at c. £47,000 as set out in Table 1 of Appendix B to the Council and reputational damage with national and local key stakeholders.

## **7 FINANCIAL IMPLICATIONS**

- 7.1 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 Challenge Fund means there are no financial implications for the award of contract .
- 7.2 The resources to support the procurement and delivery phases can be met within the capitalised project management budget previously reported to Cabinet (Report 212/2018). Table 1 in Exempt Appendix B provides an update on this position.
- 7.3 The contract terms contain a condition precedent on the grant agreement being issued and executed between DCMS and Council.
- 7.4 Report 60/2019 advised that to demonstrate business need and to ensure the no state aid position the asset holders are required to take up a full fibre product (minimum of 100Mbps) within a reasonable period of completion of the upgraders either as a part of an upgrade pathway to their existing contract or on contract renewal.
- 7.5 A small budgetary impact for the Council was identified in Report 60/2019 for the Council assets to be upgrades. 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 in facilitating collaborations with key stakeholders(education, health and local community services) need to be considered.

## **8 KEY RISKS, IMPACTS AND MITIGATIONS**

8.1 Please refer to Exempt Appendix C for key risks, impacts and mitigations relating to this contract.

## **9 LEGAL AND GOVERNANCE CONSIDERATIONS**

9.1 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.

9.2 Whilst Cabinet could initiate the 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
- The Chief Executive had agreed the terms and conditions set out in the DCMS grant agreement and;
- Full Council include this project (as it is in excess of £1m in the Capital Programme).

9.3 The services have been procured in accordance with Contract Procedure Rules.

9.4 The Council also obtained external legal review (Weightman's) to:

- determine that the "No State Aid Position" required of the DCMS Challenge Fund programme assurance process and within the contract is upheld for each of the assets listed for upgrade.
- that the level of risk within the Contract Terms are acceptable for the Council.

9.5 The Contract has within it a formal change control process. Governance and oversight of the change control process will require changes to be agreed by the Project Board comprising the Chief Executive, Portfolio Holder and Deputy Leader.

## **10 DATA PROTECTION IMPLICATIONS**

10.1 This report seeks approval for the award of a contract. There are no Data Protection Implications.

## **11 EQUALITY IMPACT ASSESSMENT**

- 11.1 This report seeks approval for the award of a contract. There are no Equality Impact Implications.

## **12 COMMUNITY SAFETY IMPLICATIONS**

- 12.1 This report seeks approval for the award of a contract. There are no Community Safety Implications.

## **13 HEALTH AND WELLBEING IMPLICATIONS**

- 13.1 This report seeks approval for the award of a contract. There are no Health and Wellbeing implications.

## **14 ORGANISATIONAL IMPLICATIONS**

- 14.1 This report seeks approval for the award of a contract. There are no organisational implications.

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

- 15.1 The proposals set out in this report will allow Rutland County Council to award the contract and undertake the full fibre (gigabit capable) network upgrades within the required timescales.
- 15.2 This approach will support the strategic and delivery objectives of the DCMS Local Full Fibre Networks Challenge Fund and the Council's strategic and digital objectives (Report 59/2019).

## **16 BACKGROUND PAPERS**

- 16.1 Reports previously provided to Cabinet / Council relating to the Digital Rutland Project
- a) Report 43/2011
  - b) Report 108/2011
  - c) Report 192/2011
  - d) Report 55/2012
  - e) Report 145/2014
  - f) Report 140/2017
  - g) Report 212/2018
  - h) Report 59/2019
  - i) Report 60/2019

## **17 APPENDICES**

- 17.1 Exempt Appendices – Appendices A, B and C are 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 a price and commercially sensitive information received for a contract that has not yet been awarded.

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