

# WORCESTERSHIRE COUNTY COUNCIL

## RECORD OF OFFICER EXECUTIVE DECISION

Item	Outcome
<b>Date Of Decision</b>	14 December 2017
<b>Decision Maker</b>	John Hobbs - Director of Economy and Infrastructure in consultation with the Cabinet Member with Responsibility for Economy and Infrastructure.
<b>Brief Description Of Decision</b>	<p>In June 2017 the Council's Cabinet reviewed the 'Connecting Worcestershire Phase 3 Broadband Programme' under agenda item 4; within this item delegated authority was granted to the Director of Economy and Infrastructure in consultation with the Cabinet Member with Responsibility for Economy and Infrastructure, amongst other decisions:</p> <ul style="list-style-type: none"> <li>to undertake evaluation of tenders for the Phase 3 Broadband contract and, subject to being satisfied as to value for money and fully securing external public funding, to (i) finalise and execute that contract, and (ii) to approve future potential change controls to ensure pace is maintained from contract award in Summer 2017 until the end of the contract;</li> <li>when the solution to Phase 3 is known, to reinvest the remaining underspend from the previously allocated £8.5m County Council capital funding and up to £4m of Worcestershire County Council's proportion of further claw-back from Phase 1 and Phase 2, if it becomes available, in accordance with Option 3 in the report; also to agree to entering required discussions with other public funding bodies with regard to their proportion of claw-back; and the Director of Economy and Infrastructure be authorised to take all necessary actions to progress the Broadband Programme.</li> </ul> <p>Having consulted the Cabinet Member with Responsibility for Economy and Infrastructure, the following decisions have been made:</p> <p>Decision 1 Based on the outcome of the tender evaluation process, BT was named as the 'preferred supplier', subject to contract finalisation and funding agreements. Having completed these actions the decision has been made to execute the contract (contract signed on 29 November) and accept the reputational/financial risk presented by the WLA Side Letter.</p>

	<p><b>N.B.</b> The 'WLA side letter' was requested by BT as part of 'contract finalisation' to recognise that the regulator Ofcom are expected to impose changes to the wholesale broadband pricing market that could impact on the project's financial model. If the change occurs the impact will not be confirmed until April 2018, at the earliest. The 'worst case' scenario has been modelled and risk mitigation put in place.</p> <p>Decision 2 In respect of the authority to reinvest Council underspend/gainshare, a decision has been made, within the boundaries of the recommended <b>Option 3</b>, to:</p> <ul style="list-style-type: none"> <li>initially request BT to model additional coverage up to £2.5m of public contribution, an application is to be made to Defra for £1.5m and the Council will allocate £1m of funding, originally identified for 'Contract 1'. Based on outcome this will then be 'Change Controlled' into the Phase 3 contract; if Defra bid is unsuccessful the amount/modelling will be revised and decision reviewed;</li> <li>allocate an initial £0.5m to a 'Local Body Partnerships' scheme, to support communities that are not yet in existing plans; in order for them to progress a 'Community Fibre Partnership' with BT;</li> <li>allocate £0.5m of the Council's Capital to support the Broadband Programme Management Office as the programme continues to expand and as the Cabinet Report recognised; and</li> <li>reserve a decision or decisions on the remaining funding fully within the delegation from Cabinet in 'October 2015' and 'June 2017', retaining the remaining funding not allocated as above, for future decisions by the appropriate officers in consultation with the required Cabinet Members.</li> </ul>
<p><b>Reason(s) For Decision</b></p>	<p>Building on the current broadband deployments through the Superfast Worcestershire Partnership, a third phase of superfast broadband deployment has been made possible as a result of the Council's successful funding applications to Broadband Delivery United Kingdom (BDUK) and the European Regional Development Fund (ERDF).</p> <p>This has enabled the Council to procure and appoint a supplier to extend superfast broadband into areas without access to 30Mbps download speeds as a result of any commercial deployment or the Council's existing plans.</p> <p><b>The Phase 3</b> broadband programme aims to extend superfast broadband to as many Worcestershire business premises as possible, whilst, at the same time, deploying superfast infrastructure to residential areas of Worcestershire. The solution offered meets the expectations set out within the Cabinet report and secures significant private sector investment. The Headlines are:</p> <ul style="list-style-type: none"> <li>4 deployment phases, ending in June 2019</li> <li>Over 5,300 superfast premises in scope (87% ultrafast)</li> <li>50% take up assumption resulting in a greater supplier contribution (BT contributing £3.7m)</li> </ul>

	<ul style="list-style-type: none"> <li>• Investment Ratio: 32% public to 68% BT funding</li> <li>• Superfast coverage expected to reach 96% once deployment finishes</li> <li>• Superfast coverage in each 6 Districts will increase beyond 92%.</li> </ul> <p><b>Reinvestment - Cabinet</b> endorsed 'Option 3' within the Cabinet report as it allowed for the greatest amount of flexibility considering the current telecommunications market and increasing Government Connectivity agenda. By committing a significant amount of underspend at this stage, the Council increases the ability of the supplier to seek efficiencies within the existing deployment timeframe and schedule. The immediate 'modelling request' provides scale and scope across the county to maximise the impact of the reinvestment to deliver as many priority premises as possible. Whilst the decision to support a local 'Partnership Fund' provides communities willing to engage in the programme the opportunity to secure a more targeted solution for their area, bringing in funding from the community, the private sector and the Council. This initial reinvestment would be expected to increase coverage of superfast fibre to 97-98% as indicated within the original report.</p> <p>Retaining an amount of underspend/clawback to increase the scope of either of the above opportunities, dependent upon demand, or respond to changes in the telecommunications market ensures the Council has an element of risk mitigation and remain flexible to changes in demand or policy, including a fourth procurement or other connectivity project if required in the future.</p> <p>The funding to support the PMO is required to ensure the programme remains appropriately managed and resourced to support the contractual obligations and continue to increase take-up of fibre services when they become available, noting the risk that a proportionate percentage of this is likely to need to be returned to BDUK as required by grant agreements.</p>
<p><b>Alternative Options Considered And Rejected</b></p>	<p><b>Not to execute the Phase 3 contract:</b> therefore not drawing down available funding secured. This was discounted as the funding was fully secured from Central Government with acceptable conditions attached, the returned submission was deemed value for money and the contract finalisation was satisfactorily concluded.</p> <p><b>Not to reinvest:</b> Returning a proportionate percentage of underspend/reinvestment (c.35% in respect of contract 1) back to BDUK; noting that when Phase 3 deployment is complete a significant number of Worcestershire premises will be 'left behind' and without access to at least 24Mbps. This was discounted as per the Cabinet's intention to pursue Option 3 and the increasing demand for fibre-based networks, specifically full-fibre networks is increasing.</p> <p><b>To delay the reinvestment decision:</b> As stated above, having the opportunity to implement a Change Control into the existing contract as early as possible increases the ability to maximise efficiencies in deployment. The need for improved connectivity in areas not yet served is an immediate concern to communities, many of whom have been following the programme's progress since 2012. Not to implement any of the funding at this stage would not be in the best interest of the county. The programme is also able to apply into a 'Defra' funding programme and the Council, having recently contracted, is able to submit an application earlier than many other areas.</p>

	<p><b>To commit all funding or suggest a different reinvestment mix:</b>          Having considered options carefully it was felt to fully commit all funding at the current time would not be advised as there remains the opportunity of further public funding becoming available and the fast moving nature of the telecommunications agenda, including a threat linked to Ofcom's review of the 'wholesale broadband' market. Retaining the flexibility to consider, increasing the scope of the two chosen reinvestment routes dependent on demand and the return of the supplier is also an advantage of the preferred option.</p> <p><b>Invest, subject to commercial considerations, the remaining funds from the previously allocated £8.5m of Council capital funding (i.e. underspend) and further claw-back monies (positive take-up claw-back) via a fourth procurement to appoint a suitable supplier to model and extend coverage beyond the already contracted fibre infrastructure:</b> Although this option would contribute towards extending the fibre footprint, it would require additional resource and it would be projected, as a result of economies of scale, to be less beneficial at the current time.</p>
<p><b>Any Conflict of Interest declared by a consulted Cabinet Member/ any dispensation granted</b></p>	<p>No</p>