

# AGENDA ITEM

## POLICY, FINANCE AND ADMINISTRATION COMMITTEE

29 JANUARY 2014

### REPORT OF THE STRATEGIC DIRECTOR (CM)

#### SUPERFAST BROADBAND IN MELTON MOWBRAY

##### 1.0 PURPOSE OF REPORT

1.1 The purpose of this report is to seek Member's approval for the use of the allocated and approved £360,000 funding, to extend additional fibre broadband coverage in Melton Borough, to be invested through Leicestershire County Council's contract with BT.

##### 2.0 RECOMMENDATIONS

2.1 It is recommended that:

- 1) The approved Investment of £360,000 be progressed in order to improve fibre broadband coverage within Melton Borough;
- 2) Delegated authority be granted to the Chief Executive to sign the Collaboration Agreement between Melton Borough Council and Leicestershire County Council subject to final agreement of the terms.

##### 3.0 KEY ISSUES

3.1 Super-fast fibre broadband will encourage economic growth and innovation, improve access to services and help transform the delivery of public services.

3.2 Operators (e.g. BT and Virgin Media) have committed to deliver fibre broadband to 55.2% of residential and business premises in Melton Borough without public investment. Public investment is necessary to reduce the "Digital Divide" and help ensure all premises can access the benefits of fibre broadband.

3.3 It is estimated that total public investment in fibre broadband in Leicestershire will unlock economic growth of £92m by 2021.

3.4 As said in paragraph 3.2 above, within Melton Borough, BT and Virgin Media have or will deliver to 55.2% of premises without the need for public investment. The Leicestershire average is 75%. Without public investment the remaining 44.8% premises in Melton Borough, primarily in rural areas, would be stuck in the "slow lane" unable to access the benefits of super-fast fibre broadband.

3.5 Leicestershire County Council (LCC) is leading the Superfast Leicestershire Partnership Programme to reduce the "Digital Divide" and increase take-up of digital services. In August 2013 LCC awarded a £16.9m contract to BT to extend super-fast broadband coverage to 92.3% of Leicestershire business and residential premises. The investment includes £4m (LCC), £1.2m (European Regional Development Fund), £3.3m (Department for Culture, Media and Sport (DCMS)) and £8.3m (BT). Within Melton Borough it is expected that 5,959 premises will have access to super-fast broadband through the contract, increasing coverage to 80.5%. A map showing expected fibre broadband coverage across Leicestershire is available at Appendix 1. It is expected that the first areas will 'Go Live' in late September 2014 and it is anticipated the deployment will take approximately 18 months.

More information about the LCC-led programme is available at [www.leics.gov.uk/broadband](http://www.leics.gov.uk/broadband).

3.6 The Government's initial objective was to ensure 90% of UK premises have access to super-fast broadband by 2015, supported by investment of £0.5bn. Government has revised its objective to 95% coverage by 2017 supported by a further £250m. Under the contract all premises will receive a minimum of 2Mbit/s. In total there are circa 40 County projects which are managed by DCMS through its agency Broadband Delivery UK (BDUK). DCMS established a national procurement Framework contract which included BT and Fujitsu. Only BT submitted a bid on any of the County-led contracts.

3.7 BT's preferred super-fast deployment solution is Fibre to the Cabinet (FTTC). This involves deploying fibre cable from or through the telephone exchange to the green on-street Cabinet. The connection then travels through the existing copper wires to the premises. In part, broadband speeds are increased by reducing copper cabling in the network and moving the exchange infrastructure closer to premises. Download speeds of up to 80Mbit/s can be achieved through this technology. In a very small number of instances Fibre to the Premises (FTTP) may be deployed, whereby fibre is deployed right to the premise. This will deliver speeds of up to 330Mbit/s. More information is available at <http://www.superfast-openreach.co.uk/the-big-build/>.

3.8 LCC's procurement documents and contract identified that District Councils in Leicestershire have, in principle, allocated c.£1.15m of additional potential investment to extend coverage into the so-called "Final 10%". A breakdown of investment by District is identified below:

- Blaby District Council	£50,000
- Charnwood Borough Council	£100,000
- Harborough District Council	£530,000
- Hinckley and Bosworth Borough Council	£58,820
- Melton Borough Council	£360,000
- North West Leicestershire	£54,000
- Oadby and Wigston Borough Council	£0

3.9 The "Final 10%" is the term used to refer to the area which is currently not expected to receive super-fast broadband through either the commercial rollout or the LCC/BT Contract, in the case of Melton 19.5%.

3.10 The LCC/BT Contract includes an agreed mechanism to make changes, including the incorporation of additional investment, subject to legal and state aid considerations. In November 2013 LCC issued a Change Request to BT, seeking re-modelling to identify the extent and location of additional coverage as a result of the District investment. The following key points were agreed by all parties.

Finance:

- BT will identify the level of commercial investment it would make against the £1.15m. This will be consistent with the current BT/LCC Contract.
- District funding cannot be ring-fenced to respective Districts. It is not possible to identify full invoiced costs by District area.
- Districts will be able to compare coverage for all Districts to help assess value for money.
- District Councils and LCC will agree a payments schedule. This will align to the phasing within the deployment timetable.
- It is not possible to amend the District contribution without undertaking full remodelling at cost.

## Coverage

- The Speed Coverage Template (SCT), submitted by BT, will identify additional premises connected and the expected implementation phasing.
- Coverage is subject to an on-site survey of BT's infrastructure to confirm deliverability. If issues are identified during the planning process then discussions will be held between LCC, BT and the affected District. Coverage may be reduced or additional investment may be required.
- It is not possible to "cherry-pick" preferred communities. Modelling is based on the most economic deployment to secure the highest coverage
- The deployment will be undertaken as part of existing phasing within the BT/LCC Contract.

## Legal

- Funding will not be formally committed until the Collaboration Agreement, to be signed collectively by District Councils with LCC, is executed by BT and LCC signing the Change Authorisation.
- Provision of additional funding does not represent a risk to the BT/LCC Contract. Additional potential funding was identified in the tendering documents and the BT/LCC Contract.
- The Change Authorisation will be signed by LCC and BT at the end of January 2014.

## Governance

- All District Councils will need to secure political approval to formally commit investment. Some Districts have awarded delegated authority.
- Funding District Councils will collectively be represented in the BT contract governance structure.

3.11 The BT modelling has identified that the £360,000 investment will extend coverage of super-fast broadband (greater than 24Mbit/s) to an additional 1,440 premises in Melton Borough. This represents an increase in coverage to 86.7% within the Borough, leaving 3131 premises (13.3%) without super-fast broadband. Atkins, LCC's technical support, has conducted a value for money review. Evidence from this is included in the Commercially Confidential Exempt Appendix to this report, containing commercially sensitive information.

3.12 If the allocation of District investment is approved, then the Council is expected to sign a Collaboration Agreement with LCC as soon as possible, subject to the agreement of terms. This partnership document outlines responsibilities, liabilities, assumptions, confidentiality, FOIA, governance and the investment timetable. These issues are further discussed in Section 6 below.

3.13 LCC is working with partners to further extend superfast broadband coverage to premises within the Final 8% (for Melton – final 13.3%). This could involve a range of technological solutions. DCMS is current exploring deployment and funding options as part of its Superfast Extension Programme. Further information is expected in February/March 2014.

3.14 In February 2014, LCC will launch a demand campaign to support the Superfast Leicestershire deployment programme, including a new website. This will encourage take up and articulate the benefits of fibre broadband to businesses and communities. All communications will be co-ordinated by LCC, in partnership with BT and other local partners.

#### **4.0 POLICY AND CORPORATE IMPLICATIONS**

- 4.1 The Council has allocated £360,000 to assist with the rollout of Broadband in Melton Borough as part of the Countywide Partnership. The Council has made its support of the improvement of this infrastructure a priority.
- 4.2 It is essential that the lack of broadband coverage is addressed otherwise this will be a barrier to people using digital services. As we move into further waves of digital services being rolled out nationally/locally, improved access will be essential as will the support that vulnerable individuals and families may need to do so.
- 4.3 The Economic Development Strategy highlighted a recent economic profile which showed that employment in Melton in knowledge-driven services is well below the national median, with the district ranking in the bottom 20% of districts. It has 9.91% of employment in this sector. This compares with 15.36% in Leicestershire and 18.85% nationally. Broadband coverage is a contributing factor in this indicator.
- 4.4 The need for better broadband access is a continuing theme of the issues raised by residents and businesses as part of the Local Plan Reference Groups and when engaging with rural businesses/residents.
- 4.5 Currently, the BT/LCC contract and the DMS contract framework is the only legal mechanism, under EU state aid rules, for public agencies to invest in super-fast national broadband. A separate procurement would be required to allocate further investment outside this arrangement.
- 4.6 It is expected that deployment of super-fast broadband to the remaining premises will require a range of options including, fibre deployment using the LCC/BT contract/community led solutions and a range of technologies may also be required.

#### **5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS**

- 5.1 The investment of £360,000 will extend super-fast broadband coverage within the District, the coverage is subject to a survey of BT's infrastructure. Additional investment could be required to ensure this coverage. LCC and BT will discuss any requirement for further investment with the District Council if this emerges as an issue. Options could include deferral, funding from incurred savings, or additional funding. If additional funding is required then public partners will discuss how this will be provided and members will be updated should this occur.
- 5.2 The BT/LCC Contract contains the following value for money controls. These would apply to the District funding if committed.
- State aid claw back to prevent over-subsidy
  - Investment ratio to ensure supplier investment
  - Contracted reporting and audit
  - On-site verification of infrastructure and deployment
  - Supplier payment by results
  - Detailed evidence required to support payment claims
  - Supplier assurance of costs
  - LCC contracted technical and commercial support (Atkins)
- 5.3 If approved LCC will require the District investment to be paid at an appropriate time prior to LCC incurring costs for District coverage under the Contract. The timetable will be included in the Collaboration Agreement.
- 5.4 There are intrinsic efficiency savings as a result of this initiative as our/other public services become more digitally provided and through front to back office integration and self-service.

## 6.0 LEGAL IMPLICATIONS

6.1 The following legal implications have been identified

- It is proposed that District investment is invested via the LCC/BT Contract. Additional potential funding from Districts was identified in the tender and the contract to reduce the risk of a material challenge.
- The Collaboration Agreement is legally binding and formally commits District investment. The Collaboration Agreement, once signed by District Councils, is not effective until LCC and BT sign a Change Authorisation to the BT/LCC Contract at the end of January 2014. All District Council legal advisors have supported the development of the Collaboration Agreement.
- If there is an additional call on funding the agreement has a mechanism through which this can be negotiated and considered, members will be consulted should this occur and any implications in relation to this.

Under the terms of the BT/LCC Contract, once the infrastructure has been built there are no on-going liabilities on public funding bodies.

## 7.0 EQUALITIES

7.1 LCC is undertaking an Equality Impact Assessment (EIA) on the Programme. This will consider the impact of the deployment and communications. This will assess the Programme against the protected characteristics and identify any matters which require consideration.

## 8.0 RISKS

8.1 *To consider and give any Risks related to this report and if there are risks to complete the tables below. If there are no risks identified, then delete the table*

**Probability**  
↓

Suggested by LA

Very High A				
High B				
Significant C			4	
Low D		1	3	
Very Low E			2	
Almost Impossible F				
	IV Neg- ligible	III Marg- inal	II Critical	I Catast- rophic

→  
**Impact**

Risk No.	Description
1.	Potential for Challenge
2.	Collaboration Agreement
3.	Further funding required as part of collaboration agreement
4.	Further funding requirement for remaining 13.3%

8.2 Risk Assessment and Business Continuity

1. Under the proposal within this report District investment will be allocated within the BT/LCC Contract. The Contract was part of a national Framework contract managed

by DCMS. This contract has EU state aid approval.

2. District funding is not legally committed until LCC and BT jointly sign the Change Authorisation to the BT/LCC contract at the end of January 2013. In advance of this District Councils will collectively sign a Collaboration Agreement which outlines terms under which the funding is made. The Legal advisors have supported the development of this agreement.

If BT were to identify difficulties with the roll-out within the change control there is the potential for further funding being required.

3. There is the potential that issues could be identified as part of the survey work and additional costs identified, in such circumstances the District, County and BT will discuss and agree the way for dealing with these issues.
4. In order to address the final 13.3% additional intervention funding may be required. The government has an additional £250m fund other funds are also being launched to address the remaining premises.

## 9.0 CLIMATE CHANGE

- 9.1 There are no specific climate change implications although digital access could reduce face to face services and the number of journeys undertaken.

## 10.0 CONSULTATION

- 10.1 A broadband survey was conducted when LCC initiated their Superfast Leicestershire programme in 2012. A summary of the findings are available at <http://www.leics.gov.uk/broadband>.

- 10.2 As part of the BT/LCC Contract procurement a state aid compliant public consultation was undertaken to confirm coverage of commercially delivered superfast broadband. This identified the area which is not eligible for state aid. DCMS has delegated authority from the EU to monitor state aid compliance.

## 12.0 WARDS AFFECTED

- 12.1 All

Contact Officer           Christine Marshall  
Date:                         20 January 2014

Appendices :               Appendix 1: Map of expected fibre broadband coverage in Leicestershire through LCC/BT contract.

Background Papers:

Reference :                 X : Committees\PFA