

Taunton Deane Borough Council

Executive - 21 April 2016

Superfast Broadband – Delivery of Phase 2 Rollout

This matter is the responsibility of Cllr Mark Edwards

Report Author: Ian Timms, Assistant Director Business Development

1 Executive Summary / Purpose of the Report

- 1.1 To update members on the procurement process for the delivery of Superfast Broadband Phase two. This programme is being delivered through the Connecting Devon and Somerset Partnership (CDS).
- 1.2 To seek the necessary authorisations to enable the council to finalise its commitment to phase 2 of this project.
- 1.3 To give an outline of the key issues, risks and considerations associated with this decision as they relate to the collaboration agreement.

2 Recommendations

- 2.1 That the committee notes the update on the procurement process to deliver phase 2 superfast broadband.
- 2.2 That the committee supports the proposal to grant delegated powers to the Assistant Director for Business Development to sign the collaboration agreement in consultation with the portfolio holder for Economic Development

3 Risk Assessment

Risk Matrix

Description	Likelihood	Impact	Overall
Signing the collaboration agreement commits the council to indemnifying the project. This indemnification shares the risk relating to the procurement and contract. This will create a financial risk to the council	3	4	12

<i>Each partner`s exposure to cost will be limited through the agreement to the percentage that they have committed to the project. Robust procurement will be carried out by lead partner Robust contract management will be carried out by lead partner</i>	2	4	8
An appropriate minimum level of coverage is not achieved through the procurement process across the CDS area	3	4	12
<i>Clear Invitation To Tender (ITT) Robust assessment process Contract only awarded to compliant bidder</i>	3	2	6
Finances provided by TDBC is not spent in the Borough	3	4	12
<i>Collaboration agreement has specific clause addressing this risk</i>	1	4	4

Risk Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
Impact							

4 Background and Full details of the Report

- 4.1 The Connecting Devon and Somerset (CDS) partnership is leading the delivery of Superfast Broadband (24 Mb) across Devon and Somerset through its non-commercial rollout out programme. Phase one of this project is currently seeking to bring Superfast Broadband to a minimum of 90% of all premises by end of 2016.
- 4.2 The second phase will seek to increase the level of coverage to a minimum of 95% across the partnership area. In order to support this goal a range of partners, which

includes Taunton Deane Borough Council have agreed in principle to make a financial contribution to the project. In the case of TDBC this is a capital contribution of £380,000.

- 4.3 All of the partners have been asked to sign a collaboration agreement to confirm their financial commitment to this phase. The agreement outlines the basis on which the contribution will be used by CDS to deliver the rollout of this second phase.
- 4.4 Signing this agreement will enable the overall financial package to be finalised. This will in turn lead to the invitation to tender (ITT) being issued. Signing the collaboration agreement finalises each partner's involvement in the project.

Procurement process

- 4.5 The initial exercise to procure this additional coverage culminated in early summer 2015. The deadline for that procurement phase was driven by the expiry of a State aid notice on 30 June 2015 which enabled the funding package to be delivered.
- 4.6 The initial procurement was split into two packages:

The main package related to the wider CDS area
The smaller package cover Exmoor and Dartmoor (two moors) which is an area that requires alternative solutions to provide the desired level of coverage.
- 4.7 The main package was procured using the framework agreement that existed at that time. The framework was restricted to two potential bidders, Hitachi and BT. One bid was received from BT which failed to meet the contract requirements and was therefore rejected. This was well publicised at the time and also scrutinised in depth by both of the Upper tier authorities.
- 4.8 The secondary package covering the two moors was procured on an open tender basis. This area has a challenging geography and it was perceived that this would require alternative solutions to be applied. The contract was awarded to Airband who are delivering a Wi-Fi solution to provide the required coverage.
- 4.9 The new procurement phase for the main package has been underway over the past 6-9 months. This includes supplier days, securing a new state aid notice, tender preparations, revising collaboration agreements and all the necessary work associated with a procurement of this nature.
- 4.10 In order to enter the next phase of the procurement CDS are seeking to ensure that all partners have signed off the collaboration agreement. As stated above the agreement will effectively finalise the financial commitment to delivery of the project. The sign off of this agreement is being sought in the next 6-8 weeks. It should be noted that the securing a delivery partner will also require a state aid notice to be granted which will be use in tandem with the financial package.

Collaboration Agreement – Issues and Risks

In committing to sign the agreement there are some key risks and issues to consider.

These are in four key areas which are explored in section 4.11 -4.15 of this report and detailed below.

4.11 Indemnity

There is a specific risk related to the procurement itself as each partner will indemnify the lead authority for its proportionate share of the procurement exercise and the contract management process. The cost sharing relating to liability is on the following basis and therefore limits the liability of each partner as outlined in the table below.

B&NES	3.27%
DEVON	37.64%
MENDIP	6.55%
NORTH SOMERSET	6.27%
SEDGEMOOR	5.56%
SOMERSET	24.22%
SOUTH SOMERSET	10.47%
TAUNTON DEANE	6.22%
WEST SOMERSET	2.78%

The exposure of Taunton Deane Borough Council is therefore relatively small but remains a risk associated with process. This risk should be addressed by good procurement practice in letting the contract and robust contract management through the delivery phase

4.12 Board representation

In the initial procurement exercise in 2015 the Somerset Districts were offered one representative on the CDS board. Whilst the procurement failed this place was offered to the Somerset leaders Group and is currently occupied by Cllr John Williams of TDBC. Since that procurement there has been further negotiation which has led to the offer of an additional place to represent Districts on the Board. This would bring representation to a level that reflects the relative financial commitment being made by Districts.

4.13 Local Outcomes and Ring fencing

The agreement reflects the requirement from each funder that the monies provided are spent in their respective district. There is also a clear commitment to secure Value For Money which translates into securing the maximum possible benefit for the monies committed by each partner.

It should be noted that an element of funding is focused on business premises. The tender invitation will therefore have requirements around delivering this type of premises which were not possible in the phase one rollout. There can/also be specific requests built into the tender around priority areas although this will need to be kept at a relatively simplistic level to minimise complication in the tender process.

The tender will set a minimum threshold of 95 % superfast coverage across the CDS area. However as the procurement is subject to bidders assessing what is technically possible in each area and then submitting their coverage projection it is not possible to issue a guarantee at this stage around the specific gains in each district.

The council therefore needs to balance its aspiration to deliver enhanced coverage against the reality that ahead of the procurement exercise there can be no clear cut guarantee of exact coverage that will be gained as this is an unknown until completion of the bidding process.

The secondary consideration relates to how much extra benefit is gained from contributing. In simple terms the less money that is committed to an area the less coverage a bidder is likely to provide. As the council has broadband as it is priority it seems logical that we would wish to make the contribution that has been requested from the lead partner.

4.14 Repayment of contributions

All partners requested clarification on what circumstances could enable their withdrawal from the rollout delivery phase. In summary this may occur if the contract were inoperable. This risk should be addressed through the tender process and in reality withdrawal is only possible in that limited situation.

4.15 Summary

There are clearly risks and issues created by signing the collaboration agreement. However these are on balance adequately addressed by the agreement. There may be further amendments but subject to these changes Somerset County Council, acting as lead partner have asked each partner to sign off the agreement once it has been finalised.

In order to achieve this goal members are asked to endorse the signing of the document by the assistant Director Business development in consultation with the Portfolio holder. This will be supported by verification from the Section 151 officer.

5 Links to Corporate Aims / Priorities

- 5.1 The Council has identified the rollout of fibre broadband and better mobile phone signal coverage across the Deane as a corporate priority. This is described in the Corporate Plan, Theme 2, issue F.
- 5.2 Committing to the next phase of the Superfast programme will assist in delivery of this Corporate Priority

6 Finance / Resource Implications

- 6.1 The signing of the collaboration agreement would finalise the council's commitment to the Superfast Broadband Phase 2. This will mean that the sum of £380,000 allocated to the project will need to be drawn down in line with the approved budget for the contribution within the capital programme.

6.2 The monies are being sourced from the earmarked New Homes bonus monies that have been allocated to support Growth in the Borough.

7 Legal Implications

7.1 The legal issues are outlined as risks in this report. The signing of any document will be supported by advice from SHAPE.

8 Environmental Impact Implications

8.1 There are no known implications from this report.

9 Safeguarding and/or Community Safety Implications

9.1 There are no issues associated with this report relating to this agreement.

10 Equality and Diversity Implications

10.1 Equality and Diversity considerations are a key component of the tender document. Assessment of any implications and how these are addressed by bidders is therefore a key element of the final part of the procurement exercise.

11 Social Value Implications

11.1 The procurement of the second phase is being led by Devon CC on behalf of the partnership. Social Value is being built into the process. As an example we are seeking to secure wider community benefits such as training on use of the internet through the contract process.

12 Partnership Implications

12.1 The delivery of Superfast Broadband to Somerset is a partnership activity. The CDS partnership has the biggest rollout programme of any area in England. As we move into the next phase of the partnership Taunton Deane BC will become a formal member of the partnership through its commitment of funding to the delivery of the project. This partnership will ultimately have benefits for the business community, schools and individual homes as the rollout occurs and Superfast Broadband availability increases across the area.

13 Health and Wellbeing Implications

13.1 Superfast Broadband is now seen by many as essential to managing their day to day lives. Therefore access to this service can be seen as impacting this area. A specific example is that having a good connection could reduce isolation

14 Asset Management Implications

14.1 There are no asset management issues associated with the report.

15 Consultation Implications

- 15.1 The creation of the tender for this next phase of Superfast Broadband is an evolution based on consulting with potential partners and tenderers. A procurement of this size is by its nature consultative.

16 Scrutiny Comments / Recommendation(s)

A number of issues were debated related to the risks identified within the report. The Committee asked for clarification on the costs splits in Devon and Somerset as it appeared in the report to be committing less monies. A separate answer has been provided to the Committee Members through the clerk.

Members also requested that they were kept updated on progress through the Council updates and general briefings as appropriate.

Scrutiny Committee added the Shadow Portfolio holder to recommendation 3.2 of this report.

Democratic Path:

- Corporate Scrutiny Yes
- Executive – Yes

Reporting Frequency: Once only for approval

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