Divisions Affected – All except Oxford City

CABINET
20 July 2021

Fibre Broadband for Public Buildings

Report by Corporate Director Customers and Organisation Development

RECOMMENDATION

1.   The Cabinet is RECOMMENDED to approve delegated authority to the Corporate Director, Customers, Organisational Development and Resources, in consultation with the Cabinet Portfolio Holder for Corporate Services for awarding a contract to the winning bidder of the council's procurement of full-fibre broadband for public buildings, up to the value of £8m (Oxfordshire County Council Funding of £5m and Department of Culture, Media and Sport (DCMS) funding of £3m).

Executive Summary

2.   The county council's digital infrastructure programme has previously received approval to operate a public procurement seeking a supplier to contract these works with.

The rationale for the procurement is to enable;
   a) Lower cost fibre infrastructure is built to county council buildings (where gigabit broadband infrastructure does not exist, or is not scheduled for build under commercial plans by telecoms operators) so ICT can migrate away from expensive dedicated leased line connections
   b) Other public sector buildings such as a range of schools and GP practices to have full fibre broadband infrastructure provisioned, enabling much faster low-cost connectivity to be contracted on favourable terms
   c) A range of community based buildings such as village halls to have full fibre broadband infrastructure provisioned such that new community services can be made available, and providing a pathway for using these community assets for delivery of health and other public services which are dependent on high speed connectivity.

The procurement path has used the Crown Commercial Services framework for Gigabit Connectivity, following extensive engagement with a range of local and national suppliers. The procurement has elicited compliant bids which are in the process of evaluation.

The contract is to be funded by a Grant of c £3m from DCMS, and between £3m and £5m from the council's digital infrastructure ringfenced fund. (This fund is due to the income the council will receive as payments from BT pursuant to the Better Broadband for Oxfordshire contract (BBfO). The summary position of this is an amount between £12m and £14m is payable to Oxfordshire County Council (OCC) between 2021 and 2026, accrued from the additional profit made by Openreach against the 100,000 premises connected with superfast broadband under the BBfO contract).

The reason for there being a range in anticipated funding requirements at the point of the report being issued is due to finalising the full site list required to be contracted. The reason this site list is dynamic is because we are carefully evaluating the probability of telecoms operators such as Openreach, building full fibre connectivity to locations under their commercial rollout plans, and when that deployment might happen.

Alignment with County Council and HMG National Objectives

3.   In 2013/14, it had become increasingly clear that internet access was fast becoming an essential service rather than a luxury. It was also reasonably concluded that without any form of state intervention to support investment in broadband infrastructure, a growing digital divide would materialise as commercial operators were not able to build sustainable investment models for any areas other than relatively urban geographies. Accordingly, OCC along with most Local Authorities, determined to co-fund (along with DCMS), a contract to deliver fibre broadband to areas deemed as subject to market failure. This became known as the Better Broadband for Oxfordshire programme, which initially targeted achieving 90% coverage of superfast broadband in Oxfordshire. This contract completed in 2020, having achieved superfast coverage to over 98% of the county. It has also achieved an exceptionally high adoption by our residents and businesses, with over 76% of the 100,000 premises connected taking up a superfast broadband service. The commercial assumptions used in the BT contract factored a take up %age significantly below this 76%, and the difference between this and the actual take up has resulted in the council securing the income (effectively a profit share) which is described in the summary above.

4.   Whilst this achievement has been significant for Oxfordshire residents and businesses, we know that the trajectory of internet usage is demanding ever faster broadband access, which is ultimately only possible with Fibre to the Premise (FTTP) technology. It should be noted that the investment in our BBfO programme has deployed Fibre to the Cabinet (FTTC) infrastructure, which was the most cost effective technology available at the time, and the viability of upgrading to FTTP is greatly enhanced by the several hundred km of fibre laid to cabinets throughout the county under the programme.

5.   DCMS policy has thus now shifted to delivery of FTTP, with the current government target set at achieving 85% coverage by 2025, and ultimately 100%, with £5bn intervention funding being secured from HMT to support this

ambition. The flagship programme under DCMS for this is known as Project Gigabit. This is a major national initiative taking some time to mobilise, and in the interim, DCMS are funding projects (subject to competitive applications) such as this Rural Gigabit Hub Site project. Under the application process for funding, OCC has had approval from DCMS for them to fund fibre infrastructure build to 93 public sector sites. There are other building categories such as community centres which they are not willing to fund, as well as other public sector buildings which they will not fund, as they deem them to not be sufficiently rural. These are the sites that form the requirement for OCC to fund (from programme ringfenced funding).

6.   It should be noted this project is not considered as being subject to 'intervention funding'. It is therefore not contemplated as 'state aid', but rather that there is a defined requirement for these buildings to be provisioned with fibre broadband infrastructure, rather than being areas defined as being subject to market failure, with all the consultation and state aid clearances that are required under such interventions.

Corporate Policies and Priorities

7.   This contract will support OCC's priorities highlighted in the Corporate Plan in several ways. By putting gigabit capable connections into public buildings such as village halls it provides opportunities for those buildings to become hubs for communal activities, locally delivered healthcare clinics and sites for helping to increase digital inclusion (particularly for the elderly or those who cannot afford a personal broadband contract) and providing agile working sites for OCC & NHS staff. Increased usage could also mean increased revenue for sites which they can then use to invest back into their community.

8.   The installation of fibre into the public sector or community buildings will also ensure that nearby private premises and business will be provided with fibre in an expanding footprint. This will mean that more people in rural locations will have the ability to work from home or to receive services more locally, reducing commuting or longer journeys and thereby addressing air quality and carbon emission issues and contributing towards OCC's carbon neutral by 2030 target.

9.   Gigabit capable connections will also help with home schooling, which has become an ever more important consideration for families during the COVID-19 pandemic with remote learning becoming a part of school life. Full-fibre connections allow children and their parents, who may be remote working, to share the same connection without slowdown or disconnections.

Financial Implications

10.   This contract will be funded from two sources. DCMS will provide capital funding for 93 sites which qualify under the terms of its Rural Gigabit Hub Site Programme. This funding will be claimed in arrears. The remaining c.150 sites which do not qualify for DCMS funding will be funded by OCC.

11. The OCC funding has been accrued through previous digital infrastructure programme savings (Better Broadband for Oxfordshire) and a return on the combined investment (including OCC and Department for Culture Media & Sport) in these programmes via a contractual BT profit-share agreement. The final value of the profit-share agreement is not confirmed; however the conservative forecast indicates that the amount will be in excess of the funds required to deliver this new programme. The profit share is released at set milestones. Whilst the balance is held by BT, interest is accrued at 1% above Bank of England base rate (currently 0.25%). The majority of the profit share will be received by OCC outside the scheduled delivery timescale of the programme. A small payment is due this financial year with further instalments being received during 2023/24 to 2025/26. As the costs of this programme will be incurred in advance of the funding being received, the capital programme will need to forward fund up to £5m for a period of up to four years. This may require OCC to temporarily fund the programme by bringing forward Prudential Borrowing already planned within the programme. The use of Prudential Borrowing would increase the Council's Capital Funding Requirement and in turn increase the annual charge to revenue for the repayment of borrowing (MRP – Minimum Revenue Provision) by up to £0.2m if the full £5m was required. As the Prudential Borrowing is already within the capital programme, this will accelerate the increase in MRP but will not increase the cost to the Council over the life of the Capital Programme.

12. At the time of writing the final capital funding breakdown is subject to some variability due to the final determination of the site list to be contracted. The requested approval required in order to proceed with contract award is necessarily therefore based on parameters which are currently estimated at:
    a) Minimum Order: DCMS funding at £2m and OCC funding at £3m
    b) Likely Order: DCMS funding at £2.5m and OCC funding at £3.5m
    c) Maximum Order: DCMS funding at £3.5m and OCC funding at £4.5m

13. The Programme Management costs for managing the contract and delivery will be contained within the existing programme team costs as an ongoing operation, also funded by income from the BT profit-share arrangement.

14. An update to the Better Broadband for Oxfordshire programme will be included in the Capital Monitoring Report to Cabinet in October..

    Comments checked by:

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Legal Implications

15. The contract itself is based on the OGC Framework known as RM6095 and is being agreed with OCC Legal in preparation for signing. This contract is joint funded by DCMS and OCC and as such has had to ensure that delivery to the

proposed site list does not contravene state aid rules. This is due to the requirement as being one of business or operational need at each site being connected, rather than intervention funding per se on the basis of market failure. This is a specialist legal subject and DAC Beachcroft LLP were engaged to consider each of the site types included in the procurement. Their view was that the proposed contract would not be breaching any state aid legislation. Their reply was submitted to OCC's legal team in March 2021 who agreed with its findings. The DAC Beachcroft LLP statement can be found as an attachment to this report.

16. The approach to the procurement and subsequent ITT document has been agreed by both the OCC legal and procurement teams and is compliant with all relevant legal requirements. Evaluation and moderation of the tenders has taken place with procurement team involvement and is fully complaint with procurement process requirements.

17. Final legal assurance will be conducted by OCC Principle Solicitor Contracts on the proposed contract

   Comments checked by:

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Staff Implications

18. The awarding of this contract and its subsequent delivery will be managed by OCC's existing Digital Infrastructure Team. This team will be working in partnership with the chosen provider and with other stakeholders (NHS, Parish Councils, etc). As stated above the funding for this work will partly come from DCMS and partly from OCC budget ringfenced for digital infrastructure build from previous programme savings and income. As a consequence there are no new staffing or funding implications for OCC by awarding this contract.

Equality & Inclusion Implications

19. This contract does not change any policy or strategy, nor does it make any change to service. The provision of gigabit capable infrastructure into public buildings may allow enhancements to existing services and for the creation of new ones, but the infrastructure that this contract will deliver is passive.

Sustainability Implications

20. As stated above, the provision of digital infrastructure may help toward reducing emissions through remote working and reduced travel, but it is for individuals or for OCC to take the decisions that will bring about those changes. As before,

the infrastructure provided by this contract is passive and will not, by itself, improve sustainability.

Risk Management

21. The digital infrastructure programme team have good experience in successfully operating this kind of procurement, as well as managing the resultant contracts. In this procurement we have additionally employed professional support in operating the procurement as well as legal advice as pertaining to state aid. Significant transparent consultation with potential suppliers in advance of the procurement itself limits the risk of challenge to proposed contract award. As the project gets into delivery, it will be important to fully align with ICT in delivery of the 'WAN Replacement' project, and we have already joined in the governance process for delivery of that initiative.

22. The team have extensively consulted with potential external beneficiaries and wish to underscore there are several opportunities at hand in how we can meaningfully engage with communities to enhance how the council delivers services locally. We also consider there are strategic opportunities to further develop agile working across the public sector, as well as collaboration between our Social Care function and the NHS. To ensure these opportunities are realised a full stakeholder plan needs development, and a formal comms plan put together to maximise this.

Consultations

23. This project has not formally consulted members of the public, but the team have engaged with schools, the NHS, community centres, village halls, and parish councils.

Claire Taylor, Corporate Director Customers, Organisational Development and Resources.

Craig Bower, Programme Director, Digital Infrastructure Team

Annex:	None
Background papers:	None
Other Documents:	Legal Advice on State Aid Published as an Additional Document on the meeting [webpage](#)
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