

Record of Cabinet portfolio holder decision

Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

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| Decision made by | Cllr John Cotton |
| Key decision? | Yes |
| Date of decision (same as date form signed) | 22 December 2014 |
| Name and job title of officer requesting the decision | Suzanne Malcolm, Economic Development Manager |
| Officer contact details | Tel: 01491 823126 Email: suzanne.malcolm@southandvale.gov.uk |
| Decision | <ol style="list-style-type: none"> 1. To transfer £1,000,000 from the provisional capital programme to the approved capital programme to deliver the extension of the Better Broadband for Oxfordshire programme to South Oxfordshire 2. To approve £90,000 virement from contingency in 2014/15 to provide additional funding for the delivery of the broadband project (the costs of the delivery team) as stipulated in clause 3.1 of the funding agreement 3. To authorise the strategic director, in consultation with the relevant cabinet member, to negotiate and agree the detailed terms of the contract and implementation plan with Oxfordshire County Council 4. To authorise the head of legal and democratic services to complete the necessary agreements. |
| Reasons for decision | <p>In April 2014, the council indicated its support for providing £1,000,000 capital funding to extend the Better Broadband for Oxfordshire scheme coverage in South Oxfordshire. This funding is match-funded by Broadband Delivery UK (BDUK) under the Superfast Extension Programme (SEP).</p> <p>Increasing superfast broadband coverage contributes towards the council's strategic objective of "building the local economy" and the corporate priority of "working with partners to improve broadband services across the district".</p> <p>Once Oxfordshire County Council (OCC) had received clarification from the other Oxfordshire districts as to their intentions for additional funding, it implemented an open market review (OMR) exercise. The purpose of the OMR exercise was to establish existing and planned (next three</p> |

years) commercial coverage of broadband services in Oxfordshire by all existing, and any prospective, broadband infrastructure providers. This exercise was completed in September 2014 and the information gathered as part of the OMR was then used to define the Intervention Areas to be targeted for additional coverage.

Following the completion of the OMR exercise, there then followed a 30 day State Aid public consultation on the proposed Intervention Areas. Once the State Aid consultation was completed, OCC instructed BT to model the additional coverage on the basis of achieving maximum coverage for the investment. The resulting additional coverage will be delivered in parallel with the current Better Broadband programme.

OCC has provided an additional £400,000 to enable all schools in Oxfordshire (except those in West Oxfordshire) to be able to receive superfast broadband, which has enabled the district funding to be used in other parts of South Oxfordshire.

Initial data was received by officers on 21 November 2014. This headline data shows that 4,022 additional premises would be funded through the additional £2,000,000 investment in South Oxfordshire (50 per cent from SEP and 50 per cent from the council). However we now understand this figure is incorrect and not guaranteed and is currently being re calculated by OCC.

This would bring the total number of premises with access to superfast broadband to be delivered under the Better Broadband for Oxfordshire project in South Oxfordshire from 52,954 premises to 56,976 premises i.e. 95 per cent coverage.

For the purposes of this project, the estimated number of premises in South Oxfordshire is 59,994, thus leaving some 3,018 premises not able to access superfast broadband i.e. some five per cent.

Officers have also been notified that some postcodes that were in the modelled BT coverage conflict with proposed commercial coverage by Gigaclear. OCC expect that this coverage will be remodelled by BT during Q1 of 2015/16 resulting in an overall increase of coverage within the Vale when combined with the proposed Gigaclear coverage. The proposed £1,000,000 capital investment by the council equates to a cost of £249 per premise, but clearly is supported by match funding of £1,000,000 from BDUK SEP fund, without which the council would have been required to provide funding of £2,000,000 to achieve the same coverage.

Along with this headline data, officers also received a speed and coverage template, which provides details of coverage by postcode. The speed and coverage template splits this delivery into phases, which will have indicative delivery dates in due course. Due to the size of the speed and coverage template, it is not appended to this report, but it is available for councillors to inspect as necessary. This indicates that district coverage is intended to be delivered in Phases 7 and 8 commencing after December 2015

There is also potential that the £2,000,000 for provision of superfast broadband in the Enterprise Zone allocated under the Oxfordshire Local Enterprise Partnership (LEP) Growth Fund could be match funded by BDUK to provide a total of £4,000,000 to support delivery not just in the Enterprise Zone area but also other business parks in Oxfordshire if it is combined with this contract. This would enable the council's £1,000,000 contribution to spread further into more rural parts of the district and ultimately would provide 97 per cent coverage for South Oxfordshire, Vale of White Horse and Cherwell districts. It is hoped that agreement with the LEP can be achieved on this in January 2015, to enable this additional funding to be added to the existing Better Broadband for Oxfordshire programme. If this should not be agreed, then the coverage would revert to the 95 per cent, as set out above.

There is a requirement for BT/OCC to provide the council with a detailed implementation plan, including the projected timescale for the works, so that the council can monitor the delivery and milestones. This is due early in the new year. The implementation plan will include details of the number of premises to be reached by certain milestones, postcodes of premises, an approximate delivery date and a contract date when complete.

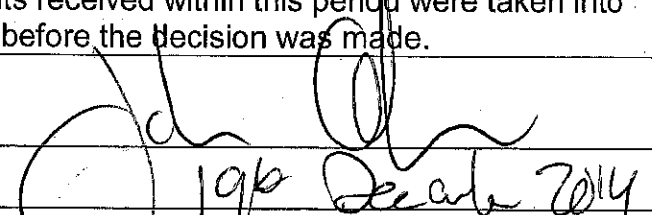
The speed and coverage template provides details of the out-of-scope areas and will enable the council to consider options for supporting these areas to achieve superfast broadband.

A draft funding agreement is in discussion between the council and OCC. However OCC are constrained as to what contractual commitment it can give to the districts as they are not able to agree anything more than BT are obliged to do under the contract with OCC

Therefore they will not agree to stage payments being made on meeting certain milestones, but they have agreed that the funding can be paid in five instalments to be made on 01/07/2015 - £500,000, 01/12/2015 - £30,000, 01/07/2016 - £500,000, 01/07/2016 - £30,000 and 01/01/2017 - £30,000. The also cannot agree contractually that a specific number of

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| | <p>premises in the district will be given broadband by particular dates since the overall coverage is Oxfordshire wide in the BT contract and therefore BT may be compliant under their contract in the overall number of premises delivered by the anticipated phased dates whilst not having delivered the expected coverage in the district in that timeframe</p> <p>The key point to note in relation to this agreement is that the county wide implementation plan will be appended to the agreement and this will give the council the opportunity to monitor the delivery of the contract. The speed and coverage template will also be appended to identify indicative timings though contractually we will not have recourse should BT fail to meet these anticipated dates.</p> <p>Once the funding agreement is completed with OCC, the coverage and timetable will be added to the existing mapping on the Better Broadband for Oxfordshire website (www.betterbroadbandoxfordshire.org.uk).</p> |
| <p>Alternative options rejected</p> | <p>There are a number of alternative models of delivery that the council could consider; however, it should be noted that the OCC/BT scheme is the only scheme that offers match funding through BDUK. Whilst there will be some risks in terms of delivery, given that the council is reliant on OCC to manage the contract with BT, there are likely to be time delays state aid and financial implications to be considered should the council choose to procure a separate solution.</p> |
| <p>Legal implications</p> | <p>It is proposed that this funding is added to the OCC contract with BT under a contract variation clause. The council will enter into a legal agreement with OCC prior to OCC commissioning BT. Officers recommend that the cabinet member authorises the strategic director, in consultation with the relevant cabinet member, to negotiate and agree the detailed terms of the contract and implementation plan with Oxfordshire County Council, and authorises the head of legal and democratic services to complete the necessary agreements.</p> <p>In the interest of urgency (the county has indicated that the BD-UK matched funding as well as the district council funding would be lost if the funding agreement were not signed by 24 December 2014), the Chairman of the Scrutiny Committee has kindly agreed to waive any entitlement to call-in this cabinet decision.</p> |
| <p>Financial implications</p> | <p>The provisional capital programme contains an allocation of £1,000,000 for the delivery of this project and this allocation needs to be transferred to the approved capital programme.</p> <p>The contract details will determine how the allocation of the council's agreed contribution of £1,000,000 is provided to</p> |

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| | <p>OCC.</p> <p>If the council considers additional options for extending broadband coverage outside the BT/OCC scheme, then any financial implications will be addressed in the 2015/16 budget.</p> <p>In December 2014 the county notified the district that the county would not be funding the project delivery team after December 2015, which required additional funding equivalent to 9 per cent of the grant contribution – in this case £90,000 on top of the £1,000,000. As this had not been earmarked in the provisional capital programme, a contingency virement is required to make this funding available.</p> |
| <p>Other implications</p> | <p>As set out above, there are risks associated by not controlling the project directly. However, it is anticipated that a project board will be established with representation from the council. Officers have sought to protect the council's interests as far as possible in the legal agreement with OCC however as stated above OCC cannot provide any contractual commitment to delivery by BT of a specified number of premises by particular dates</p> <p>OCC is suggesting that the contractual obligation for BT is an end-stop position, supported by quarterly delivery milestones Oxfordshire wide. For example, anticipated delivery of x number of premises passed by December 2017 in South Oxfordshire. The speed and coverage template will split this delivery into phases, which have indicative delivery dates. These are not guaranteed.</p> <p>In addition, the main contract between OCC and BT will have milestone achievement requirements at a county level, for example 34,000 premises passed by 31 December 2014, 45,000 premises passed by 31 March 2015. However, this is not correlated to specific premises in a specific location. BT has the ability to amend the implementation plan. This can be both in respect of completion dates (provided they maintain their quarterly milestones), and replacement coverage (by agreement) if an irresolvable issue arises.</p> <p>Supporting the roll out of faster broadband across the district is a corporate priority for the council and this scheme offers the opportunity to raise coverage in the district to approximately 95 per cent for a reasonable investment, which is match funded. Therefore, officers recommend that £1,090,000 is contributed towards the scheme and recommend the authorisation of officers, in consultation with the relevant cabinet member, to negotiate and enter into the necessary agreements with Oxfordshire County Council.</p> |

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| Background papers considered | None | | | |
| Declarations/conflict of interest? Declaration of other councillor/officer consulted by the Cabinet member? | | | | |
| List consultees | | Name | Outcome | Date |
| | Ward councillors | | | |
| | Legal | Pat Connell | | |
| | Finance | Rhona Bellis | | |
| | Human resources | | | |
| | Sustainability | | | |
| | Diversity and equality | | | |
| | Communications | | | |
| | Strategic Management Board | Steve Bishop | Agreed | 18.12.14 |
| | Other consultees | | | |
| Confidential decision? If so, under which exempt category? | No | | | |
| Call-in waived by Scrutiny Committee chairman? | Yes – see attached email from Councillor David Turner | | | |
| Has this been discussed by Cabinet members? | Cabinet briefing has discussed broadband on various occasions; however, officer's circulated the draft decision report to all cabinet members for 48 hours prior to the cabinet member making the formal decision and any comments received within this period were taken into account before the decision was made. | | | |
| Cabinet portfolio holder's signature To confirm the decision as set out in this notice. | Signature  Date <u>19th Dec 2014</u> | | | |

ONCE SIGNED, THIS FORM MUST BE HANDED TO DEMOCRATIC SERVICES IMMEDIATELY.

| For Democratic Services office use only | | |
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| Form received | Date: 22 Dec 2014 | Time: 13:40 |
| Date published to all councillors | Date: 22 Dec 2014 | |
| Call-in deadline | Date: N/A | Time: N/A |

Guidance notes

1. This form must be completed by the lead officer who becomes the contact officer. The lead officer is responsible for ensuring that the necessary internal consultees have signed it off. The lead officer must then seek the Cabinet portfolio holder's agreement and signature.
2. Once satisfied with the decision, the Cabinet portfolio holder must sign and date the form and return it to the lead officer who should send it to Democratic Services immediately to allow the call-in period to commence. Democratic Services staff are located on the ground floor north wing (C block) of the Crowmarsh Gifford offices. Tel. 01235 540307 or extension 7307.
Email: democratic.services@southandvale.gov.uk
3. Democratic Services will then publish the decision to the website (unless it is confidential) and send it to all councillors to commence the call-in period (five clear working days). The decision cannot be implemented until the call-in period expires. The call-in procedure can be found in the council's constitution, part 4, under the Scrutiny Committee procedure rules.
4. Before implementing the decision, the lead officer is responsible for checking with Democratic Services that the decision has not been called in.
5. If the decision has been called in, Democratic Services will notify the lead officer and decision-maker. This call-in puts the decision on hold.
6. Democratic Services will liaise with the Scrutiny Committee chairman over the date of the call-in debate. The Cabinet portfolio holder will be requested to attend the Scrutiny Committee meeting to answer the committee's questions.
7. The Scrutiny Committee may:
 - refer the decision back to the Cabinet portfolio holder for reconsideration or
 - refer the matter to Council with an alternative set of proposals (where the final decision rests with full Council) or
 - accept the Cabinet portfolio holder's decision, in which case it can be implemented immediately.