

Report of Director of City Development and Director of Resources

Report to Executive Board

Date: 4 September 2013

Subject: Design & Cost Report for West Yorkshire Local Broadband Project and Authority to Spend

Capital Scheme Number: 16662

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: 10.4.3 Appendix number: Appendix A	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Summary of main issues

The Council has developed proposals for broadband initiatives which will make significant improvements to broadband speeds and distribution within West Yorkshire. Access to broadband is now an essential part of the leisure and business environment and greater speeds are required to realise the full potential of the internet.

The Council is acting as the lead authority on the West Yorkshire Local Broadband Project. The programme is currently in the final procurement stage and is proceeding to timetable, and in September 2013 the Council is to enter into a Partnership Agreement with the other authorities involved with the project, together with two funding agreements and a contract for the installation of superfast broadband infrastructure in West Yorkshire.

Funding is being contributed by the four West Yorkshire authorities involved in the project, (Leeds City Council, Bradford Metropolitan District Council, the Council of the City of Wakefield and the Borough Council of Calderdale “the WYLB Authorities”) the Department for Culture Media and Sport through their broadband delivery arm BDUK (“BDUK”) and the Department for Communities and Local Government DCLG through the European Regional Development Fund (“ERDF”).

As Leeds City Council will be responsible for 25% of the external grants, these funding streams are required to be included in the Capital Programme. As such Authority to Spend is required.

However, although not directly related to this West Yorkshire Project, there are serious concerns that along with the city centres some inner city and central areas in the corridor between Leeds and Bradford may not receive enhanced broadband infrastructure in the near future due to limitations of the Government's Super Connected Cities (SCC) Initiative. These would be those areas that are located within the Leeds-Bradford SCC area.

Recommendations

Executive Board is recommended to:

1. Approve delivery of the West Yorkshire Local Broadband Project by Leeds City Council on behalf of the partnership;
2. Inject £2,100.7k of external funding into Capital Scheme Reference **16662**.
3. Give Authority to Spend within the capital programme scheme reference **16662** for £2,100.7k on the installation of broadband infrastructure in the administrative areas of the WYLB Authorities;
4. Delegate authority to the Director of City Development to authorise entering into a contract with the preferred bidder for the supply of the works and services described above and for the sum described in paragraph 3.4;
5. Delegate authority to the Director of City Development to authorise entering into funding agreements with BDUK and DCLG for £4,615.0k and £3,787.8k respectively;

1 Purpose of this report

- 1.1 To inform members of the progress that has been made on this project and inject external funding from BDUK and ERDF into the capital programme.

2 Background information

- 2.1 The Council has developed proposals for broadband initiatives which will make significant improvements to broadband speeds and distribution within West Yorkshire. Access to broadband is now an essential part of the leisure and business environment and greater speeds are required to realise the full potential of the internet.
- 2.2 In December 2010 the government launched the National Broadband Strategy: "Britain's Superfast Broadband Future". The strategy set out the Government's vision for broadband in the UK, which is to ensure the UK has the best superfast (speeds of +24mbps) broadband network in Europe by 2015.
- 2.3 The Local Broadband Plan is a West Yorkshire project to deliver the Government's aim to roll out superfast broadband to at least 90% of premises, which is supported by £9.4m of public funding. The ambition is that the remaining 10% of

premises will be able to access at least 2mbps, which is considered as the minimum to view the BBC iPlayer or have a quality home working experience.

- 2.4 The Local Broadband Plan was submitted and approved by the Secretary of State in April 2012 and the procurement process to commission a provider using the Government's framework contract is in the final stages of the procurement process.
- 2.5 State aid restricts the areas where public subsidy can be used to intervene in broadband infrastructure. 'White areas' are defined as those where there is no superfast broadband provider. Funding will be applied to these areas to ensure that the limited public funding available can be used as effectively as possible.
- 2.6 Payments under the contract are applied as the payment of a public subsidy as gap funding. The private sector providers of superfast broadband have "rolled" out the infrastructure as far as it is commercially viable to do so and the public subsidy will unlock a further roll out to areas that would have not otherwise have received a superfast broadband service. The resulting assets will be owned by the supplier but their use will be controlled by the terms of the contract to ensure that they are used to provide a competitive service to people and businesses in the area covered. This is part of a national programme to improve broadband that is being run by BDUK. The provision of this funding should lever in significant private sector investment. See appendix A for details.
- 2.7 An Executive Board decision on 18 July 2012 committed the Council to a funding contribution of £3.345m which breaks down as up to a £1m for the BDUK project, £2m for the Super Connected Cities and £345k for the delivery of both projects.
- 2.8 The 18 July 2012 report also covered the Super Connected Cities programme which is currently awaiting further guidance from the DCMS and therefore this report seeks no change to the £2.1725m budget allocated to this scheme and its delivery.
- 2.9 The geographical coverage of the West Yorkshire broadband project within the district of Leeds does not include the Super Connected Cities Programme (SCC) area; a central corridor running from the Aire Valley (including the Enterprise Zone) to Bradford, including both city centres. The two programmes / areas were split to deliver different outputs and outcomes. Both City Centres along with the majority of the SCC area currently do not have 'open access' infrastructure that supports superfast (and faster) broadband services, resulting in businesses and residents mainly relying on individual, largely more expensive lease lines if they wish to have a superfast broadband service. The original SCC programme aimed to provide even better broadband services across this core SCC corridor and city centres; £14.4m was secured for the SCC programme from Government to do this. The two programmes / areas therefore need to be considered separately in terms of delivery.
- 2.10 However, the Government's 'ultrafast' broadband (80-100+mbs speeds) intentions for the SCC initiative look like they will not be able to be realised, as they have been unable to convince the European Union to support further State Aid Applications from the UK for SCC programmes; and therefore the Government will

not support any further State Aid applications to the EU. Without State Aid approval public funding is not able to be invested in new broadband infrastructure as was originally planned across the Leeds-Bradford SCC area. The original programme aimed to deliver *ultra-fast* broadband networks whilst opening up the 'Market' to competition by Internet Service Providers across the whole of the SCC area including both City Centres and surrounding inner city areas and the Enterprise Zone. These would seek to reduce broadband costs to residents and businesses, including to help improve business efficiency and competitiveness.

- 2.11 As a result there are serious concerns that the Leeds-Bradford SCC programme may not be able to deliver all of Leeds' and Leeds City Region's ambitions for economic growth and social inclusion in this 'core' area, which enhanced broadband infrastructure would bring. Proposals for a SCC Voucher Scheme which would be available to small-medium sized businesses may provide a part-solution to the problems, but it will not apply to residential properties, many of which are within the most deprived areas of the City. It will be important that Government is focussed on finding viable and deliverable solutions to these problems so that the benefits of enhanced broadband connectivity can be shared by all residents and businesses within Leeds and the wider Leeds City Region.

3 Main issues

- 3.1 Since the date of the last report the Council as lead authority along with the other WYLB Authorities involved has applied for funding from BDUK (£4,615.0k) and CLG (£3,787.8k), has received funding commitments from the WYLB Authorities (£317.6k from Leeds, £79.2k from Bradford, £322.4k from Calderdale and £253.0k from Wakefield) and progressed through a tender process that is nearing conclusion. Leeds City Council's portion of the capital funding equates to £1,153.8k from BDUK and £946.9k from DCLG. In addition support from ERDF has been provided for project management costs and to support a West Yorkshire Business Support Programme.
- 3.2 It should be noted that although these funds have been committed to the project they are still subject to the relevant funding agreements and partnership agreements being signed by all parties. At the time of writing the partnership agreement between the WYLB Authorities is in an agreed form and the process for obtaining signatures is progressing. The funding agreements will not be signed until the tender received from the supplier has been appraised and the external funding bodies are satisfied that it will meet their requirements. No contract will be entered into with the supplier until documentation confirming these funding commitments has been signed.
- 3.3 The tender process is being carried out through a framework that was set up by BDUK. As this is part of a national programme, BDUK have acted as an assurance partner in terms of process, the technical and commercial aspects of the project and state aid approvals.
- 3.4 The Council is acting as lead authority and will be entering into a contract with the supplier worth £9.4m. The total contract will be managed by Leeds City Council outside of the Capital Programme. The Council's accounts, and hence the Capital

Programme will reflect the Council's contribution and its share of the BDUK and DCLG funding only

- 3.5 The tenders for the contract have now been returned and evaluated and BT has been appointed as Preferred Bidder. Details of the outputs from the contract are attached at exempt Appendix A.
- 3.6 Payments to the supplier will be made initially by the Council with the other WYLB Authorities making periodic payments of their contribution. The Council will also claim monies back through the funding agreements with BDUK and DCLG.
- 3.7 By acting as lead authority the Council is taking on some risk as the counterparty to the bodies providing funding and the supplier. The most significant risk is that payments are made to the supplier that cannot then be re-claimed from one of the funding bodies. The Council has agreed the terms of a partnership agreement with the WYLB Authorities involved in the project which states that this risk is shared between the WYLB Authorities (provided that the Council hasn't caused the problem by acting negligently). Controls will be in place in the contract with the supplier allowing works to be stopped if there are funding issues which will help to mitigate and minimise these risks. Members should note that the Director of City Development is authorising entry into the partnership agreement using his existing delegated powers.
- 3.8 A project board has been set up with senior representatives from each WYLB Authority. The tender is being evaluated by an evaluation team made up from representatives from each WYLB Authority. The results of the evaluation will be reported to the project board for a decision on whether to appoint. The Council's Director of City Development will then take the decision to authorise entry into the contract on behalf of the Council.
- 3.9 In terms of the separate Leeds-Bradford SCC Programme, it will be important that the Authority along with Bradford and other neighbouring authorities continue to lobby and work with Government to find infrastructure solutions that would enhance and open up broadband networks within the City Centres and the wider SCC area to greater competition, similar to what is being provided elsewhere across West Yorkshire through the West Yorkshire Local Broadband Programme. This will be critical in both helping reduce business costs for broadband services and helping improve social inclusion within some of the most deprived areas of the City.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 All 99 councillors have been informed about the BDUK project. The Executive Member for Development and the Economy and The Leader have also been briefed.
- 4.1.2 Extensive soft market testing has taken place and extensive feedback has been sought from industry, including local companies and partnerships such as IX Leeds.

- 4.1.3 Business surveys have also taken place to understand the perceptions about superfast broadband and benefits to business, and barriers to use. These findings will be used to develop future projects around ICT to ensure that businesses are equipped to take advantage of the improved infrastructure.
- 4.1.4 ERDF funding has been secured to assist with demand stimulation activities to encourage use and promote the benefits of superfast broadband to businesses, especially SMEs.
- 4.1.5 The West Yorkshire Broadband Plan is publicly available on the Leeds City Region website which provides details of the current overall broadband coverage and areas requiring infrastructure upgrades to enable superfast broadband access. Communities will be informed of and engaged in the roll-out programme through the delivery stages over the next two years. Demand stimulation activity will twin-track the infrastructure roll-out programme to support residents and businesses to adopt and benefit from superfast broadband as it becomes available.
- 4.1.6 Reports have been taken to AWYA to keep the Leaders and Chief Executives informed.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 A screening document has been prepared and an independent impact assessment is not required for the approvals requested. The screening document is attached as Appendix B.
- 4.2.2 Ensuring the infrastructure is in the ground to enable broadband access is only the first stage. As such, programmes that are in place in Leeds to encourage and provide equipment to residents to enable them to take advantage of digital opportunities are essential. These include the Go Online initiative to get households online. Both of the projects include demand stimulation activities to encourage and advise businesses on the benefits (and how to use) superfast speeds.

4.3 Council policies and City Priorities

- 4.3.1 The projects fit with the Leeds Growth Strategy which has been agreed by the Executive Board. They also fit with the City Priorities, particularly creating more jobs for the city as the broadband speeds will contribute to the cities competitiveness.

4.4 Resources and value for money

- 4.4.1 The BDUK Project is dependent on £317,600 capital contributions from Leeds City Council for the capital project and £254.2k for the delivery of the project.
- 4.4.2 BDUK have allocated West Yorkshire £4.615m which has to be matched by the local authorities. It is expected that the Leeds capital contribution to the project and those from the other authorities will be match funded by the European Regional Development Fund (ERDF) Bid of £3,787,800. It has recently been confirmed that the ERDF bid has been approved.

4.4.3 Leeds City Council's portion of the external capital funding equates to £1,153,800 from BDUK and £946,939 from DCLG. A further £69k is required as a contingency for the BDUK project and possible further delivery costs.

4.4.4 The Design and Cost table below sets out how the overall funding allocation for the West Yorkshire Local Broadband Partnership is anticipated to be spent.

Previous total Authority to Spend on this scheme	TOTAL £000's	TO MARCH 2013 £000's				
			2013/14 £000's	2014/15 £000's	2015/16 £000's	2016 on £000's
LAND (1)	0.0					
CONSTRUCTION (3)	0.0					
FURN & EQPT (5)	0.0					
DESIGN FEES (6)	0.0					
OTHER COSTS (7)	0.0					
TOTALS	0.0	0.0	0.0	0.0	0.0	0.0
Authority to Spend required for this Approval						
Authority to Spend required for this Approval	TOTAL £000's	TO MARCH 2013 £000's				
			2013/14 £000's	2014/15 £000's	2015/16 £000's	2016 on £000's
LAND (1)	0.0					
CONSTRUCTION (3)	0.0					
FURN & EQPT (5)	0.0					
DESIGN FEES (6)	0.0					
OTHER COSTS (7)	2100.7		105.0	1995.7		
TOTALS	2100.7	0.0	105.0	1995.7	0.0	0.0
Total overall Funding (As per latest Capital Programme)						
Total overall Funding (As per latest Capital Programme)	TOTAL £000's	TO MARCH 2013 £000's				
			2013/14 £000's	2014/15 £000's	2015/16 £000's	2016 on £000's
Unsupported Borrowing	640.8					
European Grant (ERDF)	946.9		47.3	899.6		
Government Grant (BDUK)	1153.8		57.7	1096.1		
Total Funding	2741.5	0.0	105.0	1995.7	0.0	0.0
Balance / Shortfall =	640.8	0.0	0.0	0.0	0.0	0.0

Parent Scheme Number : 16662

Title : West Yorkshire Local Broadband Plan

4.4.5 As can be seen from this table the reduced Leeds City Council capital contribution of £640.8k for this phase of delivery together with those from other West Yorkshire Authorities of £654.6k levers in significant additional grant funding of £4.6150m of BDUK funding and £3.7878m from ERDF as well as match funding from the private sector partner who will deliver the scheme.

4.4.6 Based on similar projects, the total cost for a delivery team over the lifetime of the project is anticipated to be £1,154k. Calderdale, Wakefield, and Bradford have allocated a total of £770.2k whilst Leeds will contribute £254.2k and the ERDF will provide £129.6k. However as these are project delivery costs, they will be financed from the Capital Programme funding.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The project involves the provision of state aid. The grant of this aid is authorised through an umbrella state aid approval that was obtained from the European Commission by BDUK. BDUK are acting as the assurance body for the grant of the aid on behalf of the EU Commission and have, to date, signed the project off as state aid compliant. Before the contract with the supplier is entered into BDUK will give final approval that the project is state aid compliant. In addition to this the WYLB Authorities will undertake their own assurance process including taking specialist external legal advice if the project board considers it necessary.
- 4.5.2 The Council has used in-house legal resource to advise on the procurement process and contract terms.
- 4.5.3 This decision is exempt from call in on the following grounds:
- The original report of 18 July 2012 was subject to call in;
 - This report only provides a project and funding update and requests approval to enter contract. Being subject to call in may adversely affect the critical project timetable which requires contract signature at the earliest possible date.
 - It was not possible to bring an earlier report as the tender (and the information set out in the confidential appendix A) was not submitted until 11 July which was too late to meet July executive board submission deadlines.
- 4.5.4 Appendix A is exempt from disclosure under access to information rule 10.4.3 as it contains confidential information about the commercial proposals put forward by the bidder for the broadband infrastructure contract. The public interest in maintaining this confidentiality outweighs that of disclosure.

4.6 Risk Management

- 4.6.1 As outlined at section 3 there are risks involved in taking part in this project and risks for the Council involved in taking on the role of lead authority. However, risk mitigation measures are in place through both the partnership agreement and the contract with the supplier. External legal Counsel has also been commissioned to advise the Partnership on delivery risks and State Aid issues. No contract will be entered into with the supplier until all funding is committed.

5 Conclusions

- 5.1 A partnership agreement has been set up between the Council and three other WYLB Authorities (also includes Kirklees Council in relation to the demand stimulation and Business Support Programme). The Council will act as lead authority, and will award a contract on behalf of the partnership. This report seeks authority to deliver the scheme on behalf of the partnership. It also seeks Authority to Spend for Leeds' share of the external funding. All other funding will be held by the Council on behalf of the partnership outside of the capital programme.
- 5.2 The reduced Leeds City Council capital contribution of £640.8k together with those from other West Yorkshire Authorities of £654.6k levers in significant additional

grant funding of £4.6150m of BDUK funding and £3.7878m from ERDF as well as match funding from the private sector partner who will deliver the scheme.

- 5.3 The investment in broadband both nationally and locally is aimed at increasing competitiveness to improve economic recovery. Business needs and personal lives are increasingly reliant on high broadband speeds and therefore this project will mean more residents and businesses will have access to the speeds that make a real difference to how we work.
- 5.4 The project aims to realise the following benefits.
- Wider Access to Broadband for the General Population including excluded groups
 - Improved productivity of SMEs by increasing network coverage & speed
 - Boosting innovation and collaborative performance
 - Boosting start up rates for businesses
 - Attracting inward investment
 - Environmental Benefits such as homeworking, e-commerce, enhanced supply chain management, video linking

6 Recommendations

Executive Board is recommended to:

- 6.1 Approve delivery of the West Yorkshire Local Broadband project by Leeds City Council on behalf of the partnership
- 6.2 Inject £2,100.7k of external funding into Capital Scheme Reference 16662.
- 6.3 Give Authority to Spend within the capital programme scheme reference **16662** for £2,100.7k on the installation of broadband infrastructure in the administrative areas of the WYLB Authorities;
- 6.4 Delegate authority to the Director of City Development to authorise entering into a contract with the preferred bidder for the supply of the works and services described above and for the sum described in paragraph 3.4;
- 6.5 Delegate authority to the Director of City Development to authorise entering into funding agreements with BDUK and DCLG for £4,615.0k and £3,787.8k respectively.

7 Appendices

- 7.1 Exempt Appendix A – Preferred bidder’s project output and investment in WYLB
- 7.2 Appendix B – Impact Assessment Screening Document

8 Background documents¹

8.1 None.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.