

From: Mark Dance, Cabinet Member for Economic Development
Roger Gough, Cabinet Member for Education and Health Reform
David Cockburn, Head of Paid Service

To: Policy and Resources Cabinet Committee – 16th January 2015

Decision No: 14/00114

Subject: Broadband Delivery UK Phase 2 Project

Key decision Affects more than 2 Electoral Divisions
Expenditure or savings of > £1m

Classification: Unrestricted

Past Pathway of Paper: N/a

Future Pathway of Paper: N/A

Electoral Divisions: All

Summary

KCC has made significant progress in delivering the Broadband Delivery UK (BDUK) Phase 1 Project across the County, since it began in March 2013. Over 55,000 homes and businesses have so far benefited from the Kent and Medway BDUK Phase 1 Project who would otherwise have been left with no or slow broadband. The BDUK Phase 2 project is expected to build upon this success and create another step change in local broadband availability.

Recommendation

The Policy and Resources Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Members for Economic Development and Education and Health Reform on the proposed decision to:

- 1) enter into a contract to deliver the Kent and Medway BDUK Phase 2 project;
- 2) enter into a grant agreement with BDUK to draw down the £5.6 million of Government funding, subject to the Council approving match funding as part of the 2015-18 Capital Programme, on 12th February 2015.

1.0 Introduction

This report provides an update on the delivery of the Kent and Medway BDUK Phase 1 project and sets out the Council's plans for a Phase 2 BDUK project.

2.0 Financial Implications

Kent County Council has been awarded £5.6 million of Government funding from BDUK for the Phase 2 project. This offer is dependent upon Kent County Council matching the allocation and provision for this will be made in the draft Council's medium term plan which will be considered by the Council on the 12th February 2015.

3.0 Bold Steps for Kent and Policy Framework

Good broadband connectivity is essential for enabling economic growth and public service transformation. This project will support Kent's strategic ambitions by:

- Facilitating economic growth by removing a significant barrier to business development (especially for the 40% of Kent's businesses based in rural areas).
- Supporting KCC's ambition to put the citizen in control by providing the infrastructure to support the transformation of public services.
- Tackling disadvantage by increasing access to services and improving educational outcomes.

Furthermore, through helping to reduce the need to travel and by enabling greater home-working, this project will also contribute towards the delivery of a number of environmental outcomes around carbon reduction.

4.0 Kent and Medway BDUK Phase 2 Project

4.1 Background

4.1.1 In February 2014, Kent County Council was awarded additional Government funding of £5.6 million to extend the reach of superfast broadband services. This allocation, which is being matched by £5.6 million from the Council, is part of BDUK's Phase 2 national 'Superfast Extension Programme'. The purpose of this programme is to build upon the current BDUK Phase 1 projects so that 95% of properties across the UK have access to superfast broadband of at least 24mbps by the end of 2017.

4.1.2 In Kent, over 55,000¹ homes and businesses have already been connected to faster broadband through the Phase 1 contract with BT. These properties are in areas that will not gain access to superfast broadband services through commercial upgrade programmes and have been assessed as areas of 'market failure'. This infrastructure build is due to complete by the end of 2015 and further information on the rollout plans is publicly available at www.kent.gov.uk/broadband.

4.1.3 The aim is, that by the end of the Kent and Medway BDUK Phase 1 project, 91% of properties will have superfast broadband of at least 24 mbps and all properties in the project area will have access to a basic broadband service of at least 2mbps. The BDUK Phase 2 project offers KCC the opportunity to further extend superfast broadband availability and better broadband services beyond 91% of properties.

¹ Almost 169,000 premises were identified as being in areas of market failure for superfast broadband at the start of the BDUK Phase 1 project. The project is expected to deliver superfast broadband to over 120,000 of these premises.

4.2 BDUK Phase 2 Project: Procurement Approach

4.2.1 KCC is procuring the Phase 2 project utilising the BDUK framework, which is now a single supplier framework. This is because, having reviewed the options:

- Running a separate OJEU procurement would take longer and increase the risk of a no-bid scenario – especially if the local requirement and contractual terms varied from those associated with the BDUK framework.
- The UK's State Aid notification expires on the 30th June 2015. State aid sign off is a legal requirement and all projects wishing to use this scheme must be in contract by this date – otherwise they will need to apply directly to the commission which could take between 12-18 months to secure, based on previous experience. There is also the risk that funding may no longer be available for projects not in contract in the next parliamentary period meaning that the Kent funding allocation could be withdrawn.
- Utilising the BDUK framework significantly mitigates the risk of a 'no-bid scenario'. Should the procurement cycle need to be repeated, it is unlikely that a contract could be awarded ahead of the expiry of the UK's State Aid notification scheme.
- Our experience of running small scale broadband procurements indicates that it is highly unlikely that we could complete the necessary procurements and state aid sign off within the necessary timescale for a multiple-procurement option.
- An independent value for money review of the bid received for KCC's previous BDUK framework procurement concluded that the submission was within acceptable cost parameters.
- All of the existing BDUK Phase 1 projects in the UK have been awarded to BT, regardless of whether they were framework or non-framework procurements. This is due to a lack of competition in the rural infrastructure market for projects at this scale.

4.2.2 KCC is now working with BDUK to take forward the Phase 2 project as quickly as possible, given the growing importance of good broadband connectivity. As a result, we have already:

- Undertaken an Open Market Review with all broadband infrastructure providers to confirm those areas where there are no commercial plans to deploy either superfast or basic broadband services.
- Commenced the formal state aid notification process with BDUK.
- Reviewed the procurement options available to KCC.
- Agreed with BDUK a tentative slot in their project pipeline and launched the Invitation to Tender (ITT).

4.2.3 Whilst it is unfortunate that there still remains a lack of competition within the rural broadband infrastructure market for deploying projects at this scale, the following safeguards have been put in place to provide the necessary assurances that value for money is being achieved:

- An independent value for money review has been commissioned of the supplier response to the Kent ITT. This will compare the bid against anticipated modelled costs to ensure the proposed costs can be justified.
- The BDUK assurance team will also benchmark the costs of the Kent Phase 2 bid with financial data from the phase one and phase two bids. This will compare costs and red flag any cost differentials and local variations.

4.2.4 We are also working with the BDUK State Aid team and KCC Legal Services to ensure consistency with state aid legislation.

4.3 Timescales

4.3.1 The proposed key milestones for the procurement are:

- Receipt of bid – 9th January 2015
- Evaluation and clarification of bid – 9th- 31st January 2015
- Assurance and value for money appraisal – 9th-31st January 2015
- Submission and evaluation of local state aid application and completion of DCMS governance – February 2015
- Award of contract – March 2015

4.3.2 BDUK has a national ambition that the additional coverage will be completed by the end of 2017. It should be stressed, though, that the precise delivery timescales for the Kent Phase 2 project cannot be confirmed until the procurement has been completed and the contract finalised. Nevertheless, as for the current phase 1 project, KCC will seek to utilise every opportunity to accelerate the deployment plan wherever possible.

4.4 Addressing the final '5%'

4.4.1 Although the Kent phase 2 project will create another step change in the availability of superfast broadband services, it will not be possible to reach 100% properties in identified areas of 'market failure' with the current funding.

4.4.2 Whilst it will not be possible to confirm the additional uplift that will be achieved by the Phase 2 project until the procurement work has been completed, Kent County Council remains committed to working with BDUK in bringing forward solutions for, what is termed nationally, as the 'final 5% areas'.

4.4.3 The latter comprises of those areas which are the hardest to upgrade – both on cost and technological grounds – and are unlikely to benefit from the planned BDUK Phase 2 programme. For example, 'fibre to the cabinet' technologies will not provide a speed uplift to properties who are too far away from the cabinet. Similarly, 'line of sight' issues (e.g. tree coverage, nature of the local topography, nearby buildings) can prevent properties in areas served by wireless operators from being able to receive the service – unless specific adaptations have been made in the operator's local network design.

4.4.4 To help support the development of new and more affordable solutions, KCC is working with BDUK as a pilot location for their 'Innovation Market Testing' Scheme. This initiative involves 8 small-scale field trials across the UK of new technological approaches for delivering superfast broadband services in 'final 5% areas.' The findings of this work will subsequently inform the development of a new national BDUK Phase 3 programme to bring faster broadband to 'final 5%' areas.

5.0 Conclusion

5.1 Significant progress in delivering the Broadband Delivery UK (BDUK) Phase 1 Project across the County, since it began in March 2013. Over 55,000 homes and businesses have so far benefited from the BDUK Phase 1 Project who would otherwise have been left with no or slow broadband.

5.2 The BDUK phase two project creates an opportunity to further build upon this work and go beyond the current targets of bringing superfast broadband to 91% of premises in Kent and Medway.

5.3 Whilst it is unfortunate that there still remains a lack of competition within the rural broadband infrastructure market for deploying projects at this scale, a robust framework is in place to manage the Kent and Medway BDUK phase two procurement and ensure that value for money is achieved.

6.0 Recommendation

6.1 The Policy and Resources Cabinet Committee is asked to consider and endorse, or make recommendations to the Cabinet Members for Economic Development and Education and Health Reform on the proposed decision to:

- 1) enter into a contract to deliver the Kent and Medway BDUK Phase 2 project;
- 2) enter into a grant agreement with BDUK to draw down the £5.6 million of Government funding, subject to the Council approving match funding as part of the 2015-18 Capital Programme, on 12th February 2015.

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Background Documents: None