Cabinet

14 December 2011

Digital Durham - Superfast Broadband

Key Decision Ref. CORP/R/11/2

Report of Corporate Management Team

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Councillor Alan Napier, Cabinet Portfolio Holder for Resources

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Purpose of the Report

1   To update Cabinet with progress made with the Digital Durham Programme and the options for the programme in the areas of

- match funding

- the procurement process

- governance arrangements

- state aid implications.

2   To seek Cabinet's agreement to the preferred options.

3   This report builds upon previous reports to Cabinet on 9 March 2011 and 22 September 2011.

Background to Digital Durham

4   ICT Services and Economic Development are working on the Digital Durham programme in order to ensure the maximum availability of superfast broadband across County Durham.

5   Our aim is to provide Superfast broadband (minimum 25Mbps) to every business, home and community in the County.

6   Superfast broadband is a key component to the future development of the economy. Estimates provided by Adroit Economics and Community Broadband Network in 2009 indicate that true superfast broadband to the whole of County Durham could provide £150million increase in Gross Value Added (GVA)and 16,000 new jobs over a 5 to 10 year period.

7   First generation broadband household take up in County Durham is relatively low when compared to other regions across the country at 39%, with the North East average at 54% and UK average at 59%.

8   Whilst the infrastructure is important, resolving issues of digital exclusion are also vital in ensuring all our residents, businesses and communities can access the benefits of superfast broadband.

9   The objective of the Digital Durham programme is to improve the economic and social wellbeing of all residents through the provision of superfast broadband access to all businesses, homes and communities in County Durham.

10   Access to digital services, through broadband, is essential for County Durham to provide services and information to businesses, customers and services users. This access is essential to enabling a modern economy and a research and learning service to customers.

11   Current private sector business plans would extend next generation broadband coverage (circa 50 Megabits per second) to only around 40% of the homes and businesses within the County. This would lead to significant disadvantage for the majority of residents and reduced competitiveness for many businesses within these areas.

12   Many premises are able to receive first generation broadband through a copper infrastructure, at speeds of up to 8 megabits per second (Mbps). Speeds however are very dependent upon the distance between the premises and the BT exchange, as well as the amount of concurrent use, which is known as contention. Given the topography of the County and ageing technology in many locations, speeds fall away quickly to effectively zero.

13   Without public sector intervention many areas of County Durham risk being left far behind the 'knowledge economy', which will impair the Council's ability to deliver against all of its priority themes including delivery services via electronic means.

14   We realise that our vision is ambitious and will require a concerted effort from many people over the coming years but the Digital Durham programme will coordinate activities and source funding to deliver next generation broadband to the remaining 60% of the population and business communities.

15   Ofcom has published data regarding current broadband availability This is based on average broadband take up, the percentage receiving less than 2Mbps download speed, average modem sync speed and superfast broadband availability.

16   Ofcom designated County Durham as having a broadband rating of 5 which is the lowest possible based on take up and provision. Cumbria is also ranked as 5, Northumberland is ranked as 4, Sunderland and Hartlepool are ranked as 3 with the rest of the Tyne and Wear and Teeside authorities ranked as 2.

17   The Government has set an objective of the minimum standard of 2Mbps download speed and upload and 0.5Mbps for all homes in the UK to be achieved by 2015.

18   The European Union has set an objective of 30 Mbps for all areas within Europe by 2020.

Broadband Delivery UK (BDUK)

19   BDUK have been allocated £530 million to invest in broadband over the next four years. In order to draw down the Authority's allocation of funding, a local broadband plan must be approved by BDUK.

20   Durham County Council is submitting a joint Local Broadband Plan (funding bid) with Gateshead Council as there is a small number of areas across Gateshead that are also expected to require intervention. The majority of the postcodes identified by Gateshead are close to the County Durham/Gateshead border.

21   BDUK has allocated an indicative amount of £7.79million to the bid, with £6.93 million based on the current position in Durham and £0.86 million based on the current position in Gateshead.

22   The first Digital Durham Local Broadband Plan was submitted at the end of May 2011. 18 other local broadband plans were submitted at this same time.

23   Three bids were successful in addition to the three pilot areas already announced. These were:

- Devon and Somerset
- Norfolk
- Wiltshire

24   The Digital Durham bid was resubmitted for a second time at the end of September 2011. Feedback has been received from BDUK following both submissions and there remain a number of issues to be resolved, principally the amount of match funding; the procurement process; the governance arrangements and state aid implications. These are addressed later in this report.

Benefits

25   Access to superfast broadband is not just a technical infrastructure issue. It will underpin al of the Council's plans and strategies. Broadband is identified as a key component in delivery of economic growth, inward investment,

economic diversification, reducing inequalities in access to learning, skills and employment and reducing economic inactivity.

26 **Altogether wealthier** - focusing on creating a vibrant economy and putting regeneration and economic development at the heart of all our plans as outlined by the Authority's Regeneration Statement[1]. County Durham's settlement pattern of a large number of distinct towns and villages, which serve hinterlands of differing sizes, needs and opportunities is not typical. Good connectivity, including superfast broadband is vital in linking these communities together so that the County as a whole may develop. The vision for the regeneration of County Durham draws upon all the necessary building blocks that support and develop places and businesses by:

- Diversifying existing business to reach more markets and grow more knowledge-based services and science and technology businesses. An ICT literate and modern workforce will underpin this diversification.
- Providing appropriate interventions to support business start ups. Superfast broadband will allow businesses to access lower cost online 'cloud' based services[2] leading to longer term competitiveness.
- The creation of new business spaces, which are connected to their customers by robust and secure bandwidth connectivity.
- Taking a "Whole Town" approach, providing tailored solutions that shape the places where people live, work and socialise. Superfast broadband will provide new opportunities for small and medium enterprises (SMEs) to market themselves and attract new customers.
- Growing tourism is also important to County Durham; the priority of 'Visit County Durham' is to optimise Durham City to attract visitors, particularly for 48 hour stays and beyond. Visitor attractions, such as Weardale Railway and Beamish Museum, already use social media and online marketing to attract customers. Improved broadband access will allow many other attractions to appeal to a wider potential audience and to link attractions into a County Wide offering.
- Good quality, connected housing is also essential for creating sustainable communities which will attract and retain economic investment and skilled workers. The Council will maximise opportunities for new housing in areas of growth, such as Bishop Auckland and Peterlee. Appropriate broadband ducting and connectivity will be built into all new housing stock.

27 **Altogether healthier** - improving health and wellbeing. There are striking correlations between levels of income and individuals living happy, healthy lives that reach their full potential. There are more than 60,000 residents claiming out-of-work benefits in the County of which more than 30,000 are on Incapacity Benefit or the new Employment Support Allowance. The County's areas of highest deprivation coincide with the areas of lowest broadband penetration, especially in the east.

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[1] http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=7604
[2] Cloud based services are provided over the internet and can be hosted anywhere in the world

28   The recent Director of Public Health report for County Durham[3] noted that 26% of children and young people are living in poverty (DPH Report 2009). Wider determinants of health include the type of home people live in and whether they can afford to maintain it and keep it warm, how easily people can get out and about, whether there are opportunities for employment locally and if people are supported to train to improve their skills and life chances[4]

29   Unfortunately, due to various logistical reasons, our most deprived customers are often expected to pay the most to access Council services. Our approach to the provision of next generation broadband will assist in the equality of opportunity to access employment, training and Council services. Broadband coverage will allow the Council to provide new and innovative services, such as telehealth[5] and telecare[6] directly into people's homes. Some of these services will support and assist living at a distance, making it possible for people to remain in their own homes longer.

30   These services will offer lower cost and better targeted alternatives to other traditional delivery methods. The use of video communication and collaboration will aid inclusion and increase participation for people with who are visually impaired, have a disability, have reduced mobility or are hard of hearing.

31   **Altogether safer** - creating a safer and more cohesive county. Durham County Council works with key stakeholders through the Safe Durham Partnership[7] to tackle crime and disorder, the misuse of drugs, antisocial behaviour and other behaviour adversely affecting the environment. The Place Survey 2008[8] highlighted that residents were concerned about the level of crime in the County. Access to super fast broadband will assist local communities in community safety initiatives, such as Partners and Communities Together (PACTs) and Safer Neighbourhood Units, by collating and sharing information.

32   Real time incident recording is helping to identify and resolve issues that affect neighbourhoods, leading in turn to improved community confidence. Broken street lamps can be pinpointed onto an electronic map using 'My Durham' allowing the underlying systems to issue works tickets directly to a lighting engineer. In-cab tracking devices in Council vehicles allow the recording of failed bin collections, or other events that could indicate a person in difficulty. The linking of these systems to hand held devices in use by Street Wardens, via local WiFi connections can result in a rapid response to such events. Feeling included in the local community is important in addressing safety concerns. The rise of social media, such as Facebook, My Space, You Tube and Twitter, has created new ways of connecting people in

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[3] http://www.health-improvement.cdd.nhs.uk/
[4] Health Improvement plan
[5] The delivery of health related services and information via telecommunications technologies.
[6] The remote care of older and physically less able people, providing the care and reassurance needed to allow them to remain living in their own homes.
[7] http://www.durham.gov.uk/MINAGENDASPDF/County%20Council/290709_Safe_Durham_Partnership_Plan_2009_to_2011.pdf
[8] http://www.communities.gov.uk/documents/localgovernment/pdf/880021.pdf

geographically spread communities of interest. Superfast broadband will enable all people in the County to make use of these media and reduce social isolation.

33 **Altogether better for children and young people** - enabling children and young people to develop and achieve their aspirations, and to maximise their potential in line with the Government's 'Every Child Matters'. The vision for education in Durham is that all young people will be helped to make a choice from the widest range of learning opportunities and courses which take account of the LEA "Learner Entitlement" and the future needs of employers. Superfast broadband will support learning opportunities, by improving access to virtual learning environments in more homes and improving employability through increased skills. The Council aims to develop a genuine learning community of schools; such communities will be both physical and virtual. This will allow schools to be specialist in one or more aspects of the curriculum and this expertise can be shared across County Durham. The Council seeks to meet the challenge of rurality by educating young people as close to their homes as possible and in a way that meets their needs. In combination with partnership working, this approach will allow young people to benefit from curriculum innovation and the latest technology bringing tuition to the student. Consistent high capacity access to broadband across the County will deliver equality of learning opportunities, leading to greater educational attainment.

34 **Altogether greener** - ensuring an attractive and 'liveable' local environment, and contributing to tackling global environmental challenges in order to improve people's feelings of wellbeing, security, happiness, pride and satisfaction with an area as a good place to live, work bring up a family and enjoy leisure activities. The quality of the environment also relate to our long term health and survival, including clean streets, attractive towns and villages, good transport facilities and protection from extreme weather conditions. Climate change is a global issue and if we are to make real inroads into tackling this at a local level, we need to engender behavioural change which means strongly engaging with our residents, business owners and wider stakeholders so that together we can make a real difference. We now know that transport, energy consumption, loss of forests, waste treatment and land use all contribute to climate change, making this a cross cutting issue.

35 ICT can be a major contributor to energy consumption but can also be used to provide services in more carbon effective ways. Council employees are currently travelling 11,000,000 miles per year to deliver services. Many of these journeys are essential but others could be covered with the more effective use of technology.

36 The Council continues to invest in web, interactive, video and GIS9 technologies to allow access to services from all parts of the County. Systems are in use, such as TellyTalk10, which allow service interaction to be

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[9] Geographic information system
[10] A television based video conferencing and interactive service

delivered at convenient customer contact points. All of these technologies require access to effective broadband.

37   **Altogether Better Council** - Both nationally and locally there is an increased focus on councils demonstrating efficient and effective service delivery. Durham County Council is using technology to transform its service delivery to improve performance and to drive out cost. The Council is using technology, across broadband connections, to address all of the key priorities emerging from this context. These are:

- A 'One Council' approach, by adopting common systems across the whole organisation which can be accessed securely and remotely from a wide variety of locations, including homes.
- Achieving value for money in delivering services, by delivering them in new, innovative and low cost electronically enabled ways.
- Engaging effectively with our communities, by providing consistent information in easily accessible graphical formats.
- Using and sharing this information to promote cultural understanding, social inclusion and support an informed local democracy.
- Satisfying customer needs and expectations, by providing services in convenient and more accessible locations.
- Improving performance, by gathering and using important performance information, much of which is user generated.
- Lowering asset costs through the promotion of home-working. This is estimated to have grown in County Durham since 2001 by 5,892 people (from 17,472 to 23,364 home workers).
- 2008.[11] Durham County Council will use improved connectivity to reduce the desk spaces to staff ratio of 7:10.

38   Superfast broadband will allow residents and businesses to access more services from their homes, providing Durham County Council with opportunities to innovate in the ways that information and services are provided. It will also provide opportunities for service delivery from more convenient locations and times for residents and businesses.

Digital Exclusion

39   There are a number of factors which influence digital exclusion and the digital skill levels of individuals, one is infrastructure. However, there are also other factors including existing educational attainment. The more individuals that have digital skills and can access services online, the greater the cost savings to Durham County Council from channel migration. According to the national digital inclusion report, "Evidence from 19 local authorities indicates that the average cost saving to government of an online transaction is between £3.30 (telephone) and £12.00 (post) compared to an online transaction. McNish J. 'Customer Contact Profiling', Aston Campbell Associates"

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[11] The Impact and Potential of Home Working in County Durham, October 2010, Tribal Consulting

40 Other benefits to increasing digital skills and digital inclusion, according to the national digital inclusion report, are as follows:

- Offline households are missing out on savings of £560 per year from shopping and paying bills online.
- 10.2 million adults (21% of the UK population) have never accessed the internet including 4.0 million adults (9%) who are both digitally and socially excluded.
- People living in 3.6 million low income households which are digitally excluded are missing out on annual savings of over £1 billion a year from shopping and paying bills online.
- Employed people with good ICT skills earn between 3% and 10% more than people without such skills. If the currently digitally excluded employed people got online, each of them would increase their earnings by an average of over £8,300 in their lifetime and deliver between £560 million and £1,680 million of overall economic benefit.
- Each contact and transaction with government switched online could generate savings of between £3.30 and £12.00.
- If all digitally excluded adults got online and made just one digital contact each month instead of using another channel, this would save an estimated £900 million per annum.
- The total potential economic benefit from getting everyone in the UK online is in excess of £22 billion.
- 'The best use of digital technology, either directly or indirectly to improve the lives and life chances of all citizens, particularly the most disadvantaged, and the places in which they live.' Letter from Lord Carter, Minister for Communications, Technology and Broadcasting, to Digital Champion and Task Force Members http://www.berr.gov.uk/files/file51885.pdf
- 62% of the adults who had never accessed the internet (6.4 million) were over the age of 65; 51% of those with only basic secondary school education were digitally excluded. - Oxis 2009 The Internet in Britain
- Greater digital inclusion has the potential to improve health and well-being in three main ways:
  - By connecting people to a wide-range of health and well-being information across a range of topics:
    - The potential benefits of NHS Choices in terms of the avoided costs of GP consultations is over £60 million per annum across all the digitally excluded;
    - Improving digital access to information about the risks of obesity and how to live a healthier lifestyle could reduce healthcare costs by £22 million across all the digitally excluded and reduce sick days off work by 269,000;
  - By enabling easier access to health services: these benefits accrue to both citizens and health service providers: the creation of NHS Direct is estimated to have generated cost savings to government and to patients of about £100 million a year, of which £87 million accrues to government and £13 million to citizens users; and by enabling health services to be delivered remotely so reducing delivery costs and improving accessibility: The introduction of

Computerised Cognitive Behaviour Therapy is estimated to offer potential cost savings of over £15 million per annum;

- Expert Patients On-line also offers cost savings to government through a reduction in the need for GP consultations and attendance at outpatients accident and emergency attendance as well as potential time savings for the patient.

- The extensive literature on this subject points to three key, interrelated factors which explain an individual's voluntary or involuntary failure to engage with digital technology:
  - Lack of access to digital technologies driven by issues of affordability
  - Although non-users of the internet have been shown to overestimate the cost of the technology by as much as a factor of two,28 there is concern that cost will remain a significant barrier, especially for low income groups
  - Limited motivation which reflects:
    - A lack of a perceived opportunity or need: in 2008, 34% of adults without an internet connection said that it would provide no useful benefit to them;
    - A lack of interest in the internet: in 2008, 24% of adults without internet access were not interested in the potential benefits despite the upward trend in its use, for example for internet purchases.

- Effective use of new digital technologies requires new skills and the absence of other users in the household who can provide support can make this barrier particularly significant.

Engagement activities

41   The Digital Durham programme is not only about the provision of broadband infrastructure. The quickest and least expensive way to develop broadband within the County is by proving to the Telcos that demand exists for their products and that Durham is an area in which they should invest.

42   A significant part of the programme effort is going into demand stimulation, in two main areas

- Supply side stimulation, working with businesses and other public sector organisations to develop new ways of working online

- Demand side stimulation, working with individuals and groups of users to register demand.

43   Engagement activities include:

- Developed an engagement plan, which includes: Facebook, Twitter, phone number, email address and a webpage on the main Council website.

- Newsletters to staff, Members, MPs, Parish Councils and Area Action Partnerships

- Attendance at events, including Area Action Partnership meetings, Oktoberfest,

- Meetings with individual organisations, including Social Housing, .Community and Voluntary Sector, North East Chamber of Commerce, Federation of Small Businesses

- Local Broadband Champions – asking for applications from individuals who wish to play a greater part in the programme.

Funding

44   Durham and Gateshead Council have been allocated £7.79m from BDUK, of which £6.93m is the Durham allocation and £0.86m relates to Gateshead Council.

45   Whilst grant conditions have yet to be received, the clear steer from BDUK has been that they expect authorities to match fund (£ for £) the amount awarded by BDUK. This match funding can be a combination of the Council's own resources and external grant funding. Private sector funding / leverage is ineligible as match and is expected to be equivalent to at least the BDUK grant plus the local authority contribution added together.

46   The Council currently has £5.83m available within existing resources for the Digital Durham programme and members may wish to support a bid for the balance (£1.1m) from the 2012/13 capital programme in order to secure a commitment to meeting the BDUK requirements.

47   Indications from colleagues in Gateshead are that they will honour their match commitments, with the opportunity to reduce this should external grant funding be subsequently secured. A report has been put to their Corporate Management Team (Strategy Group) and is on the agenda to be put to Members in February as part of the Gateshead Capital Programme.2012/13.

48   The final business case is currently being refined, in consultation with BDUK, and as part of this, and essential evidence to the successful sign off of the bid by BDUK, is Cabinet approval of this report, particularly with regards to the allocation of match funding.

49   As noted above, match funding can be a combination of Council and external grant [European Regional Development Fund (ERDF) grant], however, the current ERDF rules would seem to be closed to this option in our region. This has been discussed with BDUK and the Council has made representations to Government regarding flexing the ERDF rules so that the Council can access ERDF grant to offset or enhance match its funding requirements.

50   BDUK have indicated that they will only accept a commitment to underwriting the full amount or proof of secured ERDF funding as a match at this stage. In making this commitment every effort will be made to seek funding from as wide a range of sources as is possible to ensure that the Council's own input

is minimised as far as possible and that the maximum return from public investment is secured.

Procurement

51   The Council's Procurement unit has been working closely with BDUK to develop a procurement framework for the provision of superfast broadband.

52   The framework is going through a competitive dialogue process and it is anticipated that circa six companies or consortia will be selected from which individual programmes will be able to select a preferred provider using a mini competition process.

53   The framework will not be available until May 2012. BDUK expect that many of the individual programmes will use the framework but not all programmes will.

54   Digital Durham will need to fund infrastructure and supporting initiatives of three distinct types across the county:

- Areas where there is no effective broadband and where a market failure exists. These are so called white areas and exist mainly in the more rural parts of the County. This will require gap funding.
- Areas where there is no effective broadband but which are in exchange areas which have been enabled for superfast broadband. Here the incumbent has decided not to enable certain cabinets for commercial reasons. These are white spots within so called black areas. This will require gap funding.
- Areas where there is no effective broadband caused by low take up due to deprivation issues. This will require some form of demand stimulation funding.

55   It is not clear at this stage whether or not the BDUK framework will be able to address all three of these distinct types, as this may require a selection of providers, technologies and interventions.

56   The potential benefits of using the BDUK framework are:

- A higher level of BDUK support and experience available
- The majority of work is developed via the framework.
- Bid costs are amortised over many projects for the providers.
- Prices may be more competitive for the majority of the technical solution due to aggregation benefits.
- Cost model pricing references will be available for comparison.
- An increased opportunity for BDUK strategic supplier relationship management.

57   However the Council could carry out its own procurement which would need to follow an OJEU competitive dialogue process. The potential benefits of undertaking our own Competitive Dialogue procurement process are:

- Durham County Council is able to set up arrangements to suit local requirements.
- Durham County Council can determine actual timescales (funding dependant)
- The programme is less dependant on the BDUK project prioritisation
- Greater flexibility to determine local priorities on the whole solution.
- Durham County Council can specify priority award criteria to suit our local priorities such as: Social Inclusion/Deprivation/SME involvement/local job creation.
- A higher level of potential for local SME involvement.

58   There are a few issues relating to the framework which the Council is awaiting clarification from BDUK::

- How many bidders are still in the framework process and how many Companies do you think will form the framework?
- What happens if we use the framework and we only get one bidder via the framework process, how do we ensure we will get value for money from the process?
- What happens if we use the framework and we get no bidders?
- If the Council decide to proceed with its own procurement are you prepared to share the procurement documentation that you have written for establishing the framework and on going mini competitions?
- Can we start our procurement before we have State Aid approval (whether we use the framework or do our own procurement) or do we submit the State Aid application after we have been through the procurement?

59   The view of the board is that the Council should adopt the BDUK procurement framework as long as the responses from BDUK will enable the Digital Durham Programme to achieve its objectives. If the responses do not then the Council should pursue its own procurement exercise using a competitive Dialogue process.

Governance arrangements

60   Due to the complexity of the issues which Durham County are facing and the difficulty in getting complete information on existing infrastructure it has only been possible to estimate the amount of money required to deliver all of the outcomes of the Digital Durham programme.

61   The Digital Durham Programme needs to enter into a revenue share arrangement with the infrastructure provider to ensure that the public sector investment is maximised and can be recycled until the outcomes of the programme are fully realised.

62   Key to the successful implementation of the Digital Durham Project will be the project governance arrangements

63   The Programme Operations Board has held an externally facilitated workshop which considered various governance models.

64   Based on the output of the workshop it is recommended that a formal administrative arrangement is put in place between the two Councils, Durham and Gateshead. This will involve Gateshead delegating functions to Durham who will lead, particularly in the area of procuring and contracting for the required services. Gateshead Council will still be involved throughout the programme

65   Clarification has been sought from BDUK with regards to governance models:

- The operating model for the framework is silent on governance; can we stipulate our own governance arrangements to ensure project delivery? This may be based on a contractual, service supply arrangement with the private sector partner , or take the form of a Shared Services Agreement or Limited Liability Partnership, or Company limited by shares / guarantee, do you have a view on any of these models?
- The Council would like to have a claw back / return on investment clause in the contract, is this provided for under the framework contract?

66   The view of the board is that the Council should enter into a governance model based on a contractual, service supply arrangement with the private sector partner, as long as the responses from BDUK will enable the Digital Durham Programme to achieve its objectives. If the responses do not then the Council should explore other governance models through its own procurement exercise using a competitive Dialogue process.

State Aid

67   State aid regulation is in place to control direct and indirect aid given by Member States of the European Union to companies, under Article 107 of the Treaty on the Functioning of the European Union.

68   To determine if an action constitutes State aid, the following four criteria must apply:

- It is granted by the State or through State resources.
- It favours certain undertakings or production of certain goods.
- It distorts or threatens to distort competition.
- It affects trade between Member States.

69   It is accepted that broadband projects delivered under the BDUK project structure will constitute State aid and so:

- Digital Durham must notify the aid to the European Commission
- The programme cannot put aid into effect until the approval granted ("standstill obligation"), unless aid is given to an already approved scheme or project or otherwise approved under a block exemptions, guidelines or frameworks.

70   The Programme Operations board has held a workshop, facilitated by external consultants with experience in this field to consider the steps that the Council needs to follow.

71   BDUK is just about to begin the pre-notification process with the Commission. It is hoped that this will be completed by April 2012.

72   Once the umbrella approach is agreed between BDUK and the Commission, individual programme teams will work with BDUK to demonstrate compliance within the scheme. The process will be essentially similar to the simplified State Aid procedure but conducted with BDUK rather than the Commission.

73   The potential benefits of using the BDUK State Aid application are:

- A higher level of BDUK support and experience available
- The majority of work is covered through their application.
- All State Aid applications need to be approve by the UK Government prior to the Commission

74   The potential benefits of undertaking our own State Aid application are:

- Durham County Council is able to make an application to suit local requirements.
- The programme is less dependant on the BDUK timescales
- The programme is likely to have to do much of the application work in any case.

75   Clarification has been sought from BDUK with regards to their State Aid application:

- What is the process and timescales for approval of a State Aid application if the Council follows the framework or does its own procurement?
- Can we start our procurement before we have State Aid approval (whether we use the framework or do our own procurement) or do we submit the State Aid application after we have been through the procurement?
- Do we need to be specific in our project governance arrangements in our State Aid application?

76   The view of the board is that the Council should follow the BDUK State Aid application as long as the responses from BDUK will enable the Digital Durham Programme to achieve its objectives. If not, the Council should proceed with its own State Aid application.

Recommendations

77   Cabinet is recommended to :

I.   Support a £1.1m bid against the 2012/13 to 2015/16 Capital Programme to provide secured capital funding to match the DCC BDUK allocation in full, with the opportunity for this to be enhanced or offset by ERDF grant funding, or other sources, should this become available in due course.

II.   Delegate authority to the Corporate Director Resources and Corporate Director Regeneration and Economic Development in conjunction with the Cabinet portfolio holders for Resources and Regeneration and Economic

Development to enter into a formal administrative arrangement between the two Councils, Durham and Gateshead.

III. Delegate authority to the Corporate Director Resources and Corporate Director Regeneration and Economic Development in conjunction with the Cabinet portfolio holders for Resources and Regeneration and Economic Development to:

a. Adopt the BDUK procurement framework as long as the responses from BDUK will enable the Digital Durham Programme to achieve its objectives.

b. Or if the responses do not further the objectives then pursue our own procurement exercise using a competitive Dialogue process.

IV. Delegate authority to the Corporate Director Resources and Corporate Director Regeneration and Economic Development in conjunction with the Cabinet portfolio holders for Resources and Regeneration and Economic Development to:

a. Enter into a governance model based on a contractual, service supply arrangement with the private sector partner, as long as the responses from BDUK will enable the Digital Durham Programme to achieve its objectives.

b. Or if the responses do not further the objectives then explore other governance models through our own procurement exercise using a competitive Dialogue process.

V. Delegate authority to the Corporate Director Resources and Corporate Director Regeneration and Economic Development in conjunction with the Cabinet portfolio holders for Resources and Regeneration and Economic Development to:

a. Follow the BDUK State Aid application as long as the responses from BDUK will enable the Digital Durham Programme to achieve its objectives.

b. Or if the responses do not further the objectives then proceed with our own State Aid application.

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5 December 2011
p/r/pj11-11

Appendix 1: Implications

Finance - The Council currently has £5.83m of capital resources available for the Digital Durham programme within existing capital budgets and members may wish to support a bid for the balance (£1.1m) from the 2012/13 capital programme in order to secure a commitment to meeting the BDUK requirements. Indications from colleagues in Gateshead are that they will honour their match commitments at this stage. The opportunity exists to reduce or supplement the Council's investment should external grant funding be subsequently secured.

Staffing - Delivery of the Digital Durham Programme will require a significant staff commitment in programme management, contract management, communications and demand stimulation. It is expected that this will come from existing resources.

Risk – A full risk log has been developed for the programme. Risk is considered at the Operational board meetings

Equality and Diversity / Public Sector Equality Duty- Broadband will play a significant role in improving the equality of access to service delivery by making more services available in their homes.

Accommodation - None

Crime and Disorder – Broadband will improve access to information and will assist the Police in better coordination of crime prevention initiatives.

Human Rights - None

Consultation – A considerable amount of discussions have taken place with interested parties ands stakeholders, including potential providers, government agencies, local authorities, broadband interest groups, senior officers, members, etc. in order to develop this report. Consultation will be required with individual users and their representatives as bids for funding are developed.

Procurement - Soft market tests have been undertaken. Procurement processes will follow the appropriate legislation.

Disability Issues – Access to digital services is playing an increasing role in improving service delivery to people with low mobility.

Legal Implications - The EU has issued Guidelines on the circumstances where State Aid may be permissible for Next Generation Access broadband projects and the proposed approach will be designed to be compatible with those guidelines.