

10 August 2016

Report of	Strategic Director, Commercial and Place	Author	Steven Eke ☎ 508795
Title	Appointment of an operator for the Colchester Borough Council Town Centre fibre network		
Wards affected	Not applicable		

This report concerns the appointment of a network operator for the town centre fibre network following a competitive tender process

1. Decision(s) Required

- 1.1 To note the list of companies that have tendered to operate the Council-owned fibre network which has been installed in the Town Centre.
- 1.2 To give delegated authority to the Strategic Director for Commercial and Place in consultation with the Portfolio Holder for Resources to select the most suitable and commercially viable bid from among companies responding to the tender for a fibre network operator, and to conclude the appointment of the successful bidder.

2. Reasons for Decision(s)

- 2.1 To ensure that a network operator is appointed to run the Council's newly completed fibre network in the Town Centre which provides the best possible commercial return on the asset and provides the opportunity for all town centre businesses to connect to ultrafast broadband.
- 2.2 To meet a proposed start date of 1st September 2016 for provision of the service.

3. Alternative Options

- 3.1 The alternative would be to rely on other infrastructure providers to bring forward this exciting opportunity, which would be likely to take considerable time and would not necessarily offer the upload and download speeds possible through this project.

4. Supporting Information

- 4.1 The Ultrafast Business Case which received funding from the South East Local Enterprise Partnership in 2015 under the Government's Single Local Growth Fund, includes plans to deploy a pure fibre gigabit network to the Town Centre, accessible to some 850-900 businesses. It will provide ultrafast connectivity to the business community at affordable prices for the first time.
- 4.2 The project is at an advanced stage of deployment, with remaining technical installation works in the Town Centre due to take place in late July and during August. The network, consisting of more than 20km of new ducting and 7km of fibre optic cable, will be fully in

place in time for the network operator to begin the task of commercialising it and building a customer base from 1 September 2016. Town Centre businesses continue to display great enthusiasm for the project and we are confident of a rapid initial take-up and sustained growth during the first 3-5 years of the network's operation.

- 4.3 The network operator will be responsible for the commercial arrangements with service providers, who will market connectivity solutions to end-users. The Council will not be involved with the direct marketing of connectivity to end-users, but the contractual basis of the relationship with the appointed operator means the latter will report back on progress and maintain open-book accounting so that the Council is fully aware of all income streams.
- 4.4 Beyond agreed start-up fees for the provision of hardware that will remain the Council's property (physical assets), no subsidy or on-going contribution will be paid to the operator by the Council. The contract between the parties will set out the division of rights and responsibilities. The proposals fully comply with current State Aid provisions.

5. Proposals

- 5.1 Bids for the operator tender are confidential and will be provided to RIF members during the confidential section of the meeting. Due to the timescales required to commence this contract, at the time of the RIF meeting these bids will not yet have been formally appraised and whilst the confidential schedule will enable Members to see the number and scale of each bid, it is not possible at the time of the Committee to provide a recommendation on a preferred operator. Therefore it is proposed that once the final analysis of tenders has been concluded, a report will be prepared for formal sign-off by the Director for Commercial and Place in consultation with the Portfolio Holder for Resources under the scheme of delegation. It is further proposed that RIF delegate completion of the necessary legal contract with the recommended operator to the Director for Place and Commercial in consultation with the Portfolio Holder.

6. Strategic Plan References

- 6.1 The broadband project is closely aligned with key priorities in the Strategic Plan (2015-18):

Vibrant – “Create the right environment for people to develop and flourish in all aspects of life, both business and pleasure”: the fibre network will considerably boost the investment attractiveness of Colchester Town Centre to businesses in the forward-thinking, creative and digital sectors.

Prosperous – “Promote Colchester to attract further inward investment and additional businesses”: the fibre network will greatly improve the ranking of connectivity in Colchester town centre among the UK's largest 65 largest towns and cities – from 57th – to be among the top 5. Ultra-fast connectivity is currently unavailable in Colchester.

Welcoming – “Make Colchester confident about its own abilities”: in comparison with schemes deployed in a number of comparable towns in the UK, the fibre network has been deployed very rapidly and in an extremely cost-effective manner. It is an important signpost in the Council's positive messaging about its ability to implement pro-business and pro-investment, modernising projects.

7. Consultation

- 7.1 There has been extensive consultation with businesses in the Town Centre, to establish the demand for ultrafast connectivity. Furthermore, the operator tender has been widely

distributed among suitable network-operating companies that may be interested in bidding.

- 7.2 The decision on the appointment of the operator will be transmitted to the successful bidder in keeping with the usual processes to ensure fair and transparent treatment of all bidding parties.

8. Publicity Considerations

- 8.1 Once the operational/deployment phase is completed, the operator, in cooperation with the Council, will widely advertise the opportunity for gigabit connectivity to businesses in the Town Centre.
- 8.2 The decision is unlikely to be controversial, given that we have requested very specific technical and commercial elements from the potential operators. The range of possible operators is therefore already limited, and the smaller scale of the Colchester Town Centre deployment means that it will be of less commercial interest and viability to some of the larger network operators.

9. Financial Implications

- 9.1 The income derived from commercialisation of the network will contribute towards the Council's financial targets.

10. Equality, Diversity and Human Rights implications

- 10.1 An EIA has been completed for this project and is attached to this submission. No direct or indirect risks in this regard have been identified. The report is available [here](#).

11. Community Safety Implications

- 11.1 None immediately; however, over the longer-term, it is possible that the Council's existing CCTV network will be expanded and improved by being connected (migrated) to the fibre network being installed as part of this project.

12. Health and Safety Implications

- 12.1 No direct implications; the H&S requirements of major civil engineering works taking place in public places are covered adequately in the contractual arrangements in place with the contractors.

13. Risk Management Implications

- 13.2 State aid – the Council has taken comprehensive legal advice about State aid, but a challenge from BT (or other major telecoms operator) remains possible. We are confident that the contract and the associated open-book accounting and cost recovery mechanisms, mean that we are not subsidising a commercial project in violation of the current State aid framework.
- 13.3 Operator fails to perform: should the operator fail to meet targets for the numbers of customers signed-up (and correspondingly, the Council's income stream), the contract provides a clear mechanism for severing the commercial arrangement and novation to an alternative operator.

Appendices

A list of submitted bids with key KPIs will be provided at the meeting of the Revolving Investment Fund Committee.