				Item
	Cabinet			**10(i)**
	29 January 2020			
Report of	Assistant Director of Place and Client Services	**Author**	Steven Eke / Andrew Tyrrell	
			☏ **508795 / 282930**	
Title	Use of the Council's "HRA Estate" to Facilitate Significant Inward Investment in Broadband Infrastructure			
Wards Affected	All			

1. Executive Summary

1.1 In 2017 the Cabinet adopted the Borough's Digital Strategy 2017-22. The main aim of the strategy was to make the Borough the best connected in the East of England by 2022. Work to date has seen the introduction of Ultrafast internet to the town centre and businesses across the borough.

1.2 In January 2019, the Department for Culture, Media, Sport and Digital (DCMS) confirmed to Colchester Amphora Trading Ltd (CATL) that it had been successful in bidding, on behalf of the Council, for £3.45m under the Government's Local Full Fibre Network Fund (LFFN); to finance the build of 3 major fibre infrastructure projects to improve Colchester's digital connectivity. Following negotiations over the details of this project, the Council then agreed the structure, scope and implementation of this project at Cabinet on 20 November 2019, ahead of the full launch at the beginning of March 2020.

1.3 Following on from this decision, the large Swedish fibre network operator, VX Fibre (further, "VX"), has formally proposed investing £10m in the Borough's communications infrastructure. In order to facilitate this investment in Colchester, VX has requested access to parts of the CBC-owned Housing Revenue Account (HRA) estate on commercial terms and to develop a cooperation agreement with CBC.

1.4 This paper sets out the scope of the VX request, the commercial and other benefits to the Council and Borough of cooperation with VX, as well as the key risks involved.

2. Recommended Decision

2.1 To agree to the Broadband deployment proposals outlined by VX on a commercial basis as described in this report.

2.2 To appoint Colchester Amphora Trading Ltd (CATL) to act on behalf of the Council, to draw up Heads of Terms for a cooperation agreement with VX which delivers the best commercial outcomes from a joint approach to infrastructure deployment, as part of the Borough's Local Full Fibre Network and wider Digital Strategy deployments.

2.3 To delegate authority to agree and enter into the lease arrangements with VX, with any necessary consents, for the placement of equipment on the Council's HRA property to the

Assistant Director for Place and Client Services, in consultation with the Portfolio Holder for Housing and Communities.

2.4   To delegate authority to agree any other resultant matters relating to the final details of the wider proposals, as described in this report, to the Assistant Director for Place and Client Services, in consultation with the Portfolio Holder(s) for Commercial Services, and/or Resources, as relevant to the specific matters that may arise, having regard to their respective portfolios.

3.   Reason for Recommended Decision

3.1   VX, a Swedish technology company and digital infrastructure specialist, bring more than 20 years' experience building and operating full fibre FTTP (fibre-to-the-premises) open access networks globally. The company "mission" is "to create value in the community in which we live and work, to help individuals, businesses and the community as a whole to gain their digital freedom". VX's key differentiator is a partnership approach with local authorities in deploying FTTP networks that serves the entire community.

3.2   Building on their existing operations across Europe, South Africa and South-East Asia, VX is entering the UK market and is already building a large fibre optic network together with Stoke City Council across the Potteries. It wishes to target Colchester as its second UK deployment, ahead of Bristol and later, up to 7 more cities. The opportunities presented to the Council by the VX proposals are unique and unlikely to be repeated from any other commercial fibre operator. They will deliver both commercial and practical benefits, serving the Council's and residents' interests for many years to come.

3.3   Taken together with the core network built using the LFFN funding, the VX investment will greatly enhance the availability and take-up of future-proof, full-fibre broadband in the Borough and will solve one of the most significant challenges inherent in fibre deployments (how to extend a core network to reach end users – the so-called "final drop" connections).

4.   Alternative Options

4.1   The Council could decide not to enter into an agreement at all, or not to enter into an agreement to use the properties within the HRA estate; however, this would delay or obstruct the social and economic benefits set out in the main report and would not deliver the significant inwards investment proposed at this time.

4.2   Some areas that will benefit from the use of HRA properties are more disadvantaged areas, and places where the faster broadband connections would otherwise not be available to residents for some time, including some of our social housing tenants. Aside from the social value, it is also counterproductive to the aim that the infrastructure deployed using LFFN funding is commercialised as quickly as possible to start generating growing revenues for the Council; where the VX proposals will enable this.

4.2   CATL has engaged over the past two years with the major telecoms operators, including the builders of urban fibre optic networks, such as City Fibre, Hyperoptic and Gigaclear. Colchester does not offer the scale required for their deployments, although Gigaclear will be working to deliver ultrafast connectivity in the rural parts and is already connecting a small number of customers in them.

4.2   The Council could continue to use the Government's gigabit voucher scheme to carry out "final drop" connections (connecting from the curtilage of a property to the end customer). While this has worked successfully on a small scale, it does not provide the

level of revenue needed for the mass densification of the network and its commercial transformation into a major revenue stream for the Council over the longer-term.

5.   Background Information

5.1   <u>The technical proposals – what will be deployed and how?</u>

5.1.1   The proposals are that Colchester Amphora Trading Ltd (CATL) will manage the backhaul and core distribution of infrastructure at cost to VX, while the lease agreements on commercial space for the VX hardware will be simplified as annual rolling agreements. This principle needs to be further worked-up and finalised in due course, but as part of this, the Council will permit the use of its assets for a rental income.

5.1.2   This is good for our social housing tenants (if they choose to take up the service once it is on offer) because:
(a) the social housing tenants will be offered the chance to secure pure-fibre services ahead of anyone else, and
(b) they should be cheaper than anything currently available

5.1.3   For VX, their market entry strategy is based on early deployment to social housing estates for two reasons:
(1) Their radial or grid geography lends itself to simplified road works and network design;
(2) They are a market segment generally ignored by the companies now deploying full-fibre to more affluent sections of the market.

5.1.4   VX wishes to build a local layer network across the entire CBC/HRA estate, beginning in Q2 2020, integrating their network closely with the CBC build financed by DCMS under the Local Full Fibre Networks programme (which was approved at Cabinet on 20 November 2019). VX's initial "road to market" plan, the intention is to prioritise Greenstead, Wivenhoe and West Mersea by the end of this year, as connectivity here is currently very poor (and we have suitably located property).

5.1.5   Essentially, the Council is providing the core skeleton network in connecting the town centre, northern gateway and eastern side of town through the LFFN project; VX will then build out wider local connections from that network to the communities stretching further afield by locating network server equipment in secure locations, from which the network will expand outwards to customers.

5.1.6   The project envisages using the sheltered housing developments primarily, paying market rates for the rental of space and electricity. These installations will simultaneously provide gigabit broadband for residents and operational purposes alike, with an initial network build focussed on Enoch House in Greenstead, growing to include Heathfields House, Plum Hall, Grymes Dyke Court, Elfreda House (to site only, to facilitate future connection after the planned rebuild currently taking place as part of the Council's £75m new housebuilding programme), Worsnop House, Fairfield Gardens, Harrison Court and Stuart Pawsey Court.

5.1.7   All 9 of these sites will be connected by point-to-point fibre optic links to the server room at the Town Hall, which will also co-locate the core VX network equipment on a commercially leased basis. In this way, a far larger part of the Borough will benefit from gigabit connectivity than would otherwise be made possible by the LFFN deployment alone. No major geographical part of urban Colchester will be left without the huge opportunities afforded by ultrafast broadband.

5.1.8 The immediate project does not increase coverage to the rural areas, where we have no suitable housing stock. However, there is a significant element of national planning on broadband infrastructure in the UK with other existing projects such as Gigaclear, Essex Superfast Phase 4 (Openreach) and County Broadband all having official allocations for the rural two-thirds of Colchester. Rural roll-out will therefore take place (but is inevitably slower because of the more sporadic nature of settlements and the resultant distances between properties; and the scale of works involved). The roll-out of rural broadband should also accelerate this year as the rural voucher scheme will help (£3,500 per property towards the installation costs), though that is not part of the proposals herein.

5.2 How the infrastructure will be commercialised (and social value)

5.2.1 In terms of the subsequent ways in which people can take up the access to any future broadband service, VX will not be selling directly to end users; they function as a wholesale operator whereby their portal integrates service providers virtually at their network centre. That is under a commercial relationship between VX and each individual internet service provider (SP). As with any current internet service, each SP will set their own retail prices to attract customers.

5.2.2 The expectation for our social housing tenants, and other residents who could benefit from this project, is that prices will therefore be kept lower through natural market competition and genuine (wider) choice in a pure-fibre product. There will be no pressure on any individuals, including the residents of our own estate, to take VX-facilitated services, and the Council plays no role in sales; but VX have confidence that they will get the market share/transition they want (with the SPs pricing competitively).

5.2.3 A commercially matched leasing fee will be paid by VX for leasing of space and the Council-owned fibre optic infrastructure it requires access to. The rates for leasing fibre optic infrastructure are largely governed by Ofcom and details of the predicted income are contained further on in the section on finance. The income is not known at this stage and would need to be part of further discussions as the project details are finalised.

5.2.4 Wherever possible, VX uses local resources to carry out works. VX have offered, as one option, that they may pay to upskill CBC/CBH staff (as CBH manage the Council's HRA estate) to carry out the "final drop" works, i.e. connecting from the curtilage of a property to the end customer, and subsequently pay the going commercial rate for the carrying out of these works. This detail would need to be agreed following negotiations if the project is agreed.

6. **Equality, Diversity and Human Rights implications**

6.1 Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to:
   - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
   - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
   - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

6.2 The recommendations will have no negative or disproportionate impact on any protected group, in some cases they may have positive impacts. No potential breaches of human rights have been identified. A comprehensive EQIA assessment has been undertaken in preparing this paper and the full EQIA will be made available on the Council website

imminently. There were no issues identified as the fibre infrastructure will aim to deliver benefits to the widest possible user groups and target markets in the borough, including residents and businesses of all size alike, as well as the whole of the CBC/CBH social housing stock and sheltered housing developments.

6.3   The deployment will facilitate ultrafast connectivity to affordable housing tenants in Council-owned properties (at affordable prices). The option to take out these connectivity packages will be offered alongside any existing operators/providers; no one will be compelled to purchase them. They will be priced highly competitively and affordably in comparison to other providers.

6.4   This deployment will allow the Council, CATL and SPs, rapid access to a large market of broadband and other digital service customers. The upgrading of core site networking required for "smart" devices will also provide potential for enhanced digital care solutions for the vulnerable and elderly. This may also open up other future opportunities to add social value for local residents.

7.   Strategic Plan References

7.1   The proposals align closely with a number of key strands of the Strategic Plan 2018-21. In particular, they further the aims of:

Growth: Ensure residents benefit from Colchester's economic growth with skills, jobs and improving infrastructure; promote inward investment to the borough; develop jobs, homes, infrastructure.

Opportunity: Promote green technologies through initiatives such as SMART cities; help business flourish by supporting infrastructure.

Wellbeing: Making Colchester an even better place to live and supporting those who need most help by targeting support to the most disadvantaged residents and communities

9.   Consultation

9.1   Extensive consultation has taken place with a very wide range of internal and external stakeholders during the engagement with DCMS and VX. The stakeholder mapping has been one of the key elements in our submission for funding and has described in detail the ways in which we have explained the benefits of the project and the desired outcomes/uplifts expressed by the various stakeholders.

9.2   As well as the Council Client team, who retain officer responsibility for the HRA (in addition to the clienting of the Council companies), the CBH leadership team has been periodically updated on progress with the VX discussions and has expressed its support for the proposals from the Council's ALMO.

9.3   If approved, consultation and notification to residents will need to be planned and implemented. This would be tailored to the specifics of each site, timings, etc. It is understood that General Consent for this type of agreement exists within the provisions of the Housing Act 1985 but, as details become finalised, and prior to implementation any relevant consents be required from the SoS or tenants then these would be sought as such a requirement is identified, in agreement with the Portfolio Holder for Housing.

10. Publicity Considerations

10.1 The VX business case is based on securing a 40% share of the available market within 5 years. This equates to some 25,000 properties connected to the gigabit-enabling networks. This will represent a transformation of the Borough's connectivity landscape, where fewer than 2% of connections are currently gigabit-capable. This is an extremely good example of a Local Authority successfully implementing an infrastructure-first approach to its overall development policies.

10.2 The deployment will involve a very large programme of road, street and pavement works to install the infrastructure. These will be protracted and, in some cases, disruptive and unpopular. This will need to be carefully managed as part of the overall communications strategy in explaining to the public and key stakeholders the benefits of the deployment. Notification, and explanation, to residents of each property should be considered if the project is to proceed, and prior to works commencing adjacent to their homes.

11. Financial implications

11.1 No capital funding beyond that agreed by CBC for the LFFN deployment is required. The £3.5m agreed previously for this purpose includes the cost of the core fibre optic infrastructure that will be used by, among others, VX.

11.2 The financial appraisal of the project has been subject to external audit and analysis by AnalysysMason, in order to confirm that they are compliant with both State Aid principles and the Market Economy Operator Principle, as part of the bidding process. This confirmed that the project meets all requirements and demonstrates that no unfair market advantage is being conferred by the granting of Government funding. In order to maintain this, CBC cannot offer VX any preferential or exclusivity conditions. VX accepts this.

11.3 All revenue streams generated by the LFFN-associated infrastructure must be returned to CBC in full; Amphora cannot use public funding to create revenue-generating businesses. CBC has the right, however, to determine appropriate market-matched rates to pay Amphora for any work or subsequent system management carried out on its behalf. These must be paid from revenue, not grant funding.

11.4 The revenues modelled with DCMS and VX arising from the full deployment are significant. These grow to £680,000 per year against operating costs of £220,000 per year from steady state year 5 models. Achieving this requires a customer base of between 20,000 and 25,000 customers and is ambitious but realistic. These figures have undergone extensive testing by the DCMS Value for Money team, including sensitivity analysis.

11.5 The main economic cashflow of the existing LFFN network is front loaded through the General Fund, then recouped from grant funding (as agreed by Cabinet in November 2019); however, this specific project will be funded through private investment and as these properties are HRA-owned a rent should be paid to the HRA for accommodating the equipment to be housed at each site, as has been secured for solar panels previously. It is proposed that this rent is calculated as an annual fee paid on "a per square metre" basis (commercial accommodation). The same would apply to general fund property areas.

11.6 There are very large intangible economic uplifts from a fibre deployment of this scale for the Borough. An external report commissioned from Adroit Economics, a leading telecoms economic consultancy, predicted a GVA uplift of 6%, £185m in monetary terms,

to the value of the Borough's economy, if the project is implemented in full over a 5-to-10 year period.

12. Health, Wellbeing and Community Safety Implications

12.1 No potential, negative impacts of the deployment on health and wellbeing have been identified. Indeed, the impacts are likely to be positive, in that attention has been paid to the upgrading of connectivity to sheltered housing, public buildings and the disadvantaged communities who may be ignored by the major incumbent telecoms operators.

12.2 The new fibre optic layer to be deployed across a large area will facilitate the cost-effective and far more rapid deployment of new or upgraded, digital CCTV systems. The current, analogue system is obsolete and unfit for purpose; it cannot be adapted to connect new cameras, including in those areas blighted by incidents of crime or ASB, and none outside the town centre. The deployment of the new fibre layer and associated electronics in the Town Hall means that a new system will be deployable at a far lower cost than would otherwise be the case, and that there is effectively no restriction on where cameras can be located.

13. Health and Safety Implications

13.1 H&S implications arising from a large programme of street and road works will be the direct responsibility of the appointed contractor(s) during the build phases but will be closely monitored by the CATL project team. Comprehensive Risk and Methodology Statements will be required for the phases of works and will be approved in consultation with the Project Team and, where appropriate, Essex Highways.

14. Risk Management Implications

14.1 To maintain State Aid compliance, CBC-CBH cannot offer VX exclusive access to the network assets built using public funding (existing network or LFFN-funded). This should not be a problem, given that no other investors currently plan to deploy at such large scale in Colchester (this may change in future, however, meaning access on equal and equivalent commercial terms would need to be granted). Full transparency and Open Book accounting will be required to minimise any potential State Aid challenge.

15. Environmental and Sustainability Implications

15.1 The Council has declared a Climate Emergency and committed to being carbon neutral by 2030. The installation of Broadband does not conflict with this objective.