

Council

Date of Meeting:	15 December 2021
Report Title:	Connecting Cheshire Accelerated Grant Funding
Report of:	Jayne Traverse, Executive Director of Place
Ward(s) Affected:	All

1. Executive Summary

- 1.1. As the Accountable Body for the Connecting Cheshire Partnership, the Council is being asked to approve acceptance of a grant from Building Digital UK (BDUK) to accelerate and extend the roll out of superfast broadband across the whole of Cheshire and Warrington.
- 1.2. The decision requires a Supplementary Capital Estimate as the funding associated with this grant will lead to an increase in the Council's approved budget for 2021/22 and beyond.
- 1.3. The accelerated funding grant is expected to be awarded in January 2021. The allocation is £2m. The funding is required to be used to extend an existing contract with Airband to increase this contracts capacity to connect households in both Cheshire East and Cheshire West and Chester boroughs. Council is recommended to approve the acceptance of the grant and delegate the authority to spend to avoid any delays in the roll out of the programme and the benefits to residents across Cheshire.

2. Recommendations

It is recommended that the Council:

- 2.1. Accept the £2m grant funding from BDUK.
- 2.2. Note that BDUK has attached two conditions to this new funding:
 - an outline model of how the contractor (Airband) intends to use the indicative £2m grant allocation, is provided.

- that the Authority renew its commitment to the existing policy of ringfencing gainshare arising from previous Connecting Cheshire contracts for use on digital investment across Cheshire.
- 2.3. Note that the Finance Sub Committee in December 2021 has recommended approval of the £2m Supplementary Capital Estimate, presented as part of the 2021 – 2022 Financial Year Review
 - 2.4. Approves a Supplementary Capital Estimate for £2m.
 - 2.5. Delegate authority to the Director – Economy and Growth to agree the terms on which the grant is offered and enter into a grant agreement to incur expenditure and activity in line with the conditions associated with the accelerated funding grant.

3. Reasons for Recommendations

- 3.1. To enable the roll out of superfast broadband to rural communities ensuring that such rural communities are not disadvantaged. Allowing residents to work from home; children to access school from home; enable small businesses to trade online and much more.
- 3.2. Intervention and investment into rural broadband are needed as soon as possible as there is no indication that the market would invest to bring better broadband to rural communities. Connecting Cheshire has available ring-fenced funding to invest in superfast broadband projects and government gigabit voucher schemes to extend networks to rural areas.
- 3.3. In the development and drafting of the existing Airband contract within the Digital Cheshire project, it was anticipated that additional funding may have become available during the lifetime of the project. While the contract was entered into at a value of approximately £4.75m, the terms of the contract and the State Aid assurance enabled it to be extended up to a ceiling value of £10m if agreed by both parties.
- 3.4. BDUK have communicated that due to a recent receipt of approximately £90m funding specifically intended to extend existing 'superfast' contracts, they are willing to provide £2m of funding that could be utilised within the existing £5.25m of extension, or 'headroom', value in the Airband contract.
- 3.5. These funds would be provided without any match requirement on the Authority or Connecting Cheshire. They are specifically intended for the Airband contract and are to be utilised on infrastructure (broadband deployment) and cannot be used on other areas of support provided by the Digital Cheshire project.
- 3.6. Under constitutional and procedural requirements, it is considered that acceptance of the BDUK funding and the consequent operation of the

extension condition of the Airband contract requires formal approval from the Council.

- 3.7. To draw down the funding from BDUK and to allow them to adhere to HM Treasury deadlines, Cheshire East Council is required to provide the following information by the 31 December 2021 to ensure the grant remains available to the Authority:
- an outline model of how the contractor (Airband) intends to utilise the indicative £2m grant allocation, via a contract change request which will be independently assessed for Value for Money; and
 - A re-commitment by the Authority to the already existing policy of ringfencing gainshare arising from previous Connecting Cheshire contracts for use on digital investment across Cheshire, and in particular approximately £3m of gainshare that is directly attributable to previous BDUK grants.
- 3.8. We are not able to provide this information without the Council's decision to accept the requirements outlined in para 3.7 above.
- 3.9. A further reason for the recommendation is it will allow the first of our superfast contracts to move through closure with BDUK and be able to crystallise gainshare from the contract.

4. Other Options Considered

- 4.1. The Council could refuse to accept the Supplementary Capital Estimate and refuse the unsolicited offer of a £2m grant into Cheshire, but this would mean that rural households with limited or no broadband connectivity would not benefit from this central government funding.

5. Background

- 5.1. The Connecting Cheshire Partnership (CCP) was formally established following Cabinet approval in September 2012 (CE12/13-15) as a collaboration between Cheshire East, Cheshire West & Chester, Warrington, and Halton Borough Councils to invest local authority funds and government grants in the delivery of superfast broadband to areas that required market intervention. Its primary focus remains on improving connectivity in the wider sub region, but as an additional area it provides business support in digital areas. Cheshire East is the Lead and contracting Authority within the partnership.
- 5.2. The partnership has already delivered two gap funded superfast broadband contracts with BT Openreach, deploying networks between 2013 to 2019, impacting over 100,000 premises and providing a gainshare pot of approximately £10m across the two contracts. The Council decision will allow the first contract to be closed and the first tranche of gainshare to crystallise early next year.

- 5.3. A third superfast broadband contract commenced in December 2020. The contract value is £4.5m and was awarded to Airband. It is expected to connect 4,100 premises. It is expected that after this contract and other commercial deployments there would still be over 20,000 premises across the sub-region without superfast broadband due to market failure.
- 5.4. The terms of the existing Airband contract and the State Aid assurance in place enable it to be extended up to a ceiling value of £10m if agreed by both parties. This extension can cover any of the sub 30mbs problem premises that were identified as part of the contract procurement and State Aid process. Excluding the premises planned to be covered in the existing deployment, this totals around 20,000 premises in the Cheshire region.
- 5.5. BDUK, the government's broadband infrastructure agency has approached the CCP and offered an unsolicited grant of £2m to extend the contract with Airband. This funding would utilise the existing contract headroom to connect further premises in Cheshire East and Cheshire West (the value is considered insufficient to directly impact the partnership areas of Warrington and Halton).
- 5.6. Work is currently being progressed with the contractor, CCP and BDUK to assess how and where the additional £2m will impact. A contract change will be required and agreed with Airband once the change impact is accepted by all parties.
- 5.7. BDUK were a major contributor to the public funding utilised in Contracts 1 and 2. It has always been the principle of the funding that any gainshare would be ringfenced for future investment in digital. As we approach the closure of Contract 1 and the crystallisation of gainshare BDUK are keen that we formally recommit to that longstanding principle. In particular BDUK are keen to tie the offer of the £2m grant to a requirement that the circa £3.5m that they believe is directly attributable to their funding is used solely for investment in further digital infrastructure. As this correlates to existing policy there should be no difficulty in confirming this. This future investment will cover the whole of Cheshire, and it is expected to be in those rural areas that have very slow (sub 30mbs) broadband connectivity.
- 5.8. A further paper will be brought before Council when the first gainshare fund is due to crystallise to ensure it is incorporated into the Council's Medium Term Financial Strategy and to seek approval for any schemes identified as a suitable means of extending broadband provision across Cheshire. The Connecting Cheshire Partnership will continue to develop schemes for future approval. This may include the establishment of a regional top-up voucher scheme to provide 'top-up' funding to the government's Project Gigabit voucher scheme. In this national programme vouchers are capped at £1,500 for residential homes and £3,500 for business premises and can only be used to cover the costs of installing gigabit broadband. The scheme is administered nationally by BDUK. There is substantial evidence that the limited amounts provided from the national programme do not cover the real

costs of connecting homes across Cheshire. Further work is required to understand the overall coverage and levels of top-up for each voucher. This work will be undertaken by the Director of Economy and Growth with local partners.

6. Consultation and Engagement

6.1 Consultations with local ward Councillors, residents and business will take place regarding the roll-out of extended broadband connections once Officers are in receipt of the contractors change control notice.

7. Implications

7.1. Legal

- The grant from Broadband Delivery UK (BDUK) has been determined by the Secretary of State for Digital, Culture, Media, and Sport (DCMS) in exercise of the powers conferred by section 31 of the Local Government Act 2003.
- The purpose of the grant is to extend the existing contract for Deployed Services with Airband Community Internet Limited (Airband). The procurement of and the contract with Airband contain provision for Additional Approved funding up to an amount of £5,450,000. Under the terms of the contract with Airband the Additional Funding may be used by the Authority at its sole discretion and subject to agreement of a variation to the Contract for the Deployed Services, extending coverage and/or improving broadband speeds.
- The Grant Agreement will need to be reviewed by Legal Services once it has been received.
- The receipt of funding from BDUK and any variation to the contract with Airband will need to be compliant with:

- the UK’s Subsidy Control regime / the EU’s State Aid regime; and the Public Contracts Regulations 2015. Approval of a Supplementary Estimate requires adherence to the provisions of the Financial Procedure

Funded from Additional Grants

Directors may make applications for grants, where the application does not create a financial or any other commitment, in consultation with the Chief Finance Officer. However, if the application is for a grant in excess of £1m, or if any match funding will be required, then CLT must be consulted in advance.

Successful grant applications will require a supplementary estimate to incur spending, in line with the approval limits set out in the table below.

If grant application or receipt commits expenditure outside of the Control Totals then a Virement or Other Supplementary Estimate will also be required.

Amount of grant to be received	Approval Level
Up to and including £100,000	Officers
Between £100,000 and £500,000	Relevant Member of CLT in consultation with Chair of the relevant Committee and Chair of Finance Sub-Committee
£500k and up to £1m	Committee
£1m and above	Council

- Rules as set out in the Constitution and specifically the provisions of Chapter 3 Part 3 at para 19 shall apply:
 - It being noted that the level of grant funding (£2m) requires Council approval.
 - The determination by which the grant funds are awarded in exercise of the powers conferred by section 31 of the Local Government Act 2003 apply Conditions.

7.2. Finance

- The necessary Supplementary Capital Estimate has been brought before Council for approval via the 2021 – 2022 Financial Year Review Annex 1, Appendix 1, Section 5: Capital Strategy, Table 6.
- The Council has a current infrastructure supply contract in place and as there is available headroom within the contract value, Building Digital UK (BDUK), part of the Department for Culture, Media and Sport (DCMS) have been keen to consider ways they can accelerate the rollout of broadband infrastructure across Cheshire.
- It is their intention to provide an unsolicited grant of £2m to be utilised in the existing contract and to be spent by March 2025 subject to the

existing infrastructure supplier being able to utilise the £2m in a manner that demonstrates value for money to the public purse. There will be a requirement for the supplier to submit a implementation plan to BDUK for assurance. The contract will only be varied upwards if BDUK determine that it offers value for money and the grant is formally accepted. There will be no risk of additional costs for the Council in the event the grant is not made available.

- The expectation is that the Council will spend the grant in accordance with the conditions yet to be agreed and not exceed the amount advised by BDUK. There will not be any significant unfunded ongoing commitments as a result of this expenditure. Post contract closure there will be a need to monitor take-up to ensure the supplier does not generate excessive profit for the seven years post deployment. Any excessive profits will result in a gainshare mechanism. Gainshare relating to this portion of the contract will accrue to BDUK as the funder. This differs from earlier contracts but reflects the fact that early superfast contracts have generated significant gainshare which will become available for further investment in digital.
- The reporting of the grant spend will be carried out quarterly and annually as part of the normal course of reporting that occurs for the digital infrastructure contract. Grant payments are likely to be made in arrears on receipt of a fully completed and verified grant claim. The supplier will also be managed to ensure that they adhere to the spending profiles and to ensure that the Authority is not exposed to future liabilities.
- There is experience within the Council of managing the infrastructure supply contracts and the necessary reporting to BDUK.
- The securing of the grant and the reaffirming of existing commitments to utilise gainshare for the furtherance of digital connectivity will allow Contract to be formally closed from a Council capital accounting perspective.

7.3. **Policy**

- The policy context is the Corporate Plan. Any policy implications that arise from activities funded by the accelerated grant funding will be dealt within an individual report to Members or Officer Decision Records.

7.4. **Equality**

7.5. Improvements to digital connectivity will be important to improve accessibility to all residents, enabling increased inclusiveness and reducing isolation to all groups and communities.

- An equality impact assessment is currently being completed regarding the implementation of the grant to ensure that people are not

disadvantaged or treated unfairly by this scheme. For example, that our processes are easy to access and to navigate.

- We expect that the implementation of the grant will have a positive impact in relation to the protective characteristic of age, particularly for children and young people. It will also support the need to ensure that we have fairer and more resilient communities.

7.6. **Human Resources**

- There are no additional resources or capacity required to administer this grant. Reasonable administration costs are funded as part of the grant and we will ensure that the full costs of any additional staffing are offset against the grant.

7.7. **Risk Management**

7.8. A key risk to receipt of BDUK funding is to not have the required approvals in place, in particular approval of the formal acceptance of the funds and the change required on the Airband

7.9. The BDUK offer of funding does not appear part of a formal or established funding process. This has led to lack of clarity on certain fixed deadlines and creates the risk that an unanticipated deadline may apply to parts of the process that may lead to an inability to secure the funding. Connecting Cheshire have sought clarity on all requirements and believe these are fully understood and achievable within the timescales required. Despite this all activity and approval should be considered urgent and carried out in a timely manner at the earliest possible opportunity to minimise any deadline risks.

7.10. While BDUK have communicated that there is £2m of funding available (they have allocated), this is not a formal offer and there is a risk that the funding may be withdrawn, although this is considered a very low likelihood.

7.11. The BDUK funding is dependent on the proposed extension meeting BDUK's value for money (VFM) assessment and other compliance activities. The connecting Cheshire teams are working with BDUK to ensure this risk is minimised and extension plan is likely to pass these VFM requirements and meet any compliance requirements.

7.12. The extension itself and utilisation of additional funding is also dependent on the agreement (and capacity) of Airband to deliver this extension. Connecting Cheshire are working with Airband and they have indicated a strong desire to extend so the risk of non-agreement by Airband is considered very low.

- Procurement and contractual risks regarding the extension have been re-assessed and it is considered that it is legally compliant with procurement and contract regulations, so challenge or difficulties are not considered a risk.

7.13. **Rural Communities**

7.14. The recommendations directly impact on the rural community. Bringing superfast broadband enables the development of thriving and active rural communities.

7.15. **Children and Young People/Cared for Children**

7.16. More children and young people can access online education and modern entertainment via superfast broadband connections. This will enable modern platforms such as Microsoft Teams and Zoom.

7.17. **Public Health**

7.18. Rural broadband enables better access to remote health services such as ‘tele health’.

7.19. **Climate Change**

7.20. Superfast broadband will have a positive impact on people’s lives by easier working from home; online shopping and conducting normal everyday activities on the internet. It will lead to lower carbon emissions by reduced use of transport.

Access to Information	
Contact Officer:	Dr. Charles Jarvis, Head of Economic Development Charles.jarvis@cheshireeast.gov.uk Telephone: 0797 165 1217
Appendices:	None
Background Papers:	Cabinet - September 2012 (CE12/13-15) Economy and Growth Committee 30 November 2021 EG/06/21-22 https://moderngov.cheshireeast.gov.uk/ecminutes/documents/s90402/Report.pdf