

## **Cabinet**

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**Date of Meeting:** 8 September 2020

**Report Title:** Digital Cheshire

**Portfolio Holder:** Councillor Nick Mannion, Portfolio Holder for the Environment and Regeneration

**Senior Officer:** Frank Jordan - Executive Director - Place

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### **1. Report Summary**

- 1.1. Digital connectivity is now an essential utility for every home and business. Its importance has been further underlined by the COVID-19 pandemic with home and remote working becoming the norm which has created a significant demand for digital services.
- 1.2. The national target is to achieve “Gigabit” (1000 megabits per second) speed connectivity to all UK premises (residential and commercial). In Cheshire East and the sub-region there are however many premises that do not even meet the older “Superfast” (30 megabits per second) connectivity standard. These very low speeds can result in ‘Digital Exclusion’ for those residents unable to access services and can also create severe constraints on business growth and even threaten future commercial viability.
- 1.3. This report seeks approval for Executive Director – Place to enter into a funding agreement on behalf of Cheshire East Council with the Ministry for Housing, Communities and Local Government (MHCLG) that will access European Regional Development Funds (ERDF) grant funding. This funding will enable a 3 year programme of activity to enhance access to digital technology for Small and Medium Sized Enterprises (SMEs) and residents in Cheshire and Warrington that occupy premises that do not meet the Superfast connectivity standard.

- 1.4. In relation to the grant acceptance and 3 year programme, approval is also sought for the Executive Director – Place to provide signatory approval on behalf of Cheshire East Council to enter into a contract with an external supplier for the delivery of the infrastructure element of the programme.

## **2. Recommendations**

### **2.1. That Cabinet:**

- 2.1.1. Approves the establishment of the Digital Cheshire programme with Cheshire East Council acting as the Accountable Body and signatory to all contracts and funding agreements.
- 2.1.2. Notes that the partners of Connecting Cheshire i.e. Cheshire West & Chester Council, Warrington Borough Council and Halton Borough Council similarly need to secure their own approvals for the acceptance of funding and to enter into the programme. The following recommendations and delegations will be subject to all partners securing their necessary approvals.
- 2.1.3. Delegates to the Executive Director – Place, in consultation with the Portfolio Holder for the Environment and Regeneration, and Director of Governance and Compliance authority to accept an offer of European Regional Development Fund funding and to finalise the terms and conditions of the legal agreement between the Council and Ministry of Housing, Communities and Local Government in respect of the grant and the associated governance processes required.
- 2.1.4. Delegates to the Executive Director – Place in consultation with the Director - Governance and Compliance authority to finalise and enter into a infrastructure delivery contract (following due internal diligence and external State Aid approval processes), with an external supplier in order to deliver the physical broadband connectivity.
- 2.1.5. Authorises the Executive Director - Place in consultation with the Director - Governance and Compliance to enter into any necessary legal documentation to give effect to the above recommendations including entering into an updated Collaboration Agreement between Cheshire East, Cheshire West & Chester, Warrington and Halton Borough Council for the Digital Cheshire programme.
- 2.1.6. Authorise Officers to take all necessary actions to implement the above recommendations with particular reference to decision making in relation to the Connecting Cheshire Partnership, the final programme scope and design of the Digital Cheshire programme, all grant and grant-related procurements and

award of contracts, and the day to day management necessary to implement the programme.

### **3. Reasons for Recommendations**

- 3.1. **Addressing Market Failure** - Despite the great success of the Connecting Cheshire Partnership's activity, and earlier broadband projects, a recent Open Market Review has identified that there remains a Market Supply Failure and high demand for connectivity, particularly but not exclusive to more remote and rural locations.
- 3.2. **Unlocking Grant Funding and Providing Value for Money** - A new programme, Digital Cheshire, has been developed that addresses operational programme objectives set out in the Cheshire & Warrington LEP Prospectus against Priority Axis 2 (Priority Axis 2: Enhancing Access To, and Use and Quality of, Information and Communications Technology), enabling access to ERDF funds managed by MHCLG. This will be unlocked by match against funds held by Cheshire East Council on behalf of the Connecting Cheshire Partnership Local Authorities that is already ring-fenced for digital infrastructure.
- 3.3. **Combating Digital Exclusion** – In our society where the default and increasingly only methods to access information and services is online, poor and inadequate connectivity can create a 'Digital Divide' with households, especially those on low incomes or already disadvantaged, are further marginalised and isolated.
- 3.4. **Improved Local Resilience** – The COVID crisis has led an unprecedented use of and demand for digital services. Online call and video-communication has become the norm, children are being home schooled using digital tools, supermarket home delivery services have vastly expanded and yet still struggle to meet demand. While the COVID impact has been severe, the use and application of Digital has enabled many services to continue in one form or another and remain accessible by many.
- 3.5. Digital has also been the major conduit of communication with residents and local businesses. Lack of connectivity reduces resilience for those affected, increases risks to those without access to information and requires additional resources from the authority to reach and make provision for those affected. Addressing digital connectivity issues therefore is a key pillar of bolstering resilience and addressing risks of future COVID related issues.
- 3.6. **Long Term Economic Viability** – It has been suggested that a consequence of the lockdown and the forced requirement to make use of online services may lead to a longer lasting shift in how services or products are sourced and consumed. Businesses may need to re-shape their offerings to respond to a

possible change in consumer needs and expectations with a hard shift to Digital rather than a gradual shift.

- 3.7. This would lead to premises with connectivity issues considered 'undesirable' - or even unviable, as places to live or work. Commercial sites with poor connectivity may see accelerated decline, rural and semi rural areas with already pre existing issues of lack of employment opportunities and other exclusion issues could experience further adversity.
- 3.8. In addition SMEs are likely to have been hit harder by COVID than larger established firms and are also those most likely based in affected premises. The project would help to address these issues and avoid any cycles of decline.
- 3.9. **Strong Partnership Delivery** - Cheshire West and Cheshire, Warrington and Halton Borough Councils are also seeking approval to reinvest in Digital Cheshire, recognising high speed broadband connectivity as a corporate priority, and confirming their satisfaction with previous projects delivered by the Partnership, and the governance and project management provided through the operational board.
- 3.10. Representatives of the partner authorities in the Connecting Cheshire group have been involved in the planning of and have approved the programme outline. A renewed formal Collaboration Agreement will be signed ahead of acceptance of the grant funds and commencement of the new programme.

#### **4. Other Options considered**

##### **4.1. *Do Nothing* (do not proceed with Digital Cheshire)**

- 4.1.1. The opportunity to secure and leverage circa £3 million of ERDF funding will be lost if it is not drawn down for the current proposal. This will significantly reduce the Authority's ability to invest in future digital infrastructure.
- 4.1.2. There is also a risk by doing nothing that commercial deployment will be many years away despite government's current commitments and future pledges. If there was an eventual deployment it is likely that significant damage may have already been done. Affected commercial sites may already be unoccupied as not fit for use, in residential sites social exclusion and other problems may have become firmly embedded.
- 4.1.3. Whilst externally funded project staff are assigned to their specific project outcomes by the terms of the contract, the project itself generates a lot of consequential and indirect benefits that will support the wider Connecting Cheshire objectives. If the ERDF project is not progressed there will be no project funded staff working on digital. This will be the first time since inception

of the Connecting Cheshire Partnership and CEC may face difficulties in lack of capacity and capability in addressing issues relating to the wider Digital Agenda.

- 4.1.4. Doing nothing could potentially risk funds already held by the Authority that are ring fenced for Digital coverage, The Authority will be required to make repayments to stakeholders such as BDUK if the funding is not utilised as intended.

## 5. Background

- 5.1. The Authority has successfully completed deployment of two major digital infrastructure and digital business support projects, via the Connecting Cheshire Partnership, a collaboration between Cheshire East, Cheshire West & Chester, Warrington and Halton Borough Councils, established in 2011 to address government aspirations to roll out superfast broadband.
- 5.2. The digital infrastructure projects have exceeded the original government target of achieving 95% superfast broadband coverage but there is still much to do particularly within the predominantly rural areas of Cheshire East and Cheshire West & Chester. The table below shows the improvement to superfast broadband coverage achieved through the contracts to date:

Local Authority	% coverage, Dec 2013 (contract start)	% coverage, Aug 2020
Cheshire East	79.2% premises	95.47% premises
Cheshire West & Chester	68.5% premises	96.30% premises
Warrington	84.4% premises	98.68% premises
Halton	87.0% premises	99.09% premises

Source: Thinkbroadband.com (03/08/2020)

- 5.3. The government target has now moved on to encompass Gigabit connectivity, and the achievement of speeds that would go some way to future proofing and provide the capacity required to meet the demand of home workers, streamers and business. Whilst the existing projects have been responsible for kick starting the roll out of Gigabit capable connectivity it is still low, with Cheshire East's current gigabit coverage at 16.82% (compared to the England average of 22.35%), partly due in the main to the rural geography of Cheshire East.
- 5.4. The previous infrastructure projects were designed so that outputs to specific Local Authorities were broadly proportionate to their capital investment in to the projects. Due to the significantly more rural geographies of Cheshire East and Cheshire West & Chester, these two Authorities were the largest funders and beneficiaries (in terms of claimable outputs). However, there are still significant pockets where residents and business have not seen any upgrade or

improvement to their basic broadband service. Usually this has been down to cost. It is intended that this procurement would focus on those areas that had been overlooked to date.

- 5.5. The superfast infrastructure deployment contracts were “gap funded” meaning that if a supplier made excess profits a mechanism called ‘gainshare’ would be triggered. This is based upon the take-up numbers of premises utilising the new infrastructure put in place via the contracts, and recognises that commercial companies could not make excessive financial gain from public funding. Cheshire has seen a very high take up and consequently the supplier is accruing for “gainshare” in a ringfenced investment fund within its financial accounts. This fund is ring fenced for digital infrastructure projects. Payment is due at fixed points up to 2024 with the funding being attributable to each partner Local Authority, based on the proportions of the original funding contributions they made. It is the intention to forward fund against this in order to provide the local body element of funding for Digital Cheshire.

## **6. The Digital Cheshire Programme**

- 6.1. In September 2019, the Connecting Cheshire Partnership undertook an Open Market Review of coverage in Cheshire and Warrington to understand where commercial deployment is planned in the coming years. This confirmed that commercial operators are now largely focused on upgrading its already Superfast capable network in areas of strong market demand to Gigabit capabilities, overlooking those poorly connected spots. The Partnership determined that without further intervention it would be many years before these areas got even basic broadband coverage, putting the businesses in such areas at a substantial disadvantage, and indicating that a new programme was justified.
- 6.2. If approved, Digital Cheshire would run initially from November 2020 until June 2023. (There would be scope to extend delivery within the contract to beyond 2023 subject to appropriate funding being identified).
- 6.3. The programme will target c1400 postcodes, and 4000 SMEs for faster broadband infrastructure across Cheshire and Warrington, at an initial total project cost of c£6.24m million. This postcode coverage equates to a potential 24,000 premises in the region, of these approximately 12,000 fall within the CEC authority area.
- 6.4. Cheshire East Council will be the Lead Authority, on behalf of the Connecting Cheshire Partnership (including Cheshire West & Chester, Warrington and Halton Borough Councils). The partnership will provide oversight to the Authority’s day to day management of the programme as has been the arrangement on the previous programmes such as Connecting Cheshire.

- 6.5. The programme will meet the grant 'output' requirements set by MHCLG and the LEP, by having both an infrastructure and business support component, building on the successes and lessons learned from previous programmes. The focus of these outputs is delivery to SMEs, as defined according to ERDF criteria. In addition the project will target SME premises located in what have been termed "the last 5%" areas and which see no prospect of any market supplied solution.
- 6.6. The infrastructure element of the project will be delivered by an OJEU procured supplier and has an initial value of c£4.55m. The procurement process and contract template has been approved by BDUK as State Aid compliant and went live on 29<sup>th</sup> June 2020.
- 6.7. If a supplier is selected then following the Council's internal due diligence, the draft contract will require final State Aid approval by BDUK. A major project risk lies in that this approval must be given before the end of December 2020 as following this BDUK will no longer be 'authorised' to provide State Aid Compliance in this area (unless there is some agreement on a post transition Brexit relationship). It is planned and scheduled to pass the contract through the BDUK compliance process and receive approval to sign the contract in November 2020. This timetable does not give scope for any significant slippage, so the process is being actively managed to ensure dates do not slip and increase risks.
- 6.8. On the recommendation of BDUK the c£4.55m infrastructure procurement contains an 'option to extend' to a ceiling value of £10m. This was included to provide the option, if considered desirable and subject to funding, to initiate project change controls, and extend the deployment. Due to procurement regulations and BDUK cessation of the State Aid compliance function, this would not be an option if not included in the procurement at the outset.
- 6.9. Although outside the scope of the Digital Cheshire funding requirements, a direct consequence of the improved connectivity to SMEs is that local residences/premises in adjacent communities will also benefit from improved connectivity via 'piggy-backing' onto the new broadband infrastructure. The Connecting Cheshire Partnership will aim to monitor and report on these connections as further project benefits.
- 6.10. The outputs being delivered by the new programme are:
- 6.10.1. To enable internet connection speeds (via open network solutions) of greater than 30Mbps to a minimum 440 businesses, with 180 of these also actively taking up broadband access during the project (solutions are anticipated to be Gigabit capable).



- 6.10.2. To facilitate 165 businesses to obtain advice, knowledge and support in utilising digital technologies and processes that rely on high speed internet connectivity that can drive business process improvements, productivity, sustainable growth and enable access to new markets. 20 of these businesses will receive an enhanced minimum of 20 hours of intensive and highly bespoke assistance. This augments the investments being made in infrastructure and physical connectivity, as an effective way of maximising the benefits derived by businesses.
- 6.10.3. The physical delivery of outputs will be by external suppliers, but outputs will be overseen and verified by the project team. The new programme has been planned so that current staff still delivering the previous contracts will move on to the new programme to allow continuity and the retention of expertise, and will be joined by a broader project team to deliver the infrastructure component and demand stimulation activity, employed by Cheshire East on behalf of the programme.
- 6.10.4. Whilst the project will take a technology agnostic approach to the deployment, it foresees this may be achieved by a range of technologies enabling gigabit speeds such as full-fibre, cable or fixed wireless access. This is in line with government ambitions outlined in the Future Telecoms Infrastructure Review, the technologies deployed in this new programme will be gigabit capable technologies, which are also complementary to 5G ambitions.

## **7. Implications of the Recommendations**

### **7.1. Legal Implications**

- 7.1.1. The Connecting Cheshire Partnership approved in-principle at its July 2019 meeting that an Outline Application for ERDF funding be submitted to MHCLG. This was approved by MHCLG in December 2019 for development into a Full Application. This full application was submitted in March 2020 and is currently in the final evaluation stage and is expected to be fully accepted. If accepted then MHCLG will issue a formal Grant Funding Agreement (GFA) for the Digital Cheshire programme which will need to be formally approved by legal means.
- 7.1.2. A new Collaboration Agreement, similar to that which was used in the previous Connecting Cheshire Partnership projects, has been produced for the Digital Cheshire programme. The Collaboration Agreement establishes the consortium and its objectives, it also provides indemnities from the members of the Connecting Cheshire Partnership to Cheshire East Council, as Lead Authority, in respect of all liabilities arising out of the programme, ensuring that any liabilities are shared between the Connecting Cheshire Partnership



members. It also formalises the financial contributions of each partner in terms of their proportion of the ring-fenced funds utilised.

7.1.3. A number of procurements will be required to facilitate the delivery of the programme. In particular the broadband infrastructure procurement has a value of c£4.55m and will be an open OJEU and State Aid compliant process. To meet the delivery timetable for the programme, this main procurement went live on 29<sup>th</sup> June 2020. Smaller compliant procurements will be undertaken for the specialist services providers for the digital support programme. Both procurements will be carried out with the support of Cheshire East Council's legal services and procurement teams.

7.1.4. To mitigate against risk to the Council, the Collaboration Agreement will be entered into before acceptance of the external grant funding. Tenders for the major infrastructure components will also have been received and negotiated, but not awarded, also before the external grant funding is accepted to ensure outputs align and the contracts can quickly be mobilised providing further assurances about the deliverability of the programme.

## **7.2. Financial Implications**

7.2.1. The current Medium Term Financial Strategy 2020-2024 includes £7.25m relating to Digital delivery, with £6.3m allocated for the period 2021-2023. This has been reprofiled to enable the Authority to wait for MHCLG to open the relevant ERDF funding call.

7.2.2. The ongoing ERDF funded Digital 2020 project which is focused on Business Support has been extended by MHCLG for two quarters to provide a bridge to the start of the new ERDF funded project. It is expected that this will have utilised approximately £1.2m of the £7.25m budget meaning that a small supplementary capital estimate may be required. However, this may not be necessary and could also be achieved via a virement from the other legacy Connecting Cheshire projects.

7.2.3. Historically the projects were established and received external funding on the basis that all funding committed was spent and utilised on digital connectivity and digital business support. Failure to do this could result in external funding needing to be returned. Thus it is proposed to increase the budget on Digital 2020/Digital Cheshire by tidying the legacy projects and transferring the remaining balances to a single project. It should be noted that the intention is to eventually fund a £10m infrastructure contract though initially this will be circa £4.5m with further sums being committed as they become available. It may therefore be prudent to establish a line in the addendum which could be brought

forward into the main capital programme subject to the completion of the necessary business case.

- 7.2.4. It is anticipated that the project will fund the match required for ERDF purposes through the utilisation of funds that the digital projects have generated to date via gainshare mechanisms. There may be a requirement to forward fund the project in the early stages and the project may seek to effectively borrow against amounts accrued in the separately held investment fund.
- 7.2.5. The receipt of ERDF funding will place an administrative burden on the Authority as it will need to account for spending on a quarterly basis and comply with all relevant rules and directives. The existing project team is experienced in managing ERDF projects and this should not be seen as a major obstacle.
- 7.2.6. There will also be a need to manage allocations of funding relating to partner Authorities and ensure there is an equitable distribution of outputs relative to the funding provided. The Authority will also need to ensure that all costs incurred on the project are properly recharged. The Collaboration Agreement and finance protocol included therein should provide some level of assurance for the Authority.
- 7.2.7. It has been established that Brexit will not impact the Authority's ability to bid for ERDF funding in the current 2014-20 programme. Nor will there be an adverse impact on our ability to draw down funding during the deployment phase of the project post Brexit.

### **7.3. Policy Implications**

- 7.3.1. The programme supports Cheshire East Council Economic Strategy's Priority Theme 2 'The Place to Connect' and Strategic Objective 5 – Improve connectivity options, efficiency and sustainability which outlines the need for improved digital connectivity.
- 7.3.2. It also supports the Council's Corporate Plan, through three outcomes. 1): To ensure strong, resilient and connected communities by allowing residential properties surrounding targeted SMEs in 'hard to reach areas' gain access to faster connectivity speeds; 2) To promote lifelong learning and skills by enhancing digital access, and skills for qualifying SME employees, and therefore enabling investment in transformational ICT projects to improve productivity and access to markets; and 3) To promote sustainable and inclusive economic growth by supporting the LEP strategy and making a significant contribution to their targets.

7.3.3. Digital is also a key theme of the Cheshire & Warrington LEP's Prospectus for Inclusive Growth where it commits to delivering future digital projects through the funding mechanisms outlined.

#### **7.4. Equality Implications**

7.4.1. The exact beneficiaries of the programme will be determined by 1) criteria set the LEP including eligibility of SMEs, and 2) by the successful delivery partner. However the tender specification documents have focused this intervention to areas of sub-standard digital connectivity speeds and areas neglected by commercial operators based on a full Open Market Review exercise.

#### **7.5. Human Resources Implications**

7.5.1. Programme management arrangements to support the delivery of Digital 2020 are in place until October 2020. The bid aligned the new programme to the end of D2020 so project staff could move to provide continuity (due to COVID related delays MHCLG agreed to an extension of D2020 by a quarter to ensure there was no 'gap').

#### **7.6. Risk Management Implications**

7.6.1. A key risk lies in the December 2020 deadline for final State Aid approval by BDUK. An agreed (with BDUK) procurement schedule is being following that will enable the process to complete within this deadline. It remains imperative that there are no significant delays to the process as this could jeopardise the infrastructure procurement. Key staff within CEC teams are being briefed and consulted ahead of their required input and/or approval to ensure that avoidable delays are not a delaying issue.

7.6.2. The significant experience within the Connecting Cheshire Partnership and project teams has been utilised in developing the new Digital Cheshire programme, and contributes to there being a low risk that the programme will not meet its contracted programme outputs.

7.6.3. In planning the programme infrastructure outputs, extensive mapping work has been undertaken to identify eligible SMEs in confirmed sub 30Mbps speed areas to demonstrate sufficiency. Costs from difficult installations from past projects have been investigated and used to determine output numbers. There is also awareness of areas where there is a long running need and high demand for an infrastructure improvement, and this has fed into take-up estimates. These factors have increased confidence in the delivery of infrastructure outputs.

- 7.6.4. The profiling of outputs on infrastructure delivery have similarly been informed by previous experience. The project has built in a time lag from the infrastructure being put in to validation of both connection speeds and new connection take up and the pattern has been refined even further following the process of potential supplier consultation and communication that occurred following the OMR which provided valuable information on specific deployment milestones.
- 7.6.5. The business support outcomes and pattern of delivery have been greatly informed by beneficiary feedback, lessons learned and past successful processes. The team are confident that the contracted forecast can be met and delivered in very close alignment with the pattern of delivery.
- 7.6.6. In terms of any risk to ERDF funding and brexit, the UK government has previously guaranteed EU funding to provide stability for UK organisations. The guarantee will now no longer be required as there is now a withdrawal agreement in place.
- 7.6.7. Under the Withdrawal Agreement, the UK will continue to participate in programmes funded under the current 2014-2020 Multiannual Financial Framework (MFF) until their closure. In addition, UK organisations can continue to bid for new grant funding under the current MFF.

## **7.7. Rural Community Implications**

- 7.7.1. The Cheshire region contains a high proportion of rural or remotely located areas that have in many cases suffered from poor levels of digital connectivity. This poor connectivity is not just a problem in terms of residents unable to access digital services, but has also impacted the economic development of these communities, as businesses that increasingly rely on digital communications or routes to market do not wish to be located in areas where they would be disadvantaged by poor connectivity and so many establish themselves elsewhere. Already established businesses suffer a disadvantage and are unable to reap any of the productivity or other benefits of digital connectivity and are constrained in their economic growth.
- 7.7.2. Rural and semi-rural areas with already pre-existing issues of lack of employment opportunities and other exclusion issues could experience further adversity if digital support is not provided. Digital Cheshire with both its infrastructure connectivity and business support elements directly addresses this issue and will enable business growth, to help generate the wider economic benefits such as local employment opportunities.

## **7.8. Implications for Children & Young People / Looked After Children**

7.8.1. The programme does not target children and young people of Cheshire East, however the provision of infrastructure enabling remote learning (in particular during 'Lockdown' conditions and disruption to schools) and also access to support services may be an indirect beneficial impact.

## **7.9. Public Health Implications**

7.9.1. There is no direct impact on the public health of residents in Cheshire East, however provision of infrastructure enabling access to online health services and support may be an indirect beneficial impact.

## **7.10. Climate Change Implications**

7.10.1. There is no direct impact on climate change or carbon emissions, however provision of infrastructure enabling remote working (and other online services) could reduce business and employment related transport journeys and emissions.

## **8. Ward Members Affected**

8.1. The exact wards impacted by the programme will be determined by 1) criteria set the LEP including eligibility of SMEs, and 2) by the successful delivery partner however the tender specification documents have focused this intervention to areas of sub-standard digital connectivity speeds and areas neglected by commercial operators based on an Open Market Review exercise.

## **9. Consultation & Engagement**

9.1. The Portfolio Holder was briefed of the plans to bid for ERDF funding and the design of the programme, in November 2019 by the Director of Growth & Enterprise who manages the service that is responsible for the digital agenda, and is fully supportive.

9.2. A state aid public consultation was carried out from 6 March 2020 to 6 April 2020 to show the targeted intervention areas. There were no challenges to the proposed intervention area.

## **10. Access to Information**

10.1. For access to any further information, contact the report author as listed below.

## **11. Contact Information**

11.1. Any questions relating to this report should be directed to the following officer:

Name: Frank Jordan

Job Title: Executive Director - Place

Email: [frank.jordan@cheshireeast.gov.uk](mailto:frank.jordan@cheshireeast.gov.uk)