

## SHEFFIELD CITY COUNCIL

### EXECUTIVE LEADER DECISION RECORD

The following decision was taken on 14 July 2014 by the Leader of the Council.

Date notified to all members: Tuesday 15 July 2014

The end of the call-in period is 4:00 pm on Monday 21 July 2014

Unless called-in, the decision can be implemented from Tuesday 22 July 2014

1. **TITLE**

Broadband Provision in South Yorkshire

2. **DECISION TAKEN**

**Background Information**

Sheffield City Council has been participating with the councils of Barnsley, Doncaster and Rotherham in the development of a South Yorkshire Superfast Broadband Project the aim of which is a 24Mbps+ superfast broadband infrastructure being available to approximately 95% of premises in South Yorkshire and a usable 2Mbps broadband infrastructure being available to the remaining 5%. For reasons of European Union state aid law, Sheffield city centre does not form part of the project.

This South Yorkshire project is part of the national programme being run by Broadband Delivery UK (BDUK), a team within the government's Department for Culture Media and Sport. It is anticipated that the project will be funded by BDUK, the Sheffield City Region Investment Fund (SCRIF) and the successful bidder following a procurement exercise being carried out under BDUK's framework arrangements. The project is being led by Barnsley MBC on behalf of all four South Yorkshire councils. The procurement exercise is now reaching a conclusion, against a background of demanding deadlines set by the national programme.

It is in this context that the Leader of Sheffield City Council has made the following decisions.

The report submitted to the Leader recommending these decisions is 'closed' (i.e. not available to the public) because it contains exempt information under paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended): namely information relating to the financial or business affairs of a third party and the City Council. In deciding to close the report on this ground the Executive Director, Resources has considered all the circumstances of the case and believes that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. The reasons for this are that the report includes a summary of information provided in commercial confidence by a third party in

response to a formal Invitation to Tender and which is also covered by a formal non-disclosure agreement between the Council and that third party. Furthermore, the report refers to the evaluation of a bid which is still ongoing. It is believed that if the report were made public at this time the conduct of the procurement exercise might be prejudiced to the detriment of the Council and consequently the people of Sheffield.

## **DECISION TAKEN**

- (a) To note and approve the progress made and actions taken to date in developing the South Yorkshire Superfast Broadband Extension Project;
- (b) to authorise ongoing City Council involvement in the project as outlined in this report, and specifically in pursuit of Option 1;
- (c) accordingly to authorise the giving of an assurance to Barnsley MBC that in the event of the anticipated SCRIF funding not being available to fund the contract with the successful bidder, SCC will fund approximately 37.8% of the shortfall up to approximately £3.024 million;
- (d) to authorise the giving of a commitment that in the event of it not being possible to capitalise the client side implementation costs of the project and funding that through an appropriate source such as SCRIF, SCC will fund 25% of the day-to-day operational costs of delivering the project of approximately £37.5k per annum for 3 years;
- (e) to authorise the giving of a commitment to contribute 25% of the costs of external legal support for the project on an equal basis with the other three South Yorkshire councils up to a maximum contribution of £15k, and to meet the other Project Costs as described in section 13 of this report;
- (f) to authorise the Chief Executive (in consultation with the Executive Director, Resources and the Director of Legal and Governance) (or, in the absence of the Chief Executive, the Executive Director, Resources in consultation with the Director of Legal and Governance) to determine the City Council's position in relation to the submitted bid, including authority to resolve to his satisfaction any legal, commercial and/or financial risks or issues that are unresolved at the time of writing this report, including those described in Section 18 of this report;
- (g) to agree to the City Council entering into such agreements or arrangements (including, without limitation, an inter-authority agreement with the other South Yorkshire councils) and on such terms, and taking such further steps, as the Chief Executive (in consultation with the Executive Director, Resources and the Director of Legal and Governance) (or, in the absence of the Chief Executive, the Executive Director, Resources in consultation with the Director of Legal and Governance) may consider appropriate to progress the successful delivery of the project or to safeguard the Council's interests in relation to it; and
- (h) to request City Council Officers to develop as a separate initiative and bring forward for consideration a Sheffield city centre superfast broadband strategy.

**3. Reasons For Decision**

- (a) It is believed that participation in the BDUK programme will bring significant benefits to Sheffield, as indicated in the report, which would justify the Council's financial contribution to the project, even if SCRIF funding were not ultimately available for this purpose.
- (b) There is a high degree of confidence amongst Sheffield City Region Chief Executives that SCRIF can be used as the funding source.
- (c) It enables a contract to be awarded at the earliest opportunity of August 2014. This ensures that there is no disruption to the current project, it maintains momentum and continuity of resource, and it maximises the benefit of the consultancy resources expended to date.
- (d) It ensures that the Sheffield City Region is at the head of the queue with BDUK for the procurement process and with the successful bidder for the implementation process.
- (e) It enables the Sheffield City Region to commence benefits realisation at the earliest opportunity.

**4. Alternatives Considered And Rejected**

- (a) The current procurement exercise could be suspended with a view to a contract being awarded when the outcomes of the applications made for SCRIF funding are known.
- (b) The current project could be cancelled. A new project could then be started, timed to reach BDUK's 'check point C' shortly after the outcomes of the applications made for SCRIF funding are known.
- (c) The Council could decide not to progress the project any further.

**5. Any Interest Declared or Dispensation Granted**

N/A

**6. Respective Director Responsible for Implementation**

Chief Executive and the Executive Director, Resources

**7. Relevant Scrutiny Committee If Decision Called In**

Overview and Scrutiny Management Committee