SURREY COUNTY COUNCIL

CABINET

DATE: 24 MAY 2011

REPORT OF: DAVID HODGE, DEPUTY LEADER

LEAD OFFICERS: SUSIE KEMP, ASSISTANT CHIEF EXECUTIVE

SUBJECT: SUPERFAST BROADBAND PROJECT

KEY ISSUE/DECISION:

To seek approval to meet the up front revenue cost of this capital project from the New Homes Bonus Scheme Grant subject to appropriate capitalisation at a later date on delivery of the superfast broadband infrastructure

Cabinet are asked to note that officers will engage the market in a competitive tendering process for superfast broadband infrastructure to those areas of Surrey not likely to be provisioned by the market in the foreseeable future. A further report will be submitted to Cabinet before any contract is awarded.

DETAILS:

Background

1. Some parts of Surrey lack access to consistently fast broadband. These are largely situated in more rural areas and without public sector intervention this situation is unlikely to change. As a result, some of our residents, businesses and public sector organisations will suffer from lack of access to high quality Internet services leading to the significant risk that sustainable business growth and development may be constrained. It would also hamper innovation and the delivery of more efficient public services

2. As outlined in the Surrey Partnership Plan, the Surrey Strategic Partnership (SSP) has committed to ensuring that access to superfast broadband is available to all business and residential premises in Surrey by the end of 2013. In December 2010 the SSP Leadership Group agreed that the telecommunications industry should be approached to explore possible solutions to achieving this ambitious objective. This is a market intervention project and Surrey County Council will lead the procurement process on behalf of the SSP and is making available resources to help achieve this ambition.

3. This project is technology neutral. It is about delivering superfast broadband to the customer by whatever means is the most effective given the need for a solution to be affordable and equitable. Hence, whilst the use of fixed line fibre optic cabling is a likely component of the solution and is mentioned below, there is no requirement that this will be the only technology employed.
4. As a separate project Surrey County Council and other public sector partners are seeking to procure and establish a Surrey Public Sector Network (SPSN). This project will focus on broadband access for public sector and third sector bodies. The two projects have a different focus but are entering a similar procurement process at roughly the same time. Therefore there is the potential to reduce the cost to the public sector through aligning the two projects and running the procurement process concurrently.

What is Superfast Broadband?

5. Broadband speeds are measured in megabits per second (Mbps). Broadband is usually considered to be anything in excess of 0.5 Mbps download speed. Superfast broadband takes broadband speed and reliability to a different level with speeds of 100 Mbps and beyond possible. Superfast broadband also provides a closer symmetry between download and upload speeds to enable improved sharing of information.

6. What this means for the customer is hugely improved services with vastly improved times for downloading and uploading large documents such as films and music. It enables the use of a wide range of new and innovative applications – e.g. super high definition and 3D TV/video, telecare for the elderly, health care for the general population, accessing software as a service (known as ‘cloud’ computing) and more effective teleworking and video conferencing. These new applications have many potential benefits as set out in paragraph 9.

Surrey’s ambition

7. We want to leapfrog the currently available broadband speeds and for speeds in Surrey to be amongst the fastest in Europe. The EU universal broadband program has a target to ensure that 50% of households have access to 100Mbps internet speeds or higher by 2020 and that all Europeans have access to 30Mbps by the same date. Surrey is seeking to achieve superfast broadband for Surrey’s residents and businesses considerably earlier by the end of 2013. Given this ambition, we need to discuss with industry what precisely can be achieved on a universal basis, whilst keeping costs to an affordable level for the customer.

Why universal access to superfast broadband is important

8. In the new digital age the advantages we have due to Surrey’s location and beautiful environment will not be so important. If Surrey is to continue to be a location of choice for business and to attract inward investment then we must continue to invest in its future. This needs to be done in a way that does not put further pressure on our already congested road and rail infrastructure, protects our environment and helps reduce our carbon footprint.
9. Universally available, open and affordable high-speed broadband infrastructure and services are a crucial part of the solution. They will enable us to:

- Maintain Surrey’s economic competitiveness and stimulate economic growth
- Reduce carbon emissions and support sustainable development by reducing the pressure on Surrey’s infrastructure and transport network
- Enable more flexible working and increase business continuity and resilience
- Enable a transformation in the way we provide public services through tele-medicine, e-Government and better access to online services
- Improve skills through better access to education and resources
- Reduce the digital divide between those who enjoy the benefits of faster broadband and those who struggle to do so for whatever reason.

**Existing broadband enabled infrastructure**

10. All of BT exchanges serving Surrey are now broadband enabled. Most properties in Surrey should therefore be able to access the Internet through a broadband connection. However speeds are still limited by the existing copper infrastructure and the distance from the exchange or local cabinet. Hence, whilst the latest technology will enable download speeds of up to 8 Mbps, and in some urban areas up to 20 Mbps, many properties in more rural exchange areas, or clusters of properties at the periphery of urban exchange areas, are still limited to broadband speeds of less than 2 Mbps (often referred to as ‘notspots’). Latest information suggests that some 38,000 business and residential premises (approximately 8%) in Surrey cannot access broadband speeds above 2 Mbps.

11. A large proportion of Surrey households and businesses in urban areas can already access superfast broadband through the Virgin Media fibre optic cable network. However, this network is not ‘open’ in the way that the BT network is required to be and is only available to Virgin Media. At present, Virgin Media has no plans to extend its cable network in Surrey although it is upgrading its existing service.

12. The existing Openreach copper wire network is ‘open’ (i.e. any provider can access on an equivalent basis) and therefore customers can purchase broadband services from any Internet service provider (ISP). Surrey is a highly competitive market place for the ISPs and Openreach has already invested in the latest technology that enables urban exchanges to exploit the copper infrastructure to provide up to 20 Mbps speeds.

13. BT, through its network provider division, Openreach, is investing £2.5bn nationally to upgrade its copper network by laying fibre optic cables to street cabinets. This is known as its Next Generation Access (NGA) programme, and Openreach has announced its national roll-out programme up to the end of 2013. This is resulting in the upgrading of exchanges and cabinets that serve
around 80% of Surrey’s premises but again focusing on the more profitable urban areas. It is anticipated that additional exchanges will be announced during the year and market coverage may therefore expand further.

Superfast Broadband project focus and approach

14. There will be two key areas of focus for the project in terms of infrastructure roll out:

a) 100% coverage - securing superfast broadband coverage for the up to 20% of premises not included in the current announced superfast broadband rollout (this is likely to be between 70,000 and 80,000 premises).

b) Speed of rollout - incentivising the market to deliver access to superfast broadband at the earliest opportunity with the intention of achieving this by the end of 2013.

15. The project has a well developed partnership project board that includes the Surrey County Council Cabinet Member for Change & Efficiency, the Chief Executive of Surrey Economic Partnership, the Assistant Chief Executive of Surrey County Council, the Chairman of Surrey Rural Partnership, the Chairman of the Surrey County Association of Town & Parish Councils (SCAPTC) representatives from Waverley BC and Guildford BC and Surrey County Council’s Head of IMT.

16. An ‘industry day’ was held on the 31 March. In total some 16 telecommunication companies attended to hear more about Surrey’s ambitions ahead of the formal procurement process. Follow up conversations took place with Industry on the 3 and 6 May to discuss potential solutions and synergies between the superfast broadband and Surrey Public Sector Network projects.

17. It is expected that a formal EU tendering process will commence in June 2011 for superfast broadband that will not otherwise be delivered by the telecoms industry independently, or within the required timeframe without this intervention. This will focus mainly on Surrey’s more rural areas.

Alignment with the Surrey Public Sector Network Project

18. Surrey Chief Information Technology Officers on behalf of the Surrey First Joint Committee, have agreed to procure and implement a single voice and data network for use by all of Surrey Public Sector and Civil Society. Broad engagement is underway with a stakeholder board created with representation from County, Districts and Boroughs, Schools, Joint Academic Network (Janet), South East Grid for Learning, Health (PCT and Hospitals), the Department for Health, blue light service providers and the Cabinet Office.

19. The project is currently undertaking a detailed requirements analysis and is beginning a short market analysis to understand the options available prior to beginning a formal procurement.

20. The SPSN project is expected to approach the market via a European Union tender process in June 2011 and complete contractual arrangements no later

21. There is the potential to reduce the cost to the public sector through aligning the two projects, especially as the SPSN could potentially be a large customer for the infrastructure provided through the superfast broadband roll-out. In addition, there are areas where resources can be shared by both projects, for example, legal support, business intelligence and analysis and technical assurance to ensure that the solutions proposed by bidders will work for both projects.

22. There will be a separate Cabinet report detailing the SPSN project.

**BDUK Bid**

23. Work is underway to develop a Broadband Delivery UK (BDUK) bid for public sector funding from Government to help contribute towards the cost of delivering superfast broadband infrastructure in areas of market failure. The bid will focus on the advantages of alignment with the SPSN, and highlight the fact that Surrey is one of the first counties to be maximising the opportunities presented by the synergies between the two projects to provide a better network for businesses, residents, the voluntary, community and faith sectors and the public sector. The bid will also highlight the likely strong return on any investment.

24. The BDUK bid is due to be submitted in June 2011. The overall value of the bid will depend on the estimated number of premises (residential and commercial) that will not be served by infrastructure to be provided by the market. BDUK has advised a notional grant of £60 per premise. Based on our current estimate of between 70,000 and 80,000 premises outside of market provision in Surrey this could equate to a bid of between £4m - £5m.

**Engagement and digital inclusion**

25. There is no point having the infrastructure capabilities if our businesses and residents don’t use it. Hence we are developing a high profile engagement strategy and programme supported by communications activity that seeks to raise awareness of the benefits of getting businesses and people on-line and making best use of the transformed speeds on offer. We are building on our commitment to encourage more people online by the end of 2012, through for example, the work we are doing in our Libraries. All Surrey’s libraries are providing informal support to help people with internet use, with 22 working on a specific project aimed at increasing awareness, confidence and skills.

26. In more rural areas it is important to work with partners and local communities to develop the best local solutions and increase demand (and thus reduce public sector cost). Work is already underway to engage with town and parish councils with each council being asked to respond to a series of questions about existing coverage, issues and opportunities. We will look at a number of local technical solutions and consider developing a range of packages with the private sector from which local communities can choose an appropriate option.
Consultation

27. Both projects are being developed with partners. The superfast broadband Project is endorsed by the Surrey Strategic Partnership Leadership Group and is part of the Leadership Group’s work programme. Key partners are also engaged through the Project Board.

28. The SPSN project is being developed by Surrey Chief Information Technology Officers on behalf of the Surrey First Joint Committee. Broad engagement is already underway with a stakeholder board created with representation comprising those partners listed in paragraph 18.

Financial and value for money implication

29. Until the market is approached the cost of delivering 100% superfast broadband coverage is uncertain. Within the current Medium Term Financial Plan there is annual allocation of £5m in the capital budget for economic development, which is to include broadband provision. If successful, the BDUK bid will bring in funding towards the project costs.

30. A full business case will be taken to the Investment Panel, and a further Cabinet report presented before any contractual commitments are made.

31. Estimated up front revenue costs to provide project management, procurement, legal, data analysis, technical and market/business advice are of the order of £350,000. This is a realistic initial figure given the information we have available now, but given the scale and nature of this procurement process, which is new to Surrey County Council and indeed all other local authorities, there may be the need to review this particularly in the light of future legal and data analysis requirements. It is proposed that this will initially be funded from the New Homes Bonus Scheme Grant and include some shared resources with the SPSN project. Project costs, where possible, may later be capitalised upon creation of the broadband infrastructure.

32. The procurement process will ensure value for money and include negotiations which seek to ensure suitable clawback of the public sector subsidy should customer demand exceed the business assumptions made by the private sector partner.

Equalities implications

33. It is important to address digital inclusion as part of this project. This will be addressed geographically but also through work with those less able to take advantage of the benefits available. A full Equalities Impact Assessment will be completed for each of the projects as part of next steps.
Legal implications/legislative requirements

34. The State aid rules form part of the original European Economic Community Treaty. One of the fundamental objectives of the European Community Treaty is to create a single market in which competition is not distorted. If Member States were free to give subsidies, grants or other forms of favourable financial treatment to individual companies, there would be an inevitable risk that those companies would have an unfair advantage over competitors who do not benefit from State Aid. There will be a subsidy to providers, even if competitively allocated, if the activity would be supplied by the market in the absence of public sector intervention. In other words, the State is supporting an activity which is inherently commercial. There may be good reasons for the State to offer subsidy to an inherently commercial activity, to ensure that the commercial activity meets a public interest goal, by being provided more widely, more cheaply, or by being of a higher standard.

35. Whilst the application of public funds towards costs associated with the provision and operation of broadband infrastructure has been deemed by the European Commission (EC) to generally amount to a State aid (and thus is required to be approved by the EC in advance of its grant), the EC has recognised the importance of access to high speed broadband as a key driver in achieving growth within the European Community in economic terms and also in achieving better social and territorial cohesion.

36. As a result the EC’s position is that there will be a case for public intervention to facilitate the roll out of high speed broadband networks where there is a clear and demonstrable market failure (i.e. the private sector is not able or willing to invest in such infrastructure), subject to such intervention not operating to unduly distort competition. However, a notification is still required to be made to the EC, which, if approved, will mean that a contract can be awarded.

37. Officers will therefore continue to work with BDUK to ensure a timely notification is made to the EC to ensure approval for State aid funding is granted before any contract is let.

Risk management implications

38. As part of the project management an up to date risk register will be maintained and mitigating action taken as appropriate.

39. An important immediate risk is the need to get EC clearance for market intervention in the provision of superfast broadband infrastructure. State aid can only be used in areas of market failure (see legal implications above) and there is therefore a risk that EC approval will not be forthcoming. If EC approval is not granted a contract cannot be awarded and the council will have incurred abortive costs. Nevertheless, given the precedents set by existing projects in Northern Ireland and Cornwall, and the acceptance in principle by the EC that there will be a case for State aid for superfast broadband infrastructure in areas of market failure, this is currently considered low risk.

40. Furthermore, if State aid clearance is awaited before proceeding with the procurement process then there would be a considerable time delay to the project. Delay would increase the risk of harm to Surrey businesses and residents as a result of not having access to superfast broadband and also...
potentially result in suppliers being committed elsewhere in what is a rapidly expanding market. It is therefore recommended that State aid clearance and the procurement process be progressed concurrently.

Implications for the Council’s priorities and Partnership Plan

41. Improved internet connectivity is identified as one of Surrey’s five main challenges in the Partnership Plan in order to ensure Surrey remains globally competitive and economically vibrant. Improved broadband connectivity will help deliver the Corporate Strategy by ensuring Surrey remains special with high standards of education, a vibrant economy and a beautiful environment.

Climate change/carbon emissions implications

42. The County Council attaches great importance to being environmentally aware and wishes to show leadership in cutting carbon emissions and tackling climate change. The delivery of universal superfast broadband will help reduce carbon emissions by enabling more flexible working patterns, reducing the need to travel and by reducing the need for significant additional commercial premises.

Section 151 Officer Commentary

43. All material, financial and business issues and risks have been considered / addressed, but would like to draw particular attention to the information provided within the Legal and Risk Management sections.

RECOMMENDATIONS:

Cabinet is asked,

1. To authorise that the revenue cost of the project be funded from the New Homes Bonus Scheme Grant subject to possible capitalisation at a later date on delivery of the superfast broadband infrastructure.

2. To note that officers will commence the process for notification to the EC of the grounds for intervention under the State aid guidelines and at the same time undertake a tender process for the infrastructure capability to be constructed to allow access to superfast broadband in those areas of Surrey not due to be provisioned by the market in the foreseeable future.

REASONS FOR RECOMMENDATIONS:

To ensure Surrey’s economy remains globally competitive, public services are delivered in the most inclusive and cost-effective way and to mitigate climate change and improve resilience.
WHAT HAPPENS NEXT:

- The State aid funding notification process will commence as soon as all necessary details are available in accordance with European Commission guidelines.
- A European Union tendering process will commence – probably in early June.
- A full business case will be submitted to the Council’s Investment Panel.
- An engagement strategy and programme will be agreed and we will continue to engage with local communities initially through our survey of town and parish councils.
- An equalities impact assessment will be completed in accordance with County Council guidance.
- The SSP Leadership Group will be given a progress report at its meeting in July
- A further report will come back to Cabinet before any contract is awarded under this project if European Commission approval of the State aid funding notification is achieved.

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Consulted:
Surrey Strategic Partnership

Susie Kemp, Assistant Chief Executive
Mark Pearson, Chief Executive, Surrey Economic Partnership
Trevor Pugh, Strategic Director Environment and Infrastructure
Paul Brocklehurst, Head of IMT
Andrew Forzani, Head of Procurement and Commissioning
Chris Chaney, Chairman, Surrey Rural Partnership
Town & Parish Councils

Informed: As above

Sources/background papers:

- Report to the SSP Leadership Group meeting, 15 December 2010: Item 2 – Superfast Broadband - [www.surreystrategicpartnership.org.uk](http://www.surreystrategicpartnership.org.uk)
- The Surrey Partnership Plan - [www.surreystrategicpartnership.org.uk](http://www.surreystrategicpartnership.org.uk)
- The Government’s national broadband strategy, Britain’s Superfast Broadband Future – [www.bis.gov.uk](http://www.bis.gov.uk)
- More general superfast broadband project information see [Superfast Broadband in Surrey](http://www.surreystrategicpartnership.org.uk)