

OVERVIEW AND SCRUTINY MANAGEMENT BOARD
30th July, 2014

Present:- Councillors Ahmed, Hoddinott, Middleton, Parker, Read, Russell, C. Vines and Watson;

Call in sponsors : Councillors Cowles, Reeder, Reynolds, Turner and M. Vines;

Councillor Wyatt (Cabinet Member for Finance) and Councillor Rushforth (Cabinet Member for Education and Public Health).

Apologies for absence were received from Councillors Currie, Sims, Steele and Whelbourn and also from Councillor Hunter (one of the call in sponsors).

23. APPOINTMENT OF CHAIR OF THE MEETING

Resolved:- That Councillor Russell be appointed Chair of this Meeting.

(Councillor Russell in the Chair)

24. DECLARATIONS OF INTEREST

With regard to item 28 below (South Yorkshire Broadband Project), the meeting noted that:-

(1) the Vice-Chairman, Councillor Steele, was unable to attend this meeting, because he has a disclosable pecuniary interest in the matter under consideration, as an employee of Barnsley Metropolitan Borough Council, the host organisation of the proposed project management team; and

(2) Councillors Hoddinott and Russell declared their personal interests in the matter under consideration, as customers of British Telecom; having taken advice from the Council's Monitoring Officer, both Members remained in the meeting to speak and vote on the matter.

25. QUESTIONS FROM MEMBERS OF THE PUBLIC AND THE PRESS

There were no questions from members of the public or the press.

26. INFORMATION NOTE ABOUT THE CALL IN PROCEDURE

For the information and guidance of Members of the Overview and Scrutiny Management Board, a copy of the call-in procedure note was included with the agenda for this meeting.

27. EXCLUSION OF THE PRESS AND PUBLIC FOR PART OF THE MEETING

The meeting began in open session, with members of the press and public present. The agenda for the meeting contained an open report of the Director of Audit and Asset Management, concerning the South Yorkshire Broadband Project and included, as an appendix to the open report, a redacted version of the exempt report which had been submitted to the meeting of the Cabinet held on Wednesday, 9th July, 2014.

The Councillors who are the sponsors of the call in request sought an explanation of the reasons why the Council had not provided the complete version of the private, Cabinet report for consideration at this meeting. They suggested that, in their view, the meeting could have been held in private, enabling the full version of the report to be considered. Furthermore, they maintained that effective call in and scrutiny of the Executive (Cabinet) decision may be undermined unless the full details of the Project and the contents of the private report were made available both for Members of the Overview and Scrutiny Management Board and for the call in sponsors.

The Director of Legal and Democratic Services explained the reasoning for the publication of this meeting's agenda in its 'open' and redacted format. The principal reason is the preference for the scrutiny of the Council's decision-making to be conducted in open session, available for observation by the press and public and thus ensuring the transparency of that process. The exempt material contained in the private report (as considered by the Cabinet at its meeting held on 9th July, 2014) contained information which is commercially sensitive to the chosen contractor, British Telecom and also contained exempt financial information relating to the business of the four principal local authorities of South Yorkshire (ie: Barnsley, Doncaster, Rotherham and Sheffield), which would all be contributing funds to the Project.

Having heard the advice of the Director of Legal and Democratic Services, the Overview and Scrutiny Management Board resolved:-

That, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part I of Schedule 12A to the Local Government Act 1972, as amended (information relating to the financial/business affairs of any person (including the Council) and is commercially confidential).

Continuing this meeting in private session, the eight Members present of the Overview and Scrutiny Management Board considered the contents of an exempt report of the Director of Legal and Democratic Services. The Director stated that this report included much of the exempt details which had been removed from the redacted report published before this

meeting. However, these details were only of the financial position of Rotherham MBC, in relation to the South Yorkshire Broadband Project, but did not disclose any sensitive, commercial and private information relating to British Telecom, nor to the other three South Yorkshire local authorities. The total costs of the Project and contract were not disclosed in the report. Those latter, undisclosed details would not be made available for the call in process taking place at this meeting.

Having discussed the contents of the private report of the Director of Legal and Democratic Services, the Overview and Scrutiny Management Board decided to return this meeting to open session.

Accordingly, the members of the public and the press were permitted to return to the meeting, which continued until its end in open session.

Copies of the private report of the Director of Legal and Democratic Services were provided for the Councillors sponsoring call in request and also for the Executive (Cabinet) Members present.

Prior to formal consideration of the call in request, the Councillors sponsoring that request expressed their concerns and disappointment that:-

- i) information which is germane to the call in and scrutiny of the Project is still being withheld from Scrutiny Members; and
- ii) the distribution of a report at the meeting itself was once more not conducive to the effective call in and scrutiny of the matter under consideration.

Members were of the view that they had insufficient time during which to read and assimilate the contents of the report. Far better, they asserted, to prepare and distribute all reports in advance of the meeting, as required by the Local Government (Access to Information) Act 1985, enabling Members to arrive at the meeting with the benefit of already having studied the reports' contents.

28. SOUTH YORKSHIRE BROADBAND PROJECT - CALL IN OF EXECUTIVE DECISION

The Chairman welcomed everyone to the meeting and the call-in procedure was explained.

The Overview and Scrutiny Management Board considered Minute No. 20 of the meeting of the Cabinet held on 9th July, 2014 concerning the decision to proceed with the Broadband Delivery UK (BDUK) project. The resolutions of the Cabinet were:-

“(1) That the tender response from BT (British Telecom) be accepted and that the project moves to contract and delivery;

(2) That the Council agrees to underwrite the required local funding contribution of £1.596 millions whilst a bid to the Sheffield City Region Investment Funding (SCRIF) was developed, in order to allow a contract to be signed with BT in August, 2014; and

(3) That an additional contingency budget of £124,000 capital funding be provided to cover the costs of unforeseen events. This cost to be added to the bid to SCRIF if permissible, and underwritten by the Council.”

The written and signed call in request, dated 17th July, 2014, read as follows:-

“In light of the previous DRS broadband fiasco and the resulting significant losses to RMBC, this project should not be pursued by RMBC for the following reasons:-

- The Council have demonstrated beyond reasonable doubt that they are incapable of delivering technically complex IT projects. DRS was typical of many such costly failures of IT projects within the public sector.

- It is neither the responsibility nor indeed the place of the Council to enter into such projects where they possess neither the commercial nor the technical expertise to maintain effective management controls. Such projects should be left to the private sector whose primary business it is to invest in and deploy profitably on behalf of their shareholders such complex projects together with the associated risks of such ventures.

- The Council should not agree to underwrite a further funding of over £1.5m in order to allow a contract to be signed with BT, until an alternative agreement can be developed with SCRIF (whoever they are)?

- The Council should not agree to underwrite a further £124K of contingency budget.

- The Council should not agree to contribute £112.5K to fund a management program run by Barnsley Council to control this project. Through their involvement with the earlier DRS project they have demonstrated that they have no more capability than RMBC of successful management of such complex projects.

Taking all of the above into account, it is inconceivable that RMBC should consider further significant funding on such a speculative venture.

Therefore in the absence of a full set of documentation detailing the extent of this project together with the associated risks to the tax payer we reject this proposal.

With such a strain on local authority finance at this time, we recommend that this proposal is subject to a full scrutiny review before any further funding is authorised by elected members. Therefore we wish to call in this Cabinet decision.”

Councillor Cowles, supported by Councillors Hunter (not present), Reeder, Reynolds, Turner and M. Vines explained the reasons for the call-in request and presented the objections to this proposal, with reference to the following issues and views:-

a) the Council's opposition Members (of the UK Independence Party) are not opposed to the use of modern and future technology which will be of benefit to the whole Rotherham Borough area; however, the submitted reports contain a litany of contradictions and the UKIP Councillors cannot support the implementation of the South Yorkshire Broadband Project in the format now being presented;

b) the BT Company is worth £17.2 billions and last year made £2.2 billions in profits; the average household bill is £200 and there are 50,000 BT customers in the Rotherham Borough area, which means that BT already earns £10 millions in the Rotherham Borough area alone; BT now asks the Council to pay £1.5 millions to support this Broadband Project, yet this Council will not receive any benefit in terms of profit-sharing;

c) with reference to the three resolutions of the Cabinet meeting of 9th July, 2014 (as listed above) and the proposed project costs and project management arrangements – it appears to be the intention that Barnsley MBC will carry out the project management; were these same people associated with the previous failed DRS (Digital Region) project ?; the view of the UKIP Councillors is that it will be disastrous if this same team of people were chosen to manage this new Project;

d) the redacted report implies that there is no, or at least minimal risk to Rotherham Borough Council (ie: the delivery risk lies with BT and the local authority financial contributions will be capped); however, UKIP Councillors are concerned about the proposed use of the SCRIF funding, as agreed by the Sheffield City Region Combined Authority, because the funding will not be confirmed until November 2014, which is after the signing of the Project contract in August 2014;

e) the South Yorkshire local authorities may have to fund the Project if the SCRIF monies are not approved; the total liability to this Council will be large, a factor acknowledged by the various financial and legal analysts and consultants;

f) there is no specific information about the level of expertise or national reputation of the proposed project management team to be hosted by Barnsley MBC;

- g) there is no information about the amount of legal costs to be incurred by the four South Yorkshire local authorities in respect of this Project and contract;
- h) Rotherham Borough Council is on the point of agreeing to something about which it has insufficient knowledge;
- i) BT will not commit to any specific detail about delivery of the Project before signing of the contract; BT should be made to provide such detail; without receipt of this details, the Council's approach represents a cavalier approach to the use of the public purse;
- j) although we are told that the early indications are that the Project is acceptable and represents good value for money, no detailed evaluation has been undertaken; this Council has already lost a significant amount of money on the last project (DRS) and may also waste money on this new Project; the private sector would not do this; again, there is insufficient information about the expertise of the Barnsley MBC project management team;
- k) this Council should delay the implementation of this Project until the evaluation has been completed and the SCRIF funding has been agreed; the reasons for the hurried nature of this decision are unclear decision, when the Project does not begin until December 2014;
- l) The aims of the Project are fine, but the information upon which the decision is being based is insufficient; the Council should first obtain the necessary information about the Broadband Project.

The Chairman invited the other Councillors supporting the call in request to make comments, as follows:-

- (i) Councillor Turner – the Project does not appear to have been the subject of a competitive tendering exercise; the Council now has £500 millions of debt as a result of its overspending; and the Council wants to add this financial burden to that debt; the redaction of information from the report is unacceptable, because Members are elected to represent the public and should have this information provided; it is offensive to present a redacted report in this way.
- (ii) Councillor Reynolds – wished to reinforce the words of Councillor Cowles; who would buy anything without first having a structured tendering process to ensure best value for money ?; this presentation of a report is akin to the scandal of the Members of Parliament expenses, when their documents were redacted; the Council must act in the best interests of the public.

Response - the Director of Legal and Democratic Services replied to Councillor Reynolds, stating that provisions in both Statute and Common Law govern issues relating to the provision of information for Elected Members; the Director had earlier considered the content of the information to be reported to Members; the only matters removed from the 'private' report to the Cabinet had related to business sensitivity; furthermore, as this Scrutiny meeting is being held in public to ensure transparency of process, it is therefore necessary to redact the business sensitive details.

(iii) Councillor Reynolds offered the observation that all this (ie: redacted information) is murky and shrouded in secrecy.

(iv) Member of the Overview and Scrutiny Management Board, Councillor C. Vines - questioned the urgency of signing the contract without first knowing the full details of it; the Council should go ahead only when it has possession of all relevant information and the SCRIF funding is correctly in place.

(v) Member of the Overview and Scrutiny Management Board, Councillor Parker - in business, when looking at a contract, you must show you have done your utmost to comply with legislation and that you have completed all reasonable checks on the various contract details; Rotherham Council is not exempt from that duty, it must show due diligence and that it has followed due process; (in his opinion) this Council has not done all of that in relation to this Project; if the SCRIF funding does not come through, the Councillors who have agreed to this Project and contract must be held liable for their actions.

On behalf of the Cabinet, Councillor Wyatt (Cabinet Member for Finance) attended the meeting to respond to the issues raised by this call-in request. In making his response, Councillor Wyatt received advice from the Council's Director of Audit and Asset Management.

Councillor Wyatt's response to the call-in request:-

a) It is understandable that people will expect an explanation of the Council's decision to implement the Broadband Project and the Executive should do that; the Cabinet does understand the concerns raised by this call-in request and also the risks associated with the contract and the Project; the Members of the Cabinet share all of those concerns;

b) all four of the principal local authorities in South Yorkshire have received the same legal advice and are all in the same position in relation to the Project;

c) the Project timescale has caused a certain amount of stress which is beyond the control of the four local authorities of South Yorkshire; BDUK operates under the timescale and framework dictated by the coalition

Government; it is essential that there is significant broadband coverage in South Yorkshire, to ensure that the region is able to compete nationally, in terms of economic growth and prosperity;

d) the finance being allocated both by BT and by the Government Department for Culture, Media and Sport (DCMS) will fund the provision of faster broadband coverage all over South Yorkshire, including the more remote rural areas; this up-to-date technology is required for a modern, competitive region;

e) a decision on the SCRIF monies will not be determined by the Sheffield City Region Combined Authority until November 2014; consequently, that decision-making element is not aligned with the overall Broadband Project timetable; the coalition Government itself provides funding for the various City Regions; therefore, it would be looked upon as being bizarre if the bid for SCRIF funding was ultimately to be rejected; but, yes, that aspect does remain a risk;

f) it is the policy of the coalition Government not to intervene (in private sector business), but this Government does recognise that the provision of broadband coverage cannot be left to market forces – therefore, the Government has decided to intervene in the case of this Project;

g) the four South Yorkshire local authorities will be able to lever in some £20 to £30 millions of funding for the Project, plus there will be funding provided by BT and by the Government DCMS;

h) the Council agrees that money is tight and therefore the capital and revenue funding of the Broadband Project will have to be managed very carefully;

i) if there was to be no broadband Project, the coalition Government will ask the four local authorities of South Yorkshire to explain exactly what they intend to do with regard to the provision of broadband services needed in this region;

j) the necessary Project analysis has been undertaken and the correct legal procedures have been followed; BDUK is already operating across the country – South Yorkshire is joining the Project at a late stage;

k) a report about the former Digital Region scheme is being prepared and will soon be presented for consideration by the Council; Digital Region was a policy at the forefront of the operations of the former Yorkshire Forward Regional Development Agency (abolished by the coalition Government);

l) The BDUK Broadband Project is a national priority and the local authorities must ensure that the scheme proceeds to delivery stage here in South Yorkshire; such action includes the need for the future management of the Project;

m) two-thirds of the Rotherham Borough area is classified as being rural and there is industrial development located in those rural areas; these rural areas and the industries within them will benefit from the broadband connectivity provided via this Project; BT must deliver on this contract;

n) The tendering exercise was undertaken by BDUK and BT came through as the successful tenderer (that process was not undertaken by South Yorkshire's four local authorities);

o) a principal risk in not supporting this Project this region is not having this modern technology in place to support the economy and business growth within South Yorkshire; it is an equally high risk for the region not to have the broadband infrastructure and thus not comply with the priorities of the coalition Government;

p) This Project is the scheme which the Council has chosen to follow and, after completion of a risk analysis, the Council is confident that the Project should be implemented.

The Director of Audit and Asset Management reported the following information:-

i) the Broadband Project is an integral aspect of the Local Economic Plan;

ii) the coalition Government has consented to the first level of approval for the Project and for the SCRIF funding – this first level of approval is now in place;

iii) a Unit within the coalition Government will be responsible for the management of BDUK; there are 45 BDUK schemes throughout the United Kingdom;

iv) the Project benefits from the work of external analysts, consultants and legal advisers; in addition, the local authorities' own teams of legal and finance officers are working on the Project, to ensure that the necessary checks are undertaken.

The Elected Members responsible for the call in were invited to ask questions of the Cabinet Member, as listed below:-

(1) Councillor Cowles –the UKIP Councillors support this Broadband Project and the technological advance it provides; the advent of communication technologies such as 'Skype' and 'Facetime' is equally welcome; such methods of communication often reduce the need to travel to conferences, seminars, etc. The UKIP Councillors also agree that Rotherham's rural areas should benefit from this Project; however, the Cabinet Member cannot state which areas will be connected to broadband, because BT will not disclose this information; BT may change

its mind; the reports submitted to today's meeting contain a litany of contradictions; the Project risks have not been properly identified, nor have they been analysed; BT will take its profits, so let BT also take the risk at its own cost; why is there the need to use public money for this Project ?

Response – Councillor Wyatt stated that the contract stipulates that there must be broadband coverage of 97.9% of the Rotherham Borough area – to facilitate this process, a list of business parks has been put forward for inclusion in the contract and these business parks are located across the entire Rotherham Borough area; the risk of not delivering on the contract does rest with BT;

The Director of Audit and Asset Management stated that there was not yet any absolute certainty about every individual building which may benefit from the Broadband Project; the contract specifies the overall delivery demand of coverage of 97.9% of the Rotherham Borough area;

(2) Councillor Cowles – why cannot all of the Project costs be capitalised, because this method would be used in the private sector ? There is no need for revenue financing.

Response – Councillor Wyatt stated that the Council's external auditor will have to agree the division of funding allocation between capital and revenue.

The Director of Audit and Asset Management stated that the private sector is not subject to the same technical accounting rules as local government; the costs of the project management team (including wages and salaries) are not allowed to be funded from capital financing and must therefore have an allocation from revenue funding;

Councillor Wyatt added that, in the past, some specific funding schemes for project developments have allowed for the capitalisation of salaries and wages costs; however, in this case, the Council must adhere to the technical accounting rules applicable to local authorities.

(3) Councillor Cowles reiterated the UKIP Councillors' support for the Broadband Project, but the Project must not be undertaken at this stage, nor on these terms as now being reported to Members; does the Cabinet agree that the Council should wait until the SCRIF money has been agreed and make a decision about the Project at that time ?

Response – Councillor Wyatt again confirmed that BDUK had undertaken the contract tendering process and BT had been successful; the South Yorkshire local authorities did not participate in that process.

(4) Councillor Turner – should the coalition Government instead be required to pay for the Project ? Rotherham Council cannot afford it, because the town is bankrupt to the tune of £500 millions.

Response – Councillor Wyatt stated that all four South Yorkshire local authorities recognised that final approval for the SCRIF funding has not yet been agreed.

(5) Councillor Turner offered the opinion that Rotherham's rural areas will simply accommodate Sheffield's overspill; he also considered that BT shareholders are likely to profit from this venture.

The next section of this Scrutiny meeting included further questions to the Cabinet Member and to the Councillors making the call in request and also a general debate and consideration of the call in of the South Yorkshire Broadband Project by Members of the Overview and Scrutiny Management Board. Issues raised and discussed and further comments made were:-

(A) Councillor Hoddinott to the call-in sponsors - regarding the concerns about the capacity of the project management team and also the risk to the taxpayer; what are those risks and what would be an acceptable risk, because the risk of the Project delivery seems to rest with BT ?

Councillor Cowles responded with reference to the contents of the report – it clearly says that this Council must provide £1.5 millions of public money.

Councillor Hoddinott – you see the risk as this Council spending £1.5 millions ?

Councillor Cowles replied that the report also refers to other, as yet unidentified risks. BT could change its mind during Project delivery.

Councillor Hoddinott – I wanted to be clear about what you see as the risks of this Project (reference to the fifth bullet point under paragraph 7 on the second page of the report of the Director of Audit and Asset Management); however, the Digital Region scheme was different; the project management team to be hosted by Barnsley MBC seems to have good track record – do the call in sponsors have any different information?

Councillor Cowles – Members are not being given any information about the skills of the Barnsley team - the Council doesn't know, therefore it should not make a decision until it has obtained and considered such information.

Councillor Turner commented that information about the project management team might be in the material redacted from the report.

(B) Councillor Vines emphasised the weaknesses of this Project and its contract; it is a Government-led project and yet the Councils have to wait for the Government funding; it is difficult to understand why there is a hurry to sign the contract now, prior to the SCRIF funding being approved.

(C) Councillor Vines question to Councillor Wyatt - is there any guarantee that BT will deliver anything; and does the 97.9% target refer to the whole county of South Yorkshire, or solely to the administrative area of Rotherham Borough Council? (Councillor Vines also commented that BT should contribute the £1.5 millions demanded of Rotherham Council).

Response – Councillor Wyatt stated that the private sector is not delivering broadband within the rural areas of South Yorkshire; instead, the private sector chooses to serve central London and large conurbations and cities. There is no guarantee that broadband would be installed in rural areas (ie; by the private sector), within the next three years, therefore the coalition Government has introduced the BDUK project (with the Department of Culture, Media and Sport as its sponsor). This Broadband Project is amongst the highest priorities for the Sheffield City Region and it would be perverse if the SCRIF monies were not ultimately approved to support the Project delivery.

(D) Councillor Vines question to Councillor Wyatt – it is understood that the private sector will not provide broadband coverage to all areas on its own; but, this funding demand is just like a bridging loan; so why not let BT take the risk of the £1.5 millions contribution, for the few months, until the SCRIF funding has been agreed ? Why does the Council have to sign the contract in August 2014? BT has the freedom to decide where the broadband installation should be placed. The risk is that this Council's area may not receive the promised level and amount of broadband coverage.

Response – the Director of Audit and Asset Management stated that the local authorities operate within the framework set by the coalition Government. BDUK has been in operation for three years and South Yorkshire is joining right at the tail end of the scheme. Because the scheme will end in August, 2014, the South Yorkshire local authorities must sign the contract before the end of August, to be able to take advantage of the scheme. There are two different timing issues, with one associated with the BDUK scheme itself (ending in August 2014) and the separate issue of the decision to allocate SCRIF funding, which will not be known until later in 2014.

(E) Councillor Vines question to Councillor Wyatt – requiring a response to the question of whether the 97.9% broadband installation target refers to the whole county of South Yorkshire, or solely to the administrative area of Rotherham Borough Council?

Response – the Director of Audit and Asset Management stated that there are various stages of Project delivery and the indications are that there will be an even spread around residential properties and industrial areas; the plans show that the Rotherham Borough area will do very well in respect of its enterprise zones and business parks, indeed better than the three other South Yorkshire local authority areas.

(F) Councillor Vines suggested that that would be alright unless BT changes its mind about Project delivery.

(G) Councillor Middleton asked whether Rotherham is the only local authority having this discussion or are local authorities throughout the country doing the same thing? Why do we seem to be assessing this Project at the last minute? Is Rotherham last in the queue? The Council seems to have to be running fast, just to keep up with others.

Councillor Wyatt replied that there are a number of local authority areas, identified by the BDUK project, which are having to catch up as the project comes to an end. South Yorkshire will be last local authority area to sign up to this Government offer. The previous involvement in the Digital Region scheme has placed the South Yorkshire local authorities in this position; Digital Region was applicable only to South Yorkshire, whereas the BDUK scheme is for the whole of the country.

The Director of Audit and Asset Management added that if the Digital Region scheme had delivered, then this Council would not be in this position now; as a consequence, this Council is at the back of the queue for the BDUK scheme.

(H) Councillor Middleton asked whether this Council had chosen the wrong option by joining with the Digital Region scheme?

Response – Councillor Wyatt said ‘no’. The outcomes from the Digital Region scheme were similar to the ones for this BDUK Project, in terms of broadband coverage for the Rotherham Borough area. It is impossible to say what may have happened if Yorkshire Forward had continued (all of the Regional Development Agencies were abolished by the coalition Government). It is acknowledged that the timescales are as they are and that the Council has to play catch-up. It is unfortunate that the business/finance arm of the Government is not in the same place as the Department of Culture, Media and Sport.

(I) Councillor Ahmed asking the sponsors of the call-in request – if you had the information about the areas which will receive broadband coverage, what would be your take on it?

Councillor Cowles replied that the Council does not fully know what it is buying and that the taxpayers’ money should not be wasted in this manner.

(J) Councillor Ahmed asked whether the call-in sponsors were making reference to specific areas of the Borough?

Councillor Cowles stated that there is no information available about the precise areas for broadband coverage. Because of the timescale for call-in of an Executive decision, this call-in request had been prepared before the opposition Councillors had been allowed sight of the report (because

the report had been considered by the Cabinet in private session). Councillor Cowles repeated his opinion that the Council must not waste taxpayers' money. BT will gain a return on its own investment, later on as profits. The UKIP Councillors will support this Broadband Project as soon as the SCRIF funding is confirmed and properly in place.

(K) Councillor Ahmed commented that it is a risk for the Council not to consider this Broadband Project at this time.

(L) Councillor Hoddinott questioning the Cabinet Member for Finance – what is the contract buying and what is the Council spending £1.5 million on – is it the 97.9% broadband coverage of the Rotherham Borough area ? What will happen if BT does not achieve that target?

The Director of Audit and Asset Management replied that this Council has the low risk of contributing £1.5millions to a scheme costing some £20 to £30 millions and which will ultimately achieve broadband coverage across 97.9% of the Borough area. There are penalties contained in the contract, in the event of non-delivery of the required coverage. If necessary and if the contractor defaulted, the local authorities in South Yorkshire would have to arrange for a different contractor to provide the necessary coverage.

(M) Councillor Hoddinott questioning the Cabinet Member for Finance – the Council makes a contribution of £1.5 millions – that is a small contribution compared to the contributions of others (eg: from the coalition Government). Will this Council eventually have to pay more?

The Director of Audit and Asset Management replied that, as soon as the contract value is agreed, that process will place a cap for a specific amount upon this Council's contribution.

Councillor Hoddinott also asked if that cap would stay in place, or whether the Council would be asked to make further financial contributions in the future.

The Director of Audit and Asset Management replied that this Council's contribution will have a definite cap and the contractor will be prohibited from asking for further contributions from the local authorities.

(N) Councillor Hoddinott questioning the Cabinet Member for Finance – is the invitation to tender a document available to viewing by the public and may we see the “heat maps” of the areas in which broadband coverage will be installed ? Will the business areas be included in that coverage?

The Director of Audit and Asset Management replied that the Council has a list of intended enterprise zones and business parks for inclusion in the broadband coverage. The intention is that the scheme delivery will include all of these areas; however, a final decision has not yet been made with regard to the exact areas.

Councillor Wyatt added that there is not yet a list of guaranteed sites for broadband coverage. The aim of 97/9% coverage is the broad target and the intention is that business areas will be the priority – and it is another intention that the Rotherham Borough area will do very well from this contract delivery

(O) Councillor Hoddinott questioning the Cabinet Member for Finance – what is the progress with the contracts in the other 44 local authority areas – are any of them nearing completion?

The Director of Audit and Asset Management replied that there was a period of three years for the implementation of the BDUK scheme and the first areas for inclusion are still in the process of implementation. It is clear that progress is good and there have not been any 'horror stories' reported.

Councillor Wyatt stated that the Government Unit/team manages the country-wide BDUK project; and yes, there are risks associated with the scheme.

(P) Councillor Hoddinott commented that many local authorities have joined the BDUK scheme and, as such, will have had similar discussions to this one in this meeting today.

The Director of Audit and Asset Management commented that more than one hundred local authorities have become involved in the BDUK scheme and consequently there is a lot of expertise developing, from which to seek advice whenever necessary.

Councillor Wyatt added that there has been due diligence undertaken by technical and legal officers, who have provided advice to the four South Yorkshire local authorities.

(Q) Councillor Parker commented that due diligence has not been shown in this case; Members cannot make a decision on this matter until they are allowed sight of the information from the redacted report. It is well known that the private companies operating communications systems (eg: internet, telephone, television etc) have to make the initial investment in order to obtain the largest returns. The rural areas will not benefit to the extent now being described. The private sector will try and get away with it, because they will not obtain sufficiently attractive financial returns from the rural areas. The risk should not be with this Council, but should instead rest with BT. This Council would be better advised to sign a letter of intent and send that to BT, stating that the money will be paid later, after confirmation of the SCRIF funding. Should BT not be prepared to accept that intention, the Council must question the reasons why; this Council must ask BT to accept this proposal now. The burden of funding must rest with BT and not the Council Tax payer.

Response – Councillor Wyatt stated that rural areas of the Borough include business parks at Dinnington and elsewhere; and there are many rural, Parished areas of the Borough. The Council is part of a ‘circular debate’ alongside BT and its commitment to Project delivery and also the coalition Government which will contribute a share of the funding. All of these parties have to share in the delivery of this Project

(R) Councillor Parker stated that the UKIP Councillors are not suggesting that the Council should opt-out of this Project. He insisted that the taxpayer cannot stand the risk and that BT must do so. The Council must convince the coalition Government that the SCRIF funding decision ought to be made at an earlier stage, because the Council cannot put public money at risk.

Response - the Director of Audit and Asset Management confirmed that the four local authorities of South Yorkshire, the coalition Government and the supplier should all contribute to the Project – this is how it has worked around the country; South Yorkshire is different because of the financial commitment made to the Digital Region scheme. Now, the Sheffield City Region Combined Authority has been asked to contribute to the Project by means of the allocation of the SCRIF funding; South Yorkshire’s late involvement in the BDUK scheme and the Sheffield City Region Combined Authority’s own decision-making processes have inevitably become misaligned. The four local authorities of South Yorkshire remain confident that there will be eventual approval of the SCRIF funding.

(S) Councillor Parker commented that a delay of four months for the SCRIF funding, in respect of a Project of this magnitude, should not be disadvantageous to BT, as the supplier. The Council must wait and sign the contract after confirmation of the SCRIF funding. The concern remains that some areas of the Rotherham Borough will not receive the supposed and promised broadband coverage.

Response – Councillor Wyatt stated that BT is the contractor selected by the coalition Government’s tendering process; the four local authorities of South Yorkshire realise that this Project is critical to the wider economic growth of the whole of the Sheffield City Region.

(T) Councillor Middleton asked if the 97.9% broadband coverage was calculated from the number of residential dwellings and industrial premises within the Borough area, or from the amount of land contained within the whole of the Borough area?

Response – the Director of Audit and Asset Management stated that the figure is 97.9% of all properties in the Rotherham Borough area (and that figure will be calculated at the time at which the contract is signed) A decision would be needed on whether to include in the Project any new properties which are built after the time at which the contract is signed.

(U) Councillor C. Vines stated that everyone seems to agree that this type of Project is needed in this area. But, at the moment, there is too much of a risk falling upon this Council. He suggested that the Council signs a contract of intent to proceed with the Project, "subject to the funding being made available."

The Chair invited the Cabinet Member for Finance and the call in sponsors to sum-up their respective cases.

Councillor Wyatt – summing-up, on behalf of the Cabinet

Reference to his first words stated at this meeting: the Council will explain what this Project is about, but the Council did not write the rule book. The four South Yorkshire local authorities were presented with a Project to take advantage of. There has been a proper assessment of the risks and a balanced decision has been taken. The Project will draw down £20 to £30 millions of investment over the next three years. This opportunity cannot be missed to provide broadband connectivity in this City Region and, in turn, stimulate economic growth and job creation. There is no other similar scheme available, because the private sector would not invest in rural areas. The scheme has coalition Government support and therefore we must take advantage of the Project. The South Yorkshire local authorities will assess the capabilities required and assign a project management team, as soon as the scheme is agreed. This Project is the second or third highest priority of the Sheffield City Region Combined Authority. All of the technical and financial details have been assessed and the coalition Government's legal experts have completed the due diligence tests. The Project brings the potential of more than £200 millions of future investment in the Sheffield City Region, a factor obviously dependent upon the extent of regional, national and global economic growth in the future.

Councillor Cowles summing-up, on behalf of the call in sponsors

Repeating that this Project is supported by the UKIP Councillors and should proceed because the Rotherham Borough area will benefit from the faster speed broadband coverage. However, the Councillors must have knowledge of all of the facts upon which to base any decision. The Council's Executive has not said that there is any additional risk in delaying until December before signing the Project contract. Yes, the Project brings benefits to people and to business. But the Council's analysis of the risks is incomplete. There should be an assessment of the ability of the proposed project managers. The Council is being required to spend public money on a proposal whose details are not known in full. The Project should be delayed until all relevant information has been provided and has been properly analysed. The reports submitted to this meeting clearly state that with a technically complex project, there are many risks – and the Council does not know precisely what those risks are.

The Director of Audit and Asset Management confirmed that the risk is clear if the contract is not signed during August 2014 - the opportunity to join the Project will be lost.

At the conclusion of discussion and summing-up, the Chair stated that there were three options available to the Overview and Scrutiny Management Board:-

- : whether there are exceptional grounds sufficient to refer the call in request to the Council;
- : to support the call in request and refer the decision back to the Cabinet for reconsideration by the Executive; and
- : not to support call in request, in which case the Cabinet decision proceeds to implementation.

After consideration of and discussion about the call-in of the decision of the Cabinet, the Members of the Overview and Scrutiny Management Board decided, by majority vote, that they had no further concerns to raise about this matter and did not wish to refer the call in request to a meeting of the Council, nor to refer the matter back to the Cabinet.

Resolved:- That the call-in request in respect of the South Yorkshire Broadband Project (Minute No. 20 of the Cabinet meeting of 9th July, 2014) is not supported.