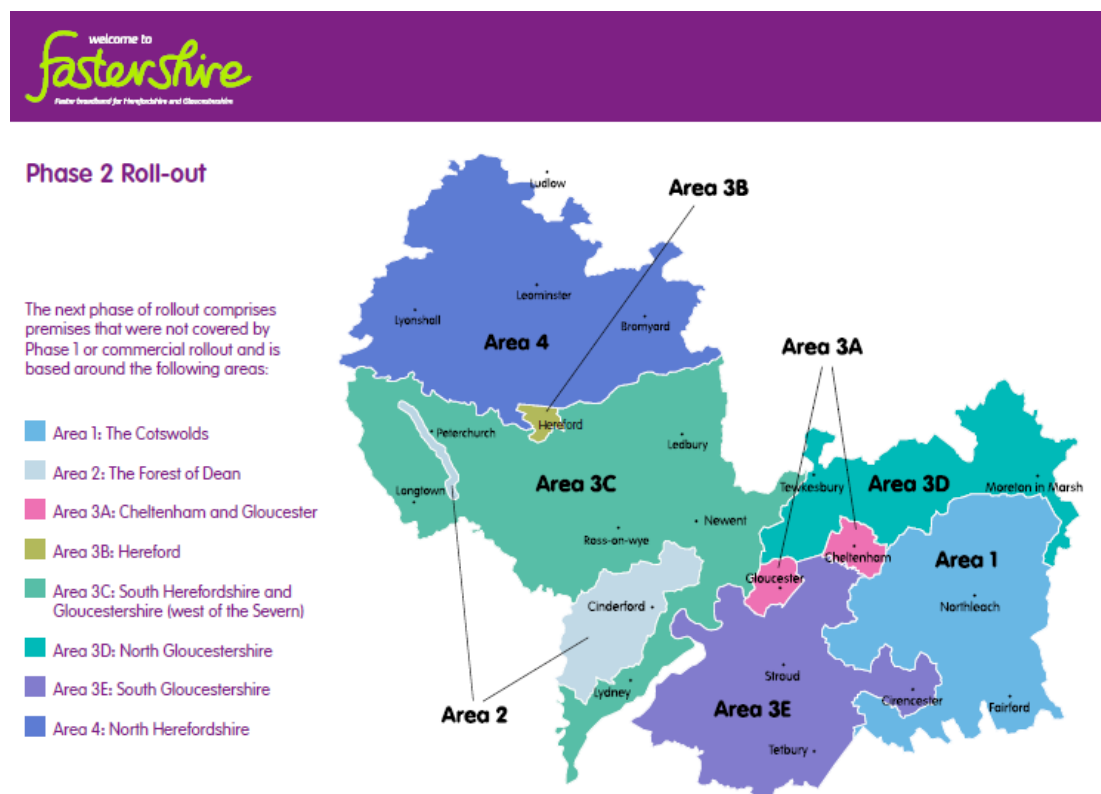


**CONTRACT AWARD FASTERSHIRE BROADBAND STRATEGY
STAGE 3 LOTS 3C, 3D, 3E AND 4**

Cabinet Date	1 February 2017
Leader of the Council	Cllr Mark Hawthorne
Key Decision	Yes
Background Documents	Fastershire Broadband Strategy 2015-18 Stage 3 Lots 3 and 4 Tender Evaluation Report (Exempt)
Location/Contact for inspection of Background Documents	<i>http://www.fastershire.com/about-fastershire/strategy</i>
Main Consultees	<ul style="list-style-type: none"> • Herefordshire Council – who are in agreement with the approach; • Broadband Delivery UK (“BDUK”), (part of Department of Culture, Media and Sport) as funder and partner
Planned Dates	March 2017 to October 2019
Divisional Councillor	All
Officer	<i>Nigel Riglar 01452 328470 nigel.riglar@gloucestershire.gov.uk</i>

Purpose of Report

Stage 3 (Phase 2) of the Fastershire Broadband Strategy 2015-18 proposed the division of Herefordshire and Gloucestershire into 8 Lot areas as shown below.



With Lot areas 1 and 2 already agreed, the procurement exercises connected to Lots 3 (a-e) and 4 have concluded. This report seeks approval from Cabinet to authorise the Commissioning Director: Communities and Infrastructure to:

- (a) award contracts to the supplier identified in the recommendations for lots **3c**, **3d**, **3e** and **4** of an ITT that was the subject of a competitive procurement process carried out between September and November 2016 for the deployment of superfast broadband in Gloucestershire (and Herefordshire). The said contracts form stage 3 of the Fastershire Broadband Strategy; and
- (b) award contracts to the supplier identified in the recommendations for lots **3a** and **3b** of the ITT identified above, following the conclusion of, BDUK's (Funding Partner) own due diligence process.

Such awards are likely to result in Gloucestershire reaching 97% coverage of Superfast Broadband.

Recommendations

THAT Cabinet authorises the Commissioning Director: Communities and Infrastructure, in consultation with the Leader of the Council and Director of Strategic Finance to:

	<p>(a) award a contract to the highest scoring supplier (namely “Gigaclear”) that was identified in a competitive procurement process carried out by Herefordshire Council (in its role on the joint Gloucestershire County Council and Herefordshire Council Fastershire project) for the deployment of superfast broadband in Gloucestershire (and Herefordshire). Such contract shall require Gigaclear to (i) deliver fibre broadband infrastructure within the areas described in Lot 3c (South Herefordshire & West Gloucestershire), Lot 3d (North Gloucestershire), Lot 3e (South Gloucestershire) and Lot 4 (North Herefordshire) and (ii) provide gap funding in respect thereof. The maximum value of such a contract (for Lots 3c, 3d, 3e and 4), shall be £12.7m (made up of £5.14m to be contributed by Gloucestershire County Council and £7.56m to be contributed by Herefordshire Council). Such contract shall include an option to increase Herefordshire Council’s Lot 3c subsidy contribution by no more than £1.4m in accordance with the original published subsidy limit set out in the ITT. Such option may be exercised only if a delivery plan has been agreed by Gloucestershire County Council’s Commissioning Director. The term of such contract shall expire seven years after the final infrastructure payment is made, (anticipated to be December 2019). The said contract shall not be entered into with Gigaclear until Herefordshire Council has provided its approval therefor;</p> <p>(b) subject to the positive conclusion of BDUKs due diligence, to award a contract to the highest scoring supplier that was identified in a competitive procurement process carried out between September and November 2016 for the deployment of superfast broadband in Gloucestershire (and Herefordshire). Such contract shall require the highest scoring supplier to i) deliver fibre broadband infrastructure within the areas described in Lot 3a (Cheltenham and Gloucester) and Lot 3b (Hereford). The value of such contract shall be £910k (made up of £0.691m to be contributed by Gloucestershire County Council and £0.219m to be contributed by Herefordshire Council). The term of such contract shall expire seven years after the final infrastructure payment (anticipated to be December 2019). The said contract shall not be entered into with the highest scoring supplier until Herefordshire Council has provided its approval therefor.</p> <p>(c) take all operational decisions in relation to (i) the approved £0.58m of uncommitted funds detailed as “Future Procurements and Contract Extensions” in the table below, (ii) further ERDF and EAFRD European Funding (subject to approval); and (iii) the possible reinvestment of any underspend from previous stages of the approved Fastershire Broadband Strategy.</p>
<p>Reasons for recommendations</p>	<p>On 16 December 2015, cabinet adopted the revised Fastershire Broadband Strategy 2015-18, which outlined the rationale and process for subsidising additional broadband delivery across Gloucestershire and Herefordshire.</p> <p>The recommendations of this report relates to Stage 3 (Lots 3 & 4) of the said Strategy, and are based on the outcome of a robust competitive procurement process for the award of contracts for the deployment of superfast broadband</p>

in Gloucestershire (and Herefordshire) carried out between September and November 2016, under which bids were evaluated and selected on the basis of best value for money measured by cost verses coverage.

The winning bids thereunder are compliant with procurement legislation and the ITT, and awardable in accordance with the provisions of the 2016 National Broadband Scheme (NBS), in relation to state aid.

Resource Implications

The total public subsidy required to deliver the contract for the final elements of Stage 3 and 4 (that is, the value of the contracts for Lots 3c, 3d, 3e and 4) is broken down and shaded grey in the following tables:

Gloucestershire County Council (total £5.14)

	Budget	Lot 3a	Lot 3b	Lot 3c	Lot 3d	Lot 3e	Lot 4	Lot 5	Grants	Future Procurements and Contract Extensions
Gloucestershire County Council contribution	2,700	346	-	549	936	619	-	-	250	-
BDUK Phase 2	3,960	346	-	549	936	1,554	-	-	-	575
ERDF	250	-	-	-	-	-	-	-	250	-
EAFRD	1,293	-	-	-	-	-	-	1,293	-	-
Total (Rounded)	8,203k	691k	0k	1,099k	1,873k	2,173k	0k	1,293k	500k	575k

NB EAFRD not yet approved

Herefordshire Council (total £7.56m)

	Budget	Lot 3a	Lot 3b	Lot 3c	Lot 3d	Lot 3e	Lot 4	Lot 5	Grants	Future Procurements and Contract Extensions
Herefordshire Council contribution	2,966	-	109	943	-	-	915	-	673	325
BDUK Phase 2	5,520	-	109	1,322	-	-	2,705	-	-	1,384
Marches LEP	1,674	-	-	837	-	-	837	-	-	-
ERDF	672	-	-	-	-	-	-	-	673	-
EAFRD	840	-	-	-	-	-	-	840	-	-
Total (Rounded)	11,673k	0k	219k	3,102k	0k	0k	4,457k	840k	1,345k	1,709k

NB EAFRD not yet approved

The spend profiles of the Council's broadband contracts have traditionally been difficult to manage. They are triggered by delivery milestones which are themselves unpredictable due to the challenges of deployment and the lag between delivery, financial defrayal and claiming. As penalties are legally unenforceable, payment release is the only control available to manage delivery and therefore, the knock on impact on the Council's own financial

management needs to be accepted.

Whilst each external fund includes overall match funding requirements, we would seek to frontload the external funding as far as possible and in particular the BDUK funding. These values are consistent with the Approved Strategy.

The uncommitted funding will be used to extend existing contracts and where appropriate undertake new mini tenders. It is not anticipated that any underspend will remain uncommitted following Stage 4 but, should any underspend arise, it should also be noted that it may be subject to an apportionment with BDUK.

MAIN REPORT CONTENTS

Background

- 1 Gloucestershire County Council has worked in partnership with Herefordshire Council for five years to improve broadband availability across the two counties in order to enable businesses, communities and individual households to become more productive, competitive and sustainable. In that time superfast broadband coverage has increased from around 63% to the current position where c90% of premises in the County have access to superfast broadband. The contract awards outlined in this report should result in Gloucestershire reaching 97% coverage.
- 2 Known as the Fastershire project, the emphasis of the programme has been wherever possible to extend the reach of high speed broadband deep into rural areas. The revised Broadband Strategy sets out the overall approach to achieving access for all those who want it.
- 3 Fastershire acts as a conduit for public subsidy to provide gap funding to private sector suppliers to deliver broadband infrastructure to areas that have proved to be commercially unviable.
- 4 The first contract to extend superfast broadband beyond the commercially viable areas was awarded to BT in 2012, and was worth up to £35.42m. This funding covered both Gloucestershire and Herefordshire counties. The deployment phase of that contract is coming to an end having reached its target delivery in Gloucestershire and predicting the achievement of the contractual target in Herefordshire. In total, it will have reached c. 110,000 premises with Broadband speeds over 30Mbps.
- 5 The second contract to be awarded for Lot 1 in the Cotswolds, was agreed in 2015 with Gigaclear committing to deliver 6,500 premises for £3m subsidy.
- 6 The third contract, to be awarded for Lot 2, also with Gigaclear was signed in December 2016, focusing on the Forest of Dean and the Golden Valley, for a value of £2.88m and the scope to increase to £4.54m.
- 7 Applying BT's delivery under the first contract and Gigaclear's Lot 1 and 2 commitments to the commercial footprint of all providers, the superfast availability stands at c. 90% in Gloucestershire and c. 87% in Herefordshire.
- 8 The remaining premises to be reached were subject to a second round of procurements that followed the following timescales:
 - April to May 2016 - Open market review (OMR)
 - 13 June 2016 - Industry Day
 - June to July 2016 - State Aid Consultation
 - September 2016 - ITT Launch
 - 25 November 2016 - ITT Deadline
 - 16 December 2016 - Preferred Bidder Notice Issued
 - January 2017- Standstill Deadline

Area Consideration

The £12.7m combined Gloucestershire & Herefordshire Gigaclear contract maximum budget as shown in section a) of the recommendations section of this report is split in to the following areas. A table is provided for each Lot area to explain the headline details of each bid and the outcome of the procurement evaluation.

9 Lot 3c Area – covers 11,000 premises in south Herefordshire and Gloucestershire (west of the river Severn).

Bidder	Subsidy Required from Herefordshire Council	Subsidy Required from Gloucestershire County Council	Private Investment	Coverage %	Procurement Process Evaluation Score
Gigaclear	£3.1m	£1.1m	£7.5m	63%	58.2%
Bidder B	£4.5mm	£1.1m	£1.3m	42%	42.08%

10 Lot 3d Area– covers 7,000 premises in north Gloucestershire.

Bidder	Subsidy Required from Gloucestershire County Council	Private Investment	Coverage %	Procurement Process Evaluation Score
Gigaclear	£1.9m	£5.7m	83%	68.8%
Bidder B	£1.9m	£1.1m	51%	46.83%

11 Lot 3e Area – covers 13,000 premises in south Gloucestershire.

Bidder	Subsidy Required from Gloucestershire County Council	Private Investment	Coverage %	Procurement Process Evaluation Score
Gigaclear	£2.2m	£11.6m	82%	68.81%
Bidder B	£2.2m	£2.2m	54%	49.15%

12 Lot 4 Area – covers 6,800 premises in north Herefordshire. Whilst the coverage offered by both bidders is similar, the private sector leverage is significantly different and the scores achieved from the holistic evaluation clearly identify Gigaclear's as the optimum solution.

Bidder	Subsidy Required from Herefordshire Council	Private Investment	Coverage %	Procurement Process Evaluation Score
Gigaclear	£4.5m	£4.4m	75%	65.57%
Bidder B	£4.5m	£831k	80%	45.86%

- 13 Area's 3a and 3b cover the remaining areas of Cheltenham, Gloucester and Hereford. Bids have been received for the maximum available subsidy of £910k and the Council has undertaken its assessment in each case identifying a provisional preferred bidder. However, at the time of writing, BDUK had yet to complete their own assurance and the authorities have therefore agreed to pause whilst this is completed. In the interests of expediency and as same evaluation process has been employed, it is requested that delegated authority be afforded to the commissioning director: communities and infrastructure to agree the award of these contracts once BDUKs assurance is complete and assuming that assurance is positive.
- 14 The award of contracts as outlined above, along with previous stages of deployment will result in 97% of premises in Gloucestershire being served by either superfast or ultrafast broadband of at least 30Mbps. There will remain premises that need to be reached to meet the ambitions of the Broadband Strategy. This will be achieved through further small scale procurement activity subject to future decision reports and the extension of existing contracts to target specific areas. Additionally mechanisms will be maintained and expanded to create "demand led" solutions through bespoke grants. ERDF (European Regional Development Fund) funding of £925k has been awarded to Fastershire (both Gloucestershire and Herefordshire) in partnership with the other authorities covered by the Marches Local Enterprise Partnership to provide grants to businesses remaining outside of coverage. Such grants are not anticipated to exceed £25,000 and will be awarded via a formal application and evaluation process.
- 15 Additionally EAFRD (European Agricultural Fund for Rural Development) worth c. £2m is being sought by the Fastershire partnership to fund broadband solutions for clusters of homes and businesses that also remain unserved. It is estimated that contracts valued up to £200,000 would be let per individual locality using this funding with localities selected based on an assessment of the demand and economic potential to comply with the terms of the external funding.

Alternative Options

- 16 Not to award contracts and to cease investment in broadband. This option is not recommended as broadband remains a key priority for the council and underpins many of the council's wider aspirations for the development of the Gloucestershire economy and access to services.
- 17 To revisit the contractual terms and re-run the procurement to create better terms for providers. This is not recommended as it would be unlikely to lead to significantly different outcome. It would incur significant time delay which might jeopardise the successful implementation of Fastershire's mission to reach as many premises as possible by the end of 2018. Furthermore, the delay itself could risk the existing offer as a revised invitation to tender (ITT) would appear in the market alongside opportunities from other potentially more commercially attractive areas and there remain limitations on the capacity of the supplier side of the market to satisfy the level of demand across the UK.

Risk Assessment

18 Most of the risks to the council for instance, premise level transparency, coverage decreases and cost increases are mitigated through the contract. However, a number of additional risks are outlined below:

Risk ref	Risk	Detail	RAG Rating	Mitigation
1	Coverage Offered is not 100%	A number of premises that were contained in the ITT have not been bid back and therefore could remain unconnected.		An element of the Fastershire Broadband Strategy budget has been retained in order to run a series of secondary mini tenders. Additionally, the Project is seeking EAFRD and ERDF funding and BT underspend to bridge the remaining gaps and / or offer bespoke connection grants.
2	Completion date	The predicted completion date is December 2018. Any slippage would take delivery beyond the Strategy's vision end date.		While there would be no material impact in outcome, it could be viewed that Fastershire had failed to deliver within its prescribed time frame. It will be imperative that all parts of the local authorities' organisations pull together including Highways. Given the experience to date, there is no reason to believe that this will not be the case. There are also various external dependencies which could affect the delivery date including obtaining private land owner permissions and the cooperation of the power companies.
3	Low Take Up	The Project Financial Model depends on a relatively ambitious take up requirement.		There is no risk to the authorities in regard to the financial contribution. However, lower take up would restrict the degree of clawback and reinvestment into further unserved areas. The Faster Business and Community programmes as well as Fastershire's marketing function should be retained and extended to avoid this risk.
4	Supplier Capacity	Gigaclear appear to have significant aspirations to expand their coverage. They also appear to have designs on a range of other BDUK contracts that are further back in the pipeline. Although it is difficult to assess the risk, they could conceivably overstretch their capabilities.		Gigaclear are growing at an accelerated pace and have become more sophisticated since the first contract was signed. There is no indication as yet that they are becoming stretched. Being the first authority to award under the latest NBS should assist the priority given to Fastershire by Gigaclear.
5	Potential Challenge	Other supplier(s) could if so inclined to challenge the decision to award contract to derail the delivery.		A legally compliant procurement process has been followed throughout. Any challenge will be addressed immediately to reduce any impact on time.
6	State Aid	Need to be compliant with State Aid requirements.		Due process has been followed to meet the requirements of State Aid.

Officer Advice

19 The recommendations are based on the outcome of a fair, open and robust procurement process with bids selected on the basis of best value for money measured by cost verses

coverage. In light of all the considerations the officer advice is to award the contracts.

20 The winning bids are compliant with the ITT and awardable within the provisions of the 2016 National Broadband Scheme (NBS) in relation to state aid.

Equalities considerations

21 Cabinet Members should read and consider the Due Regard Statement in order to satisfy themselves as decision makers that due regard has been given.

Consultation feedback

The Leader of the Council and Director of Strategic Finance are fully supportive of the Contract Award. Satisfied that a fair and open procurement and subsequent robust evaluation process has been followed. This is also consistent and aligns with Stage 3 of the Fastershire Broadband Strategy 2014-18, previously approved by Cabinet.

Performance Management/Follow-up

Ongoing performance and delivery of the deployment targets/outputs will be monitored through a series of regular strategic operational/monitoring meetings with the suppliers. Progress reports and any key issues arising will be escalated to the Project Board, which has senior officer representation as well as project officer support.

Report Title	Contract award Fastershire Broadband Strategy Stage 3 Lots 3c, 3d, 3e and 4
Statutory Authority	The County Council is pursuing the next phase of the Fastershire Broadband Infrastructure Project, in line with the General Power of Competence (GPC) as prescribed under the Localism Act 2011 – for the benefit of the Authority, its areas or persons required or present in its area.
Relevant County Council policy	<p>The Council Strategy 2011 – 2015 Meeting the Challenge:-</p> <p>Providing the infrastructure and services that keep the county moving and working Being as efficient as possible and a saving money by joining up with our partners Finding the best, most efficient way of delivering services which satisfy customers Making decisions that promote long-term sustainability Also part of the Grow Gloucestershire Campaign where GCC has invested £12 million to bring an estimated £120 million of investment into the county, to help grow Gloucestershire. Key investment priorities are:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Giving young people the right skills to get jobs <input type="checkbox"/> Helping first time buyers get on the housing ladder so keeping talent in Gloucestershire. <input type="checkbox"/> Connecting the county through improved infrastructure, from roads to broadband
Resource Implications	<p>The Cabinet had previously approved funding:</p> <p>Stage 2: Fastershire contract with BT - £7.5m match funding Stage 3: Superfast Broadband Programme for future network deployment – up to £4m capital as partial match funding for £5.46 m allocated to Gloucestershire by BDUK.</p> <p>The amount of resources available to deliver Stage 3 (Lot 2) is £2m, which was awarded to Gloucestershire County Council, through the South West ultrafast deployment scheme. The scheme required £2m of match funding from this Council, which was approved by Cabinet. This further investment will enable further delivery of ultrafast broadband infrastructure, with a particular focus on the Forest of Dean. In addition, Herefordshire Council will be able to combine the£0.54m of funds previously allocated to it through the Rural Community Broadband fund. As a consequence additional public funds anticipated to be available for Lot 2 of £4.54m.</p> <p>The total public subsidy required to deliver the contract is £12.7m (£5.14m for Gloucestershire) This will be drawn from</p>

	<p>BDUK (Gloucestershire) £5,460,000 Gloucestershire County Council £4,200,000</p> <p>These values are consistent with the approved Strategy, and within existing budget authority</p>
<p>Sustainability checklist:</p> <p>Partnerships</p> <p>Decision Making and Involvement</p> <p>Economy and Employment</p> <p>Caring for people</p> <p>Social Value</p>	<p>There are a number of formal and information relationships concerning the provision of the infrastructure. These include: commissioned deployment provider (BT); partnering adjacent local authority; government agencies and departments responsible for infrastructure services, local district and parish councils; utility providers; and businesses and resident communities who are the key consumers of local infrastructure.</p> <p>Engagement with Legal Services and Strategic Procurement, although Procurement being led by Herefordshire Council (through the Partnership Agreement) and external legal support for procurement and contract documentation.</p> <p>The provision of enhanced broadband infrastructure should positively influence economic and employment related issues. Facilitating and deploying the right level of improved infrastructure will increase the likelihood of new development and activity, contributing towards sustained local economic growth and improved employment opportunities.</p> <p>The enhanced broadband infrastructure provision should positively support those services involving caring for people, and contribute towards improving good accessibility and seek to avoid community exclusion.</p> <p>Gloucestershire County Council’s Strategy 2011 – 2015 and the Grow Gloucestershire Campaign includes the priority of creating and maintaining a successful local economy that supports economic growth, investment in infrastructure and connectivity. In addition the improved broadband network will have a positive impact in meeting other corporate plan objectives including:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Growing businesses, jobs and wage levels <input type="checkbox"/> Accessible Services <input type="checkbox"/> Sustainable education provision <input type="checkbox"/> More people retaining their independence through greater choice and control <input type="checkbox"/> Reduced child poverty <input type="checkbox"/> Families and communities that are able to support all children and young people effectively

<p>Built Environment</p> <p>Natural Environment' including Ecology (Biodiversity)</p> <p>Education and Information</p>	<p>□ Increased equality of opportunity The delivery of the Strategy will have a significant impact on residents and businesses in the most deeply rural areas of the county. Digital access has a role to play in addressing issues of isolation and access to services for citizens, specifically in rural areas, and is increasingly being used as a tool to address health and preventive health.</p> <p>This infrastructure should positively influence the continued success of the built environment and positively supports the three strands of sustainability – environmental, social and economic. It will also successfully contribute towards ongoing aspirations to achieve accessibility for all, reducing the realities and perceptions of social exclusion and increasing the sense of community cohesion and civic pride.</p> <p>Through the provision of early and consistent advice on local matters relating the deployment of the infrastructure, this should positively influence the protection and enhancement of the natural environment. Facilitating the right level of infrastructure that meets the environmental standards and necessary protections, will increase the likelihood of new developments and opportunities being successfully accommodated without adversely impacting the natural environment.</p> <p>Comprehensive information about the Fastershire Broadband Project and regular updates on the roll out of infrastructure can be accessed on the project website – www.fastershire.com</p>
<p>Tackling Climate Change</p>	<p>Carbon Emissions Implications? Positive Vulnerable to climate change? No</p>
<p>Due Regard Statement</p>	<p>Has a Due Regard Statement been completed? Yes Yes - considerations included in main body of report</p> <p>A copy of the full Due Regard Statement can be accessed on GLOSTEXT via http://glostext.gloucestershire.gov.uk/ieDecisionDetails.aspx?ID=301</p> <p>Alternatively a hard copy is available for inspection from Jo Moore, Democratic Services Unit, e-mail: jo.moore@gloucestershire.gov.uk.</p>
<p>Human rights</p>	<p>None</p>

Implications	
Consultation Arrangements	See above