



Extension of the Fastershire Partnership agreement with Herefordshire Council to 31 March 2024

Dates between which decision will be taken	Earliest date: 27 March 2023 Latest date: 11 April 2023
Cabinet Member	Cllr Mark Hawthorne, Leader of the Council
Key Decision	Yes
Purpose of Report	<p>To approve an extension to the Fastershire Partnership agreement between Gloucestershire County Council and Herefordshire Council to 31 March 2024. The aim of the Fastershire project is to improve broadband availability across the two counties to support businesses, communities, and individual households to become more digitally connected.</p> <p>The Fastershire project is nearing its conclusion with 97% of the county having the opportunity to access Superfast Broadband. The proposed one-year extension to the partnership agreement will ensure the Fastershire Team remains in place to manage the closedown of existing Stage 3 Regional delivery contracts with Gigaclear and support the delivery of Stage 5 Fastershire community grants.</p> <p>The report also seeks approval to extend the completion date for two contracts awarded to Gigaclear as part of Stage 3 of the Fastershire delivery programme. This change request is linked to a previous change request agreed in December 2021.</p> <ul style="list-style-type: none">• Lot 2/3c - from December 2022 to December 2023• Lot 3e – from September 2022 to June 2023
Recommendations	<p>That the Leader of the Council:</p> <ol style="list-style-type: none">1. Approve the time extensions requested by Gigaclear in respect of the following two existing regional contracts for the delivery of broadband infrastructure between Gloucestershire County Council and Herefordshire Council and Gigaclear that were awarded as part of Stage 3 of the Fastershire delivery programme described in paragraph 4 in this report:<ol style="list-style-type: none">a) a 12-month extension (expiring December 2023) to the term of a contract relating to the provision of such services in the Gloucestershire west of the River Severn locality under Lots 2-3c thereof.b) a 9-month extension (expiring June 2023) to the term of a contract relating to the provision of such services in the south Gloucestershire locality under Lot 3e thereof.

	<p>2. Approves the principles agreed by Gloucestershire County Council and Herefordshire Council described in paragraphs 7 to 15 in this report which provide the cornerstones of a Transition Agreement that will cover the voluntarily disengagement from the Fastershire project by both parties on the 31 March 2024.</p> <p>3. Delegates authority to the Executive Director of Economy, Environment, and Infrastructure in consultation with the Leader of the Council to incorporate the above-mentioned principles into the Transition Agreement with Herefordshire Council. Once finalised such Transition Agreement will become supplemental to the existing Fastershire Partnership Agreement between Herefordshire Council and Gloucestershire County Council.</p>
<p>Reasons for recommendations</p>	<p>Originally, 31 March 2023 was identified as the project end point as this would provide sufficient time for Gigaclear’s existing Fastershire contracts to be delivered and for all compliance checks to be completed by the Fastershire Team.</p> <p>Due to delivery issues experienced by Gigaclear following the collapse of Complete Utilities this report also seeks approval for a time extension to their remaining contracts awarded as part of Stage 3 of the Fastershire delivery programme.</p> <p>The Fastershire Project is nearing its completion and the existing Fastershire Partnership Agreement does not provide sufficient detail on the process by which Gloucestershire County Council and Herefordshire Council can disengage from the project.</p> <p>A new Transition Agreement will be produced that will outline this process and confirm the project end date. Once approved the agreement will form an addendum to the existing Fastershire Partnership agreement.</p>
<p>Resource Implications</p>	<p>Gloucestershire County Council has a capital allocation for the Fastershire project of £13.699m. To date £11.850m has been spent or is committed to Stages 2, 3 and 4 of the Fastershire delivery programme on the basis described in Paragraph 4 and Table A in this report. Any uncommitted funding is allocated to Stage 5 of the Fastershire delivery programme and is being used to fund a range of grants designed to support households, communities, or businesses without access to Superfast Broadband.</p> <p>There are no additional capital costs associated with implementing the recommendations outlined within this report as there are no material changes to the scope of works being delivered. The proposed contract changes relate to the time extension only.</p> <p>The Fastershire Team are essential to managing the delivery of the programme and the County Council makes an annual revenue payment of</p>

	<p>£137k to Herefordshire Council to cover the costs of the team. The payment is covered from an existing base budget.</p>
<p>Background Documents</p>	<p>The Fastershire Strategy 2019-2022, is available on the Fastershire website at: https://www.fastershire.com/assets/file/FSB%20Strategy/Fastershire_Broadband_Strategy_2019-22.pdf</p> <p>Cabinet decision – February 2017 - Contract Award: Fastershire Broadband Strategy Stage 3 - Lots 3C, 3D, 3E and 4 Decision - Contract Award: Fastershire Broadband Strategy Stage 3 - Lots 3C, 3D, 3E and 4 (gloucestershire.gov.uk)</p> <p>Individual Cabinet Member Decision – December 2021 - Programme Change to Fastershire Delivery https://glostext.gloucestershire.gov.uk/ieDecisionDetails.aspx?ID=1791</p>
<p>Statutory Authority</p>	<p>Broadband delivery is not a statutory function of the council, but the general power of competence is available under the Localism Act 2011 to enable councils to conduct the project as set out in this report.</p>
<p>Divisional Councillor(s)</p>	<p>Numerous County Council Divisions will be affected by the decision taken in this report including those based in the following Districts - Forest of Dean, Tewkesbury, and Stroud.</p>
<p>Officer</p>	<p>Any representations should be sent to:</p> <p>Name: Ben Watts Telephone: 01452 426771 Email: ben.watts@gloucestershire.gov.uk</p> <p>By 5pm on 24 March 2023</p>
<p>Timeline</p>	<ul style="list-style-type: none"> • April 2023 <ul style="list-style-type: none"> ○ Finalise the Fastershire Transition Agreement. ○ GCC officers commence work on a new Digital Strategy for the county. • June 2023 <ul style="list-style-type: none"> ○ Gigaclear complete delivery of Fastershire Lot 3e. ○ GCC officers agree future resource requirements to oversee delivery of the new Digital Strategy. • July 2023 <ul style="list-style-type: none"> ○ Public consultation of new Digital Strategy for the county as part of the wider Gloucestershire Economic Strategy workstream. • August 2023 <ul style="list-style-type: none"> ○ Application process for Fastershire Community and Business Grants ends. • December 2023

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| | <ul style="list-style-type: none">○ Gigaclear complete delivery of Fastershire Lot 2/3c.○ Finalised new Digital Strategy for the county.
● January 2024<ul style="list-style-type: none">○ Commence transfer process of relevant project data from Herefordshire Council to Gloucestershire County Council.
● March 2024<ul style="list-style-type: none">○ Fastershire Team complete assurance process for Lots 3e & Lot 2/3c.○ All works identified through Fastershire Community and Business. Grant allocations completed.○ End of Fastershire Partnership.○ Formal approval of new Digital Strategy for the county. |
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Background

- 1) Public sector investment in delivering broadband networks is overseen nationally by Building Digital UK (BDUK), which is part of the new Department for Science, Innovation and Technology (DSIT). At a local level, the Fastershire project manages the delivery of broadband network in Gloucestershire. Fastershire is a formal partnership between Gloucestershire County Council and Herefordshire Council with support from BDUK.
- 2) Both local authorities agreed to work together to address the challenges of broadband availability. The focus of the [Fastershire Broadband Strategy](#) 2019-22 is to “increase superfast broadband coverage across the two counties through a mixture of contracts and grants prioritising those premises without access to download speeds greater than 30 Megabits per second (Mbps)). Where the Fastershire project has contracts for broadband deployment with commercial suppliers, it is based on a gap funding model. This facilitates broadband investment in parts of the county that are considered as being non-commercially viable by subsidising the commercial investment made by suppliers.
- 3) At time of writing this report 97.1% of premises in Gloucestershire have access to Superfast (>30 Mbps) broadband connectivity. This level of digital connectivity is consistent with the national position reported across England (97.8%).
- 4) The Fastershire Broadband Strategy includes a target of achieving 99% superfast coverage by December 2022. Over the past 15 months this target became no longer achievable as commercial deployment of Superfast broadband reached a plateau. This was due to advances in technology, changing Government priorities and delivery issues with local suppliers. The Fastershire delivery programme is summarised in Table A.

Table A – Fastershire Delivery Programme

Stage	Title	Detail of stage of work
1	Commercial Delivery	Actively monitor the market’s intention to provide both superfast and full-fibre connectivity. Encourage and work with commercial providers to use their own investment to extend access to full fibre broadband.
2	Fastershire-wide Contract	Promotion of broadband delivery across the two counties. BT were awarded a significant contract to deliver superfast coverage.
3	Regional Contracts	Manage full-fibre rural contracts with Gigaclear on behalf of Herefordshire Council and Gloucestershire County Council. Gigaclear were appointed the supplier of subsidised broadband infrastructure across different lot areas following a competitive tendering process. The Fastershire

		Team manage these contracts to ensure they are successfully delivered on time and within budget.
4	Small Cluster Contracts	Conclude smaller lot contracts and explore opportunities to stimulate commercial full-fibre investment.
5	Fastershire Community Broadband Grant and bespoke grant schemes	Launch a Fastershire “Dynamic Purchasing System” through which local communities (either singly or acting in groups) can apply for Fastershire grants to pay for Gbps capable infrastructure.

- 5) National aspirations for digital connectivity are now linked to supporting Gigabit broadband connectivity (1,000 Mbps). At time of writing this report 65.6% of premises in Gloucestershire have access to Gigabit supported digital infrastructure. For the England, national coverage is at 74.3%. In February 2022, the Levelling-Up White Paper reiterated the government’s commitment that by 2030 Project Gigabit would deliver a nationwide gigabit-capable digital network for 99% of premises across the UK. This project is being led by BDUK with an expected reduced role for local authorities.
- 6) A long-standing issue for Gloucestershire is addressing those hard-to-reach areas which have not yet received a superfast upgrade (the missing 2.9%). To support those households that are not part of a commercial or subsidised delivery programme the county council has introduced a range of community, business or household grants intended to support the financial viability of projects and improve 4G digital household connectivity.

Principles of the Transition Agreement with Herefordshire Council

- 7) Although the Fastershire Agreement outlines the consequences of either party terminating the agreement, the process for how both parties voluntarily disengage from the project has not been formalised.
- 8) A new transition agreement is being drafted which outlines a framework for the termination of the Fastershire Agreement. The document also captures the transition of activities up until the 31 March 2024. Identifying this end point provides both parties with certainty regarding any ongoing costs associated with the Fastershire project. Once agreed the Transition Agreement will be supplemental to and have the effect of modifying the provisions of the Fastershire Partnership Agreement.
- 9) The Overriding goal of the Transition Agreement is for both parties to continue to co-operate with each other as the project ends. This includes providing reasonable support and resources including budget, access, and availability of staff.
- 10) At the time of writing this report the following project milestones remain:

- Delivery of Stage 3 Gigaclear contracts & any outstanding Stage 5 grant awards;
 - Completion of processing of claims with BDUK; and
 - Resolution of the BT Clawback payment associated with Stage 2 of the delivery programme.
- 11) Three months prior to the end of the partnership both parties will agree if any extension is required to cover the closedown of the remaining project milestones. This will be for an initial six-month period from March 2024 and subject to formal agreement on scope, costs, and resources between both Parties. At this point there is also a need for a review of the Fastershire Team and the roles that are directly involved with the functioning of the Fastershire Project to agree which roles will continue to be required following termination or expiry of the Fastershire Agreement. This will be reviewed on an ongoing six-month basis.
- 12) Where there are existing contracts with suppliers these will remain in force and closedown in line with forecasted and projected build milestones. At the completion, a deed of variation will be issued which will be the sum of funded premises by Contracted Lot less any agreed descope for commercial overbuild or grantor refusal where access has been denied by the landowner.
- 13) If the supplier for reasons beyond their reasonable control are unable to meet the remaining milestones before December 2023, then either Party can elect to
- Cease the build and closedown the contract with those properties not built passed to Project Gigabit and BDUK. The closedown will be enacted by, issuing a revised Deed of Variation and Grant Funding Agreements with BDUK for each contracted Lot.
 - Agree to extend the build either by extending the Fastershire Agreement or by transferring to the individual Party. This is only envisaged where the period of extension is no more than three to six months and is backed by assurances the supplier can meet revised timescales.
- 14) From March 2024 unless otherwise agreed the Fastershire website (www.fastershire.com), shall cease to be made available to the public with a landing page put in place to redirect all queries from Fastershire to the respective local authority website.
- 15) In addition to the Fastershire project milestones the Fastershire Team will continue to work with BDUK by providing local insight regarding general pre-procurement activity in respect of Project Gigabit.

Gloucestershire's New Digital Strategy

- 16) As part of the wider project focusing on the production of a new economic strategy for Gloucestershire officers will produce a new Digital Strategy for the county. At the time of writing this report the content of the strategy is not

confirmed. Work on this strategy will commence during 2023 with an indicative timetable seeking adoption early 2024. This strategy will include the transitional arrangements for the county as it moves from the Fastershire project to the BDUK led Project Gigabit. The latter will oversee public subsidised broadband infrastructure delivery across the county up to 2030.

Extension of the contracts awarded to Gigaclear as part of Stage 3 of the Fastershire delivery programme

- 17) Of the 13 contracts awarded through the Fastershire project, 9 are completed or running to schedule. Within Gloucestershire – 2 contracts (Lots 2-3c and 3e) have experienced delays. Gigaclear has requested a time extension to complete the delivery of contract due to Complete Utilities ceasing trading in November 2021. This resulted in a cessation of work followed by longer than anticipated disruption experienced trying to secure new suppliers and getting those suppliers to a stage where they can recommence delivery. This issue was further compounded by the prevailing shortage of specialist skilled broadband engineers within the UK.
- 18) Although this delay to the delivery programme is extremely frustrating especially for those residents impacted, the requested contract extensions are considered reasonable by the Fastershire Team. The requested contract extensions are summarised below:
 - Gigaclear has requested a further 12-month extension to contract Lots 2-3c Gloucestershire west of the River Severn with a new contract end point of December 2023.
 - Gigaclear has requested a further 9-month extension to contract Lot 3e south Gloucestershire with a new contract end point of June 2023.
- 19) Officers from the county council will continue to actively engage during Fastershire operation meetings with Gigaclear and will endeavour to avoid any further delays. Should any further contract delivery delays be requested this will be covered by Fastershire Transition Agreement. A summary of the options available to the County Council are summarised in para 13 of this report.

Options

- 20) Option 1 – That the Leader approves the Recommendations contained in this report.
- 21) Option 2 – That the Leader rejects the Recommendations contained in this report. By rejecting them it would afford ongoing uncertainty to the closedown arrangements of the Fastershire project with no formal project end point identified. Should the County Council want to leave the Fastershire partnership in the future without a project end point they would need to agree a mutual project termination which would likely result in substantial negotiations to clarify each party's ongoing rights and liabilities. The proposed Transition Agreement addresses this with a mutually beneficial end point identified for both parties that

provides clarity for the Fastershire Team during 2023/24. By approving Gigaclear's contact extensions this also provides assurance to the Fastershire Project's primary supplier to plan and deliver the remainder of the contract.

Risks

- 22) That the experienced officers that form the Fastershire Project Team resign during the final year of the project. This is an issue where the County Council and Herefordshire Council would need to actively engage in to ensure suitably qualified officers are available to oversee remaining Fastershire Project and that the technical assessments of works delivered are completed and the relevant funding claims are submitted to BDUK.
- 23) That BDUK revise their requirements in terms of local delivery support and require that there is a need for ongoing technical support for Project Gigabit at the local level. This is an issue where the County Council and Herefordshire Council could consider a new joint shared partnership to retain the existing technical expertise to oversee Project Gigabit. Alternatively, the County Council may need to consider looking to grow its own technical expertise by creating a new officer role or rely on external consultancy support to meet the expectations of BDUK.
- 24) That Gigaclear do not deliver the remainder of their contacts by the proposed contract extension date and that Fastershire Partnership agreement needs to be further extended to oversee the completion of this work. Should this be required the process is covered by the Transition Agreement which will require the County Council to call ad-hoc technical support from Herefordshire Council and pay an agreed officer rate for the support provided. This is something the County Council wants to avoid and will push for all project milestones outlined in para 10 to be completed by the 31 March 2024.
- 25) With regard to Recommendation 1 of this report, there is a risk in respect of any contract extension that it may become the subject of a legal challenge under the Public Contract Regulations 2015 ("PCRs"). While it is acknowledged that a contract extension is permissible only on very limited grounds under PCRs, the extension proposed in this report is justified under Reg 72(5) as there is no value to the variation and there are no additional works, services or supplies required from the contractor. . The proposed extensions are in relation to extending the time to deliver broadband infrastructure within the schedules for the overall contract. This contract extension is considered a variation to the contract and will be delivered via a Deed of Variation. Advice from the Fastershire Team provides assurances that there are no compliance issues with Public Contract Regulations 2015.

Financial implications

- 26) The Fastershire Team are essential to overseeing the delivery of the capital programme and the County Council makes an annual revenue payment of £137k to Herefordshire Council to cover the costs of the team. The payment is covered from an existing base budget.

- 27) The transitional arrangements cover some elements of knowledge transfer required by BDUK to support the delivery of Project Gigabit. Where requests are considered more than what is reasonable, then the County Council will need to agree the extent of any additional time, effort and resources required with BDUK and Herefordshire Council to provide the required information. The work request will then be agreed via a change process and additional costs agreed.
- 28) Any additional costs associated with the termination of the Fastershire Partnership such as data transfer from Herefordshire Council will also be an addition cost to the County Council. Any additional costs will be met by existing budgets within the Economic Development Team.

Climate change implications

- 29) The Fastershire project is an enabler for modern technologies and services offering improved digital connectivity. The delivery of improved digital connectivity across the county is fully consistent with the aspirations outlined within Gloucestershire's Climate Change Strategy and will support the county's plans for being carbon neutral by 2045.
- 30) Improvements in digital connectivity open opportunities for how services are provided, reducing the need to travel, reducing isolation and improving the local economy.
- 31) Improved digital connectivity is enabling many of the things people do including how they access work, how they shop, how they stay in touch with friends and how they pay for things. This, in turn, reduces the need to travel, which will help make a positive impact reducing Gloucestershire's transport derived carbon emissions and help support the Climate Change Strategy.

Equality implications

- 32) An Equalities Impact Assessment (EIA) has been completed.
- 33) Cabinet Members should read and consider the EIA to satisfy themselves as decision makers that due regard has been given.

Data Protection Impact Assessment (DPIA) implications

- 34) A DPIA Decision Checklist has been completed and there are no implications identified as this decision does not relate to the processing of personal data.

Social value implications

- 35) Fastershire is focused on the delivery of physical digital infrastructure. This needs to be provided to enable multiple internet service providers the opportunity to deliver to local communities a choice in the range of services available.
- 36) As part of the Fastershire contract awards, suppliers are required to develop and deliver a communications and marketing plan which informs the planned delivery of the infrastructure work. This raises awareness of the enhanced broadband infrastructure being delivered to stimulate the take up of internet service providers.
- 35) Improved digital connectivity speeds delivered by the physical digital infrastructure will have a positive impact on local communities by contributing to the long-term wellbeing and resilience of individuals.
- 36) Improved digital connectivity provides a range of opportunities for individuals to both participate and influence how they interact with society. This could be linked to an individual's health, wealth, and happiness through the delivery of health, education, employment options alongside commercial or local authority managed services.

Consultation feedback

- 37) N/A.

Officer recommendations

- 38) That the Leader of the Council approves the Recommendations contained in this report:
 - 1. Approve the time extensions requested by Gigaclear in respect of the following two existing regional contracts for the delivery of broadband infrastructure between Gloucestershire County Council and Herefordshire Council and Gigaclear that were awarded as part of Stage 3 of the Fastershire delivery programme described in paragraph 4 in this report:
 - a) a 12-month extension (expiring December 2023) to the term of a contract relating to the provision of such services in the Gloucestershire west of the River Severn locality under Lots 2-3c thereof.
 - b) a 9-month extension (expiring June 2023) to the term of a contract relating to the provision of such services in the south Gloucestershire locality under Lot 3e thereof.
 - 2. Approves the principles agreed by Gloucestershire County Council and Herefordshire Council described in paragraphs 7 to 15 in this report which provide the cornerstones of a Transition Agreement that will cover the voluntarily disengagement from the Fastershire project by both parties on the 31 March 2024.

3. Delegates authority to the Executive Director of Economy, Environment, and Infrastructure in consultation with the Leader of the Council to incorporate the above-mentioned principles into the Transition Agreement with Herefordshire Council. Once finalised such Transition Agreement will become supplemental to the existing Fastershire Partnership Agreement between Herefordshire Council and Gloucestershire County Council.

Performance management/follow-up

- 39) Senior representatives from GCC and Herefordshire Council meet on a regular basis as part of the Fastershire Board which oversees the delivery of the project. The Leader of the Council will be kept informed of progress being made by the officers through the monthly briefings. This will provide the opportunity for any strategic, operational and/or financial issues to be discussed and addressed in a timely manner.