

Name of meeting: Cabinet
Date: December 11th 2018
Title of report: Facilitating the development fixed line broadband services

Purpose of report

To seek authority for the Council to enter into agreements with individual telecommunication network providers of fixed line broadband services and which provide for:

- (i) the Council to grant rights to the individual telecommunication network provider to install and maintain apparatus for fixed line broadband services in under and over Council owned land and buildings in the Council's Area; and
- (ii) which set out the procedures for the determination of where such apparatus should be installed and the manner and method in which the apparatus should be installed and maintained

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Yes, November 5 th 2018
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by <u>Strategic Director</u> & name	Karl Battersby - 29.11.2018
Is it also signed off by the Service Director for Finance (S151 Officer)?	Eamonn Croston - 3.12.2018
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft - 30.11.2018
Cabinet member portfolio	Cllr Peter McBride - Economy

Electoral wards affected: All

Ward councillors consulted: None N/A

Public or private: Public

1. **Summary**

A number of providers of fixed line broadband services are proposing to improve and/or extend their networks within the Council's area. Their proposed improvements include the installation of new electronic apparatus on Council Land and in Council buildings.

In order to facilitate the speedy carrying out of these improvements within the Council's area it is proposed that the Council enters into agreements to provide firstly for:

- (i) the Council to grant rights to fixed line broadband service providers for the installation and maintenance of the electronic apparatus that forms part of their broadband network; and secondly
- (ii) Which set out a process for the determination of where the apparatus should be installed and how it should be installed and maintained in a manner which will protect the interest of the Council as the owner of the land and buildings.

The existence of such agreements should save both the telecommunication network providers and the Council time and money when any improvements to their networks are carried out and it should make it more attractive to broadband providers to improve their fixed line broadband networks within the borough of Kirklees.

The agreements will not extend to mobile networks and in particular will not apply to telecommunications masts.

2. **Information required to take a decision**

Under the terms of the Electronic Communications Code 2017 ("the Code") providers of fixed line broadband services have a right to apply to court for an order that gives them the right to install and maintain network apparatus on land owned by third parties.

The policy underlying the Code is that it is to facilitate the development of fixed line broadband networks and therefore any applications to install network apparatus are considered within this context. In practice it is rare that a landowner can prevent network apparatus from being installed if it is operationally appropriate although the court can take into account whether the precise location of apparatus and the method by which it is installed.

In view of the statutory framework set out in the Code it makes commercial sense for the Council to enter into arrangements with telecommunication network providers which will set out arrangements that best protect the council assets whilst at the same promoting the improvement in fixed line broadband networks within the Council's area.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

The improvement of fixed line broadband services will benefit the residents of Kirklees in that it will increase the quality and range of broadband services available. This will, in time have benefits - particularly educational benefits - for children and families in the Council's area.

3.2 Economic Resilience (ER)

The improvement of fixed line broadband services will benefit businesses in the Council's area. Research has established that improved broadband speeds leads to enhanced economic growth.

3.3 Improving Outcomes for Children

With the average UK home now reported as having an average of 7.4 devices connected to the internet, the ever increasing demand for bandwidth is clear. Couple this with schools issuing more and more internet and app based homework as the norm, internet speed and coverage will be playing an increasing role in our children's education.

3.4 Reducing demand of services

Improved broadband speeds will promote the use of the Council's website both in terms of obtaining information and also for the carrying out of business with the Council. Enquiries and transactions conducted through the Council's website cost the Council substantially less than when they are carried out by telephone or in person.

3.5 Other (eg Legal/Financial or Human Resources)

Legal

Legal Services has confirmed that the Council has the legal power to enter into such agreements with fixed line broadband providers.

Human Resources

Any agreements that are entered into with fixed line broadband providers will set out streamlined procedures which should mean a reduction in staff time that will be needed in the consideration and assessment of the applications from fixed line broadband providers for electronic apparatus to be installed in on or under Council land.

Equality Impact Assessment

From undertaking an Equality Impact Assessment, we determine the overall results to be very positive in relation to residents and employees and positive in relation to protected characteristic groups. Both scores relating to Impact and Risk are both positive at 28/32 and 36/40 respectively - see link below:-

<http://www.kirklees.gov.uk/beta/delivering-services/pdf/eias/economy-infrastructure/economy-regeneration-culture/Template-Wayleave-Agreement.xlsm>

4. Consultees and their opinions

Kirklees Neighbourhood Housing consider it important to facilitate the installation of fixed line broadband services because this will promote improved broadband services to the Council's housing estates.

The Estates Team recognises the ongoing benefits of having such agreements in place with providers, as there will be no need for individual negotiations on wayleave terms or wayleave values as these will be pre-agreed and set out in the agreements.

5. Next steps

If the recommendations in this report are approved, officers will invite individual telecommunications network providers of fixed line services to enter into negotiations with the Council for an agreement which provides for the terms set out in paragraph 6.1 below.

6. Officer recommendations and reasons

It is recommended that:

- 6.1 Approval be given for the Council to enter into agreements with individual telecommunication network providers of fixed line broadband services and which provide for:
 - (i) the Council to grant rights to the particular telecommunication network provider to install and maintain apparatus for fixed line broadband services in under and over Council owned land and buildings throughout the Council's Area; and
 - (ii) Which set out the procedures for the determination of where such apparatus should be installed and the manner and method in which the apparatus should be installed and maintained
- 6.2 Authority be delegated to the Strategic Director, Economy & Infrastructure to negotiate and agree with individual telecommunication network providers of fixed line broadband services the terms of any agreement(s) referred to in paragraph 6.1
- 6.3 Authority be delegated to the Service Director, Legal Governance & Commissioning to enter into and execute any agreements referred to in paragraph 6.1 together with any documents and agreements that are ancillary to such agreements.

6.4 Members are asked to note that the ability of the Council to enter into agreements of the nature described in paragraph 6.1 will promote the improvement of fixed line broadband services within the Kirklees Area and it is for this reason that officers make their recommendations.

7. Cabinet portfolio holder's recommendations

Councillor Peter McBride: I would welcome such a proposal on the basis that it facilitates the expansion of digital infrastructure to our residents and businesses by all providers.

8. Contact officer

Steve Moore - Business Group Leader

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9. Background Papers and History of Decisions

N/A

10. Strategic Director responsible

Karl Battersby, Strategic Director, Economy and Infrastructure

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