

<b>Item No.</b> 15.	<b>Classification:</b> Open	<b>Date:</b> 31 October 2017	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Consideration of Options for broadband in Rotherhithe and Improving Connectivity in the Borough as a Whole	
<b>Ward(s) or groups affected:</b>		All (with a particular focus on the Rotherhithe and Surrey Docks wards)	
<b>Cabinet Member:</b>		Councillor Fiona Colley, Finance, Modernisation and Performance	

## **FOREWORD - COUNCILLOR FIONA COLLEY, CABINET MEMBER FOR FINANCE, MODERNISATION AND PERFORMANCE**

Since our Gateway 0 report in June, officers and our external specialist advisers have been working closely with broadband providers, external stakeholders and residents to further explore the options for the council to enable and facilitate the roll out of super fast broadband and full fibre broadband in Rotherhithe and indeed across the borough.

This report sets out our strategy and plans for the immediate, medium and longer term to deliver the digital infrastructure we need to ensure residents, businesses and visitors have access to the digital tools they need.

For instance, in the next few months we will sign lease agreements and see the installation of wireless broadband infrastructure on a number of council owned buildings which will supply up to 40Mb broadband speeds across 70% of the borough. This roll out will start in Rotherhithe.

We will also agree a new wayleave strategy for the installation of fibre broadband into council estates and blocks on a first come, first serve, non-exclusive basis for interested providers.

We will continue to work with the GLA and government, seeking to secure funding to fill any remaining not spots and to ensure that full fibre broadband is available in all parts of the borough. We have already submitted an expression of interest to access part of the £200m DCMS funding for broadband projects and are awaiting further information on the next steps of this programme.

Crucially, we are establishing a digital infrastructure team and a cross-council board to implement our digital infrastructure strategy and to stay abreast of technological improvements and innovations and funding opportunities.

Digital infrastructure has become an essential utility and this report and strategy sets out how the whole council will work together to ensure that Southwark can fully participate in the digital revolution.

## RECOMMENDATIONS

That the Cabinet approves the following:

1. the strategic options assessment set out in this report for digital infrastructure in the Rotherhithe and Surrey Docks wards and the rest of the borough more generally;
2. the approach to the roll out of wireless broadband, set out at paragraphs 13 to 21;
3. the plan to adopt a new corporate wayleave strategy for the installation of fibre broadband infrastructure, set out at paragraphs 22 to 27;
4. the council wide Digital Infrastructure Strategy, set out at paragraphs 28 to 29;
5. the creation and funding, initially for a two year period, of a Digital Infrastructure Programme to deliver the council's new Digital Infrastructure Strategy, set out at paragraphs 35 to 38.

## BACKGROUND INFORMATION

6. Southwark Council is committed to improving connectivity and access to faster broadband speeds in the Rotherhithe and Surrey Docks wards; an area which is known to have a significant proportion of properties which are unable to receive broadband speeds of 10Mbps (the expected government baseline for its Universal Service Obligation introduced by the Digital Economy Act 2017).
7. The background to the Rotherhithe Broadband Project is set out in detail in the Gateway 0: Consideration of Options for Broadband in Rotherhithe report which was agreed by Cabinet on 20 June 2017 ("**Gateway 0 report**").
8. Since the Gateway 0 report was published in June, the council has consulted the market, residents of the Rotherhithe area, key stakeholders and other public bodies and has made real progress in understanding the challenges in improving the access to high speed internet in the area and the options available.
9. Over the course of this consultation and engagement process, one fact has begun to crystallise: there exists an abundance of opportunities for the council to play an effective role as enabler and facilitator of connectivity and digital availability in the borough. By ensuring that all residents, businesses and visitors have access to the digital tools they need to work and live, the council can promote digital inclusion, social mobility and economic prosperity, supporting SME start-up, growth and expansion within the local economy and marketing Southwark as an attractive digital destination for businesses and investment.
10. The following represent the key findings identified through the market engagement process:

- **there is interest in the market** for providing high speed broadband services in Rotherhithe, as well as a variety of connectivity options and delivery models that could be applied across the borough;
  - it is essential that the council **builds on the data already collected** to assemble a complete baseline database (such as postcodes, connectivity speeds and gaps);
  - to optimise the prospect of successful broadband roll out a **Digital Infrastructure Programme within the council** (consisting of interested internal and customer facing services such as Housing & Modernisation, Highways, Property, Planning, Legal) should be established. This will ensure that an effective and collaborative approach across the council as a whole is adopted;
  - **sufficient budget and resources** must be set aside for ongoing digital infrastructure work to ensure that the council is able to implement the recommendations in this report.
11. The council recognises that to maximise the options for accessing high speed connectivity in Rotherhithe and to realise gains (both in the short, medium and long term) a multifaceted approach is beneficial:

**In the short term (the next 3 months):**

- Sign lease agreements with select network operators for the installation of new wireless telecommunications infrastructure on certain council owned assets;
- Agree a new council Wayleave Strategy for the installation of fibre broadband and grant an initial wave of wayleaves to interested suppliers on a first come, first served, non-exclusive basis;
- Agree a council Digital Infrastructure Strategy to streamline the approach across the council;
- Mobilise a new, dedicated programme team to deliver the Digital Infrastructure Strategy.

**In the medium term (the next 18 months):**

- Implement wayleave agreements and oversee supplier roll out of new fibre broadband to Southwark residents;
- Stay abreast of relevant technology improvements and innovations (e.g. 5G and FTTP) to ensure the council benefits from upcoming opportunities.

**In the long term (the next 24 months):**

- Secure central government funding for, and then deliver, one or more projects to address remaining connectivity gaps in the borough.

Southwark Council is confident that the solutions proposed in this report will not only help improve connectivity in the Rotherhithe area but could also be used as

a model to address other areas of the borough with poor broadband speeds.

## **KEY ISSUES FOR CONSIDERATION**

12. Since the Gateway 0 Report, the council has undertaken a significant amount of work and has identified the following key information:

- the common broadband technologies available to the residents in the Rotherhithe area (further details can be found in Appendix 1);
- the connectivity work already being undertaken by the council (further details can be found in Appendix 2);
- the recurring themes regarding the market position with regards to improving connectivity in the Rotherhithe area and the borough more generally (further details can be found in Appendix 3).

The council has used this information to help inform the strategies and recommendations set out in this report.

### **Wireless broadband strategy**

13. As a means of addressing broadband connectivity gaps and mobile network availability issues experienced throughout the borough, and in accordance with the council's December 2016 'Asset Management Plan for the Commercial Property Estate' ("**AMP**"), Southwark Council is in the process of expanding its practice of hosting wireless telecommunications aerials on the rooftops of council owned assets.

14. By leasing unused rooftop space to wireless broadband providers and mobile phone network operators, the council will both enable the improvement of mobile phone reception, 3G and 4G network coverage in Southwark and facilitate access to a new, London based wireless broadband service offering download speeds to homes and businesses of up to 40Mbps. It is envisaged that these steps will contribute towards Southwark becoming a more digitally inclusive borough, while opening up the market to multiple network operators should foster competition, potentially leading to lower cost broadband options being made available for residents and local businesses.

15. The council has now agreed Heads of Terms with UK Broadband Ltd, network operator of the Relish wireless broadband service, and Cornerstone Telecommunications Infrastructure Ltd (CTIL), the company responsible for managing O2 and Vodafone's network. All lease agreements are expected to have been signed before the end of the year. In all, 26 new UK Broadband installations, including four in the Rotherhithe area, and 13 new CTIL sites are planned, bringing the total number of UK Broadband and CTIL installations on council owned assets to 28 and 25 respectively. With the exception of three installations, all new wireless telecommunications aerials will be hosted on the rooftops of residential housing blocks.

16. The Head of Property for Southwark Council is satisfied that the proposed grant of new telecommunication leases to UK Broadband and CTIL represents best consideration. The council's telecommunication consultant, Lambert Smith Hampton, has negotiated these rents which have been benchmarked against

comparable transactions in Central London. None of the proposed leases grant exclusivity and the council is free to grant further leases to other operators on the same sites.

17. The signing of lease agreements and the commissioning of new sites will progress in a phased approach, with new UK Broadband and CTIL installations being divided in to tranches of three and two respectively. Half of the new UK Broadband sites will have been commissioned by the end of 2017 (which includes the four in the Rotherhithe area), with the remaining installations completed by the end of February 2018. All new CTIL sites will have been commissioned by the Spring of 2018. It is estimated that 70% of the borough will be able to receive the Relish wireless broadband service once all new installations have been completed.
18. The income generated from these new lease agreements, plus the uplift in rents received for existing UK Broadband and CTIL sites (that has been negotiated to take effect once all new leases have been completed), will represent a significant revenue source for the council over the next 15 years. It proposed that this income will be allocated as follows:
  - a percentage of the annual income received (equivalent to £200k in the first year) will be used to fund the delivery of the council's new Digital Infrastructure Strategy. This programme of work will be delivered by IT & Digital Services within Modernise;
  - rents received from installations on corporate facilities and commercial properties will go towards the General Fund ("**GF**");
  - all remaining income will be allocated to the Housing Revenue Account ("**HRA**").
19. To allay concerns regarding the health and safety implications of these installations for council employees and Southwark residents working or living beneath them, the council has commissioned Public Health England (PHE) to conduct health impact studies. These studies assess the potential exposure to radio frequency (RF) electromagnetic fields (EMFs) arising from four of these proposed new wireless telecommunications aerial installations (two CTIL and two UK Broadband). Research into the RF EMFs emitted by wireless telecommunication base stations and associated technology has been ongoing for more than 75 years, and after a thorough review of the available scientific findings, the World Health Organisation (WHO) has concluded the following:

*"To date, the only health effect from RF fields identified in scientific reviews has been related to an increase in body temperature (> 1 °C) from exposure at very high field intensity found only in certain industrial facilities, such as RF heaters. The levels of RF exposure from base stations and wireless networks are so low that the temperature increases are insignificant and do not affect human health".*
20. Furthermore, all such equipment is designed to comply with stringent, precautionary public exposure guidelines set by the International Commission on Non-Ionizing Radiation Protection (ICNIRP), and a certificate or statement of compliance will be provided by all network operators for each site where there is equipment to be installed.

21. Both of the studies carried out by PHE for proposed installations on the rooftops of council offices concluded that exposures would remain below the recommended reference levels for the general public contained in European Council Recommendation 1999/519/EC, which has been accepted in the UK as a framework for managing exposures to RF fields in publically accessible areas. As these exposures are not considered to be hazardous, the studies advised that no special precautions or restrictions on access are considered necessary for Southwark Council employees working inside either building. The findings of the studies of the proposed installations for two of the council's residential housing blocks are expected in early November, and it is not anticipated that their conclusions will differ from the two which have already been completed.

### **Wayleave strategy**

22. One of the key themes highlighted by suppliers during the market engagement process (see Appendix 3) was that implementing wayleave agreements for the installation of fixed line broadband to council owned, multi-occupancy properties is a significant challenge and frequent delaying factor in the progression of fibre broadband roll out in Southwark and London as a whole, particularly in residential areas.
23. Given its importance, the council must be able to assist suppliers with any requests for wayleave agreements and act expeditiously to ensure that such requests are processed effectively. In order to achieve this the council will take the following steps before the end of 2017:
- Finalise and then launch a wayleave strategy for the installation of fibre broadband to council owned properties, which will set forth Southwark Council's expectations for suppliers, a streamlined process for wayleave applications, the key contacts for this process within the council and the documents that will be adopted for it. It will also clarify that wayleaves will be granted on a non-exclusive, first come first served basis.
  - Appoint an officer to be responsible for progressing requests for wayleave agreements within the council and to be a point of contact for interested suppliers;
  - Adopt a modified version of the City of London Standardised Wayleave Agreement, which has been endorsed by the GLA and is recognised by the market.
24. The council is already in contact with suppliers who are interested in entering into wayleave agreements to install fibre broadband in the Rotherhithe area. It is, therefore, expected that launching a wayleave strategy will achieve genuine progress in the short term (in terms of granting wayleave agreements to any interested suppliers), which should result in significantly improved broadband delivery in the Rotherhithe area in the medium term (within 18 months), once the relevant wayleave agreements have been granted.
25. It is envisaged that the granting of wayleaves for council owned properties to multiple different fibre broadband providers will help to promote and improve the economic and social well-being of the borough, enabling businesses and

residents alike to benefit from the advantages of having access to a wider variety of faster, more reliable broadband services. By acting as a facilitator of the wayleave application process, the council anticipates that it will be able to attract, promote and foster increased interest from, and competition amongst, broadband suppliers operating or looking to operate in Southwark, which it hopes will result in reduced costs for customers.

26. Key to achieving these aims will be incentivising suppliers to deliver fibre broadband to identified not spots and less commercially attractive parts of the borough (and not just to the commercially viable locations in Southwark), whilst ensuring not to disincentivise these suppliers by making this new process a financially onerous one. Given the nominal sums associated with processing wayleave applications internally, where appropriate the council will look to subsidise this process; at most, it will endeavor to manage this as a cost neutral service. As such, in the majority of cases the council will not prioritise obtaining the best consideration for wayleave agreements in relation to its housing stock.
27. That said, given the nature of the market, it is anticipated that there will, nonetheless, be gaps in the resulting FTTP coverage. Any such gaps will be assessed and addressed as part of the council's long term Digital Infrastructure Strategy and programme (see below).

### **Digital infrastructure strategy and programme**

28. Appendix 4 to this report sets out the draft Digital Infrastructure Strategy recommended to Cabinet. The council's involvement in the Department for Digital, Culture, Media and Sport's ("**DCMS**") Local Full Fibre Networks ("**LFFN**") programme has highlighted that a Digital Infrastructure Strategy is necessary to access government funding for broadband rollout. If the council is to successfully make progress in improving the access to high speed broadband across the borough (benefiting residents and businesses alike), a considered and coordinated Digital Infrastructure Strategy and programme is essential.
29. One of the key benefits of a Digital Infrastructure Strategy is that it will help to ensure a consistent approach to digital infrastructure projects across the council. Moreover, it will allow the council to formulate its approach to and then implement a fully funded Digital Infrastructure Programme (including assigning appropriate resources and budget). As part of its work for developing such a programme the council needs to consider what incentives it can offer suppliers and residents alike to further stimulate the market. Such incentives could include waiving parking permit requirements for suppliers or offering a voucher scheme to residents. The importance of developing innovative incentives has been highlighted by DCMS and should improve the council's chances of securing funding from the DCMS' Challenge Fund (see below).

### **Funding**

30. The government has set aside £200m to invest in locally-led broadband projects across the UK. Local bodies that can leverage local investment and activity to stimulate more fibre connections in their local areas have been invited by DCMS' LFFN programme to express interest in, and ultimately bid for, this central government funding. The council submitted an expression of interest in this programme in August 2017 and is awaiting further information from DCMS regarding the next steps of the programme.

31. The council understands that funding may start to be allocated in Spring 2018. Given that the Rotherhithe area has already received media attention for its poor connectivity, the hope is that Southwark Council will be in a strong position to make a bid for funding. In order to do this and secure funding, Southwark must have a clear Digital Infrastructure Strategy in place. The council will also explore opportunities for accessing existing infrastructure funding regimes which have not previously been considered for digital infrastructure developments.

### **Digital inclusion and affordability**

32. The council is committed to digital inclusion within the borough and ensuring the affordability of broadband provision is fundamental to achieving this. Affordability in this context means ensuring internet access for everyone's budget and lifestyle, including those on lower incomes. Affordability considerations are imperative to determining the council's approach to improving connectivity in Rotherhithe (as well as the borough as a whole) because Southwark Council is committed to finding a high speed broadband solution that works for all residents.
33. To help achieve digital inclusion, as well as ensuring a comprehensive coverage of high speed broadband and accessibility to all residents, the council will need to investigate further the affordability of the connectivity options for the residents of Rotherhithe, as well as whether any discounts or incentives could be offered to lower income households and/or council tenants.
34. To help the council determine what residents consider to be affordable, as well as attitudes towards internet services and usage in Rotherhithe more generally, a resident survey targeting the Rotherhithe area has been developed and issued. The resident survey was launched on 20 September and the council is hopeful that the responses, due to be received on 1 November 2017, will help contribute to further digital inclusion / affordability decisions. (For further details about the resident survey please see paragraph 44 below.)

### **Governance**

35. As one of the initial steps in this project, a Rotherhithe Broadband Options Board ("**RBOB**") was established, made up of appropriate representatives from the following council divisions and teams:
- Modernise
  - Finance Services
  - Parking & Network Management
  - Property Services
  - Chief Executive's Office
  - Regeneration
  - Resident Services
  - External Affairs

The purpose of the RBOB was to obtain high level strategic input into the project, as well as assistance (where it may be required) with certain work streams and programme delivery. However, since the inaugural meeting of the RBOB it has become clear that a new Digital Infrastructure Programme, with a wider ranging

purview, needs to be established within the council to ensure that there is a structured and coherent approach to delivering the new Digital Infrastructure Strategy and improving connectivity throughout the borough as a whole.

36. The proposed governance structure for this new programme has been included in Appendix 5. Beginning in December 2017, a steering committee lead by the Director of Modernise and comprised of senior representatives from the divisions listed in paragraph 35, as well as from Planning, Asset Management, Highways, Street Furniture and Community Engagement, will meet every six weeks to provide guidance, leadership and decision making support to a core delivery team. This core delivery team, again lead by the Director of Modernise, will convene on a fortnightly basis to review and monitor the progress of all digital infrastructure projects, providing a clear framework for organizing, directing and implementing the council's Digital Infrastructure Strategy. It is envisaged that this new programme will enable the alignment of council policies and practices in relation to the delivery of digital infrastructure, by providing a regular forum to facilitate inter-departmental engagement and coordination on the subject.

### Resource implications

37. The core delivery team for the Digital Infrastructure Programme will be staffed by leveraging existing resources from a selection of council divisions and by using a percentage of the income generated by the new and renewed lease agreements for the hosting of wireless telecommunications aerials to fund new posts (as referenced in paragraph 18). The table below details the resource profile of this core delivery team:

Role	FTE	Cost per annum	Notes
Programme Manager	0.3	N/A	The current Programme Manager for IT & Digital Services will fulfil this role.
Project Manager	2	£120k	It is expected that the programme will begin with 1 FTE, after which a second FTE will be added once the pipeline of projects has grown sufficiently.
Public Affairs Officer	0.2	N/A	The current Public Affairs Officer for External Affairs will fulfil this role.
Community Engagement Officer	N/A	N/A	Existing Community Engagement Officers will be utilised on an ad hoc basis to fulfil this role.
Project Support Officer	0.6	N/A	One of the existing Project Support Officers for IT & Digital Services will fulfil this role.

38. In addition, £75k per annum will be spent on external specialist consultancy and support (technical, legal and commercial), to assist the council with central government funding applications, scoping of new projects and exploring new technological opportunities. This new programme will be funded for a period of two years initially, after which a review will be undertaken to determine whether the programme needs to be continued for a further period of time.

### Policy implications

39. The approaches and strategies outlined in this report reinforce and align with a number of existing council plans and principles, the clearest example of which being the commitment in the Council Plan 2014 to 2018: Summer 2016 Refresh to revitalizing Southwark's neighbourhoods by, amongst other measures, bringing superfast broadband to Rotherhithe, and its stated aim of Southwark becoming a leading digital borough that enhances the lives of its residents. It is expected that the delivery of the wireless broadband strategy will enable the council to meet the former of these commitments.
40. Similarly, the commitments and initiatives contained in Southwark's Economic Wellbeing Strategy 2017 – 2022 reflect those of this report in a myriad of ways, from the former's promise to work with public sector partners to encourage business growth in Southwark's regeneration areas by ensuring that "the borough's connectivity, both physical and digital, continues to keep pace with the needs of business", to its ambition of utilising the council's "strategic influence to improve connectivity...and digital infrastructure across the borough". The same is true of Southwark's Digital Strategy, whose prioritization of and principles around digital inclusivity are echoed in the Digital Infrastructure Strategy.
41. At a more practical level, the new wireless broadband strategy set forth in this report will enable the realisation of both the rent policy contained within the current AMP, which advocates exploring "incomes from non-traditional sources including advertising hoardings and telecommunications aerials", and the corporate and operational principles of the 2015-16 to 2017-18 Medium Term Resources Strategy.

### **Community impact statement**

42. No specific equality implications have been identified in relation to the recommendations contained in this report. It is envisaged that the strategies and proposals detailed herein will have a positive impact on all Southwark residents, businesses and visitors, irrespective of age, gender, ethnicity, religion, disability or sexual orientation, particularly given the emphasis which has been placed upon digital inclusivity.

### **Consultation**

43. The council has been working closely with residents, community groups and broadband suppliers to gain insight into how proposed solutions will address poor connectivity in Southwark. In particular, the council has been working towards gaining an understanding of what "affordability" in relation to internet services means to the residents of the Rotherhithe area, and to assess what the take up of new broadband services might be.
44. **Resident survey:** In order to gain a clearer understanding of residents' experience of broadband in the Rotherhithe area, including broadband speeds and provision, broadband use and affordability, the council developed and published a resident survey aimed at the Rotherhithe area. The survey was launched on 20 September on the council's online consultation hub and was promoted through social media and communicated by email to residents. The survey will close on 1 November and the council would encourage as many residents living in the Rotherhithe area as possible to take part. The responses received will help contribute to further digital inclusion / affordability decisions and the council is hopeful that the information gathered will help to build a strong

case to providers and to central government to invest in broadband improvements in the area.

45. **SE16 Broadband Group:** The council has been working closely with members of the SE16 Broadband Group, who have been instrumental in advocating for residents and highlighting the case for broadband improvements in the Rotherhithe area. The Group contributed to the development of the resident survey and has provided helpful feedback on the council's broadband proposals.
46. **The council's Better Broadband for Southwark website:** The council's dedicated webpage is kept up to date with the progress that is being made with regard to the roll out of faster broadband speeds in Rotherhithe (as well as the borough as a whole). Members of the public are able to access this information and keep up to date with progress made and developments which are being planned.
47. **Greater London Authority, Department for Culture, Media and Sport and other local authorities:** The council has been working closely and liaising with relevant public sector stakeholders and delegates. Amongst other things, this engagement has helped to clarify the approach to digital infrastructure taken by other local authorities, including lessons learnt, and to confirm the funding options available to the council. This understanding has been factored into the recommendations in this report, and the suggested short, medium and long term approaches to digital infrastructure have been devised accordingly to maximise the council's chances of securing government funding for certain elements of this project and, in turn, reap the benefits to the residents and business in the borough.
48. **Market consultation:** The council formally commenced the market consultation period by issuing a Prior Information Notice ("**PIN**") on the Official Journal of the European Union on 7 July 2017 (this was officially published and became visible to suppliers on 11 July 2017). To help make the most of the market consultation, as well as publishing the PIN, a list of known suppliers that the council was keen to involve in the market engagement process were approached directly by email. A market engagement event then took place on 25 July 2017 at Canada Water Library and included both a plenary session and one to one meetings with suppliers. From consulting the market the council has been able to understand the options/models available and identify common blockers which often delay the roll out of fibre broadband across the country discussed in this report.
49. Internally, extensive consultations have been held over the past few months with those council divisions and teams that will play either a direct or indirect role in delivering the new Digital Infrastructure Strategy. This stakeholder engagement process has been integral to obtaining council-wide buy-in of the new strategy, its proposed delivery mechanisms and approaches.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Director of Law and Democracy**

50. This report seeks cabinet's approval of a number of recommendations in relation to options for broadband in the Rotherhithe area, and improving connectivity in the borough as a whole. External legal advice has been sought throughout the duration of this project, and in relation to the report and its recommendations which

has identified that the key points to note are consideration of (a) the council's obligations to ensure best consideration is achieved when granting wayleaves in accordance with the proposed wayleave strategy; and (b) the state aid implications of the wayleave strategy.

51. In relation to best consideration, the relevant legislation here is s123 of the Local Government Act 1972, which states as follows:
  - i. Subject to the following provisions of this section, a principal council may dispose of land held by them in any manner they wish.
  - ii. Except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.
52. As the grant of a wayleave constitutes a disposal of land in the present circumstances, s123 is engaged here. However, in the Local Government Act 1972: General Disposal Consent (England) 2003, the Secretary of State provides councils with general consent to dispose of land (otherwise than by way of a short tenancy) where, (a) the council considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the promotion or improvement of economic wellbeing; social well-being; environmental wellbeing of the whole or any part of its area, or of all or any persons resident or present in its area; and (b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).
53. As further detailed in paragraphs 6 to 9 and paragraph 25, it is believed that the roll out of fibre broadband to areas of the borough which are currently (comparatively) digitally under-developed would lead to the promotion and / or improvement of economic, social and environmental wellbeing of the borough. Furthermore, and as suggested in paragraph 26, the unrestricted value of the wayleaves being proposed as part of the wayleave strategy will fall significantly below £2,000,000. On this basis, the council is empowered to dispose of its interests in land (by way of the proposed wayleaves) in accordance with the general consent to dispose of land referred to above.
54. In relation to state aid, a risk could arise if the council disposes of wayleave rights at no cost (or at below market value) without having run an open competition to determine the most economically advantageous option for disposing of those rights. However, in order for state aid to be unlawful, it must favour certain undertakings and also distort (or threaten to distort) competition. As the council is on this occasion proposing to make wayleaves openly and equally available to anyone who wishes to receive the benefit of one, the council's approach would not favour certain undertakings but rather be available to any interested fibre providers.
55. However the position regarding s123 and state aid should be kept under review as the digital infrastructure strategy and wayleave strategy are deployed, to ensure that the council continues to comply with both of these areas of law.
56. The cabinet's attention is drawn to the Public Sector Equality duty (PSED General Duty) under the Equality Act 2010, and when making decisions to have regard to the need to (a) eliminate discrimination, harassment, victimisation or other prohibited conduct, (b) to advance equality of opportunity and (c) foster good

relations between persons who share a relevant protected characteristic and those who do not share it. The relevant characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty also applies to marriage and civil partnership but only in relation to (a). The cabinet is specifically referred to the community impact statement at paragraph 42, setting out the consideration that has been given to equalities issues which should be considered when approving the recommendations in this report. The cabinet is also referred to paragraphs 43 - 49 which sets out the consultation that has taken place. To meet legal requirements, consultation must be undertaken when proposals are still at a formative stage, must be meaningful, including sufficient reasons for the proposal and allow adequate time for consideration and response. The outcome of the consultation must be conscientiously taken into account when considering these recommendations and when decisions are made throughout the life of the project.

### **Strategic Director of Finance and Governance**

57. This report sets out the strategic approach for the development of a Digital Infrastructure Programme across the borough and specifically for broadband connectivity improvements in the Rotherhithe and Surrey Docks wards.
58. The market engagement exercise and options appraisal process has revealed considerable appetite for the provision of high speed broadband services and the council, in conjunction with industry advisers, has embarked on negotiations with a number of network operators for the installation of new wireless telecommunications equipment on council buildings and the renegotiation of terms on existing sites. The proposed lease rentals have been benchmarked against comparable Central London sites and are deemed to represent best consideration. Furthermore, none of the proposed leases grant exclusivity, leaving the council free to enter into further agreements with other operators on the same sites going forward. These sites are predominantly housing assets held in the HRA and three corporately held assets in the GF.
59. This will generate a valuable additional on-going revenue stream (yet to be fully determined) for the council over the next 12-15 years to support the HRA principally and to a much lesser extent the GF. All installation, maintenance and associated costs remain with the operator.
60. Inherent in the proposal is to establish a specific budget of £200k per annum for two years funded from the additional rental stream to support the development of the Digital Infrastructure Programme across the borough in line with the council's Fairer Future promise. This will be addressed as part of the annual HRA budget setting round and the initial funding will be subject to review after two years.
61. The aim has always been to minimise the financial impact on the council and the proposals outlined in this report seek to achieve this by generating new income from the council's assets, sufficient to fund development of the Digital Infrastructure Programme. The report also makes reference to the availability of central government funding to invest in locally-led broadband projects and the council has already submitted an initial expression of interest in this programme and is awaiting further information about the bidding round. The council will also explore other opportunities to leverage in other funding where available.

## BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Gateway 0: Consideration of Options for Broadband in Rotherhithe	Housing & Modernisation, 160 Tooley Street, London, SE1 2QH	Bill Day  0207 525 0162
<p><b>Link (please copy and paste into your browser):</b></p> <p><a href="http://moderngov.southwark.gov.uk/documents/s69037/Report%20Gateway%20%20Consideration%20of%20options%20for%20broadband%20in%20Rotherhithe.pdf">http://moderngov.southwark.gov.uk/documents/s69037/Report%20Gateway%20%20Consideration%20of%20options%20for%20broadband%20in%20Rotherhithe.pdf</a></p>		
Rotherhithe Broadband Resident Survey	Housing & Modernisation, 160 Tooley Street, London, SE1 2QH	Bill Day  0207 525 0162
<p><b>Link (please copy and paste into your browser):</b></p> <p><a href="https://consultations.southwark.gov.uk/housing-community-services-department-community-engagement-team/broadband-to-rotherhithe-resident-survey/">https://consultations.southwark.gov.uk/housing-community-services-department-community-engagement-team/broadband-to-rotherhithe-resident-survey/</a></p>		

## APPENDICES

No.	Title
Appendix 1	Common broadband technologies available to the residents in the Rotherhithe
Appendix 2	Connectivity work already being undertaken by the council
Appendix 3	Market position
Appendix 4	Digital Infrastructure Strategy
Appendix 5	Digital Infrastructure Programme – Governance Structure

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Fiona Colley, Finance, Modernisation and Performance	
<b>Lead Officer</b>	Emma Marinos, Director of Modernise	
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<b>Version</b>	Final	
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<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>		20 October 2017