

**Corporate Infrastructure & Regulatory Services
Scrutiny Committee**

Broadband & Mobile Connectivity Task Group

Final Report

March 2018

1. Recommendations

The Task Group asks the Corporate Infrastructure & Regulatory Services (CIRS) Scrutiny Committee and Cabinet to endorse and action the recommendations below. The Task Group requests that a two part report should be brought back to the CIRS Scrutiny Committee in six months' time outlining:

- (a) progress against the Recommendations in this Report; and
- (b) progress of the Phase 2 roll out and proposed plans for the investment of gainshare monies

1	<p>RECOMMENDATION 1 IMPROVED DIALOGUE BETWEEN CDS, PROVIDERS AND THE PUBLIC</p> <p>Through the Cabinet Member for Economy & Skills, CDS be requested to:</p> <ul style="list-style-type: none"> (a) Within the next three months, arrange and hold a stakeholder event in each 'lot' area, plus the two National Parks, with representatives from Airband or Gigaclear in attendance as relevant. These events should be used to inform local residents and businesses of roll out progress, as well as hearing and taking on board the concerns of local people. These stakeholder events should as a minimum, be repeated annually. (b) Produce a quarterly newsletter, to be published in Parish magazines and on the CDS website for each 'lot' area and the National Parks, detailing progress made to date (to include numbers of homes reached and take up) and outlining topics covered and discussion at the stakeholder events. (c) Begin using social media to inform residents and businesses about roll out progress. (d) Publish this Report on their website.
2	<p>RECOMMENDATION 2 IMPROVED TRANSPARENCY OF DECISION MAKING</p> <p>Through the Cabinet Member for Economy & Skills, CDS be requested to:</p> <ul style="list-style-type: none"> (a) Publish on their website the unredacted action plans for meetings of the CDS Board of 6th December 2011, 18th October 2013, 12th December 2014 and 13th March 2015. (b) Ensure that the Board's action lists are published on the CDS website within a week of the meeting being held. (c) Publish the Devon and Somerset Superfast Broadband Programme Audit Report, dated September 2015 on the CDS website.
3	<p>RECOMMENDATION 3 MEANINGFUL CONSULTATION ON GAINSHARE / TAKE UP CLAWBACK</p> <p>Through the Cabinet Member for Economy & Skills, CDS be requested to commit a specific personnel resource to carry out a full consultation with communities on the options available for the spending and allocation of gainshare monies, including options for community match funding. The consultation should run for a minimum of 12 weeks, with an update on consultation methods and engagement circulated to the CIRS Scrutiny Committee promptly at 6 weeks. Given lack of digital connectivity in the communities at hand, the consultation should be available and promoted offline (i.e. in paper form), through Town and Parish Councils, libraries, local pubs and other community facilities and meeting places.</p>

4	<p>RECOMMENDATION 4 BETTER DIGITAL SKILLS FOR COMMUNITIES</p> <p>Through the Cabinet Member for Economy & Skills, CDS be requested to secure further funding to continue to provide digital skills workshops for communities across Devon increasing digital confidence and connectedness.</p>
5	<p>RECOMMENDATION 5 REMOVE THE COST THRESHOLD FOR THE BROADBAND USO</p> <p>The Cabinet Member for Economy & Skills to lobby Government to widen the Universal Service Obligation to ensure that <u>all</u> premises in Devon and across the UK have the right to request access to a broadband connection of at least <u>30Mbps</u>.</p>
6	<p>RECOMMENDATION 6 ALL NEW DEVELOPMENTS IN DEVON TO PROVIDE SUPERFAST BROADBAND ACCESS TO HOMES</p> <p>The County Council to work with Devon District Councils and the two National Parks to develop a co-ordinated and pragmatic approach to broadband infrastructure and planning conditions, recognising superfast broadband as the fifth utility and ensuring all new homes have access from day 1.</p>
7	<p>RECOMMENDATION 7 CLARITY AND TRANSPARENCY ON COMMERCIAL PLANS</p> <p>The County Council to lobby Government to require all wholesale providers of both broadband and mobile infrastructure to publish detailed commercial roll out plans so that communities and businesses are informed and able to plan for their digital future.</p>

2. Background

Broadband Connectivity in Devon

2.1 Improved broadband connectivity has already been provided to a great number of Devon homes and businesses by commercial providers such as BT and Virgin.

2.2 The Connecting Devon & Somerset (CDS) programme was set up under the Government's Superfast Broadband Programme to deliver next generation broadband infrastructure to areas where the commercial market has failed to invest. Whilst the ambition for the programme was to achieve close to 100% superfast coverage, it was acknowledged and expected that there would be a small percentage of premises across the CDS area which would not be covered by commercial plans or the main phases of the CDS programme.

Mobile Connectivity in Devon

2.3 The majority of improvements to mobile phone connectivity (voice and data) in Devon is expected to be delivered by commercial providers. Acknowledging that a number of 'not spots' are likely to remain, the Council and local authority partners are exploring the range of potential options for using public subsidy to improve mobile phone coverage across the Heart of the South West Local Enterprise Partnership (HotSW LEP) area.

Scope of the Review

2.4 Since March 2012, the Council's Scrutiny function has monitored the roll out of the CDS Programme and more recently mobile connectivity, through regular reports to its Place Scrutiny Committee. Members of the Corporate Infrastructure & Regulatory Services Scrutiny Committee felt that a more in depth and robust approach should be taken going forward, and that a Task Group, which would drill down into the detail and examine the complex issues at hand, would be the best approach. Due to the public interest in the topic, the Chair stated that an update report on the work and findings of the Task Group be brought to the Committee, until the work of the Task Group was complete.

2.5 The scope of the review was to:

- Consider the impact of improved broadband and mobile phone connectivity across Devon on the local economy and local people;
- Monitor and scrutinise the progress of the continued rollout of the CDS programme and digital connectivity in the County;
- Consider how coverage and speeds for premises not covered by Phase 1 or 2 of the CDS programme can be best improved;
- Monitor and scrutinise the progress of mobile phone coverage improvements across Devon;
- To report back on a regular basis and make recommendations as appropriate to the Corporate Infrastructure & Regulatory Services Scrutiny Committee.

2.6 The Task Group recognised at an early stage of this review the relevance of both broadband and mobile connectivity to the wider digital infrastructure agenda and the Devon economy, and as such both areas have been explored in some detail. However, the majority of the key issues for review related to the roll out of the Connecting Devon and Somerset programme and as a result this report has a greater focus on broadband.

2.7 The Corporate Infrastructure & Regulatory Services Scrutiny Committee may wish to carry out a follow up piece of work which looks in more detail at mobile connectivity, particularly in relation to the availability of mobile internet across the County, against claims made by mobile providers, and to monitor the rollout of the publicly funded programme to service 'not spots'.

2.8 Somerset County Council's Policy and Place Scrutiny Committee were invited to join this review, but this offer was not taken up.

3. Findings

Why is Broadband and Mobile Connectivity important?

3.1 The Devon economy is characterised by its thousands of small businesses, with high levels of self-employment and large numbers of people working in rural areas. Agricultural activity in the county is four times that of the national average, and the number of tourism businesses is twice the national average¹. These industries are operating more than ever online, and newer areas of business such as science and technology are emerging in Devon but are often struggling to prosper with insufficient digital connections.

3.2 Broadband and mobile phone connectivity is vitally important to enable businesses and individuals to undertake tasks such as maintaining a website, responding to emails, completing tax returns, purchasing and selling, using cloud based software and the use of smart phone apps (the latter has been highlighted as a particular issue within agriculture). Tourists and visitors to Devon increasingly expect to be able access the internet on the move, whether they are in the middle of a town or the moor.

3.3 The inconsistency of broadband and mobile internet coverage in the region has been raised as a key issue by the business community and by town and parish councils; businesses cannot be certain about when they will have a connection and when they will not. The Task Group has also heard reports of businesses moving out of Devon to Bristol or even Cornwall, where broadband and mobile internet coverage is seen as better and more reliable.

3.4 The report of the South West Rural Productivity Commission² highlights Broadband and Mobile Connectivity as a key growth theme and states that 'improving digital connectivity has the potential to be a 'game changer', but if left unresolved will result in 'left behind' communities'. The report goes on to say that 'without exception, every contributor to the commission raised the issue of broadband and mobile connectivity. It is now viewed as an essential utility to allow businesses to function'. This view was echoed by many Task Group witnesses, and there is real concern that it is the lack of digital connectivity that is holding Devon back from competing on a national and European scale.

3.5 Although the effect on the economy and productivity has been the driving force for this review, the impact on communities, health and wellbeing and education is a key consideration. Digital connectivity has the potential to alleviate rural social isolation, enabling people to make social connections online and access services. The health and social care sector has begun to make use of innovations in tele-care, and school children increasingly need internet access to complete homework. This means that many communities and individuals without access to sufficient broadband are disadvantaged in their everyday lives.

¹ <http://www.devonomics.info/devon-story>

² <http://heartofswlep.co.uk/wp-content/uploads/2017/10/HotSW-14332-A4-Overview-report-digital-doc-FINAL.pdf>

The Connecting Devon & Somerset Programme – A Timeline

3.6 While conducting this review, the Task Group was conscious that it's ambition was to be forward looking and make recommendations which would contribute towards the improvement of digital connectivity in Devon. However, to do this it has been necessary to reflect on the work undertaken through the CDS programme from its inception to the beginning of this Task Group review, and as such a timeline covering this activity is outlined below.

Phase 1

3.7 The Government launched their strategy 'Britain's Superfast Broadband Future' at the end of 2010, outlining their ambition to dramatically increase superfast broadband access across the UK. The strategy, managed by the Government's Broadband Delivery UK (BDUK) included considerable funding to help local authorities deliver broadband into areas that were not covered under a declared commercial programme.

3.8 Throughout 2011, Devon County Council worked to form a partnership with Somerset County Council, Torbay Council, Plymouth City Council and North Somerset Council and to develop a bid for funding from BDUK. Governance arrangements and financial commitments were agreed by the respective councils and the Connecting Devon & Somerset (CDS) Board formed (Bath and North East Somerset Council joined the programme in January 2012).

3.9 Following a successful bid for funding, the CDS Board took the decision to support the BDUK national framework rather than procure a broadband supplier independently. At this point in time there were very few providers in the market and the decision was made on the basis that the national framework would provide a competitive process and allow CDS to appoint a supplier and begin delivery at the earliest possible stage.

3.10 Only two providers met the requirements of the national framework - BT and Fujitsu. Other suppliers either failed the framework criteria or withdrew from the process. CDS worked closely with BDUK during the framework process to ensure that rural areas such as Devon and Somerset were properly served.

3.11 On 29th June 2012 CDS launched their invitation to tender for the first phase of the superfast broadband programme to provide wholesale broadband infrastructure capable of delivering superfast speeds (24Mbps+) and sought highest possible levels of superfast coverage to support Government's 90% coverage target. The invitation to tender required suppliers to complete its deployment by March 2015.

3.12 Only BT responded to the invitation to tender with a submission bid. CDS were not alone in this scenario; Fujitsu did not bid for any programme tenders nationwide. BDUK has been widely criticised for its management of the national framework, resulting in a tender process which appeared to favour BT. While maintaining that the framework offered value for money, the Government admitted that due to the scale of work and infrastructure required 'there are some projects which are not as commercially competitive³'.

³ <http://www.computerweekly.com/news/2240179713/Fujitsu-pulls-out-of-BDUK>

3.13 The tender was awarded to BT and the contract was signed in January 2013. An extended procurement period, delays in achieving state aid, along with the vast engineering challenge led to some delay, and at this stage deployment was rescheduled and expected to complete by December 2016. BT missed this target by circa 1700 premises and fully concluded delivery in March 2017.

3.14 The majority of the Phase 1 delivery was achieved through fibre to the cabinet (FTTC) technology, with a small number of harder to reach homes and businesses benefitting from fibre to the premises (FTTP).

Phase 2

3.15 In 2014 the Government announced a superfast broadband extension programme, providing funding on a matched funded basis with the aim of achieving 95% superfast coverage nationally by the end of 2017. The superfast extension was initially planned to be an open tender process, however, delayed and limited responses to the open market review and following a supplier engagement event held in November 2014, the CDS Board concluded that the risks associated with an open procurement process outweighed the benefits⁴. Consequently, and recognising the bespoke nature of the solution required for the two National Parks, two separate procurement processes were run; an open procurement process focussing on the National Parks and a separate tender was undertaken through the national framework for the remainder of Devon and Somerset.

3.16 Two responses were received for the National Parks tender. Following evaluation and moderation, Airband, a provider of fixed wireless broadband, were selected as the Preferred Bidder. Following due diligence and state aid approval, the contract was signed on 30th June 2015.

3.17 The response from BT through the national framework was evaluated and moderated and deemed to be deficient in a number of areas, proposing to use all available public funding, delivering below the target levels of connections in terms of homes reached and proposed not to complete until 2021/22. BT were not elevated to preferred bidder status and discussions were held between CDS, BT and BDUK to address the areas where the bid fell short. Despite this, the tender was still considered not to meet value for money and was therefore rejected. BT were informed of the outcome on 26th June 2015.

3.18 As a result of the failed procurement exercise CDS made the decision to undertake an open market tender process. An Open Market Review was launched in March 2016 and good engagement with suppliers was achieved, representing a range of technologies. Following advice from BDUK and the EU, the CDS Board agreed a lotting approach to procurement, which divided the Devon and Somerset area into six lots.

3.19 CDS received a number of bids across all lots, and in Spring 2017 awarded the lot 4 contract to Airband (already contracted to deliver the National Parks part of the programme). Gigaclear, a fibre to the premises rural broadband specialist, were awarded lots 1, 2, 3, 5 and 6.

⁴ <https://www.connectingdevonandsomerset.co.uk/wp-content/uploads/2016/06/CDS-Phase-2-Audit-Report.pdf>, p5

Broadband voucher scheme

3.20 To help meet the additional Government target of ensuring that all businesses and residents have access to at least 2 Mbps, CDS created a Broadband Voucher Scheme which allowed anyone within the CDS area with a current broadband speed of less than 2 Mbps and who would not be included in the main CDS or commercial programmes, to apply for a £500 voucher to go towards the installation cost of a new alternative broadband connection. Residents and businesses could choose their supplier from an approved list which included satellite, wireless and fibre providers, all of which guaranteed at least 10 Mbps download speed.

3.21 As of March 2017, over 4600 vouchers had been approved and over 850 installations taken place. The application process is currently paused while the scheme is reviewed.

Transparency and Communication

3.22 CDS has come under public criticism about the way it has conducted its business and communicated with communities and businesses.

3.23 One of the most provocative subjects was the lack of available public information on planned premises connections relating to the Phase 1 roll out. CDS were unable to tell communities and businesses whether they would be included in the Phase 1 programme in advance of the work actually being carried out. This was due to non-disclosure clauses in the contract with BT, negotiated by Government, which classed this as Commercially Sensitive Information (CSI). Also worth noting is that CDS agreed deployment with BT at postcode not premises level, and therefore premises specific information was not a requirement of the contract.

3.24 Clearly, this was extremely frustrating for communities and businesses who were left not knowing when or even if they would have access to improved broadband speeds under the Phase 1 roll out. This uncertainty meant that individuals, communities and businesses could not make informed decisions about whether to seek alternative solutions (for businesses this often involved paying for an expensive fixed line) and impacted on their qualification for the CDS voucher scheme, which was only available to those who would not be covered by the main commercial or publicly funded programmes.

3.25 CDS have acknowledged the difficult situation many communities and businesses found themselves in as a result, but were bound by the terms of the contract with BT. However, CDS consider that they have taken a robust approach and have done their best within these constraints to update and keep communities informed. CDS have also provided evidence of the difficulties non-disclosure clauses presented for both communities and the programme, when invited as a witness to the Culture, Media and Sport Select Committee inquiry Establishing World Class Connectivity Throughout the UK. Critics however argue that CDS showed naivety and lack of foresight in entering into a contract which contained such restrictions.

3.26 Coverage information under Phase 2 has been more freely available than under Phase 1, although the publication of information has been slower than many would like. CDS have preferred to only release coverage information when details are certain, rather than risk overpromising on coverage. However, the Phase 2 contracts do not contain the same non-disclosure clauses as the Phase 1 contract and Gigaclear has now published roll

out schedule on their website and both Gigaclear and Airband websites operate a postcode checker and the opportunity to sign up for email updates.

3.27 Experiences shared by witnesses and town and parish councils indicates that many people feel communication from CDS has been poor, during both phases of the programme. In addition some feel that CDS only provide 'good news' stories rather than reporting on the real experiences of the public, and others feel that information is being purposely withheld or is misleading.

3.28 Meetings of the CDS Board are held in private and some questions have been raised as to the reasons for this. CDS have advised that these meetings are primarily contract management meetings with providers, and this being the case, it seems reasonable that the majority of discussion at these meetings is genuinely commercially sensitive and justified as being closed to the public. Brief action notes are published following these meetings on the CDS website with commercially sensitive information being redacted. However, these notes are not detailed, and there remains a need to provide accurate and up to date information about delivery to the public.

3.29 As recommended by the Place Scrutiny Committee at their meeting of 3rd September 2015⁵, an independent audit was undertaken of the first Phase 2 procurement process. The final report of the South West Audit Partnership concluded that both Phase 2 procurement processes were robust with no significant areas of non-compliance identified. Although governance arrangements were clearly in place and decision making compliant with this, a small number of recommendations were made to ensure continued oversight and strengthened governance for the next procurement phase⁶. This report is published on the CDS website.

3.30 Prior to the request from Place Scrutiny, an internal audit report was conducted by Devon Audit Partnership and concluded in September 2015 giving an audit opinion of a High Standard, noting that the system and controls in place adequately mitigated exposure to the risks identified. This report is not currently in the public domain.

3.31 Whilst recognising the complex and historic reasons for poor communication and lack of information around coverage and delivery, the Task Group has identified this as a fundamental weakness in the delivery of the CDS Programme to date, resulting in diminished public trust and widespread frustration. CDS Board meetings may continue to be held in private for reasons of commercial confidentiality, but notes from past meetings no longer deemed commercially sensitive should now be published. Going forward, residents and businesses need to be kept informed of progress and mechanisms should be put in place to do this. Broadband campaign groups are very active online and on social media, and there is an opportunity for CDS to increase its profile on platforms such as twitter and Facebook.

⁵<http://democracy.devon.gov.uk/CeListDocuments.aspx?MID=1510&RD=Minutes&DF=03%2f09%2f2015&A=1&R=0>

⁶ <https://www.connectingdevonandsomerset.co.uk/wp-content/uploads/2016/06/CDS-Phase-2-Audit-Report.pdf>

RECOMMENDATION 1

IMPROVED DIALOGUE BETWEEN CDS, PROVIDERS AND THE PUBLIC

Through the Cabinet Member for Economy & Skills, CDS be requested to:

- (a) Within the next three months, arrange and hold a stakeholder event in each 'lot' area, plus the two National Parks, with representatives from Airband or Gigaclear in attendance as relevant. These events should be used to inform local residents and businesses of roll out progress, as well as hearing and taking on board the concerns of local people. These stakeholder events should as a minimum, be repeated annually.
- (b) Produce a quarterly newsletter, to be published in Parish magazines and on the CDS website for each 'lot' area and the National Parks, detailing progress made to date (to include numbers of homes reached and take up) and outlining topics covered and discussion at the stakeholder events.
- (c) Begin using social media to inform residents and businesses about roll out progress.
- (d) Publish this Report on their website.

RECOMMENDATION 2

IMPROVED TRANSPARENCY OF DECISION MAKING

Through the Cabinet Member for Economy & Skills, CDS be requested to:

- (a) Publish on their website the unredacted action plans for meetings of the CDS Board of 6th December 2011, 18th October 2013, 12th December 2014 and 13th March 2015.
- (b) Ensure that the Board's action lists are published on the CDS website within a week of the meeting being held.
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Procurement, challenges and delays

3.32 The timeline at the beginning of this report shows clearly that both phases of the CDS programme has experienced some setbacks. The original invitation to tender for Phase 1 expected completion by March 2015. Following the procurement process this was reassessed and a target completion date was set on December 2016. When BT failed to meet this target a Remedial Plan was put in place and the delivery stage was finally completed in March 2017.

3.33 The decision by CDS to rerun the procurement process for Phase 2 greatly delayed the start of deployment, however despite this CDS remain confident that the delivery of new fibre and wireless services delivered by Airband and Gigaclear will be completed sooner (by March 2020), than if BT had been awarded the contract (by 2021/2022), as well as bringing superfast / ultrafast broadband to more premises.

3.34 In terms of deployment, all three providers have faced challenges. Any provider needing to carry out works on private land, whether ground works or the erection of transmitter masts, requires negotiation with land owners, and this has caused delays and challenges at times.

3.35 Transmitter masts used by Airband also require planning permission, and particularly in the National Parks where planning controls are tighter, this has required a variety of approaches, including working closely with communities and the use of natural materials for masts which blend into the rural environment.

3.36 Both BT and Gigaclear have needed to undertake works on the Highway which has involved working collaboratively with both Devon and Somerset Highways Teams. Gigaclear are keen to use 'narrow trenching' techniques as part of their deployment which allows works on the highway to be completed more quickly, however Devon County Council's Highways Team has expressed concern around this technique, citing evidence of negative experiences in other local authority areas. The Council's Highways Team, CDS and Gigaclear are working together to find a solution. In the same vein, the Highways Team have agreed to manage broadband infrastructure works as 'standard' rather than 'major' works, meaning the notice period that contractors are required to give to the Highways Team before they begin works is much shorter.

3.37 During the Task Group's review, construction firm Carillion collapsed into liquidation. Carillion operates a joint venture partnership, CarillionTelent, with UK technology and network specialists Telent. The joint venture is the main civil engineering contractor employed by Gigaclear to deliver their part of the Phase 2 programme. CDS have received assurances that Gigaclear has robust contingency plans and that they have a range of options available to deal with any change in circumstances affecting its sub-contractors. Dialogue between the CDS and Gigaclear is ongoing, to ensure that work continues to be delivered on time and on budget. Gigaclear's capacity to deliver their part of the programme was tested as part of the procurement process.

3.38 It would be easy to be critical of CDS's progress if purely comparing target and actual delivery timescales, however this does not tell the full story. The Devon and Somerset landscape is not only vast but varied in terrain and accessibility, and it seems that providers have at times underestimated the infrastructure requirements of this. At various times, CDS has needed to await BDUK negotiations with the EU, state aid approval and awards of additional funding, all of which impacted on their ability to maintain initial delivery targets.

3.39 We could also look back now with hindsight at the procurement processes for Phase 1 and 2 and be critical of the decision to use the national broadband framework, but it is important to remember that broadband technology and the market is considerably more advanced today than it was even a few years ago, and that the options available to CDS at that time were quite restrictive. Considering all evidence seen to date, including the opinion laid out in the audit report of the Phase 2 procurement, the Task Group considers that overall CDS has made good decisions, in the public interest, based on information available at that time.

Coverage and user experience

3.40 Supporting business and improving productivity is a key ambition of the CDS programme and as such the Task Group was concerned to hear that companies based in business parks felt that they had not been catered for. However CDS have advised that a high number of business parks were included in both phases of the roll out (some being part CDS funded and part commercial provision) including Marsh Barton, Dunkeswell, Pitts Cleave and Winkleigh.

3.41 The Phase 1 programme delivered by BT consisted for the most part of fibre to the cabinet (FTTC) technology. This involved upgrading connections between the telephone exchange and the roadside green cabinet to fibre optic cable, which then connects to the copper cabling running to individual homes and businesses. In sparsely populated rural areas, green cabinets can be situated at a considerable distance from homes and businesses. The greater length of copper cable connecting the green cabinet to a premises, the slower the actual broadband speed received will be, with some estimates claiming that premises that sit more than 1000 metres from the green cabinet may not receive superfast (24Mbps+) speeds⁷. However, Government targets only require a premises to be connected to an upgraded green cabinet to be considered a 'home passed', which leaves some discrepancy between Government figures, and the actual experience of communities and businesses.

3.42 In terms of superfast connections through the publicly funded programme, CDS has overachieved on its Phase 1 target, providing superfast connections to over 280,000 homes and businesses. However, due to the underperformance of the commercial sector's private investment plans, CDS has fallen short of the governments ambition of 90% 'homes passed'. CDS report that actual 'homes passed' is around 88%.

3.43 The signal strength of fixed wireless broadband can also be diminished, if obstacles such as buildings and trees are located between masts and homes. Such issues should be taken into account in the planning and deployment stages, but problems with actual speeds available have been reported in areas covered by Airband. In addition, the Task Group has heard reports of Airband 'splitting' IP addresses which prevents users from accessing services which require two-way authentication, such as online banking. Airband have responded stating that this approach has been taken in response to the worldwide shortage of IP addresses, and that they can provide single IP addresses (at an additional cost) to customers upon request.

3.44 Data collected by thinkbroadband, an independent broadband news and information site, reports that 86.2% of premises in Devon and 87.85% of premises in Somerset have access to superfast broadband⁸, and that these figures take into account the distance limitations of fibre to the cabinet connections.

Take up clawback and gainshare

3.45 Now that Phase 1 deployment is complete, CDS are working to verify 'homes passed' figures with BT. Take up clawback monies are what BT owe to CDS where take up exceeds the BT base used in their financial model of 20%. This is set out in the contract. The National Broadband Framework was based on a gap funded model, and therefore the contract held with BT works on the same basis. Under this model, CDS gap fund the difference between the level of commercial investment offered by the supplier and the total cost to deliver the proposed solution. The commercial case for BT's level of investment would have been based on a number of factors, including the amount of revenue generated through take up of the wholesale services delivered. These were set at 20%. Where take up is higher than the 20%, the model would have required less public investment, as it would

⁷ <https://www.thinkbroadband.com/guides/fibre-fttc-ftth-broadband-guide>

⁸ <https://labs.thinkbroadband.com/local/>

have triggered more commercial investment from BT and less public subsidy from CDS. Under the terms of the contract and required under state aid, this 'over payment' needs to be clawed back by the public sector from BT. This is known as 'take up clawback'.

3.46 Clawback is calculated at the end of the deployment phase in the contract, then again after two years, again two years later, and finally after the final year (the BT contract is for 10 years in total). When take up levels were projected to be higher than the 20% baseline used by BT they offered to release some of this money early to local bodies including CDS. This is what is referred to as 'gainshare'. Government were required to re-negotiate the national State Aid Approval Scheme, and as part of agreeing a new National Broadband Scheme, reached an agreement that across the UK local bodies could reinvest up to £129 million of take up clawback sums (including early gainshare) with BT and without running a new open procurement. The early gainshare offer from BT was calculated by BT using the same model as for all other local body contracts. For CDS the sum offered was £4.8m, and was based on 30% take-up.

3.47 It is expected that take up clawback will exceed this sum over the next seven years. The higher take up is, the higher the final gainshare calculation will be, and CDS are working to promote take up across Devon and Somerset.

Beyond Phase 2 and reaching the very rural

3.48 Phase 2 deployment is due to complete by March 2020, which aims to provide superfast broadband access to 95% of premises. How to improve broadband speeds for the remaining, deep rural areas, which are difficult to reach with cable, remains the biggest challenge.

3.49 Airband and CDS are working on new equipment which can bounce signal off publicly owned structures as a way of overcoming line of site obstructions, as well as looking at White Space and other technologies.

3.50 Take Up Clawback monies provide an opportunity for CDS to invest in improving broadband in these very rural areas. CDS are taking this forward initially with Gainshare sums and are checking the state aid requirements to re-test commercial plans and then plan to run a public consultation.

3.51 It is vital that any public consultation on the spending of gainshare monies is adequately resourced and reaches the communities who are most in need.

RECOMMENDATION 3 MEANINGFUL CONSULTATION ON GAINSHARE

Through the Cabinet Member for Economy & Skills, CDS be requested to commit a specific personnel resource to carry out a full consultation with communities on the options available for the spending and allocation of gainshare monies, including options for community match funding. The consultation should run for a minimum of 12 weeks, with an update on consultation methods and engagement circulated to the CIRS Scrutiny Committee promptly at 6 weeks. Given lack of digital connectivity in the communities at hand, the consultation should be available and promoted offline (i.e. in paper form), through Town and Parish Councils, libraries, local pubs and other community facilities and meeting places.

Digital Learning and Support

3.52 The economic and social benefits of improved broadband cannot be fully realised by simply providing superfast connections. Communities and businesses need to understand the possibilities that improved broadband provides and CDS have utilised EU funding to run the 'Get up to Speed' initiative, which has provided free workshops and talks for communities and businesses to help boost digital skills and share the benefits of superfast broadband. The first part of this scheme concluded in February 2018 but CDS have applied for funding to run a follow on programme which will be focused on businesses, and plans to address digital innovation in business as well as digital skills and capability.

3.53 Members have themselves seen the impact that these workshops have had on communities and individuals, providing people with the confidence to engage in the digital world and improve their skills. These workshops are relatively inexpensive for CDS to provide, but offer a valuable and much needed learning opportunity for many people.

RECOMMENDATION 4 BETTER DIGITAL SKILLS FOR COMMUNITIES

Through the Cabinet Member for Economy & Skills, CDS be requested to secure further funding to continue to provide digital skills workshops for communities across Devon increasing digital confidence and connectedness.

Universal Service Obligation

3.54 In December 2017 the Government announced that it was introducing a Universal Service Obligation (USO) for broadband⁹, with the intention of delivering broadband connections to those premises not included in previous superfast broadband schemes by 2020. The USO intends to provide a legal right to request a broadband connection of at least 10 Mbps download speed from a designated provider who will be obliged to provide a connection. However a caveat exists where providers will only be obliged to provide a connection 'up to a reasonable cost threshold'. Ofcom reports that 1.1 million premises (4%) in the UK would qualify for the USO. It is not yet clear what percentage of premises would likely qualify in Devon, but it seems likely that a number of rural homes will remain unconnected.

RECOMMENDATION 5 REMOVE THE COST THRESHOLD FOR THE BROADBAND USO

The Cabinet Member for Economy & Skills to lobby Government to widen the Universal Service Obligation to ensure that all premises in Devon and across the UK have the right to request access to a broadband connection of at least 30Mbps.

New housing developments

3.55 Housing developers have been widely criticised for not ensuring that new builds have broadband infrastructure. Government advice is that planning authorities should be considering superfast broadband provision in their decision making but there is currently no

⁹ <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8146>

statutory requirement to do so. CDS and upper tier councils have very limited power in influencing this but pressure is being put on through the Greater Exeter Strategic Plan (GESP) Board.

3.56 However, demand for superfast broadband is growing from new home buyers and this is having an impact on developers. In addition BT now offer to fit fibre to the premises in any development of twenty or more houses, but this does tie residents in with BT as the internet service provider. There are also issues over the timescales for delivering on this commitment.

3.57 More long term, the GESP (looking forward to 2040) recognises the significance of digital infrastructure (broadband and mobile) to support housing growth and the economy. A digital connectivity study has recently been commissioned to look at the economic impact of improved digital technology and the infrastructure needed. This is expected to include recommendations for future planning policy, ensuring that investments are future proof.

3.58 Sufficient broadband is fast becoming as important to families and communities as any other utility but is yet to be properly recognised as such by developers and planning authorities. To ensure a joined-up approach to digital infrastructure planning, housing and the economy, the GESP team and councils will need to work closely with the other planning authorities across Devon, as well as the Heart of the South West Local Enterprise Partnership (HotSW LEP).

RECOMMENDATION 6

ALL NEW DEVELOPMENTS IN DEVON TO PROVIDE SUPERFAST BROADBAND ACCESS TO HOMES

The County Council to work with Devon District Councils and the two National Parks to develop a co-ordinated and pragmatic approach to broadband infrastructure and planning conditions, recognising superfast broadband as the fifth utility and ensuring all new homes have access from day 1.

Mobile connectivity

3.59 There are very few areas across Devon which are not commercially viable for commercial providers and therefore there has been a far greater proportion of private sector investment in mobile phone infrastructure than in broadband. However there remains around 5000 premises in Devon that do not have any mobile phone coverage, often referred to as 'not spots'.

3.60 Smart phones are increasingly becoming the device of choice for accessing the internet and for conducting both personal and business affairs on the move. In the past, there has been a clear focus on access to broadband, but it is now acknowledged that access to sufficient mobile internet is today a key factor in the development of the local economy.

3.61 The HotSW LEP has awarded £2.5 million to pilot different technologies and commercial models to improve coverage in 'not spots' across the HotSW area and Devon

and Somerset County Councils are in the process of testing the market for appetite and piloting alternative solutions.

3.62 Opportunities to utilise the infrastructure being established for the emergency service network are being explored, although the location of these masts (mainly along roadsides) and the deployment timetable (finishing in 2021) will need to be considered.

Commercial plans

3.63 The majority of superfast broadband and mobile internet access is being provided without public subsidy, through commercial programmes. As well as BT and Virgin, Airband and Gigaclear are also running commercial broadband programmes in Devon. Whilst this is good news, there is no requirement for commercial providers to publish their planned roll out schedules.

3.64 The public need to know when they will be able to access improved broadband and mobile internet, regardless of whether this will be provided through commercial or publicly funded delivery. The current lack of certainty is unfair on communities and leaves many communities and businesses in limbo and unable to explore community broadband options or other solutions.

RECOMMENDATION 7

CLARITY AND TRANSPARENCY ON COMMERCIAL PLANS

The County Council to lobby Government to require all wholesale providers of both broadband and mobile infrastructure to publish detailed commercial roll out plans so that communities and businesses are informed and able to plan for their digital future.

4. Conclusion

4.1 During this review the Task Group has considered evidence from a wide range of witnesses and sources. Progress to deliver improved broadband services has appeared slow at times, and it is clear that there have been delays caused by the need to re-run the procurement process for part of the Phase 2 programme and through other unforeseen issues. However, the CDS programme is a large and complex infrastructure project, which has had to work within the limitations of the market and the structure put in place by Government, and the significance of this challenge should not be understated.

4.2 Statistics show that the majority of businesses and communities across Devon today have access to a sufficient broadband service, however there remains a number of areas still awaiting delivery, or who are likely to remain without a usable connection for some time. Increasingly, links are made between digital connectivity and productivity and many rural communities and businesses feel that they are being left behind.

4.3 The Task Group is satisfied that CDS is working hard with Phase 2 providers Airband and Gigaclear to provide superfast broadband and improved services to residents and businesses across Devon. However, going forward, CDS must commit to communicating

better with communities and businesses, and being as open as possible about the challenges it faces and the decisions it makes, including a full and proper consultation on the spending of gainshare monies.

4.4 In addition, both communities and businesses must continue to be supported in developing digital skills and the County Council must work closely with Devon planning authorities to ensure that superfast broadband is recognised as an essential utility for new homes.

4.5 Local authorities have no control over the plans of commercial wholesale broadband and mobile providers and so Government has a key role in requiring these providers to make public their plans, and ensuring that everyone in the UK is able to access a minimum of 30Mbps broadband speed.

4.6 Ensuring that superfast broadband is available to all communities and businesses across Devon requires CDS, the County Council, planning authorities, wholesale internet providers and Government to all step up, commit to the challenge and make informed, forward thinking plans for Devon's digital future

5. Membership

Councillors Alistair Dewhurst (Chair), Kevin Ball, Ray Bloxham, Paul Crabb, Ian Hall and Andrew Saywell.

6. Contact

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7. Sources of Evidence

Witnesses

7.1 The task group heard testimony from a number of witnesses and would like to express sincere thanks to the following people for their contribution and the information shared.

Councillor Stuart Barker	Cabinet Member for Economy & Skills, Devon County Council
Phil Norrey	Chief Executive, Devon County Council and Joint Chair of the CDS Board
Pat Flaherty	Chief Executive, Somerset County Council and Joint Chair of CDS Board
Keri Denton	Head of Economy, Enterprise & Skills, Devon County Council
Tom Dodd	Senior Manager, Economic Infrastructure & Strategic Intelligence, Devon County Council
Edward Cross	Economic Development Officer, Devon County Council
Phil Roberts	Connecting Devon & Somerset Programme
Sue Wilkinson	Federation of Small Business
Mike Matthews	Federation of Small Business
David Hinshelwood	Business Information Point
Edward Humber	NFU
Roger Cashmore	Member of the public (Thorverton) Parish Councillor
Karen Gilbert	Member of the public (Hexworthy)
Redmond Peel	Airband
Max Rae	Gigaclear
Joe Frost	Gigaclear
Julian Cowans	Superfast Cornwall
Laurent Boon	BT
Paul Coles	BT

7.2 In addition, the views of Devon town and parish councils was sought through an online survey. The Task Group were also provided with information on working practices from Devon County Council's Highways Team.

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8. Glossary

BDUK (Broadband Delivery UK)

An agency of the Department of Culture, Media and Sport responsible for the Government's national broadband and mobile connectivity programme.

Broadband

An internet provision that is distinct from the old dial up internet method and offers faster speeds though has no defined speed.

CDS Board

The body that oversees the CDS Programme and plan and coordinates the various aspects of the project. Members of the Board are Cabinet Members and Chief Executives of Devon County Council, Somerset County Council, CDS officers, representatives from partner authorities and BDUK

Commercial programme/delivery

An improved broadband service being wholly funded and delivered by a provider such as BT or Virgin.

Fixed wireless

Internet delivered through microwaves rather than cables relayed to a small radio device attached to the home or business.

Fibre

A method of transferring data by pulsating light along a plastic cable. The speed at which data can be transferred is much faster than copper cabling.

FTTC (Fibre to the Cabinet)

Fibre connections that run from the exchange to the cabinet. The cabling from the property to the cabinet will be on existing copper.

FTTP (Fibre to the Premises)

Fibre connections that run directly from the exchange to the property without any copper.

Gainshare

A clawback mechanism under which BT returns part of the public investment when take-up of the new broadband service passes 20%. Further detail is provided in paragraphs 3.44 and 3.45 of this report.

GESP (Greater Exeter Strategic Plan)

A joint plan created by East Devon, Exeter, Mid Devon, Teignbridge and Devon County Councils which will provide the overall spatial strategy and level of housing and employment land to be provided up to 2040.

Homes passed

The number of properties connected to a superfast enabled green cabinet under the Phase 1 programme.

IP address

A unique set of numbers that identify a computer or device when it is connected to the internet.

ISP (Internet Service Provider) / Retail provider

A company who supplies internet services to homes and businesses. This service is separate from installation of the infrastructure which enables connection to the internet.

Mbps (Megabits per second)

The amount of data that can be downloaded or uploaded per second. All references in this report to Mbps relate to download speeds.

Mobile internet/data

Internet access provided through mobile networks (i.e. 3G or 4G).

Not Spots

Small number of areas in Devon and Somerset with no access to mobile voice or data networks.

Open Market Review

A process carried out with the commercial sector prior to procurement to identify which parts of the CDS area will receive a superfast connection through commercial investment and which areas will not, and therefore be eligible for CDS investment.

Phase 1

The first stage in the CDS programme which was delivered by BT and completed in May 2017.

Phase 2

The second stage of the CDS programme targeting harder to reach areas and is being delivered by Airband and Gigaclear.

State aid approval

Provided by Government where it can be demonstrated that the open/commercial market would fail to deliver improved broadband services in these areas, without public authority intervention.

Superfast Broadband

UK Government defines superfast broadband as speeds of over 24Mbps, whereas Ofcom's definition is speeds over 30Mbps.

Whitespace technology

A wireless technology which can be used to transmit broadband over considerable distances and through obstacles such as vegetation and buildings.

Wholesale broadband providers

Providers such as BT, Gigaclear and Airband who install the infrastructure which enables internet services to be delivered. The supply of the internet service is purchased from an ISP/retail provider.