

Connecting Devon and Somerset – Update on Gigaclear Contracts

Report of the Head of Economy, Enterprise and Skills

1. Summary

This report sets out the position at the time of writing regarding the performance of the superfast broadband contracts being delivered by Gigaclear Plc. An apology announcing all five of the contracts were in delay was made by Gigaclear at the beginning of October following being put on notice of default by Connecting Devon and Somerset (CDS) in three of the awarded contracts. Gigaclear presented to CDS and Broadband Delivery UK (BDUK) a broad plan on how the company can address its shortcomings on 31st October which was followed up with detailed Remedial Plans on 7 November. Work has continued to make progress on the required level of detail and clarity for a final outcome to be considered by CDS and its funders. The current position presented by Gigaclear shows significant delays in the roll out will be felt across the two counties. A new build methodology has been proposed which may reduce disruption within highways and Gigaclear are committing to deliver the same levels of coverage and a full fibre solution as is offered in the current contracts. The delays will require extensions to the funding agreements in place with BDUK and other funders and agreeing this will be a key consideration in making a final decision. The new owners of Gigaclear, Infracapital have made a firm commitment to continue the same levels of investment into Devon and Somerset, circa £127m.

2. Background

CDS awarded five contracts in December 2016 to Gigaclear Plc based in Abingdon, Oxfordshire to deliver ultrafast broadband across Devon and Somerset. The contracts secured an additional 41,787 premises being served by the end of 2019. Alongside this Gigaclear also committed to build an additional 43,000 premises as part of its commercial build programme. CDS was able to extend coverage in December 2017, having secured additional ERDF funding, and a further 6,023 premises were added into the programme to be delivered by June 2020, bringing the total coverage commitment to 47,810 homes and businesses. Gigaclear are committing £60.5m of their own resources with CDS contributing £31m public sector subsidy to deliver this coverage. In addition, Gigaclear are investing circa £67.3m into their commercial build programme.

The award of these contracts was approved by BDUK and the CDS Board, with BDUK playing a full role in the assurance of the proposed contract delivery by Gigaclear. CDS and BDUK had to be satisfied that Gigaclear had the required finances already in place to fund its share of the roll out costs, its broadband technology was Next Generation Access compliant and the contracted coverage represented good value for money for the public-sector investment.

The contracts deploy a full fibre solution, offering symmetrical speeds of up to 900 mbps and would provide a brand-new fibre network in rural areas. Gigaclear were successfully delivering similar networks across England, including in Berkshire, Essex and the Cotswolds.

Public funding for the CDS contracts is a blend of Broadband Delivery UK grant, EU funding under the European Regional Development Fund, Heart of the South West Local Enterprise

Partnership, County, District and Unitary Authorities. Some of these grants have been awarded based on against spend being committed within certain timescales.

Somerset County Council is the Accountable Body for the contracts. CDS is a partnership of local authorities from across Devon and Somerset, BDUK and the Heart of the South West Local Enterprise Partnership. Devon County Council is a partner in the programme and contributes £3million capital to support the delivery of the Devon based Gigaclear contracts and two further contracts awarded to Airband in Northern Devon and Dartmoor / Exmoor National Parks. In addition, the Council supports the running costs of the programme, including a financial contribution and officer time. The programme is governed in accordance with a binding Collaboration Agreement which sets out partner roles, voting rights and financial contributions.

To date CDS has achieved more than 298,900 superfast broadband connections across the area and take up rates in excess of 50%. The phase two contracts awarded to Airband to deliver fixed wireless broadband across Northern Devon and Exmoor and National Parks are continuing and both contracts remain on target.

3. Programme Performance

CDS and Gigaclear jointly issued a briefing to stakeholders, including councillors and MPs at the beginning of November - <https://www.connectingdevonandsomerset.co.uk/wp-content/uploads/2018/11/The-Gigaclear-contracts-with-CDS..pdf> .This sets out detail on the five main reasons that have contributed to the Gigaclear delayed roll out and the current situation for the Gigaclear contracts:

- Poor operational capacity and decision-making within Gigaclear
- Lack of operator capacity
- Slow deployment by contractors
- Lack of detailed planning
- Failure to redesign the build methodology
- planning.

Gigaclear were slow to engage a tier one contractor and were exposed by the collapse of Carillion telnet. They also took too long to introduce a second tier one contractor to bolster resources despite making firm commitment to CDS to do so. A lack of Gigaclear management capacity and ability to make decisions locally exacerbated the above and allowed poor quality work to take place within our highways and slow approval of designs. All these issues were escalated by the CDS with the company. Despite all efforts, CDS struggled to get a definitive picture of what was happening within Gigaclear and with its changing guard of programme directors, contractors and sub-contractors. CDS were repeatedly reassured by Gigaclear that it would hit its contracted delivery dates and targets.

Improvements only started to appear when the company was taken over by Infracapital in May earlier this year. Disappointingly even with several reforms instigated by the new owners including recruitment of additional team members, delays on the first connections had to be announced in July. The full extent of the issues and challenges facing Gigaclear were only finally revealed in September at a CDS Board meeting. The outcome from this meeting was for CDS to formally place Gigaclear on notice of default in three of the five awarded contracts and a requirement for Remedial Plans to be produced by 31 October. An apology announcement by Gigaclear was made on 8 October at CDS's insistence along with updates or removal of untenable construction dates on the Gigaclear website to stop misleading information being made available to residents.

<https://www.gigaclear.net/postcode-checker/connectingdevonandsomerset>.

Infracapital, the London-based infrastructure investment specialist now owns Gigaclear. Part of M&G Prudential, which has total assets under management of £351 billion, Infracapital has a mandate to invest in highspeed digital infrastructure in the UK after the Government appointed the company to manage a portion of its Digital Infrastructure Investment Fund. The take-over was in part prompted by Infracapital being equally disappointed with Gigaclear's performance and that by taking control they could re-focus the company.

Gigaclear on 31 October provided a broad plan to Connecting Devon and Somerset on how they can address the challenges they are facing in delivering additional superfast broadband to communities across Devon and Somerset. Detailed Remedial Plans on the back of this were received on 7 November. CDS is reviewing these to establish if these provide sufficient detail and clarity for each LOT area to demonstrate a credible approach is in place. The position set out in the Remedial Plans by Gigaclear and is being assessed by CDS is that they have progressed addressing the need for improved capacity and resources. The local gigaclear team has grown from 4 members of staff to 40 including programme managers for each LOT, network design and community liaison and engagement posts. Additional capacity within their subcontractor supply chains is also being secured.

The company is proposing a new build methodology that it believes will provide a robust plan whilst reducing traffic disruption to Devon and Somerset communities. In broad terms, Gigaclear has proposed the following within the Remedial Plans:

- A commitment to continuing its investment of £127.8 million in the CDS region. This comprises £60.5 million in the CDS contracts and £67.3 million in the company's commercial build.
- It will continue to provide full fibre to the premise technology.
- There will be no reduction in the broadband speed made available to homes and businesses. Gigaclear is contracted to deliver superfast broadband of at least 30mbps download. The company says its service can deliver symmetrical ultrafast speeds up to 900mbps.
- It will continue to deliver the full coverage agreed in the contracts with CDS. That is 47,810 homes and businesses across the region.
- There will be no reduction in the company's commercially-funded network. That is around 43,000 homes and businesses in the region.
- The proposed build methodology is based on "a spine and spurs" approach that will reduce disruption to roads and deliver superfast broadband access to between 40% and 50% of the CDS contracted premises by June 2020 with the remaining coverage completed by June 2022.

Gigaclear and CDS are in close dialogue and are both committed to working as quickly as possible to get the best outcome for residents and businesses. A verbal update on the latest position will be provided on the day.

In the short term it is the aim of Infracapital that Gigaclear focuses on making good its current commitments to CDS before bidding for further new BDUK contract areas.

CDS working with BDUK and its other funders will need to carefully assess the plans and require:

- key reassurances regarding capacity and resources,
- options for accelerating deployment,
- secure funding and investment from Gigaclear and
- robust evidence that the proposals can be delivered.

CDS and BDUK will also need to consider:

- Gigaclear's proposals in the context of public procurement and state aid requirements; and
- whether any impact on grant funding from BDUK, the Heart of the South West LEP and other funding sources can be accommodated.

CDS will require guarantees on the level of resources Gigaclear is putting into its delivery, including community engagement. CDS will require time to assess, evaluate and test the revised plans.

If an acceptable solution is presented, BDUK will need to assure the revised plans and agree any impact on funding timescales for the Government grants awarded to CDS.

Whilst a decision will be taken as soon as possible on the way forward, the decision does need to be the right one and deliver the best outcome for communities. The above decision-making process will take several weeks to conclude. CDS and Gigaclear will provide updates to stakeholders on progress.

It will be necessary to balance carefully the competing demands of the time required to build a complex network against the proper expectations of residents and businesses that broadband infrastructure is delivered as soon as possible. CDS is investigating options that might be available including the possibility of rejecting the Remedial Plans.

The contracts do not include financial penalties for delay but do provide for default notices to be issued and options to terminate the contracts. Although there are no financial penalties in the contracts Gigaclear is required to finance the ongoing build whilst a final decision is made on the way forward, and work is therefore continuing. There is one community area currently live. CDS does not pay until build has been completed. Accordingly, Gigaclear has received payment of £537,200 for one community area - Millhayes in East Devon.

BDUK has confirmed that the Phase 2 Broadband delivery programmes across the country are facing delays with several providers, and similar delays have been announced in areas where Gigaclear hold other contracts. It appears that the industry is challenged by capacity as well as the complexity of build of new networks in particular "full fibre" FTTP which is more expensive, complex and slower to deploy than cheaper hybrid fibre solutions.

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Electoral Divisions: All

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Local Government Act 1972: List of Background Papers

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Background Paper	Date	File Ref.
Nil		

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