

Council April 2022

Item 11 BROADBAND AT CHERRY GARDENS HILL – to consider request for WPC to act as Legal entity

Cllr Obbard has requested that Council considers acting as the legal entity to sign a contract with Openreach for their Community Fibre Partnership (CFP) to deliver superfast broadband to residents at Cherry gardens Hill.

Cllr Obbard has provided the following information:

"We are at stage 6 'Discussing with your Community'. The milestones as set out do not make clear the voucher scheme, but this is explained on the govt website; <https://gigabitvoucher.culture.gov.uk/home/how-do-vouchers-work/>

The vouchers are applied for by Openreach, pledged by the residents, and are "cashed in" by Openreach from the Dept of Culture Media & Sport.

I sent a list of addresses to OpenReach and they have sent back to me their list of addresses that would likely be supplied by their poles as a total of 30 premises with an initial estimate of £61,850 for the total cost of the scheme. This was simply a desk exercise on their part and would be dependent on doing a survey. Obviously I have no idea how accurate Openreach figures are.

I have gone through their list and discounted a couple as being either non-existent or irrelevant. This gives me an estimated "Community" of 18 residential addresses and 10 businesses. The residents are entitled to a voucher worth £1,500 and business vouchers are worth £3,500.

So our potential voucher value is $18 \times 1500 = £27,000$ and $10 \times £3,500 = 35,000$ Giving a total of £62,000.

So far I have had positive answers from 18 addresses who are keen to go ahead (11 residents and 7 businesses) so I will need to chase up the rest for an answer.

*If we don't get a full response from the other residents and find that we have a shortfall in funding, then the ESCC have a top-up scheme that is worth £1,000 per applicant, but the information on their website is not comprehensive, and from what [the Clerk] has said about the Frant scheme cannot be relied on.**

The next stage for us is to ask Openreach to produce a formal offer letter, but I believe they will need a legal entity to address that to. Once we receive the formal offer letter they will produce a contract, which we can then consider whether to proceed or not at that stage."

*Follow up email received from Cllr Obbard from ESCC:

"The Dept. of Culture Media and Sport (DCMS) hold and manage the budget and will automatically take account of the total value of vouchers available, including the Council's top-up, applicable to each property in your local project. Premises that have been confirmed by them as eligible for the scheme will be able draw down (directly between your supplier and DCMS), total funding of up to £2,500 per residential property and £4,500 per business."

The following appendices with further information are attached:

1a Details of the Openreach CFP Scheme

1b Open reach information about legal Entities

2 Feedback from Frant Parish Council, which has recently supported a similar project

3 Feedback from Rotherfield Parish Council, which is considering supporting a similar project

Potential risks identified by the Clerk:

- If the vouchers (income) do not cover the expenditure the legal entity would be responsible for any shortfall
- Workload – the current staffing would not have the capacity to undertake the project due to other commitments. It would need someone else to undertake a role of Partnership Lead (like described in Appendix 2) such as a Councillor or a consultant

openreach

Community Fibre Partnerships



Helping you get superfast broadband

Around 5% of the UK isn't covered in existing fibre broadband rollout plans, and that's where we come in.

We're committed to working with all communities to find a fibre solution, and our community fibre partnership scheme is designed to enable this. Delivering fibre to the hardest to reach communities is a huge challenge. In rural areas we often face laying cables over long distances and challenging terrain and in urban areas we have the complexity of working in busy streets with limited space.

We'll work with any community to agree a suitable option to bring fibre to an area via a jointly funded approach. We'll cover costs in line with our commercial model and give communities the price for the 'gap'.

To date we've worked with hundreds of communities and this co-funding model helps bring high speed fibre broadband to hard-to-reach communities, as well as smaller business parks.

This means that wherever we deploy fibre broadband, everyone can upgrade to the service via any provider, bringing plenty of choice to consumers and local businesses.

We can work with you to find out if a community project could be for your area and provide you with the tools to understand and establish local demand.

Why Openreach?

Openreach – the part of BT that provides the vital infrastructure which is the foundation of the UK's vibrant internet economy – looks after the fibres, wires and cables that connect the country offering you the greatest choice of service providers, with over 500 using the network. So whether you're making calls, video conferencing with clients, sharing files, downloading music, streaming movies, or indulging in a bit of online retail therapy – it's most likely on the Openreach network.

A number of factors can impact the price of the infrastructure upgrades needed to provide superfast broadband

Easier/cheaper

- Existing infrastructure (cabinet) in place
- Ownership of land clear/no wayleave issues
- Short lengths of fibre required to be laid
- Large number of premises tightly clustered.

Harder/more costly

- No cabinet in place
- Land ownership unclear/wayleave issues
- Long lengths of fibre required to be laid
- Few premises being served and/or premises spread over a large geographic area.

We've a dedicated team providing management and support to help make the process as simple as possible for communities

1. You'll check the current and planned availability using the line checker



- The first step is to see if we're coming to your area by using the line checker at www.communityfibre.openreach.co.uk
- The checker will let you know if you can get fibre broadband already, or if your cabinet's in scope or being built.
- If that's happening, you don't need to do anything as the infrastructure serving your home or business will be enabled in due course.
- If your premises show as 'exploring solutions' that means there's no current plan to deliver fibre in your area.

2. You'll register interest in having a community fibre partnership



- If the line checker shows 'exploring solutions' then investigate a partnered approach with us to get fibre.
- Use the simple form at www.communityfibre.openreach.co.uk to let us know you're interested in having a community fibre partnership.

3. We'll send you information you need to start to gather interest for having a community fibre partnership with us



- We'll send you an email with confirmation of your enquiry and will give you a reference number.
- In that email we'll attach a template for you to complete with the addresses, postcodes and landline numbers of the other interested parties in your community.

4. You'll engage your community and build support for the partnership



- This is the point you'll need to start drumming up interest in your area.
- Talk to your neighbours about getting fibre broadband and the benefits it will bring.
- We can help you go about engaging your community.

5. We'll provide you with an indicative costing



- We'll get a ballpark cost to bring fibre to your area.
- The cost we quote will be the money you need to pay on top of our contribution to the solution.

6. You discuss the cost within your community



- At this stage you'll need to share the estimate with other members of your community and reach out to other premises (whether business or residential) that would also be set to benefit.
- If you're still keen to proceed, we'd love to know – there's no obligation at this time.
- Also please let us know if you've decided not to take things further.

7. We'll generate a firm quote



- We'll give you a firm cost (subject to survey), and will let you know exactly which premises would be covered by the infrastructure upgrade.
- We'll start the modelling work to deliver you a more accurate cost and create a proposal that you can contract for.
- We'll send you that full proposal, outlining the proposed solution, and exactly which areas would be covered by fibre broadband.

8. You'll work with your community to generate your part of the co-funding



- Now it's time to get the community together to raise the money for your solution.
- You'll need to pay half of your share of the costs when you sign the contract with us, and the balance when the infrastructure is delivered – around a year after you've signed.
- We can give guidance and material to help with engaging your community and fundraising fibre broadband.

9. We'll plan and build the infrastructure



- Once you've signed the contract it's over to us to build the infrastructure.
- Deploying fibre can be a complex job, so it won't happen overnight. Once work has begun, we'll keep you updated at various stages throughout the process.
- As soon as the infrastructure is live, you'll need to contact your preferred internet service provider (ISP) to upgrade to fibre. Because our network is open to hundreds of providers, you can shop around for the best deal to meet your needs.

www.communityfibre.openreach.co.uk

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Legal entities – what are they and how to set one up

Every community who proceeds with a Community Fibre Partnership will have to contract with Openreach, and must do so via a legal entity.

A legal entity is an association, corporation, partnership, proprietorship, trust or individual that has legal standing in the eyes of the law. A legal entity has legal capacity to enter into agreements or contracts, assume obligations, incur and pay debts, and to be held responsible for its actions.

In many cases there are existing legal entities within a community that can be used to contract for a fibre partnership with us. For example a residents association, or somebody who has a small company. Where this isn't the case, communities will need to set up their own legal entity. There is a charge (it's not huge) to set up a legal entity and we suggest you add the cost of setting this up to the overall cost of your new fibre infrastructure.

Setting up a business

Have a look at the Government pages on setting up a business:
www.gov.uk/set-up-business

Creating a Community Interest Company

Download the Government's guide on setting up a Community Interest Company:
www.gov.uk/government/publications/community-interest-companies-how-to-form-a-cic

Government Community Interest Company pages

Register your Community Interest Company using the online incorporation process:
www.gov.uk/government/organisations/office-of-the-regulator-of-community-interest-companies

Appendix 2 feedback from Frant Parish Council, which has recently supported a similar project

The Clerk spoke with the Frant Parish Council councillor who has led on getting superfast broadband to properties on Bayham Road through the Open reach CFP programme. The following is a summary of what she said.

- The project has taken 3 years to do
- She instigated CFP as a member of the community (aswell as a councillor) as her road was being overlooked
- Frant PC only acted as legal entity to secure the project. She acted as Partnership lead doing the work
- She already had the commitment from the community that they would all take up the offer so there would be no shortfall in the monies. There was therefore no financial risk to Frant PC
- Open Reach has since closed the scheme for all ne applications but if the desktop Survey is done then projects that are already on Open Reach's radar should be ok
- In her experience Open Reach hadn't included all the properties that residents wanted so she had to go back and forth to ensure that every property that should be on the map was
- From this they were able to find out exactly what the charges would be and what they would receive in vouchers to cover it
- The legal entity can be an individual but in a worse case scenario, if someone who said they would take it up dies and their property is in probate then their voucher cannot be accessed
- In their case they had a surplus in vouchers so they had leeway
- They had also asked residents if they would pay a bit extra should they be unable to cover the cost just through vouchers
- In their case they would have been unable to access the ESCC top up scheme (East Sussex Rural Broadband Rollout Scheme) as there were too few properties for ESCC to see it as financially viable. She would want it is writing from ESCC that their program would cover the shortfall from any vouchers
- Now open Reach has delivered the project she is still tying up some loose ends, eg 2 properties were upgraded but Open reach says they haven't registered; 2 properties are waiting for BT to connect them but BT says there is no fibre
- In conclusion there would be no workload for the parish council other than signing as the legal entity as long as there is a resident/councillor prepared to do the work

Appendix 3 feedback from Rotherfield Parish Council, which is considering supporting a similar project

"I am afraid at Rotherfield that we too haven't taken the final plunge to be the legal entirety. I can however say that so far most of the workload has been taken on by councillors who are leading on the project. There is an item on the March Parish Council meeting to commit some funds for further advertising.

The councillors have had some concerns about the role of legal entity and we are currently making enquiries as to what this would mean for the council if full take-up does not take place one people have agreed to be part of it.

I have attached notes of a conversation my Deputy had with the councillor who led a successful project at Frant.

- "set-up of their fibre broadband project went "live" last summer. Their project involved a modest 40 residential or business sites
- If Debby were starting the project again she would ensure that a Parish meeting was held on the matter and get some form of signed commitment that, once fibre was installed, Parishoners would join it, apply for the vouchers and join the scheme.
- BT move at their own pace - be prepared for this! There were also instances of "...right hand and left hand not knowing what the other is doing..."
- In some cases BT had issues in matching their location records with actual properties/addresses/telephone numbers.
- Once the physical work starts engage with the engineers "on the ground" who were very helpful.
- Legal entity - possible liability. My understanding is that this could be an issue if , after BT have installed the fibre instructure, a significant number of potential users then decline to take advantage of it and do not take up the option to connect."