

MEMBER'S WRITTEN QUESTION



Name of Member submitting the question: Councillor Llew Monger

Date received by Democratic Services: 12 September 2016

To the Cabinet Member for: Business Transformation (Councillor Mrs Blake)

Question:

As a member representing a rural ward I am a strong supporter of efforts to improve broadband coverage across Aylesbury Vale, particularly in rural areas. This position is shared by all of my colleagues in the Liberal Democrat group. However, I have serious concerns with regard to a number of issues relating to the operation of Aylesbury Vale Broadband, a company in which AVDC is a 95% shareholder. These concerns relate to financing arrangements and the AVB business forecast for the period 2017-2020. In light of these concerns please provide answers to the following questions.

1. At the meeting of the Economy Scrutiny Committee held on 7TH September, I expressed concern that the meeting was being held on the day following the meeting of Cabinet which agreed the AVB business plan. Surely the whole point of Scrutiny is that members have the opportunity to review proposals and comment prior to Cabinet considering them. This is all the more important in this instance as the Cabinet decision is not on the agenda for Council so there will have been no oversight whatsoever. Given that there is already £700k of public money loaned to AVB by AVDC and the report indicates that a further £550k is being requested, wouldn't you agree that the business plan should go to full Council for approval?

Response

Whilst it common practice for reports that are being considered by Cabinet to have been reviewed by a scrutiny committee first, it is not always possible to transact the business of the Council on this cycle, and there are occasions where reports need to be considered in advance, as in this case due to the scheduling of meetings.

Members will recall that the Council has already agreed the governance arrangements relating to AVB, when it first agreed to set up the company and in doing so delegated a number of key decisions to Cabinet, including the approval of the company's business plan. Therefore under the Council's constitution, the AVB business plan does not need to go to full Council for approval.

In relation to the loan of £550k referenced above, in accordance with the original Council recommendations, this has been delegated to the Chief Executive in consultation with the Leader. The comments that were made during the scrutiny discussion at the meeting on the 7th September 2016 will be included in the report to be formally decided by the CE in consultation with the Leader. The recent Cabinet decision can of course be called in under the Council's constitution should members agree there is a reason to do so.

2. The online trade journal **ISPreview** has reported that 'the [European Commission](#)'s Directorate-General for Competition has opened an investigation into the [Aylesbury](#)

[Vale Broadband](#) project over its use of State Aid'. At the meeting of the Economy Scrutiny Committee on 7th September, AVDC Director Mrs Tracey Aldworth confirmed that the Competition Directorate have forwarded to AVDC details of a complaint and asked that they respond within twenty working days. Mrs Aldworth further advised that at this stage there is no formal investigation taking place. However, given this situation would it not be prudent to delay consideration of the further £550k loan until after the EC's Directorate-General for Competition has reported on the matter?

Response

AVDC received a communication on 6th September 2016 from the European Commission regarding a complaint they have received regarding an alleged breach of state aid rules. A copy of this letter is attached and needs to be kept confidential. As clearly stated in the correspondence the Commission have asked if AVDC could "clarify the issues brought forward in the complaint" in this regard. We have 20 working days to prepare the response, which we will comply with.

***It is important for all Members to be aware that the European Commission has not yet decided whether this complaint has any substance to it and it has not launched any formal investigation process, as appears to have been reported to an industry website referred to above.** The claims that an investigation has been launched are not true. We will need to ensure that included in the information we send to the Commission are details about how this matter is being reported and represented by those parties involved, i.e. stating the EU have launched an investigation, when they clearly have not.*

We do not believe that we are in breach of any state aid laws and we do not therefore propose to delay the award of the next loan, as this would prevent the scheme from expanding to areas that have paid deposits and waiting to receive the fibre broadband service.

3. The scrutiny committee report indicated that the AVB pilot scheme had been a success and that on this basis an additional loan of a further £550,000 is being requested. This loan to be in addition to £500k advanced in April which was itself additional to the original £200k Start-Up financing. The pilot scheme is based on a project to deliver superfast broadband in North Marston and Granborough. The Managing Director of AVB refused to tell the scrutiny committee how many clients AVB has in North Marston or Granborough claiming commercial confidentiality. Figures for North Marston remain unknown but I believe that at the time the second loan of £500k was agreed in April only one client in Granborough may have been receiving the service. At a Local Area Forum meeting in Winslow on 8th September the Managing Director of AVB confirmed that customers who had paid deposits several months earlier were still not connected. Given the above can you please respond to the following points;

- i. What were the Key Success Factors (KSF's) on which Cabinet based its decision to approve AVB's three year business plan?

Response

The Company has performed in line with the expectations set out in the original business plan for the pilot in terms of take up rates and revenue secured, costs of implementation and the actual product being delivered to customers.

The most recent report Cabinet considered the new AVB business plan, which includes proposals to expand the service and this was included in the AVDC Secure/Confidential element of the September 2016 agenda due to the commercial sensitive information contained therein. Cabinet debated the key issues regarding this proposal when this item was discussed. All AVDC Members are of course able to attend these meetings to hear the full debate on the items and ask any questions at the beginning of the meeting.

- ii. How have AVB performed against those KSF's?

Response

A report on the AVB pilot project was considered by the Economy Scrutiny Committee in September 2015 and again in March 2016. In line with the recommendations agreed by full Council, the CE in consultation with the Leader could then determined the next stages of investing the £1.536m committed to broadband. The report in March 2016 detailed the progress of the pilot project to date including the fact that the take up rate had reached 40% of those areas served and the plan was to achieve the 60% take up rate in the pilot area as set out in the business plan. It also confirmed that the product being delivered was fibre to the premise rather than fibre to the Cabinet, as had originally been planned in the first business plan which is a far superior product

The ambition set out in the original business plan for the pilot was to start to make an operating profit by the end of the second year of the whole pilot network going live. The company is on track to achieve this but has plans to expand the network, hence the new business plan. Given the rate of progress and the numbers of potential customers who have committed deposit, the Cabinet is confident that the outputs set out in the new business plan are achievable. Due to the confidential nature of the business element of the company's activity at this stage it is not appropriate to divulge specific details of this in the open forum of a Council meeting.

- iii. Do you believe that a commercial lender would approve a further loan of £550,000 without seeking assurance that the business was performing well against its original targets and KSF's.

Response

This is not a question we can speculate on.

- iv. The total indebtedness of AVB will be £1,250,000 if the further loan is approved. Against what is this indebtedness secured?

Response

Due to the confidential nature of the business element of the company's activity it is not appropriate to divulge this in the open forum of a Council meeting. The Council is however seeking the appropriate levels of guarantees and securities associated with the loan arrangement.

4. In December 2014 Council approved the use of £1,535,000 of New Homes Bonus funding to support the expansion of rural broadband in Aylesbury Vale. As Cabinet has already approved the AVB business plan, which is based on the delivery of the additional £550k loan, this means that 81% of the rural broadband funding has been allocated to one company which thus far has neither completed its original trial or reported to Council on that trial. How can this be justified? How will Council now be

able to support other routes to achieving much needed improvements to rural broadband coverage in the Vale?

Response

As referenced above, in line with the arrangements previously agreed by Council the new business plan for AVB does not need to be reported to Council. The appropriate approval and control mechanisms are all in place regarding the operation of this company, in the same way that it is for all other companies that AVDC has an interest in.

Reports on the original AVB trial have been made to the scrutiny committee, in September 2015, March 2016 and in September 2016, again in line with the recommendations approved by Council.

Alongside the funds earmarked for the next stage of the Connected Counties programme, AVDC has now committed virtually all of the original NHB funds to help improve the provision of broadband services across the Vale. It was always known that the committed NHB funds would not be sufficient to be able to resolve the problems with all areas in the Vale but maximising the opportunity for funds to be reinvested is a key driver in the work we are pursuing, through AVB and also Connected Counties. The returns expected from both of these programmes will provide an opportunity to reinvest in future priorities, including of course broadband in other areas of the Vale that are not yet programmed to receive it.

In addition the Council will continue to explore how the next phase of initiatives may be able to assist and reach those areas that are still experiencing issues in terms of broadband services, e g East West Rail, HS2 and new developments across the district. We look forward to working in partnership to explore how this might be achieved and how to secure the best possible outcome from any public funds that are committed to this activity.

Signed: Councillor Mrs Blake

Date: 13/9/2016

Written questions:

- must be submitted to the Democratic Services Manager
- will be replied to within 10 working days
- will be published on the last Friday of each month