



Report for Leader Decision

Date:	20 October 2021
Reference number:	L05.21
Title:	Housing Infrastructure Fund: Upgrades to Aylesbury Electricity Supply
Relevant councillor(s):	Martin Tett (Leader)
Author and/or contact officer:	David Johnson
Ward(s) affected:	<i>Aylesbury South East; Bernwood; Ridgeway East; Stone & Waddesdon; The Risboroughs; Wendover, Halton & Stoke Mandeville;</i>

Recommendations:

To AGREE to accept "Option A" from connection offer 8600022871 for 31MVA provided by UK Power Networks (UKPN).

There are confidential appendices to this report which are exempt by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 because they contain information relating to the financial or business affairs of any particular person (including the authority holding that information).

1. Executive summary

- 1.1 The proposals involve the use of grant funding from the Housing Infrastructure Fund to forward fund upgrades to the electricity supply for south west Aylesbury. It is recommended that the Council accept a connection offer for 31MVA from UK Power Networks to construct and adopt the new infrastructure. Other options were considered and discounted based on schedule deliverability and in favour of the best strategic fit for the Council.

2. Content of report

2.1 Introduction

- 2.1.i In 2018, Buckinghamshire County Council submitted a bid to the Housing Infrastructure Fund (HIF) for a range of infrastructure to support growth in Aylesbury Garden Town. In March 2020, the Government confirmed £171m of funding from HIF was awarded to Buckinghamshire County Council (Buckinghamshire Council from 1st April).
- 2.1.ii This funding included ~£18.2m to address constraints in the electricity supply to south west Aylesbury. This was on the basis that the funding structure for network reinforcements, when an area becomes highly constrained, are an impediment to growth – requiring a single developer to pay for significant upgrades upfront. Whilst, over time, such a developer should recover funds for additional capacity they do not use via payments from subsequent connecting developers. This may take many years and the recovery time frame is limited to 10 years, presenting a risk that the developer may not recover all funds.
- 2.1.iii The proposals for new infrastructure will, subject to detailed design include; a new primary substation (33/11kV), new cabling to connect the substation to the local supply and upgrades to the local grid substation (132/33kV) to facilitate an additional 31MVA of supply.

2.2 Recommended Option

- 2.2.i The infrastructure works are separated into “Contestable” and “Non-Contestable” works. The non-contestable works can only be undertaken by the incumbent Distribution Network Operator (DNO), which for Aylesbury is UK Power Networks (UKPN).
- 2.2.ii The contestable works may be undertaken by the DNO, or the construction may be awarded to an Independent Connection Provider (ICP).
- 2.2.iii The operation, or “Adoption”, of the contestable works may be awarded to the DNO – again, UKPN for Aylesbury – or can be awarded to an Independent Distribution Network Operator (IDNO).
- 2.2.iv A previous key decision noted that the non-contestable works be undertaken and adopted by UK Power Networks. This decision also accepted recommendations to put the contestable works out to competitive tender. Following further investigations these recommendations have been revised and the new recommendations are detailed below.
- 2.2.v A revised options appraisal has been completed to determine how to allocate the contestable works in line with the project objectives to; accelerate housing development, allow for recycling of the invested funds by the Council, reserve

the new electrical capacity for housing at the discretion of the Council (protect against i.e. speculative data centre connections) and with due consideration to schedule, quality and cost. This document is included in the document pack as Appendix [A], see chapter 9.

- 2.2.vi The conclusions reached are to 1) Recommend that the construction of the contestable works be awarded directly to UK Power Networks as the incumbent DNO and 2) Recommend that the new infrastructure also be adopted by UK Power Networks. The main reasons for these recommendations are outlined below.
- 2.2.vii As a regulated monopoly all DNOs are subject to statutory obligations with respect to the amount of profit that can be made upon their construction contracts. This offers the Council confidence that fair value for money will be achieved through these contractual arrangements.
- 2.2.viii UKPN are one of the largest DNOs in Britain and have substantial experience in delivering these connection works and in working with local authorities. They are delivering similar works for other LAs within the HIF scheme, such as at Biggleswade for Central Bedfordshire ¹. UKPN are also involved with other Aylesbury Garden Town (AGT) projects such as the South West Aylesbury Link Road (SWALR). UKPN, as a DNO, have some statutory powers not available to an ICP and have an established reputation with High Speed Two (HS2). This is advantageous given the interactions arising where the new cabling route is expected to cross both HS2 and SWALR.
- 2.2.ix The project team has assessed this option as being most likely to deliver the project on schedule.
- 2.2.x By awarding the adoption of the works to UKPN, they will be able to use the new assets strategically to deliver the best network solutions for Aylesbury. For example, the Aylesbury East Switching Substation is at capacity – UKPN could reallocate some supply from Aylesbury East to the new primary in the South West, potentially freeing up headroom to address constraints in East Aylesbury, potentially offering a better overall network solution in terms of minimising the required low voltage infrastructure.

2.3 Project & Connection Offer Summary

- 2.3.i The project will deliver 31MVA of new import capacity and 3.4MVA of new export capacity through a new substation in south west Aylesbury, documented in offer 8600022871 from UKPN [2].

¹ See <https://biggleswadesubstation.co.uk/> for further details (accessed 4th October 2021)

- 2.3.ii The new substation will deliver an initial 315kVA connection for EV charging. It will be built on land to the south west of Aylesbury. The final design and appearance will be sensitive to its surroundings. The decision regarding the location of the sub-station will be taken in conjunction with the Council's Asset Management Group and in accordance with the Property Procedure Rules as set out in the Constitution.
- 2.3.iii The works will involve upgrades at Ilmer Grid Substation, a new 33kV connection between Ilmer Grid Substation & Bishopstone Switching Substation, a new primary substation in south west Aylesbury and the cabling to the new primary.
- 2.3.iv The new capacity will be reserved by the Council for 10 years from the energisation of the new connection, anticipated in 2024.
- 2.3.v The quoted cost for the works is £13,606,899.58 excluding VAT. This is fully funded through the Housing Infrastructure Fund. Following energisation it is expected that housing developers from the Aylesbury Garden Town (AGT) sites 1, 2, 3 & 4 could connect and utilise the new capacity as their houses are built out.
- 2.3.vi Housing developers would contribute their proportional share according to the Electricity (Connection Charges) Regulations 2017², henceforth referred to as the ECCR legislation. As new connectees utilise the additional capacity they will make a proportional contribution to the costs of the new assets, known as "Second Comer" payments. These repayments would be received by the Council for investment, in agreement with Homes England.
- 2.3.vii The connection offer issued is "Interactive" and "unconditional", meaning that at least one other party has applied for a new connection on the same part of the distribution system and the Council is first in the queue. This means that the Council have 30 days to accept the offer (rather than the normal 90 days), after which the offer will lapse and be made to other applicants. The process is such that all parties remain anonymous, it is not possible for the Council to find out who the other applicants are or how likely they are to take up the connection.
- 2.3.viii It is the assessment of the project team that the upfront costs of the connection are so high as to be prohibitive to a housing developer and it is highly unlikely that the subsequent parties would take up the offer should the Council allow their offer to lapse. The Council would then need to reapply for the same connection, before waiting up to 65 working days for a new offer.

² <https://www.legislation.gov.uk/uk/si/2017/106/contents/made> (accessed 5th October 2021)

This delay could not be accommodated within the existing project schedule. There are no guarantees that any new offer would be the same either in content or cost as the existing offer.

2.4 Risks and Mitigations

2.4.i This section outlines some of the key risks identified during the project and the respective mitigations in the following table.

Risk	Mitigations
Legal challenge to award of Contestable works without a competitive tender	Legal advice indicates the Council is exempted from the Procurement Contract Regulations. See legal advice attached, Appendix [C].
Developer challenge to ECCR payments	Suitable legal opinion advises the works are covered by ECCR legislation, see separate legal advice attached as Appendix [D]
Judicial review to challenge subsidy control compliance	Legal opinion on subsidy control has assessed the risk of subsidy to UKPN, a contractor or a developer
Escalation of project costs	Budget contingency currently 33%. UKPN costs are fixed for 12 months. Consultants will be used to assess & challenge UKPN costings throughout. This is a consistent approach to that adopted by other Local Authorities.
Council require land for Substation	Project team working closely with property to site substation on land in south west Aylesbury
Future legislative changes to ECCR regime	The Council will work closely with BEIS, the IPA and Ofgem to protect against any adverse effects

Table 1: Key Project Risks & Mitigations

2.5 Project Justification

2.5.i Discussions with housing developers have indicated that the upfront cost of funding the reinforcements required to bring forward significant new housing development in south west Aylesbury are a barrier to housing. This project would allow the Council to mitigate this barrier by forward funding the investment using grant funding. Each connecting party would avoid needing to forward fund other's capacity, whilst still paying their proportion of reinforcement costs for their requested capacity.

2.5.ii The Council would "reserve" the new supply capacity from the primary substation for a minimum of 10 years, requiring it to agree to the future release of capacity from the new infrastructure. This would allow it to deploy the new capacity toward housing growth and supporting infrastructure and

protect the new capacity from speculative demand applications for high demand consumers not associated with supporting growth, such as a data centre.

- 2.5.iii A large portion of the funding could be recycled through the so called “second comer” payments made to the council as new connections to the supply are made. This funding could be deployed into capital grant projects in agreement with Homes England.

3. Other options considered

- 3.1 A total of eight other options were considered in the options appraisal, including a status quo or “do nothing” option [1]. The two options which were studied in detail were: a) Tender for an Independent Connections Provider (ICP) to undertake the contestable works while retaining UKPN to adopt the new assets or b) Tender for an ICP to undertake the contestable works and tender for an Independent Distribution Network Operator (IDNO) to adopt the new infrastructure. The pros and cons of these two options are discussed below along with the rationale for not recommending them.
- 3.2 Option a) would have potentially offered a lower cost for the contestable works. At the same time it would have involved a higher level of complexity and the project team assessed it as not being deliverable within the project schedule.
- 3.3 Option b) would have potentially offered a lower cost for the contestable works. There may additionally have been some additional income through “asset payments” from an IDNO. It would involve a considerably higher level of complexity. As with option a) the project team has assessed option b) as being undeliverable within the project schedule.
- 3.4 For details please see Appendix A.

4. Legal and financial implications

- 4.1 The legal implications can be grouped into three distinct areas where the Council has sought specific legal advice from a firm recognised for its expertise in this area of law.
- 4.2 The Council has taken legal advice to the effect that it may directly award the “Contestable Works” to UK Power Networks Ltd under the so called “Energy Exemption” under Article 34 of the Utility Contract Regulations 2016. For details please see Appendix [C].
- 4.3 The Council has taken legal advice that so doing would be compliant with relevant Subsidy Control principles. For details please see Appendix [D].

4.4 The Council has taken legal advice on the proposed recovery mechanism and the suitability of the offer received by UKPN. For details please see Appendix [E].

4.5 The project is fully grant funded by the Housing Infrastructure Fund.

5. Corporate implications

5.1 The project deliverables are mapped on to the Council's corporate objectives³ below:

Project Objective	Delivers on Corporate Priority	By ...
Enable housing growth	Strengthening our communities	Providing the homes our growing communities need
Generous electrical supply per home enables electrification	Improving our environment	Address climate change; reducing emissions
Strengthen electrical infrastructure	Increasing prosperity	Delivering world class physical infrastructure
Utilise HIF grant funding	Increasing prosperity	Maximising available funding to deliver Aylesbury Garden Town

Table 2: Project objectives mapped onto Corporate Priorities

5.2 The new substation will deliver an initial 315kVA connection for EV charging. It will be built on land to the south west of Aylesbury. The final design and appearance will be sensitive to its surroundings. The decision regarding the location of the substation will be taken in conjunction with the Council's Asset Management Group and in accordance with the Property Procedure Rules as set out in the Constitution.

6. Consultation with local councillors & community boards

6.1 The Council Leader, as the responsible portfolio holder, has been briefed upon the project. The HIF Investment Board have also been briefed regularly through the development of the project. At this time Community Boards have not been consulted on the contracting route but will be subsequently engaged during the detailed design.

³ <https://www.buckinghamshire.gov.uk/your-council/corporate-plan/corporate-plan-2020-2023/> (accessed Jan. 21, 2021).

7. Communication, engagement & further consultation

- 7.1 Following acceptance of the connection offer and at the appropriate time, the local members in the affected wards shall be briefed.

8. Next steps and review

- 8.1 The connection offer from UKPN must be accepted before 5pm on 1st November 2021 and an initial payment made to secure the grid connection.
- 8.2 The project includes milestones, agreed with Homes England, for the delivery of the infrastructure.
- 8.3 The Council Leader and the HIF Investment Board shall be regularly appraised of the project's progression.

9. Appendices

- 9.1 [A] Revised Options Appraisal - **Confidential**
- 9.2 [B] Connection Offer 8600022871 from UKPN – **Confidential**
- 9.3 [C] "Buckinghamshire Council electrical infrastructure" **Confidential**
- 9.4 [D] "Draft Subsidy Control Advice" - **Confidential**
- 9.5 [E] "Buckinghamshire Council - Interactive Offer slides - updated 07.10.21" – **Confidential**

10. Your questions and views (for key decisions)

- 10.1 If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the cabinet member to consider please inform the democratic services team. This can be done by telephone 01296 382343 or email democracy@buckinghamshire.gov.uk