Superfast Berkshire Phase 3 – Supporting Information

1.   Purpose of Report

1.1   To outline the progress made by the Superfast Berkshire project and to make recommendation for the next phase of the project (Intervention Phase 3).

1.2   This report is based upon recommendations previously endorsed by the Superfast Berkshire Project Board (03/05/2016 and 25/05/2016), Berkshire Chief Executives Group (12/05/2016), Berkshire Leaders (23/05/2016), Thames Valley Berkshire LEP Forum (20/05/2016) and the LEP Executive (12/04/2016).

2.   Introduction/Background

2.1   Berkshire broadband improvement initiative began in 2011 when the Government established a national programme to address the gap in broadband coverage (known as the intervention area) that remained after providers had completed their commercial deployments. The target was to achieve 90% Superfast Broadband (24Mbit/s or above) coverage by the end of 2015 and to provide basic broadband (2Mbit/s or above) to all premises in the same timeframe.

2.2   To achieve these targets the Government announced £530m of state aid funding, awarded to local bodies on a matched funding basis, and established a new organisation; Broadband Delivery UK (BDUK) to oversee the various projects and to provide the necessary legal and operational governance.

2.3   Subsequently, in February 2014, the Government announced additional funding of £250m to increase national superfast broadband coverage to 95% by the end of 2017 (Phase 2 of the Programme).

3.   Berkshire's Project "Superfast Berkshire"

3.1   Superfast Berkshire is a pan-Berkshire project, led by West Berkshire and involves all 6 Berkshire Unitary Councils and the Thames Valley Berkshire Local Enterprise Partnership (LEP).

3.2   Phase 1 of the project saw £4.61m of public funds invested in Berkshire's broadband via a BDUK procurement framework contract with BT.   This phase increased Berkshire's superfast coverage from 87% to 92%, bringing superfast broadband to an additional 18,500 premises.

3.3   Phase 2 of the project saw a further £5.15m of public funds invested in Berkshire's broadband. This phase was procured through an open market competition, rather than using BDUK's framework.   The procurement was undertaken in 'lots', with each lot considering the different requirements and priorities and the available funding of each participating district.   West Berkshire Council's area was further sub-divided into four separate lots.

3.4   Bracknell Forest and Slough didn't participate in phase 2 of the project on the basis that their superfast coverage was already above the 95% target and that they had other priorities for capital expenditure.

3.5   The phase 2 procurement resulted in the selection of suitable bids for each participating council, but due to some issues regarding the technical design and gaining state aid approval we were unable to sign the contracts for Reading or for Wokingham.

3.6   The table below shows the capital investment made by the various participants of the project over the first two phases of the project and the broadband uplift achieved in each Berkshire district during these phases.

Project Participant	Investment		Superfast Coverage		
	Phase 1	**Phase 2**	**Start**	**Phase 1 End**	**Phase 2 End**
Bracknell Forest	£197,424	£0	94.9%	96.0%	96.0%
Reading	*1 £72,186	£191,250	93.6%	97.2%	97.2 % (99.4%)
Slough	£198,814	£0	94.2%	95.8%	95.8%
West Berkshire	£610,019	£1,475,000	65.2%	83.0%	100.0%
Windsor and Maidenhead	£484,060	£163,750	87.8%	89.9%	92.7%
Wokingham	£217,496	£243,000	90.4%	91.8%	91.8% (96.8%)
LEP	£300,000	£500,000	-	-	-
BDUK	£2,030,000	£2,573,000	-	-	-
Total:	**£4,609,767**	**£5,147,000**	**87.0%**	**92.0%**	**95.6%** (96.9%)

*1 Reading's Phase 1 contribution included £50k of revenue funding.
* Bracketed Phase 2 figures show anticipated superfast coverage if Callflow contracts had been awarded.

3.7   The broadband improvements shown above have been achieved with a phase 1 project under spend of around £1m (Exact figure to be confirmed at project closure). We also have remaining a provision for basic broadband upgrades of around £623k that will no longer be required.

3.8   During the first two phases of the project two significant developments have taken place to the benefit of the project;

(1)   Broadband provider commercial activity

It is very apparent that broadband providers' appetite to invest in superfast broadband, particularly in areas previously deemed commercially non-viable, has increased considerably over the 3-year lifetime of the project.

Examples of commercial activities include;

• upgrades by Warwicknet in a number of Berkshire business parks (3 business parks upgraded up to 57 others proposed)
• upgrades by Hyperoptic in various apartment blocks in Reading with an interest in bringing broadband to 8,000 social and other housing in Reading and Slough
• an extension of Virgin Media's fibre network in Lambourn, West Berkshire.

(2)   Phase 1 Gainshare

The Phase 1 (BDUK Framework) contract included within it a clawback mechanism regarding the state aid subsidy, whereby if customer take-up of the new superfast broadband service exceeded 20% over the life of our contract with BT, then BT is bound to refund money to the project in a gainshare arrangement.

As at May 2016 Berkshire's take-up of new broadband infrastructure stood at 30% giving us an entitlement of £816k of gainshare from BT to reinvest in further improvements.   BT is not required to refund this gainshare until contract maturity in 2023, but has made Berkshire an "accelerated gainshare" offer on condition that this money is reinvested with BT.

The LEP has offered to provide the project with an interest free loan of up to £1.8m, using 'recycled' Growing Places Fund money in order to provide freedom and flexibility on how we invest the gainshare and BT underspend. This loan agreement will be between the LEP and the lead authority, West Berkshire Council.

This LEP loan would be repaid in 2023, at contract maturity, when BT repay us for their gainshare commitment and project underspend.

In the remote event that BT defaulted on its repayment the liability for repaying the LEP loan would be shared equally amongst the 7 participants of the project.

4.   Superfast Berkshire Phase 3 Proposals

4.1   Facilitate Commercial Broadband Deployment

The project team will continue to facilitate the commercial deployment of broadband improvements by engaging with broadband service providers. This will reduce the size of our intervention area and the amount of public subsidy needed to address it.

4.2   Reinvest Available Funding

It is estimated that the Superfast Berkshire project has around £2.5m to invest/reinvest in a new, likely final, phase of the project. This funding comprises;

- Gainshare: £816k and likely to continue to grow
- Project underspend: £1m+
- Unused basic broadband funding: £623k+

In addition unspent phase 2 funding, from Reading (£383k) and Wokingham (£615k), is available to invest into phase 3. This will help these two districts realise the improvements originally planned for phase 2 that we were unable to deliver because of state aid difficulties that prevented these contracts being approved by BDUK.

The gainshare element of this funding and BT's share of the project underspend will be underwritten by the Growing Places Fund loan from the LEP described above.

4.3   Improvement Targets

Superfast Berkshire Phase 3 is designed to get all Berkshire districts to at least 97% superfast coverage and then to as near to 100% coverage by the end of 2018.

4.4   Procurement Approach

The procurement approach adopted for phase 2 of the project was successful both in securing good superfast coverage and achieving good value for money. Consequently we propose to adopt a similar approach to our phase 3 procurement, where we will;

- Conduct an EU open market procurement adopting the Crown Commercial Services *Competitive Procedure with Negotiation* (CPN) methodology.

- Break our remaining broadband intervention area into procurement lots. Each lot will have an associated intervention area, funding quantum, local priorities (business parks, specific communities) and coverage uplift targets. Current analysis suggests that we should divide our intervention into up to 4 rural lots and up to 3 urban lots. These lot areas are illustrated on Berkshire maps in Appendices C1 and C2.

4.5   Funding Apportionment

The precise apportionment of funds across the proposed procurement lots will be decided and agreed after further analysis and after we've gauged the appetite of broadband providers from our early supplier engagement activities.

4.6   The table below illustrates our current prediction of how our investment will need be spent across the various Berkshire districts in order to reach our target superfast broadband coverage.

District	Unspent Phase 2 Investment	Benefitting Premises	Phase 3 Target Superfast Coverage			
			>97%		>99%+	
			Benefitting Premises	Estimated Subsidy Required	Benefitting Premises	Estimated Subsidy Required
Bracknell Forest	£0	0	495	£124k	986	£218k
Reading	£383k	1549	0	£0	94	£24k
Slough	£0	0	633	£158k	1353	£338k
West Berkshire	£0	0	0	£0	0	£0
Windsor & Maidenhead	£0	0	2832	£708k	1628	£407k
Wokingham	£615k	3253	145	£36k	1643	£411k

5.   Project Activities

5.1   The procurement process will involve a number of stages dictated by state aid rules and public contracts regulations and will include;

- conducting an open market review (OMR)
- conducting a public consultation
- broadband supplier engagement
- preparing an OJEU contract notice
- preparing and issuing an invitation to tender (ITT)
- applying for state-aid approval

These activities will take place between May 2016 and April 2017 and are shown diagrammatically at Appendix D.

6.   Resources

6.1   Throughout the various stages of Superfast Berkshire we have tried to run the project as leanly as possible, often using 'borrowed' resources from the various unitary councils (The majority of these from West Berkshire, the lead authority).

6.2   We have since May 2012 employed a full time project manager on the project (Colin Batchelor) and since October 2014 included a full-time project administrator (Sarah Moxon). This full time team is considerably smaller than most equivalent projects.

6.3   This report proposes that the resource costs associated with continuing to employ these project staff to deliver phase 3 should be divided equally across the 7 participating parties, as set out in the table below.

Participant	2016/17[*1]	2017/18	2018/19 (If required)
Bracknell Forest [*2]	£24,286	£20,000	£20,000
LEP	£24,286	£20,000	£20,000
Reading	£24,286	£20,000	£20,000
Slough	£24,286	£20,000	£20,000
West Berkshire	£24,286	£20,000	£20,000
Windsor & Maidenhead	£24,286	£20,000	£20,000
Wokingham	£24,286	£20,000	£20,000
Total:	**£170,000**	**£140,000**	**£140,000**

[*1] Please note the revenue quantum for 2016/17 is higher, at £170k, than other years in order to fund a data/GIS analyst for all the mapping/data analysis work required in preparing the OMR and ITT.

[*2] Bracknell Forest has elected to fund its revenue contribution from the capital it has already contributed to the project. BDUK rules dictate that it will be necessary for the project to pay back to BDUK the matched funding contribution associated with this withdrawn capital. Therefore the quantum of capital associated with Bracknell Forest in phase 3 will be reduced by up to £128,572.

7.   Governance

7.1   Governance arrangement set up for phase 1 of the project are set out in a document entitled "*Berkshire Councils Broadband Collaboration Agreement*", dated 15th March 2013. This document was approved by the executive body of each participating partner to the project (The 6 Berkshire unitary councils and The Thames Valley Berkshire LEP) and signed and sealed by all parties.

7.2   It is proposed that we continue with this governance for the procurement of phase 3. However it is recommended that the narrative be amended/updated where appropriate and that the following schedules to this agreement be updated to reflect the current project position;

- Schedule A1 – Project Cost Sharing Scheme (Capital)
- Schedule A2 – Project Cost Sharing Scheme (Revenue)
- Schedule D1 – Project Board (Some names need updating)
- Schedule D2 – Bid Evaluation Team (Some names need updating)

8.   Conclusion

8.1   Under the leadership of West Berkshire Council the Superfast Berkshire project has been very successful. By the end of 2017, it will have helped deliver superfast broadband to 33,027 additional premises in Berkshire taking superfast broadband coverage from 87.0% to 95.6%.

8.2   Project underspend and gainshare funding provides the opportunity to conduct a project phase 3 to fill the remaining gaps in Berkshire's superfast coverage.

8.3   The frequent enquiries from those individuals and communities that still do not have access to superfast broadband proves that access to good broadband are seen as a key element of modern life.

8.4   Although West Berkshire has little to gain from phase 3 of the project, in terms of increased broadband coverage, it is considered that the continued collaborative working across the 6 Berkshire Districts will be beneficial in supporting shared service initiatives and future collaborative arrangements.

9.   Consultation and Engagement

9.1   This following stakeholders have been consulted in the compilation of this report;

Organisations/Groups
- Superfast Berkshire Project Board
- Broadband Delivery UK (BDUK)
- Berkshire Chief Executives Group (BCEG)
- Berkshire Leaders Group
- TVB LEP Forum & Executive

Individuals
- Colin Batchelor (Superfast Berkshire Project Manager)
- Cllr Dominic Boeck
- Nick Carter
- Shiraz Sheikh

Recommendation

9.2   The recommendations of this report are as follows:

(1)   That the circa £2.5m of underspend and gainshare funding and the unspent phase 2 funds from Reading and Wokingham be invested into a procurement for a Superfast Berkshire Phase 3. The objective of this new phase is to get all Berkshire districts to as close to 100% superfast broadband coverage as possible by the end of 2018. At the very least we should assist all districts in getting to 97% superfast broadband coverage.

(2)   That West Berkshire Council continues to act as the lead authority, both for this new procurement and for overseeing delivery of the existing and new phases of the project.

(3)   That we continue using the governance arrangements which were set up for phase 1 of the project. (Subject to the proposed updates to the Collaboration Agreement being completed).

(4)   That project resource costs be divided equally across all 7 project participants.

Subject to Call-In:
Yes: ☒   No: ☐

The item is due to be referred to Council for final approval	☐
Delays in implementation could have serious financial implications for the Council	☐
Delays in implementation could compromise the Council's position	☐
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months	☐
Item is Urgent Key Decision	☐
Report is to note only	☐

Strategic Aims and Priorities Supported:
The proposals will help achieve the following Council Strategy aims:
☒   **BEC –   Better educated communities**
☒   **SLE –   A stronger local economy**
☒   **HQL –   Maintain a high quality of life within our communities**

The proposals contained in this report will help to achieve the following Council Strategy priority:
☒   **SLE2 –   Deliver or enable key infrastructure improvements in relation to roads, rail, flood prevention, regeneration and the digital economy**

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Appendix B

Equality Impact Assessment - Stage One

We need to ensure that our strategies, polices, functions and services, current and proposed have given due regard to equality and diversity.

Please complete the following questions to determine whether a Stage Two, Equality Impact Assessment is required.

Name of policy, strategy or function:	Procurement Activity
Version and release date of item (if applicable):	
Owner of item being assessed:	Nick Carter (Project Sponsor)
Name of assessor:	Kevin Griffin
Date of assessment:	06/06/2016

Is this a:		**Is this:**	
Policy	~~Yes~~/No	**New or proposed**	Yes/No
Strategy	Yes/No	**Already exists and is being reviewed**	Yes/No
Function	Yes/No	**Is changing**	Yes/No
Service	Yes/No		

1. What are the main aims, objectives and intended outcomes of the policy, strategy function or service and who is likely to benefit from it?	
Aims:	Improve Berkshire's superfast broadband coverage
Objectives:	Procure a contract for phase 3 of the Superfast Berkshire project.
Outcomes:	All Berkshire Districts to have superfast coverage of between 97% and 100% by end 2018.
Benefits:	Improved access to superfast broadband for all Berkshire communities, businesses and organisations.

2. Note which groups may be affected by the policy, strategy, function or service. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this. (Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)		
Group Affected	**What might be the effect?**	**Information to support this**
All groups	Greater access to superfast broadband	Berkshire's superfast broadband coverage to be increased from 95.6% to between 97% and 100%.
Further Comments relating to the item:		

3. Result	
Are there any aspects of the policy, strategy, function or service, including how it is delivered or accessed, that could contribute to inequality?	~~Yes~~/No
Please provide an explanation for your answer:	
Will the policy, strategy, function or service have an adverse impact upon the lives of people, including employees and service users?	~~Yes~~/No
Please provide an explanation for your answer:	

If your answers to question 2 have identified potential adverse impacts and you have answered 'yes' to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage 2 Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the Equality Impact Assessment guidance and Stage Two template.

| 4. Identify next steps as appropriate:	
Stage Two required	
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	
Stage Two not required:	✓

Name: Kevin Griffin   **Date: 06/06/2016**

Please now forward this completed form to Rachel Craggs, the Principal Policy Officer (Equality and Diversity) for publication on the WBC website.

Appendix C1 Superfast Berkshire Phase 3 Procurement Lots (Rural)
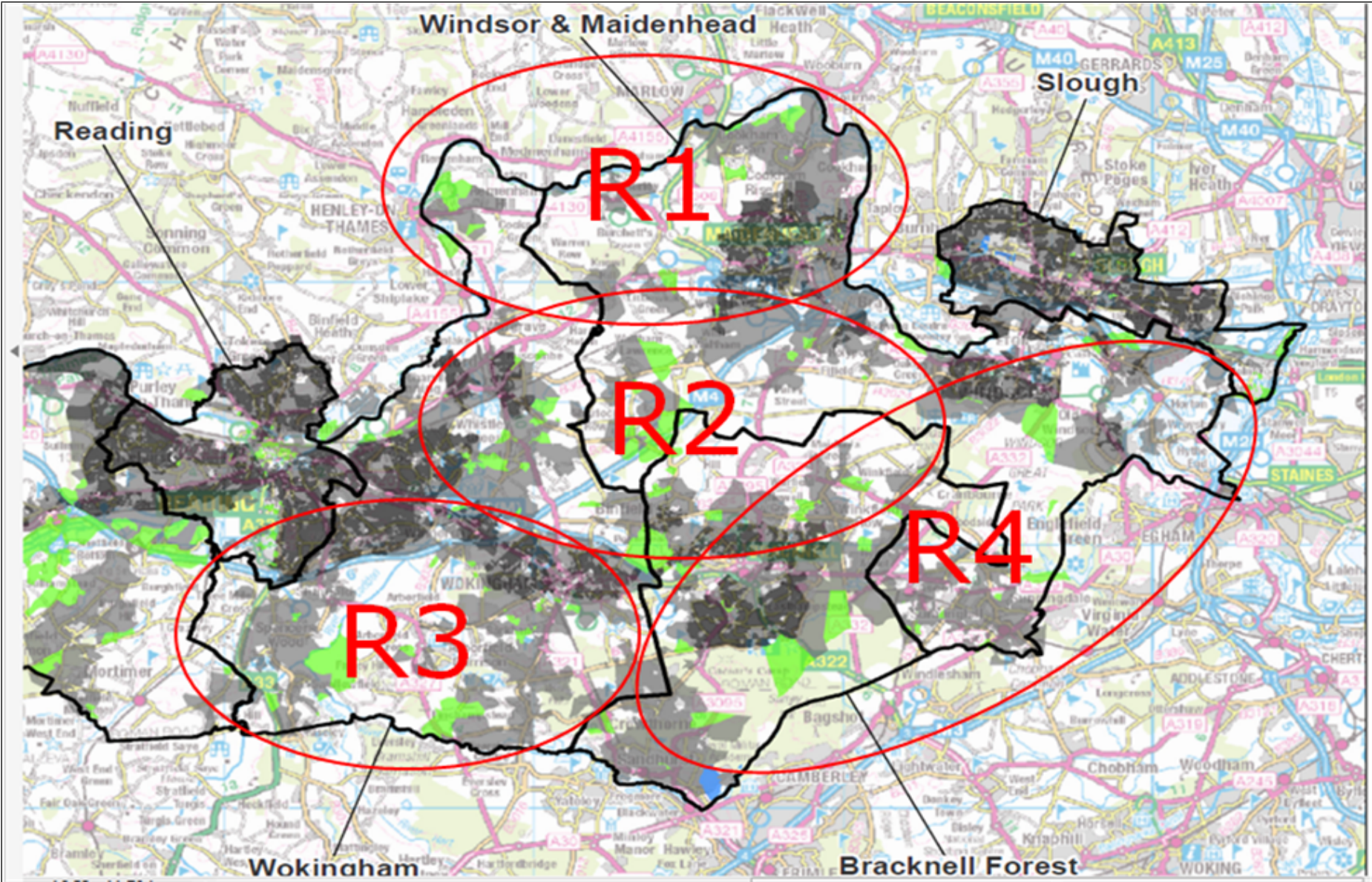
Appendix C2 Superfast Berkshire Phase 3 Procurement Lots (Urban)
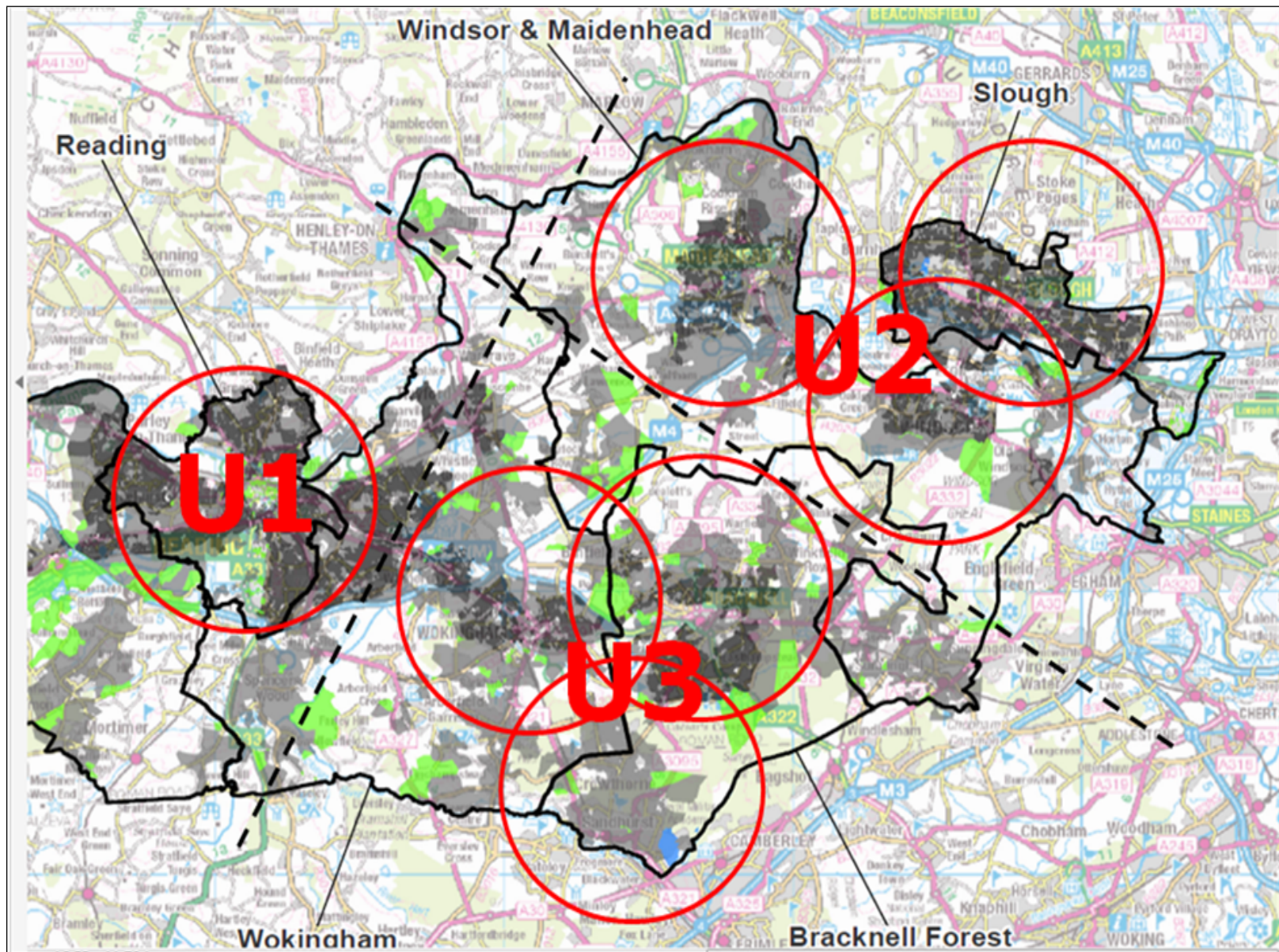
Appendix D Superfast Berkshire Phase 3 Procurement Activities