

**Report To:** EXECUTIVE CABINET

**Date:** 29 June 2016

**Executive Member/Reporting Officer:** Councillor Jim Fitzpatrick – First Deputy (Performance and Finance)  
Tim Rainey – Assistant Executive Director, Digital Services

**Subject:** SMART TAMESIDE: DIGITAL INFRASTRUCTURE

**Report Summary:** For the last 3 years the Council has been installing a fibre optic digital infrastructure in and around Ashton Town Centre. At present this network provides data and telecommunications connectivity to 20 different buildings supporting the Council, Tameside College, Ashton Sixth Form College, Tameside General Hospital and Pennine Care Mental Health Trust services, with work ongoing to connect New Charter Housing Trust and Greater Manchester Pension Fund.

Alongside supporting the public sector reform agenda the infrastructure also enable other services to be layered on top. SWIFT – Town Centre Wi-Fi for Tameside will utilise the dark fibre network across Ashton and Droylsden Town Centre's to provide the connective backbone that means over 30 external Wi-Fi hot spots can be installed to create a high density free to use public Wi-Fi network.

There is also an opportunity lever the investments being made in the digital infrastructure to support and grow the digital economy in Tameside. This sector is thriving across Greater Manchester due in part to the BBC relocation to Media City. Tameside has a strong but relatively small digital economy but with the advent of the Ashton Old Baths development alongside the digital infrastructure there is a real opportunity to stimulate and significantly grow this increasingly important sector.

A key development in the dark fibre network is the installation of fibre optic cables in ducting alongside the Metrolink track from Ashton Town Centre to Piccadilly. When this work is complete in late summer it will enable the network to be directly connected into the Northern Internet Peering Point located in the Manchester Science Park, and in so doing open up super high speed internet connectivity at a fraction of the costs of commercial available services.

Transport for Greater Manchester who operate the Metrolink Network require the Council to sign a letter of intent which details the arrangements and associated costs for use of their ducting. It also requires the Council to provide them with indemnity for any potential costs related to State Aid matters.

**Recommendations:** That Members:

- (1) authorise the Borough Solicitor to negotiate with TfGM with regard to the terms and conditions detailed in the Letter of Intent and to sign on behalf on the Council.
- (2) That Members approve providing the appropriate indemnity to TfGM with regard to State Aid matters in the form

required by TfGM and set out at **Appendix 1**.

**Links to Sustainable Community Strategy:** The initiative supports the delivery of the Sustainable Community Strategy Prosperous Tameside aim.

**Policy Implications:** n/a

**Financial Implications: (Authorised by the Section 151)** The installation of dark fibre cables is being funded from existing Council budgets, which are monitored as part of the Councils quarterly monitoring procedure. In addition other public sector partners are investing in the network, including the Greater Manchester Pension Fund (GMPF), Tameside College, Ashton Pioneer Homes and the Pennine Care Trust. A report on this was taken to Executive Board on the 8 December 2015.

The cable installation fee is £95,000, which will be part funded by Greater Manchester Pension Fund (GMPF) of £37,294 and Manchester City Council £30,000 both of these need to be agreed, the remaining amount will be funded by the savings which will be realised by not renting expensive data circuits from our existing commercial telecommunications providers these savings are estimated to start in the summer of this financial year 2015/16. If these savings are delayed then the existing revenue budget would be impacted upon and would need to be funded within the Digital Tameside existing funding envelope. The Cable Installation Fee is not a fixed price and in the event of a cost increase being incurred in respect of the installation of the Fibre Cable any cost increase has also to be met by TMBC within the Digital Tameside revenue funding envelope.

The annual rent of approximately £8,600, which is based on the total distance from the start to the end, which will be agreed once completed will also be funding by the savings which will be realised by not renting expensive data circuits from our existing commercial telecommunications providers as mentioned above.

It is also noted that there is also the potential for additional costs to be incurred as TMBC has to meet the full cost of the Fibre Cable and its installation and also any associated legal and other costs associated with the Project, which will also have to be funded within the Digital Tameside existing funding envelope.

**Legal Implications: (Authorised by the Borough Solicitor)** It will be important that there is careful monitoring of the costs and benefits being achieved through this project to ensure costs do not start to outweigh any benefits to be achieved. Whilst the Digital network is used only by publically funded or educational bodies and others exempted under state aid rules there are no risks. The risks arise when it can be argued that public funding has been used to give a company a benefit i.e. state aid so that it is no longer competing with those in the same business on a level footing.

It will be necessary to obtain Council consent to an indemnity as only Council can grant.

Whilst this report touches upon potential future uses of the Fibre Cable, it is at present only authorising the installation and

operation by the Council – not a third party operator – and for use by public sector bodies, not the private sector. It will be necessary to keep arrangements under review to ensure that they do not fall foul of State Aid rules.

**Risk Management:**

See section 3 in body of report.

**Access to Information:**

The background papers relating to this report can be inspected by contacting Tim Rainey, Assistant Executive Director, Digital Services:-



Telephone:0161 342 3299



e-mail: [tim.rainey@tameside.gov.uk](mailto:tim.rainey@tameside.gov.uk)

## 1. BACKGROUND

- 1.1. The Council has a both a responsibility and vested interest in the economic wellbeing of the borough and promoting and supporting digital inclusion of both residents and local businesses.
- 1.2. Digital technologies are becoming vital to all forms of business and in all areas of life, but a thriving digital economy, including parts of the creative, IT and high end engineering sectors, is an area that could be nurtured and actively developed.
- 1.3. Tameside is fortunate to be part of a city region where the digital sector is strong and growing. The Manchester city region is particularly strong in areas like creative, media and marketing – and Tameside can take part in and benefit from that strength.
- 1.4. The Council aims to use digital technology to transform public services, offering new and superior service at lower cost. It also sees digital technology as a driver for economic growth, directly through the development of digital sector and related businesses, and indirectly through the impact on productivity in the wider economy
- 1.5. Tameside has a strong technical, manufacturing and industrial heritage, and linking in with the Vision Tameside programme it can develop its own special role, as a centre for the industrial application of digital technology in areas such as software, digital networks and high end engineering.
- 1.6. The borough is not particularly well served with the kind of digital infrastructure that would allow real and rapid progress in pursuit of these objectives. Upgrades to Internet access services from the main suppliers, while welcome, offer only incremental change and create few opportunities for local business to innovate and add value.
- 1.7. There are no plans by any major investor to introduce truly transformational digital infrastructure on a par with cities like Stockholm and Amsterdam. When such a transformation finally comes to the UK and Greater Manchester, Tameside will not be at the top of the list.
- 1.8. Because of this the Council took the opportunity to work with partners to create a new open infrastructure. By creating a new, open, application-neutral infrastructure, the main aim is not so much to offer incrementally improved services as to open up the opportunity for new disruptive services which can transform how public and private sector work.
- 1.9. The smart city concept is not new. A smart city uses digital technologies to enhance quality and performance of urban services, to reduce costs and resource consumption, and to engage more effectively and actively with its citizens. Smart Tameside is the local manifestation of this concept. Tameside is a place with ambitions to develop a strong digital sector but to do so we must firstly have the right digital infrastructure.
- 1.10. The key role of that infrastructure is not to provide the services that help businesses work efficiently and reach new markets – although that is an important benefit. Rather it is to create a new space to try new things – to transform the opportunities open to people and businesses.
- 1.11. To this end an Executive Decision was taken by the Deputy Leader on 28 March 2013 which authorized the installation of the Digital Infrastructure in Ashton Town Centre.
- 1.12. Tameside Metropolitan Borough Council has now installed and is using this new digital technology infrastructure. Alongside the Council using the new infrastructure to link 7 of its sites in Ashton Town Centre, dark fibre is also being installed into the Ashton Old Baths development and it will be used to provide connectivity to the businesses based there.
- 1.13. In addition other public sector partners are also investing in the network. Greater Manchester Pension Fund have agreed funding to help extend the fibre network into their new HQ in Droylsden and Tameside College have funded an extension of the network to link its Beaufort Road site with their new Ashton Town Centre facility and Enterprise Centre. The Pennine Care Trust has also recently commissioned a link into their St Petersfield HQ

and work to connect Tameside General Hospital, Ashton 6<sup>th</sup> Form and New Charter Housing are underway.

- 1.14. The route of the Metrolink runs directly outside the new Greater Manchester Pension Fund administration building. Work to extend the Tameside Digital Infrastructure down the track side to Droylsden means that in future the Pension Fund, Droylsden Library, Concorde Suite and the Council's wide areas Network link between Droylsden BT Exchange and Ashton BT Exchange will be delivered over the dark fibre instead of paying our current network providers for high speed circuits.
- 1.15. At the same time as installing dark fibre cables from Ashton to Droylsden it is also intended to install fibre cables along the entire route of the 3B extension to Piccadilly in the City Centre. From there the Tameside Digital Infrastructure will be linked into the Northern Internet Peering point in Williams House, and in doing so provide the Tameside Digital Infrastructure with a direct route onto the internet.
- 1.16. Having a direct link into the Internet would enable huge bandwidths in excess of 1Gbps to be delivered to businesses linked to the Digital Infrastructure. The availability of such services in the UK is very limited and in Tameside the cost would be around the tenth of the normal commercially available price. This would provide significant opportunities and savings for the Council and other partners connected to the infrastructure.

## **2. TRANSPORT FOR GREATER MANCHESTER (TFGM) LETTER OF INTENT.**

- 2.1. The proposed fibre connections to New Charter Housing Trust HQ, Greater Manchester Pension Fund HQ and the Concorde Suite in Droylsden require the use of TfGM tram side ducting. During the original construction of the Metrolink specific ducting for fibre optic cables was installed along the entire Ashton to Piccadilly route. For this first phase of connections ducting from the Ashton Terminus to Droylsden Town Centre would be utilized.
- 2.2. The second phase of work would see cable installed from Droylsden through to Sheffield Street near to Piccadilly Train Station and from there routed to the Northern Internet Peering point in Williams House at Manchester Science Park. Manchester City Council (MCC) have expressed interest in also installing fibre optic cable along the Tram Side from their boundary with Tameside at Openshaw and through to Piccadilly and are actively working with the Council and TfGM to this end.
- 2.3. A PSO Waiver was taken on 2/10/16 which authorised TMBC to place an order with TfGM for the installation of fibre optic cables from Ashton, through Droylsden and onward to Piccadilly using an existing TfGM Call off contract. The value of this work was estimated to be £85k and is to be funded through saving which would be realised by not renting expensive data circuits from commercial telecommunications providers.
- 2.4. TfGM now require the Council to sign a Letter of Intent before they progress with the fibre optic cable installation. A copy of the draft letter of intent is attached at Appendix 1. In essence this letter details a number of important issues defining the extent of the fibre install work and the ongoing arrangements for its use.
- 2.5. **Consents/easements:** The route of the Metrolink from Ashton to Piccadilly crosses land owned by various organisations both public and private. Whilst work to tidy up land ownership issues along the route is currently being pursued by TfGM there are certain parcels of land in third party ownership where specific consents will be needed before the Council could legally use the fibre optic cable. In order not to delay the cable installation and increase costs TfGM has agreed to install and own the fibre optic cable in the first instance. Once the appropriate consents have been put in place TfGM will transfer ownership of the cable to the Council. The Council's Estates team are actively pursuing consents for the phase 1 route (Ashton to Droylsden) and phase 2 (Droylsden to Piccadilly). Manchester City Council have confirmed that they should they join in the fibre installation

project they would equally share the costs of any legal and easement fees associated with phase 2.

- 2.6. **Project Agreement:** The lease or license to use the TfGM ducting will be for 20 years and TfGM will charge the Council a rental based on the BT regulated standard which at present is £0.86p per metre per year. This represents a total annual rental of around £8,600 per year for the stretch from Ashton to Piccadilly. This annual rental would also be jointly funded by Manchester City Council on a pro-rata basis should they join in with the fibre project.
- 2.7. **State Aid Indemnity:** TfGM are also seeking full indemnity with regard to any State Aid matters. The installation and operation of the cable by the Council and use by public sector partners will not give rise to State Aid implications. The potential future operation of the cable by a third party and use of the cable by the private sector will have State Aid implications and is the reason for TfGM requiring the indemnity now. On the face of it the request from TfGM for the indemnity appears reasonable to protect against the intended future use. The Council will need to continually monitor and review the operation and use of the cable to ensure that it does not fall foul of State Aid rules. .

### 3. RISKS

- 3.1. There are various risks that need to be considered:
- Consents and Easement costs from 3<sup>rd</sup> party land owners are prohibitively expensive.
  - Legal challenge with regard to State Aid.
- 3.2. **Consents and Easement Costs:** Whilst the vast majority of the Tram route from Ashton Town Centre to Sheffield Street, Piccadilly is on land owned by either Tameside Council, Manchester City Council or TfGM there are some packets of land that are in third party ownership. The existing third party easements permit TfGM to install and use fibre optic cable in the tram side ducting for Metrolink operation. In order for Tameside (and Manchester) to install and operate fibre in the ducting these easements must be amended/re-negotiated.
- 3.3. The costs relating to these consents/easements varies from land owner to land owner. Typically the cost they demand relate to the costs that would be incurred should an alternate route have to be provided for. i.e. dig a separate ducting around the parcel of land. Work to finalise the easements for phase 1 are nearing successful completion and work on phase 2 will be undertaken with Manchester City Council. If a mutually agreeable arrangement cannot be obtained an alternative route would be identified and ducting installed.
- 3.4. **State Aid Legal Challenge:** In the “Digital Infrastructure” Executive Decision taken on 28 March 2013 the issue of whether the council investing and development a digital infrastructure in Tameside could be considered as non-permissible state aid leading to a legal challenge was raised. The report went on to say that this issue would be fully considered and where possible any risks would be mitigated. At this stage the Council is seeking to install and potentially operate the cable itself, so there are no State Aid issues at present. The position will need to be continually reviewed as plans for the operation and end use of the cable are progressed.

### 4. RECOMMENDATIONS

- 4.1 As set out on the front of the report.

# APPENDIX 1

Draft Letter from Transport for Greater Manchester

Our Ref: DG/N261

Date 17 March 2016

Dear Sandra

## **Tameside Digital Infrastructure Project “the Project”**

In this letter the following words have the following meanings:

**Ashton Moss Consent** means the consent of Stanley Development Limited (registered number 01269120) whose registered office is at the Estates Office Enville near Stourbridge West Midlands BY7 5HD to the Project as required under the Plot 1001 Deed of Easement and Covenant Dated 1 August 2013 and the Pond Deed of Easement and Covenant Date 1 August 2013 and title MAN213477

**CABLE Installation Fee** means £95,000 (ninety five thousand pounds)

**Canal and River Trust Consent** means the consent of the Canal & River Trust (company number 07807276 Charity Number 11467920) acting as Trustees of the Waterways Infrastructure Trust (charity number 1146792-2) whose principal office is at Canal and River Trust, First Floor North, Station House, 500 Elder Gate, Milton Keynes, MK9 1BB as required under the Lease dated 27 November 2013 and as required under the Transfer dated 27 November 2013 noted in paragraph C1 of the Charges Register of title number MAN203242 (being land lying to the Ashton Canal Manchester) and the Restriction noted at paragraph p3 of the Proprietorship Register of the same title

**Consents** means the Phase 1 and the Phase 2 consents

**Fibre Cable** means the electronic communication cables to be laid in the Subduct

**Long Stop Date** means the 31 March 2017

**MCC Consents** means under the consent of the Council of the City of Manchester to the Project as required under claim 12.2.2 of the Transfer dated 8 August 2006 noted at paragraph c2 of the Charges Register of the title MAN47925 (being the land and the buildings on the north west side of Pollard Street) and as required under clauses 4.8, 4.19 and any other relevant clause of the Lease (as applicable) dated 30 March 1990 made between the Council of the City of Manchester and Iwelt Limited as varied by the Deed of Variation dated 13 September 2001 between the same parties

**Phase 1** means Ashton to Droylsden

**Phase 2** means Droylsden to Sheffield Street to the rear of Manchester Piccadilly Station in Manchester City Centre

**Phase 1 Consents** means the Ashton Moss Consent and the PTVC Pension Trustee Consent and any other consents which are identified and notified to Tameside as being relevant to Phase 1.

**Phase 2 Consents** means the RG Securities Consent, the Canal and River Trust Consents and the Manchester City Council Consents and any other consents which are identified and notified to Tameside as being relevant to Phase 2.

**Pre-approved Connections** means the old Greater Manchester Pension Fund building at Concord Suite Manchester Road Droylsden M43 6SF and new Greater Manchester Pension Fund building at Guardsman Tony Downes House 5 Manchester Road Droylsden M43 6SF

**Project** means the Installation of a Fibre Cable within the tram side ducting in the identified Subduct owned by TfGM

**Project Agreements** means the Phase 1 Project Agreement and the Phase 2 Project Agreement

**PTVC Consent** means the consent required under the Restriction set out in paragraph P2 of the Proprietorship Register of title GM816357 being the freehold land known as 418 Manchester Road Droylsden M43 6QX

**RG Securities Consent** means the consent of RG Securities (No 2) Limited (Company Number 02232530) of 7-11 Nelson Street, Southend-On-Sea SS1 1EH under the Restriction set out in paragraph p2 of the Proprietorship Register of title number MAN69094 (being the freehold land and buildings on the north west side of Pollard Street) and the Restriction set out in Paragraph p3 of the Proprietorship Register of title number MAN47925 (being land and buildings on the north west side of Pollard Street) and in respect of the restrictive covenant set out in clause 13.4.1 of the Transfer of Part dated 24 August 2006

**Subduct** means Subduct 'X'

**Tameside** mean Tameside Metropolitan Borough Council

**TfGM Consent** means the consent of the TfGM required pursuant to section 10(1) (xxiii) of the Transport Act 1968 as set out in the GMCA Constitution Part 3 Section B II paragraph 1.1 (o)

## **Background**

- 1.1 The Parties are negotiating a Project Agreement in phases (incorporating an Agreement for Lease) conditional on the Consents and the TfGM Consent required in relation to permit the Project 'the Project Agreement'. The parties aim to complete the Project Agreement by the dates set out at paragraph 7.1 below. In the meantime Tameside have requested that TfGM permit installation of sufficient cable to support Phase 1 (Ashton to Droylsden) and Phase 2 (Droylsden to Sheffield Street (rear of Manchester Piccadilly) of the Project prior to formal completion of the Project Agreement. The intention is for there to be a Phase 1 Project Agreement and a Phase 2 Project Agreement. The Phase 2 Project Agreement will be in the same form as the Phase 1 Project Agreement incorporating such amendments as necessary to give effect to Phase 2 as agreed between the parties. Due to the complexity of documentation and the issues to be dealt with within the Agreement the intention is for the parties to enter into the Letter setting out the basis of the agreement between the parties with regard to the procurement and the installation of the Fibre Cable until such time as the project Agreement has been entered into.
- 1.2 TfGM have agreed to procure the Fibre Cable subject to the following:

## **2 General Terms**

- 2.1 The relevant Phase Project Agreement will remain conditional until such a time as the Consents and the TfGM Consent relevant to that phase have been obtained. Tameside acknowledge that before they can use and connect into the Fibre Cable it is necessary for the Consents and the TfGM Consent relevant to that phase to be obtained in the form satisfactory to the parties to allow the relevant phase of Project to proceed.
- 2.2 Therefore Title to the Cable shall remain with the TfGM until such a time as the Consents and the TfGM Consent have been obtained in accordance with the terms of the Project Agreements. TfGM shall subject to the remaining terms of this letter be permitted to use the Fibre Cable and install it for the purposes of the Metrolink system
- 2.3 Title to the Fibre Cable will pass to Tameside once the Consents and the TfGM Consent have been obtained in accordance with the terms of the Project Agreement at which point Tameside will be granted either a Lease or a Licence permitting the occupation by the Fibre Cable in the allocated Subduct.

## **3 Project Agreement**

- 3.1 The main terms of the Project Agreement will be as follows:
- 3.2 The Term of the Project Agreement will be 20 years
- 3.3 Include provisions dealing with Conditionality as describer at paragraph 1.1 above
- 3.4 Once the Consents and the TfGM Consent have been obtained in respect of a relevant phase then this will trigger the grant of either a lease or Licence as described in the Project Agreement by way of the mechanism set out in the Project Agreement
- 3.5 Tameside will only be permitted to appoint a Telecoms Provider with the consent of TfGM and only once the Consents and the TfGM Consent have been obtained for a relevant Phase as described above



- 3.6 The Project Agreement will contain Co-Operation and Collaboration provisions whereby TfGM and Tameside agree to work together for the life time of the Project and agree to hold regular meetings to discuss the Project
- 3.7 The Project Agreement shall contain termination provisions allowing the Agreement to be terminated on the occurrence of an event of default as described in the Project Agreement and in the event of the Consents and the TfGM Consent not being obtained by the Long Stop Date
- 3.8 The parties will acknowledge that the TfGM do not currently own all of the land on which the tram lines sit running from Ashton to Sheffield Street. The Project Agreement will contain a mechanism to address this and to allow leases or licences to be granted once those parcels of land have been acquired by TfGM and any further TfGM Consent as required is obtained.
- 3.9 Tameside will be required to comply/ensure that its contractor complies with the following TfGM policies and procedures any Suppliers to the Project will need to have Personal Trackside Safety (PTS) for all employees engaged in the installation of the fibre cable and an organisation Rail Safety Case (RSC). There must also be at least one employee who is engaged on the installation of the Fibre Cable with person in Charge accreditation (PIC) and two employees who have completed Lookout training. It is the responsibility of Tameside MBC to ensure that these accreditations have been obtained and approved by Meterolink in connection with the installation works for the fibre cable.
- 3.10 Tameside will provide TfGM with a full indemnity with regard to State Aid matters.
- 3.11 The Lease to be granted will be in the form attached to the Project Agreement and will contain the usual Landlord and Tenant covenants for leases of this type including but not limited to the following: Landlord and Tenant Act 1954 contracting out provisions, Lift and Shift provisions, the rent payable by Tameside to TfGM will be based on the BT regulated standard rate currently £0.86 per metre (or any such variation of this standard rate). Any Licence granted will also contain Lift and Shift provisions and a Licence Fee also based on the BT regulated standard rate currently £0.86 per metre (or any such variation of this standard rate). All Leases or Licences granted will contain provisions whereby the Leases and Licences can be automatically terminated in the event that the Project Agreement is terminated.
- 3.12 Once Consents and the TfGM Consent have been obtained and the Lease and/or the Licence has been granted the Pre-approved Connections only, will be permitted to the fibre cable. In the event of further connections being required these will only be permitted in accordance with the mechanism set out in the Project Agreement.

#### **4 Payment for Fibre Cable Installation**

- 4.1 Tameside to meet the full cost of the Fibre Cable and its installation and also any associated legal and other costs associated with the Project, and to reimburse TFGM in respect of this. Please note that an order to purchase the Fibre Cable will only be place on receipt by TfGM of the Cable Installation Fee in cleared funds in accordance with the terms of this Letter. We note that the Cable Installation Fee is not a fixed price and in the event of a cost increase being incurred in respect of the installation of the Fibre Cable any cost increase will be met by Tameside. In the event of a cost increase being incurred, Tameside will notify TfGM in writing as soon as is reasonably possible the amount of the increase and will arrange to put TfGM in cleared funds to pay such increase within 10 working days of the notification being made to TfGM. Such arrangements with regard to the reimbursement in respect of the increase in costs will apply to cost increases incurred prior to title to the Fibre Cable passing.

#### **5 The Consents**

- 5.1 Tameside shall be responsible for securing the Consents as its own cost and TfGM shall provide reasonable assistance with this process. Note that where any third party requires any documentation to be drafted to record the agreement reached between the parties in connection with the granting of any of the Consents this documentation will be the

responsibility if Tameside to prepare subject to the approval of TfGM. For the avoidance of doubt it shall be the responsibility of the TfGM to obtain the TfGM Consent.

5.2 The Consents which are referred to for the purposes of this letter are the Consents which are required as a result of the existence of any restrictions and restrictive covenants which TfGM's titles are subject to. Other consents may be required with regard to the Fibre Cable and its' installation from other bodies such as (but not limited to) Highways England. Save for the TfGM Consent it will be the responsibility of Tameside to firstly establish which if any further consents at Tameside's cost. Tameside will be expected to confirm to TfGM what these consents are (if any) and demonstrate to TfGM prior to any installation works commencing that these consents have been obtained or are in the process of being obtained at the appropriate time in the Project.

5.3 The parties acknowledge that TfGM are in the process of acquiring certain parcels of land on which the tram lines and the tram side ducts are located (Outliers) and therefore the parties acknowledge that certain further consents may be required for this Project and any such consents which are required will be at the cost of Tameside. As stated above a number (but not all) of the parcels of land falling within this category are currently owned by Tameside we will discuss the process for transfer of these parcels to TfGM with you separately as part of our Outliners Project. For the avoidance of doubt if any further TfGM Consent is required as a result of further acquisitions by TfGM then it shall be the responsibility of TfGM to obtain such further TfGM Consent as required and the grant of any future leases or licences will be conditional of any further TfGM Consent or other consents being obtained.

## **6 Installation of Fibre Cable**

6.1 Irrespective of whether the Consents or the TfGM Consent have been obtained no works to install the Fibre Cable will be permitted to begin until the following have occurred:

6.1.1 a copy of this Letter signed by an authorised signatory of Tameside has been received by TfGM and;

6.1.2 a capacity survey of the tram side duct has been undertaken by TfGM to assess the level of the spare capacity of the tram side ducts on the Ashton line the results of which are satisfactory to TfGM in its absolute discretion

6.1.3 relevant employees engaged by Tameside in connection with the Installation of the Fibre Cable having obtained/undertaken the accreditations and training set out in paragraph 3.9 of this Letter

6.2 For the avoidance of doubt 6.1.1, 6.1.2 and 6.1.3 along with the obtaining of the Consents and the TfGM Consent shall be considered to be Conditions Precedent to the Installation of the Fibre Cable.

6.3 Installation of the Fibre Cable will only be permitted within the allocated purple duct. A Fibre Cable or cables for the Project shall not be installed within any of the orange ducts

6.4 In the event that the Project Agreements for Phase 1 and Phase 2 have not been signed and the Consents and the TfGM Consent have not been obtained by 31 March 2017 'the Longstop Date' then the arrangements set out in this Letter of Intent will come to an end unless they have been extended by prior agreement in writing between the parties

6.5 During the Installation Tameside shall be responsible for any damage or loss of service caused to any of the ducts installed by TfGM for the operation of the light rapid transit system and due Urban Traffic Control (UTC) or for any other damage caused to the TfGM's property, equipment or apparatus. Further Tameside shall indemnify TfGM against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the indemnified party in connection with the installation of the Fibre Cable. In the event of any such damage being caused Tameside shall notify TfGM of such damage immediately upon becoming aware of it and the parties shall work together to resolve the situation

## **7 Timetable**

- 7.1 The parties shall continue to negotiate with a view to signing the Conditional Phase 1 Project Agreement by 30 June 2016 and the Condition Phase 2 Project Agreement by 31 October 2016. In the event that the Project Agreements are signed the terms of this letter will be subsumed into the relevant Project Agreements.

Please confirm your agreement to the terms of this Letter by signing and returning the copy letter enclosed to us. Payment of the Cable Installation Fee will be due within 10 working days of the signing and dating of this letter by Tameside.

Yours Sincerely

Desmond Gardner  
Head of Legal Services  
Direct Line 0161 244 1725  
Email [desmond.gardner@tfgm.com](mailto:desmond.gardner@tfgm.com)

We hereby confirm our agreement to abide by the terms of this Letter

Authorised Signatory of Tameside Metropolitan Borough Council

Dated: 2016