

9th May 2014

SUPERFAST NORTHAMPTONSHIRE

New Procurement to further extend coverage of Superfast Broadband across Northamptonshire

STATE AID PUBLIC CONSULTATION (2)

1. Introduction

The Superfast Northamptonshire Project is aiming to extend the availability of Superfast Broadband (at least 24Mbps) across Northamptonshire, with the ambition to deliver full coverage by the end of 2017.

Northamptonshire County Council conducted its first Open Market Review (OMR) process on Broadband in June 2012. At the time, the planned commercial coverage of Superfast Broadband (within a 3 years' timeframe) was due to reach approximately 75% of premises in Northamptonshire, potentially leaving the remaining 25% of premises without access (or planned access) to Superfast Broadband. Northamptonshire County Council ("the County Council") subsequently selected British Telecommunications (BT) in March 2013 under the Broadband Delivery UK (BDUK) Rural Broadband Programme Procurement Framework ("BDUK Framework") to deliver Superfast Broadband. The County Council is making good progress with the deployment of this contract, with over 10,000 premises passed by April 2014 and the contract is on track to reach circa 50,000 premises passed by the end of 2015. When combined with commercial plans, this means that about 90% of premises in Northamptonshire should have access to Superfast Broadband by the end of 2015.

In the 2013 Spending Review, the Government announced a further allocation of funding for broadband under the BDUK Superfast Phase 2 Programme, with the aim of increasing coverage across the UK to 95% by 2017. The County Council intends to conduct a further mini-competition under the BDUK Framework to award a second Local Call-off Contract to a supplier to deliver extended coverage through this additional funding.

As part of this new procurement process, the County Council conducted an Open Market Review between January and March 2014 to establish current and planned (next 3 years) commercial coverage of broadband services in Northamptonshire by existing, and any prospective, broadband infrastructure providers. The information gathered through this Open Market Review has been used to define the scope of the eligible Intervention Area for the purpose of the forthcoming mini-competition under the BDUK Framework.

The purpose of this public consultation document is to set-out the County Council's interpretation of the potential Intervention Areas for superfast and basic broadband. This is to enable the public and market players to comment on the Intervention Area proposals and in particular, to provide an opportunity for telecommunication providers to review the County Council's representation of their commercial plans provided through the OMR and

ensure these are correct. A final Intervention Area proposal is then submitted to the BDUK National Competence Centre for clearance, taking on board the outcome of the public consultation. The State Aid Framework requirements which guide the determination of an Intervention Area for the purpose of public sector intervention in the delivery of broadband infrastructure are provided in section 3 below.

2. Timescales

This State Aid public consultation will be open until Monday 9th June 2014.

Once the State Aid public consultation is complete and the Intervention Areas have been formalised by the County Council, an Invitation to Tender (ITT) will be issued to BDUK Framework Suppliers to bid for the opportunity to fulfil a new contract to deliver the extended Superfast Broadband coverage.

The County Council envisage publishing the ITT in June 2014. The procurement will run over the summer of 2014 and be concluded by early autumn. The related extended deployment plans for broadband infrastructure should begin in early 2015.

3. State Aid Framework

This section provides a brief introduction to the State Aid Framework for the purpose of informing responses to this State Aid public consultation.

The European Union State Aid rules are designed to ensure that any use of public funding ('State Aid') is targeted at areas of market failure and ensuring positive market outcomes while minimising any distortion to competition.

The State Aid rules require public interventions to be targeted so as to limit the risk of crowding-out or disincentivising existing and/or credible planned private sector investments that would otherwise meet the desired policy objectives. In the context of broadband, the State Aid rules require using public funding only to extend broadband coverage in geographic areas where there are no current or planned (next three years) provision of Superfast Broadband.

The 'EU Guidelines for the application of State Aid rules in relation to the rapid deployment of broadband networks (2013/C 25/01)' can be found at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:025:0001:0026:EN:PDF>

Planned public interventions can seek clearance under the State Aid rules directly from the European Commission (EC), or (as is the case with this proposal) seek clearance under a national scheme for the UK pre-approved by the EC. The EC's State Aid decision on the 'National Broadband Scheme for the UK (C(2012) 8223' can be found at: http://ec.europa.eu/competition/state_aid/cases/243212/243212_1387832_172_1.pdf

The responsibility of the National Competence Centre (NCC) is described in the following document:

http://ec.europa.eu/competition/state_aid/cases/243212/243212_1387832_172_1.pdf.

The EC State Aid Guidelines distinguish between two types of broadband networks: Basic Broadband, and Next Generation Access (NGA) networks.

Basic Broadband networks are generally those based on currently widely-deployed technologies such as fixed wired telephony networks (using ADSL/ADSL2+ technologies), non-enhanced cable TV networks (eg DOCSIS 2.0), mobile networks (2G/3G (UMTS)), fixed wireless access (FWA) networks, and satellite networks.

NGA networks rely wholly or partly on optical elements (optical fibre) and are capable of delivering an enhanced broadband capability compared to existing Basic Broadband networks.

The EC Guidelines recognise that certain advanced wireless technologies (eg LTE-Advanced) can have similar characteristics to wired NGA technologies, where these are capable of delivering reliable high speeds per customer.

Further guidance on the characteristics for qualifying NGA technologies is available from the BDUK National Competency Centre at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236341/NGA_Technology_Guidelines_300813.pdf

The EC Decision on the National Broadband Scheme for the UK requires that public funding granted under the scheme shall ensure a 'step change' in broadband capability, and this is demonstrated by:

- significant new investments in the broadband network;
- the new infrastructure brings significant new capabilities to the market in terms of broadband service availability, capacity and speeds (on average across the Intervention Area, doubling existing speeds);
- the subsidised network should be pro-competition, i.e. allow for effective access at different levels of the infrastructure.

The EC Guidelines also distinguish between geographic areas on the basis of current or planned (next 3 years) broadband infrastructures thus:

- 'White' areas are those in which there is no qualifying broadband infrastructure and none is likely to be developed in the near future (within 3 years);
- 'Grey' areas are those where one network operator has a qualifying presence and another qualifying network is unlikely to be developed in the near future; and
- 'Black' areas are those where there are, or there will be in the near future, at least two qualifying network operators.

The geographic mapping of White/Grey/Black areas is to be carried-out separately for both Basic Broadband and Superfast Broadband.

In accordance with the EC Decision on the National Broadband Scheme for the UK, the County Council has defined its proposed NGA and Basic Broadband Intervention Areas to target NGA 'White' areas and Basic Broadband 'White' areas, respectively.

4. Open Market Review

The County Council issued an 'Open Market Review – Request for Information' on 21st January 2014 to gather information on existing and planned (next 3 years) broadband deployments. This information has helped us to define our proposed Intervention Areas in which additional public funding could be invested to further extend Superfast Broadband coverage across Northamptonshire.

The Open Market Review was a precursor to the formal State Aid public consultation on the proposed Intervention Areas. The Open Market Review process is not a specific requirement of the EC Guidelines, but is regarded as good practice to help to inform the definition of the Intervention Areas prior to a State Aid public consultation (which is a requirement of the EC Guidelines).

This Request for Information was sent to all known broadband infrastructure providers in Northamptonshire.

The Open Market Review process has also taken account the actual and planned extension of broadband coverage being delivered through the County Council's contract with BT (March 2013).

The Open Market Review process has now been concluded and the scope of the proposed Intervention Areas, where additional public funding could be invested, has been defined for State Aid public consultation. The proposed Intervention Areas are based upon responses received to our Open Market Review process where commercial providers were able to provide supporting evidence to substantiate existing and/or planned qualifying coverage.

The following criteria have been used by the County Council to determine the classification of areas into Basic Broadband and NGA White/Grey/Black areas respectively:

For Basic Broadband, each postcode is turned Grey if:

- BT estimate that all premises in the postcode can receive (or are planned to receive) a broadband speed >2Mbps;
- OR, if Virgin Media serve 90% of premises within the postcode;
- OR, if it is an area served by an alternative fixed infrastructure provider with Access Line Speeds >2Mbps;
- OR, if a wireless service or other qualifying technology is available at >2Mbps to all premises in the postcode;

- OR, if the postcode is included in the Basic Broadband Intervention Area of the current deployment Contract between the County Council and BT (March 2013).

Each postcode is turned Black for Basic Broadband if it satisfies at least two of these conditions. All other postcodes remain White.

For NGA, each postcode is turned Grey if:

- BT has upgraded the network infrastructure serving the area AND ALL premises within the postcode have an estimated (VDSL2 for FTTC) Access Line Speed of >15Mbps (please refer to Note 2 below);
- OR, if Virgin Media serve 90% of premises within a postcode;
- OR, if it is in an area that is served by an alternative fibre-based, NGA fixed wireless or other qualifying technology that meets the requirements of the BDUK NGA Technology Guidelines¹.

Each postcode is turned Black for NGA if it satisfies at least two of these conditions. All other postcodes remain White.

Note 1: where 2 operators have declared partial coverage of premises within a postcode, a complete overlap of coverage is assumed, e.g. if a postcode contains 30 premises and operator A serves 10 premises and operator B serves 15 premises with Superfast Broadband, the County Council considers 15 premises to be NGA white. This assumption aligns with observations from sample testing of suppliers' online availability checkers and aims to ensure that no premise is left behind in the objective to achieve full Superfast Broadband availability by the end of 2017.

Note 2: In accordance with the Northamptonshire Next Generation Strategy and the Superfast Northamptonshire project, the speed threshold criterion used to determine an area as NGA white remains 24 Mbps or less. However, some OMR data supplied to the County Council was based on a threshold of 15Mbps instead of 24Mbps. The County Council has estimated which areas reported through the OMR as above 15Mbps it believes will be 'at risk' of not benefitting from access to Superfast Broadband speeds of above 24Mbps – these are coloured Green and will be treated as 'Conditional' White areas. These areas have been estimated based on the expected depreciation of speeds with the distance between premises and their serving network infrastructure (FTTC cabinets). It has been estimated that premises located more than 1000m away from their expected serving cabinet location were at risk of not having access to Superfast Broadband.

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236341/NGA_Technology_Guidelines_300813.pdf

Note 3: In addition, the proposed NGA Intervention Area includes a number of other NGA ‘Conditional’ White areas (coloured in blue on the map) – these areas are currently within planned commercial coverage but have been reported through the OMR as being ‘at risk’ of not being completed commercially. If commercial plans fail then these areas should be eligible for public sector intervention.

It is proposed that ‘Conditional’ White areas will be eligible for public sector intervention to support the deployment of Superfast Broadband subject to monitoring and verification of supplier plans within the 3 year period by the Local Body that a superfast broadband service has not or will not be delivered during the period.

The following table summarises the outcome of the Open Market Review in terms of White, ‘Conditional’ White, Grey and Black postcodes and premises for Superfast Broadband:

	Number of postcodes	Number of black premises	Number of grey premises	Number of white premises
Black postcodes	4090	103,723	765	0
Grey postcodes	7831	21,951	134,024	308
‘Conditional’ White postcodes	173	0	111	2835
White postcodes	3915	2,049	16,975	36,272

The Superfast Broadband Intervention Area would include 39,107 NGA White premises spread over 4,008 NGA White postcodes (including ‘Conditional’ White areas).

The following table summarises the outcome of the Open Market Review in terms of White, Grey and Black postcodes and premises for Basic Broadband:

	Number of postcodes	Number of black premises	Number of grey premises	Number of white premises
Black postcodes	6149	152,806	1,116	0
Grey postcodes	9243	15,531	140,247	4
White postcodes	617	338	5,108	3,863

The Basic Broadband Intervention Area would include 3,863 White premises spread over 617 White postcodes.

5. State Aid Public Consultation

The EU Guidelines (paragraph 78) and EC State Aid decision on the 'National Broadband Scheme for the UK' (paragraph 40) set-out the requirement to hold a public consultation in order to validate the Intervention Area mapping by allowing all interested stakeholders an opportunity to comment on the planned aid measure.

The purpose of this document is to fulfil those requirements by publishing a description of the proposed aid measure, and seeking feedback from all interested stakeholders. The proposed NGA and Basic Broadband Intervention Areas are shown in the attached maps.

The attached maps of the NGA and Basic Broadband Intervention Areas rely on the definitions of White, Grey and Black areas, as set-out in the EU Guidelines (and as summarised above). The NGA map also includes 'Conditional' White areas identifying additional areas at risk of not having access to Superfast Broadband and which could potentially be added to the NGA Intervention Area.

The priority for the County Council will be to use the available public funding intervention to provide a 'step change' in broadband capability for premises currently getting relatively slow broadband speeds (< 15Mbps). Therefore, in the first instance, the focus of the forthcoming procurement under the BDUK Framework will be the NGA White areas identified in the attached State Aid Map. However, the County Council reserves the right to consider extending intervention to the areas classified as 'Conditional' White in the event that the risks of these premises not achieving Superfast Broadband is verified.

This State Aid public consultation and the proposed NGA and Basic Broadband Intervention Area maps are available to all stakeholders on the [Intervention Area](#) page of the Superfast Northamptonshire project website at www.superfastnorthamptonshire.net. They are also available via the [Broadband page](#) of the County Council's website at www.northamptonshire.gov.uk.

A link to this State Aid public consultation is also available on the BDUK website at: <https://docs.google.com/a/digital.cabinet-office.gov.uk/spreadsheet/ccc?key=0Ah3sVRjT82kKdEltX0IJNjNVWWWhNbjBnNGwxeHhqMHc#gid=0>

6. Responding to this State Aid Public Consultation

The information requested is specified in the following section (Section 6). When responding to this request, the County Council would be grateful if you could confirm the following information:

- Your organisation's name

- Your organisations Address
- Your name
- Position
- Contact telephone number
- Email Address

We also request confirmation from an authorised signatory that the information provided is suitably accurate and up-to-date.

Please send your response to arrive no later than close of play on 9th June 2014 to:

Via email to bigidea@northamptonshire.gov.uk (marked "Superfast Northamptonshire Public Consultation Response").

Or by post to:

Superfast Northamptonshire Public Consultation Response,
Northamptonshire County Council
Room 272 County Hall
Northampton
NN1 1DN

Please note that any information you provide in your response will be treated as commercially confidential to your organisation. However, it may be necessary to share some or all of your response with our professional advisors and/or DCMS/BDUK, Ofcom, the National Competence Centre, and the European Commission, in the course of seeking State Aid approval. The County Council is also subject to certain legal obligations to disclose information in certain other limited circumstances.

It should also be noted that it is a State Aid requirement to utilise the information provided in response to this consultation to refine our State Aid maps to define White/Grey/Black areas for NGA and Basic Broadband. However, the published maps will show the aggregated White/Grey/Black NGA and Basic Broadband areas, not the data provided on a per-operator basis. The final maps that will be used for procurement purposes will be published shortly after the conclusion of this State Aid public consultation and once approved by the BDUK National Competence Centre.

If you have any questions about this State Aid public consultation process, please contact the Superfast Northamptonshire Project Team by email at:
bigidea@northamptonshire.gov.uk

7. Information Requested

This section specifies the information you are requested to provide in response to this State Aid public consultation.

The County Council is requesting information on, and supporting evidence for, any current or planned (next 3 years) investment in broadband infrastructure in the county of Northamptonshire, where these may not already be included within the proposed NGA and Basic Broadband Intervention Area maps attached.

Note: for the avoidance of doubt, if you are content with our proposed State Aid Intervention Areas, no further response is required.

For any current or planned coverage not included within the proposed State Aid Intervention areas shown on the attached maps, the County Council is requesting information on the postcodes, and the number of premises within each postcode, covered (or planned to be covered) by your broadband infrastructure investment. The County Council is asking for information on coverage of Basic Broadband and Superfast Broadband coverage separately (to enable us to map the Basic Broadband and NGA White/Grey/Black maps required for State Aid purposes). By 'covered' (or 'passed') the County Council means that fixed network infrastructure is or will be available to the premises, potentially subject to a final drop connection, or that the premises are able to receive a suitable quality radio signal over the air interface (in the case of wireless or satellite coverage), potentially subject to the installation of a suitable antenna.

Any information provided in response to this State Aid public consultation should include, but need not be limited to:

- Detailed maps for NGA and Basic Broadband showing the existing coverage, and separately maps detailing the planned investment in NGA and Basic Broadband for at least the next 3 years.
- Details of premises covered or passed, i.e. postcodes (at 7-digit postcode level) and the number of premises by postcode, that fixed network infrastructure is available to the premises, potentially subject to a final drop connection, or that the premises are able to receive a suitable quality radio signal over the air interface (in the case of wireless or satellite coverage), potentially subject to the installation of a suitable antenna.
- A detailed description of the technology solution(s) deployed (or to be deployed) in your broadband infrastructure, and where these claim to be NGA, demonstrate how they meet the minimum standards as set-out in the BDUK NGA Technology

Guidelines².

- A description of the services/products currently offered, and separately those services/products to be offered within the next 3 years.
- Installation, annual/monthly subscription, and additional volume or per-service tariffs for those services/products (identifying whether such tariffs are inclusive or exclusive of VAT).
- Upload and download speeds typically experienced by end-users, and how these may vary by factors such as distance, increased take-up or demand, contention, etc.
- Appropriate indicators of the quality of services (eg contention ratios, bandwidth allocation per user, etc), including any characteristics (eg latency, jitter) that are required to support advanced services such as video conferencing or HD video streaming.
- Evidence to substantiate actual or planned coverage claims, including business cases and evidence of available funding to enable plans to be fulfilled.
- Details and planned timing of roll-out of any future investments, including further investments required to cope with future increases in take-up and demand.

Please supplement the required information above with any supporting evidence as you consider appropriate (e.g. links to public websites, etc).

8. Next Steps

Following any responses received to this State Aid public consultation by the closing date of **9th June 2014**, the County Council plans to publish the final Intervention Area maps shortly after the close of the consultation period, followed by an Invitation to Tender (ITT) to Framework Suppliers to bid for the opportunity to fulfil a new contract to deliver the extended coverage. This process should be concluded in the autumn.

Information about the Superfast Northamptonshire project can be found at www.superfastnorthamptonshire.net

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236341/NGA_Technology_Guidelines_300813.pdf