November 2014

SUPERFAST STAFFORDSHIRE
New procurement to further extend coverage of Superfast Broadband across Staffordshire

STATE AID PUBLIC CONSULTATION (2)

1. Introduction

The Superfast Staffordshire project is aiming to extend the availability of Superfast Broadband (at least 24Mbps) across Staffordshire, as far as is practically possible utilising with the Next Generation Access (“NGA”) broadband technologies.

Staffordshire County Council conducted its first Open Market Review (“OMR”) process on Broadband in October 2012, as the lead accountable body for Superfast Staffordshire. At the time, the planned commercial coverage of Next Generation Access technology (within a 3 years’ timeframe) was due to reach approximately 80% of premises in Staffordshire, potentially leaving the remaining 20% of premises without access (or planned access) to NGA. Staffordshire County Council (“the Council”) subsequently selected British Telecommunications (“BT”) in May 2013 under the Broadband Delivery UK (“BDUK”) Rural Broadband Programme Procurement Framework (“BDUK Framework”) to deliver NGA. The Council is making good progress with the deployment of this contract, with over 20,000 premises passed by October 2014 and the contract is on track to reach circa 88,000 premises passed by mid-2016. When combined with commercial plans, this means that 95% of premises in Staffordshire should have access to NGA services by 2016.

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. Superfast Staffordshire was awarded £1.68m by BDUK, which match funding is being sought, to create an investment pot circa £3.36m.

The 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 Council conducted an OMR in June 2014 to establish current and planned (next 3 years) commercial coverage of broadband services in Staffordshire, by existing, and any prospective, broadband infrastructure providers. The information gathered through this OMR has been used to define the scope of the eligible area for project activities.
(“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 Council’s interpretation of the potential Intervention Areas for NGA and basic broadband. This is to enable all interested stakeholders: the public, businesses and market players; to comment on the Intervention Area proposals and in particular, to provide an opportunity for telecommunication providers to review the 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 for a period of one calendar month.

Once the State Aid public consultation is complete and the Intervention Areas have been formalised by the 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 Council envisage publishing the ITT in January 2015. The procurement will run be concluded by April 2015. The related extended deployment plans for broadband infrastructure should begin in 2016.
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 dis-incentivising 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 NGA.

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:


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:


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


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


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-competitive, 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 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 Council issued an ‘Open Market Review – Request for Information’ in June 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 Staffordshire.

The OMR was a precursor to the formal State Aid public consultation on the proposed Intervention Areas. The OMR 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 Staffordshire and City of Stoke (“Network Providers”). The OMR process has also taken account the actual and planned extension of broadband coverage being delivered through the Council’s contract with BT (May 2013).

The OMR 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 OMR 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 Council to determine the classification of areas into NGA White/Grey/Black areas respectively:

**Mapping categories**

For mapping purposes only, the following category has been used for Basic Broadband and NGA:

- Basic Broadband is defined as where a qualifying technology is providing a service with an access line speed =>2Mbps
- NGA is mapped at a threshold where a qualifying technology is providing a service with an access line speed =>15Mbps
State aid classifications

If the cumulative total of premises identified by Network Providers, within their submitted OMR data, provides coverage of less than 90% of premises within a postcode, then that postcode is included in the project’s intervention area (White areas).

Postcodes identified as out of scope have been split into ‘Grey’ and ‘Black’ classifications:

- ‘Grey’ if only one Network Provider is present
- ‘Black’ if more than one Network Provider is present

Additional technical information:

- Where Network Providers submitted a response of ‘No network data’ for a postcode this was interpreted as zero coverage.
- Where Network Providers detailed any specific infrastructure that is at risk of not being deployed as part of their commercial roll-out within a Grey postcode (and confirmed as not part of the existing Superfast Staffordshire project), the infrastructure and associated postcodes are considered as “Conditional White” if following the removal of the at risk premises the postcode would be classified as White. This has been represented using a hatched white colour on the NGA map.
- The light blue colour represents “conditional white” and indicates that a postcode is currently classified as out-of-scope for intervention but that the Council is aware that there is potential for the planned commercial coverage to not be implemented should it be proven that it is not commercially viable to do so. The Council will monitor this situation with the Network Providers and should this situation arise the Council reserves the right to bring these areas back into scope of the project by changing the classification of that postcode to White should sufficient funding be available.

The following table summarises the outcome of the OMR in terms of White, “Conditional White”, Grey and Black postcodes and premises for NGA:

<table>
<thead>
<tr>
<th>Postcode Type</th>
<th>Number of postcodes</th>
<th>Number of premises</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black postcodes</td>
<td>7,340</td>
<td>167,915</td>
</tr>
<tr>
<td>Grey postcodes</td>
<td>15,279</td>
<td>306,703</td>
</tr>
<tr>
<td>“Conditional White” postcodes</td>
<td>302</td>
<td>4,404*</td>
</tr>
<tr>
<td>White postcodes</td>
<td>4,637</td>
<td>27,347</td>
</tr>
</tbody>
</table>
* These premises are a sub set of the Super Fast Grey premise and therefore have not been included in total.

The NGA Intervention Area would include 31,751 NGA White premises spread over 4939 NGA White postcodes (including “Conditional White” areas).

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

<table>
<thead>
<tr>
<th></th>
<th>Number of postcodes</th>
<th>Number of premises</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black postcodes</td>
<td>8,966</td>
<td>204,634</td>
</tr>
<tr>
<td>Grey postcodes</td>
<td>17,715</td>
<td>293,828</td>
</tr>
<tr>
<td>White postcodes</td>
<td>847</td>
<td>3,503</td>
</tr>
<tr>
<td>Total</td>
<td>27,558</td>
<td>501,965</td>
</tr>
</tbody>
</table>

The Basic Broadband Intervention Area would include 3,503 White premises spread over 847 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 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 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 Superfast Staffordshire project website at www.superfaststaffordshire.co.uk

A link to this State Aid public consultation is also available on the BDUK website at: https://www.gov.uk/broadband-delivery-uk
6. Responding to this State Aid Public Consultation

The information requested is specified in the following section (Section 7). When responding to this request, the Council would be grateful if you could confirm the following information:

- Your organisation’s name
- Your organisation’s 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 midnight on 2nd December 2014 to:

Via email to superfast@staffordshire.gov.uk, please prefix the subject of your email with 'Public consultation:

Or by post to:

Superfast Staffordshire Public Consultation Response

Paul Chatwin, Superfast Staffordshire Project Manager

Staffordshire County Council, Staffordshire Place 1, c/o Wedgewood Building, Tipping Street, Staffordshire County Council, ST16 2DH

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 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 Staffordshire by email at, including Public Consultation in the subject line:

superfast@staffordshire.gov.uk

7. Information Requested

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

The Council is requesting information on, and supporting evidence for, any current or planned (next 3 years) investment in broadband infrastructure in the local authority areas of Staffordshire and City of Stoke, 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 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 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 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 Guidelines.
- 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 (e.g. contention ratios, bandwidth allocation per user, etc), including any characteristics (e.g. 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 2nd December 2014, the Council plans to publish the final Intervention Area maps shortly after the close of the consultation period, followed by an ITT to Framework Suppliers to bid for the opportunity to fulfil a new contract to deliver the extended coverage. This process should be concluded by April 2015.

Information about the Superfast Staffordshire project can be found at [www.superfaststaffordshire.co.uk](http://www.superfaststaffordshire.co.uk)

---