Digital Rutland Superfast Broadband in Rutland State Aid Public Consultation Phase 2

Consultation Period: 04 December 2014 to 05 January 2015

Contents

1. Introduction

The Digital Rutland project is aiming to extend the availability of Superfast Broadband (at least 24 Mbps) across Rutland, with the ambition to deliver at least 95% coverage by the end of 2017.

Rutland County Council (The County Council) conducted its first Open Market Review and Public Consultation in November and December 2011. At the time the planned commercial coverage of Superfast Broadband (within a 3 year timeframe) was due to reach approximately 42% of premises in Rutland, potentially leaving 58% of the remaining premises without access or planned access to Superfast Broadband services.

Rutland County Council subsequently selected British Telecommunications (BT) in May 2012 through an OJEU compliant competitive dialogue process to deliver Superfast Broadband deployed services. The County Council is making good progress with the deployment of this contract and by October 2014 has reached over 8,000 premises passed. When combined with commercial plans this means that about 90% of premises in Rutland should have access to Superfast broadband by December 2014.

In the 2013 spending review, the Government announced a further allocation of funding for Superfast Broadband or Next Generation Access (NGA) under the BDUK Superfast Phase 2 programme, with the aim of increasing coverage across the UK to 95% by 2017. Rutland has been granted £180k of additional BDUK funding and this will be matched by County Council funding. The County Council is considering whether to run a second procurement exercise for the additional funding or to introduce the additional funding into the contract via a control change mechanism.

The County Council conducted a further Open Market Review in August 2014 to establish current and planned (next 3 years) commercial coverage of broadband services in Rutland by existing, and any prospective, broadband infrastructure providers. The information gathered through this Open Market Review has been used to redefine the scope of the eligible Intervention Area for the purpose of any forthcoming mini-competition under the BDUK Framework for change control.

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 the market 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 Open Market Review and ensure these are correct.

A final Intervention Area will then be 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 17:00hrs on 05 January 2015. Responses to this consultation document should be returned to Rutland County Council as set out in Section 7.

Once the State Aid Public Consultation is complete and the Intervention Areas have been formalised by the County Council, an Invitation to Tender (ITT) may be issued through the BDUK Phase 2 Framework or through an OJEU compliant competitive dialogue process to bid for the opportunity to fulfil a new contract to deliver the Extended Superfast Broadband coverage, or the funding will be added to the existing contract under the Change Control Mechanism.

Should the County Council decide to go via the ITT route, then they envisage publishing the ITT in February 2015. It is anticipated that the procurement will be concluded by late Spring 2015. 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 discouraging 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 area where there is no current or planned (next 3 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 the 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 NGA networks.

Basic Broadband networks are generally those based on currently widely-deployed technologies such as fixed wired telephony networks (using ADSL/ADSL 2+ 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:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/379762/State_aid_-_Guidance_-_Technology_Guidelines.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 infrastructure thus:

- 'White' areas are those where 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 networks.

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 and Data Mapping Methodology

The County Council issued an 'Open Market Review – Request for Information' on 01 August 2014 to gather information on existing and planned (next 3 years) broadband deployments. This information has helped to define the proposed Intervention Areas in which additional public funding could be invested to further extend Superfast Broadband coverage across Rutland.

The Open Market Review was a precursor to this 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 Rutland.

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 (May 2012).

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.

Data Mapping Methodology

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, 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 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 (May 2012).

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 Guidelines[1].

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. However, the County Council has looked at all overlapping postcodes to establish the validity of this method.

Note 2: As part of the Open Market Review process, the County Council requested operators to complete a pre-loaded template which contained the number of commercial and residential premises per postcode. In Rutland the County Council has used Local Land and Property Gazetteer (LLPG) data (June 2014) as the source data. The Council

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

recognises that this data may be different to that which operators use on a daily basis which may result in slightly different numbers in terms of premises count per postcode. Where such differences occur the Council has classified these areas as 'Conditional White'. Table 1 provides an example of this.

Table 1 – Conditional White Classification (NGA and Basic)

Postcode	RCC Premise Count	Operator Premise Count	Operator Sub 15Mbps	Operator Sub 2Mbps	Remaining Sub 15Mbps	Remaining Sub 2Mbps	NGA Classification	Basic Classification
LE159QJ	25	18	0	0	7	7	Conditional White	Conditional White

As part of this Public Consultation process, the Council requires all operators to review the information provided within Appendix 1 – Rutland NGA Intervention Area Map, Appendix 2 – Rutland Basic Broadband Intervention Area Map and Appendix 3 – Rutland OMR Postcode List and advise of any differences within their records.

Table 2 below summarises the outcome of the Open Market Review in terms of Black, Grey, Conditional White and White postcodes and premises for NGA Superfast Broadband:

Table 2 – NGA Classification

NGA Superfast	Total number of included postcodes	Total number of premises within included postcodes	Remaining number of premises within included postcodes
Black	12	183	0
Grey	738	11,203	0
Conditional White	210	3,985	492
White	235	3,315	1,795
Totals	1,195	18,686	2,287

The Superfast Broadband Intervention Area would include a minimum of 1,795 NGA White premises spread over 235 NGA White postcodes; however this may increase to 2,287 premises spread over 445 postcodes depending on the responses received from operators.

Table 3 below summarises the outcome of the Open Market Review in terms of Black, Grey, Conditional White and White postcodes and premises for Basic Broadband:

Table 3 – Basic Broadband Classification

Basic	Total number of included postcodes	Total number of premises within included postcodes	Remaining number of premises within included postcodes
Black	23	304	0
Grey	822	12,254	0
Conditional White	274	5,204	657
White	76	924	459
Totals	1,195	18,686	1,116

The Basic Broadband Intervention Area would include a minimum of 459 Basic White premises spread over 76 White postcodes; however this may increase to 1,116 premises spread over 350 postcodes depending on the responses received from operators.

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, Appendix 1 - Rutland NGA Intervention Area Map and Appendix 2 - Rutland Basic Broadband Intervention Area Map.

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 (as summarised above).The Maps also includes 'Conditional White' areas identifying premises within which could potentially be added to the respective Intervention Areas.

The County Council's priority for targeting NGA intervention 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 either a forthcoming procurement under the BDUK Framework or change control option 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 areas classified as "Conditional White" should the requirements to do so be confirmed for both Superfast NGA and Basic Broadband.

This State Aid Public Consultation and the proposed NGA and Basic Broadband Intervention Area Maps are available to all stakeholders within Appendix 1 and Appendix 2

of this document. These can also be accessed on the Digital Rutland website at
http://www.rutland.gov.uk/digital_rutland/public_consultation_2014.aspx

Please note that the draft maps identify where public investment can be allocated to
deliver NGA and Basic Broadband based on responses from suppliers during the Open
Market Review and should not be compared to the broadband coverage maps published
in the Digital Rutland section of Rutland County Council's website.

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

Operators

The information requested is specified in Section 7. 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

The County Council also requests 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 17:00hrs on 05 January 2015 to:

Via email to DigitalRutland@rutland.gov.uk and marked "Digital Rutland Public
Consultation Response" or by post to:

Digital Rutland Project Team
Rutland County Council
Catmose
Oakham
Rutland
LE15 6HP

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 queries about this State Aid Public Consultation process, please contact the Digital Rutland project team by email at:

DigitalRutland@rutland.gov.uk and marked with State Aid Public Consultation Enquiry in the subject heading.

Public organisations, Residents and Businesses

Responses are also invited from local stakeholders (including businesses, public sector and voluntary and faith groups, communities, groups and people that live and work in Rutland) to comment on our plans and priorities.
When responding to this request for information, the County Council would be grateful if you could confirm the following information:

- Your Address

- Your name and organisation (if applicable)

- Contact telephone number

- Email Address

The County Council also requests confirmation that the information provided is suitably accurate and up-to-date.

Please send your response to arrive no later than 17:00hrs on 05 January 2015 to:

Via email to DigitalRutland@rutland.gov.uk and marked "Digital Rutland Public Consultation Response"

Or by Post to:

Digital Rutland Project Team
Rutland County Council
Catmose
Oakham
Rutland
LE15 6HP

If you have any queries about this State Aid Public Consultation process, please contact the Digital Rutland project team by email at:

DigitalRutland@rutland.gov.uk and marked with State Aid Public Consultation Enquiry in the subject heading.

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 Rutland, 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 (in order 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 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 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[2].

- 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 of 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 indictors 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.).

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[2] https:www.gov.uk/government/uploads/system/uploads/attachment data/file/236341/NGA Technology Guidelines 300813.pdf

8. Next Steps

Following any responses received to this State Aid Public Consultation by the closing date of 05 January 2015, the County Council plans to publish the final intervention maps shortly after the close of the consultation period, and potentially followed by an Invitation to Tender (ITT) to bid for the opportunity to fulfil a new contract to deliver the extended coverage, or the introduction of funding via Change Control. The process should be concluded by late Spring 2015.

Information about the Digital Rutland Project can be found at:
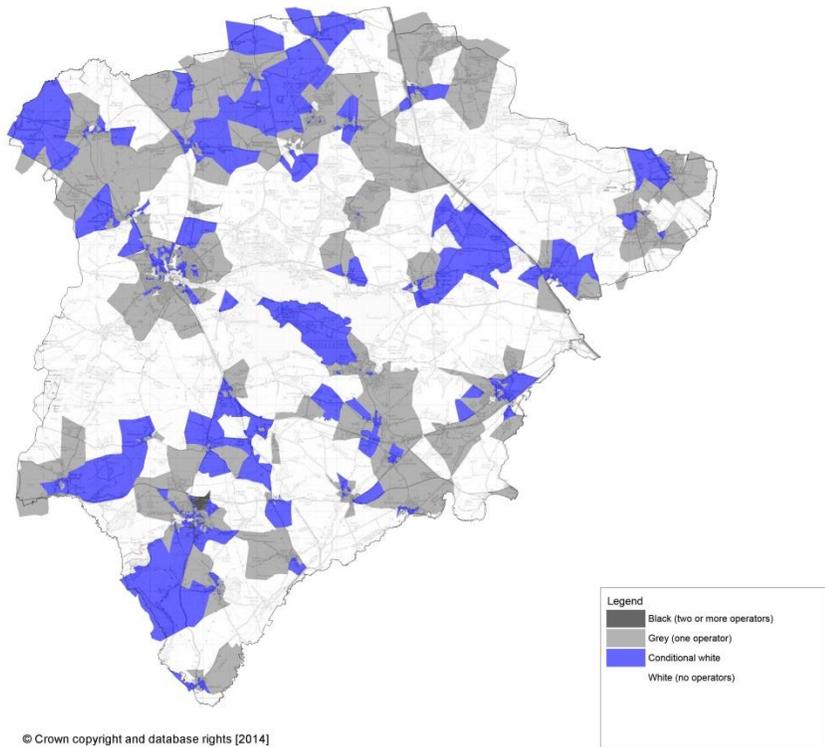www.rutland.gov.uk/digtialrutland

Appendix 1 - Rutland NGA Intervention Area Map

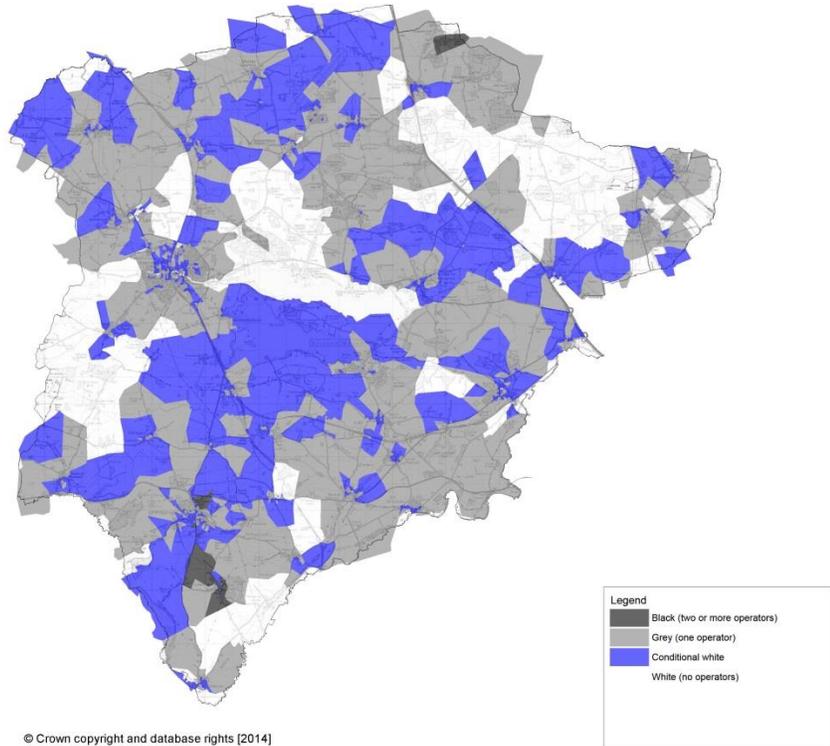Representing current and planned coverage in Rutland (Source: Rutland County Council)

Appendix 2 - Rutland Basic Broadband Intervention Area Map

Representing current and planned coverage in Rutland (Source: Rutland County Council)

digitalrutland
Superfast broadband across Rutland

Digital Rutland Public Consultation 04 December 2014 - 05 January 2015

Rutland Basic Broadband Intervention Area Map

Legend
- Black (two or more operators)
- Grey (one operator)
- Conditional white
- White (no operators)

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Ordnance Survey [100018056]
Contains National Statistics data © Crown copyright and database rights 2014

Appendix 3: Rutland OMR Postcode List

Rutland OMR Postcode list is available via

http://www.rutland.gov.uk/digital_rutland/public_consultation_2014.aspx