Superfast Broadband in North Yorkshire

PUBLIC CONSULTATION

May 2020

STATE AID PUBLIC CONSULTATION

1. Introduction

North Yorkshire covers 8,654 square kilometres (3,341 sq mi) and geographically is the largest County in England. The County includes the towns of Harrogate, Richmond, Scarborough, Selby and Skipton, as well as Ripon and the County town of Northallerton.

North Yorkshire County Council (NYCC) has a Vision to provide Next Generation Access (NGA) broadband services (capable of delivering download speeds of _at least_ 30 Mbps) to all premises within the North Yorkshire boundaries, through the Superfast North Yorkshire (SFNY) project.

Phases 1, 2 and 3 of the projects will see superfast broadband delivered to approximately 90% of the premises within North Yorkshire by June 2021.

The final 10% of premises present a challenge to the Vision for the SFNY Project. The remaining premises will be covered by a 4th and final phase.

This will involve initiating a procurement process to request interested suppliers to bid for the delivery of NGA broadband services to the remaining premises.

Because public funds will be needed to subsidise the completion of the project, an Open Market Review (OMR) and Public Consultation represents a necessary part of the preliminaries to that process.

SFNY is confident that additional funding of around £12.5m (with potential for up to a maximum of £25m) will be available to move towards achieving the Vision of NGA to all premises within the county area. Work therefore continues preparing the procurement documentation that will be required once public consultation is concluded.

BDUK received approval on 26 May 2016 from the European Commission for the National Broadband Scheme for the United Kingdom (referred to hereafter as the 2016 NBS). SFNY intends to conduct this further procurement under the 2016 NBS.

2. Open Market Review (OMR)

In preparation for this procurement, SFNY has undertaken an Open Market Review (OMR) between 17th January 2020 and 28th February 2020 to establish existing and planned (within the next 3 years) coverage of broadband infrastructure across the SFNY Programme Area. This included both commercial coverage by existing and prospective NGA broadband infrastructure providers and coverage procured under SFNY's existing contracts with BT plc.

SFNY contacted all known broadband infrastructure operators within the Programme Area and other providers known to have (or potentially having) plans to deploy new networks across the UK with a formal request for information. The OMR was also publicised through a notification on the Yortender procurement portal. Operators were requested to provide information on their existing and planned NGA broadband infrastructure (capable of delivering download speeds of at least 30 Mbps), and to provide detail of their coverage at a premise and infrastructure level to enable greater granularity of mapping.

This information, together with SFNY's own data sources, has been used to define the proposed intervention area for the forthcoming procurement.

This public consultation sets out that proposed intervention area, so as to enable all interested stakeholders (including the public, businesses, internet service providers and broadband infrastructure operators) to comment on the proposals. In particular, this provides an opportunity for broadband infrastructure operators to review SFNY's mapping to ensure that it correctly represents the information provided by them in the course of the OMR.

All responses to the public consultation will be carefully considered and where necessary will be incorporated into the final map of the intervention area. The final intervention area maps and a summary report confirming details of the changes made to the proposed intervention area will be published on the SFNY website shortly after the close of the consultation period. Where responses to the consultation are received, SFNY will respond to these and provide an explanation of how the information submitted has been treated. The finalised intervention area will then be submitted to BDUK's National Competence Centre (NCC) for approval against the State aid Framework.

3. STATE AID FRAMEWORK AND RULES

This section provides a brief introduction to the State aid Framework for the purpose of informing responses to the public consultation. Respondents may wish to obtain their own professional/legal advice on the application of the State aid Framework and rules that relate to this proposal.

The European Commission has published 'EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks' (2013/C 25/01)'. These guidelines summarise the principles of the Commission's policy in applying the State aid rules of the Treaty to measures that support the deployment of broadband networks, and seek to ensure that State aid schemes for broadband are well-designed so that they target market failures and minimise negative effects on competition.

The guidelines require public interventions to be targeted so as to limit the risk of crowding out private investments, of altering commercial investment incentives and ultimately of distorting competition.

Planned public interventions can seek State aid approval directly from the Commission, or (as is the case with this proposal) seek clearance under a national scheme which has been pre-approved by the Commission.

Projects under the 2016 NBS will need to demonstrate their State aid compliance (in accordance with the terms of the scheme) in order to receive clearance from BDUK's National Competence Centre.

The Commission's guidelines distinguish between two types of broadband networks, namely 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/ADSL2+ technologies), non-enhanced cable TV networks (eg DOCSIS 2.0), mobile networks (2G/3G (UMTS)), some 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. Current qualifying NGA technologies are fibre-based networks (FTTx), advanced upgraded cable networks (DOCSIS 3.0) and certain advanced wireless access networks capable of delivering reliable high speeds.

Guidance on the characteristics of qualifying NGA technologies is available from BDUK.

The Commission's guidelines also require that public intervention should be able to ensure a 'step change' in broadband availability. 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 and capacity, speeds and competition;

The 'step change' in broadband availability shall be compared to that of existing as well as concretely planned networks.

The Commission's guidelines also distinguish between geographic areas on the basis of their existing or planned broadband infrastructure:

● 'White' areas are those in which there is no qualifying broadband infrastructure, and none is likely to be developed within 3 years;

● 'Grey' areas are those where only one network is present or is to be deployed within the coming 3 years; and

● 'Black' areas are those where at least two networks of different operators exist or will be deployed in the coming 3 years.

This geographic mapping of White/Grey/Black areas is carried out separately in relation to basic broadband and NGA networks. NGA networks are mapped on the basis that, amongst other things, they have substantially higher upload speeds (compared to basic broadband networks) and are able to deliver broadband services at an access (download) speed of more than 30Mbps.

Public intervention can only take place in white NGA areas under the 2016 NBS. White NGA areas are those in which there are no NGA networks and none is likely to be developed within the next 3 years.

4. State Aid Public Consultation

The EU Guidelines (at paragraph 78) and the 2016 NBS set out the requirements 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 mapping for basic and NGA broadband are shown in the attached maps.

This State aid public consultation and the proposed NGA broadband Intervention Area maps are available to all stakeholders on the NYCC website at SFNY OMR MAP and will also be available via BDUK's website.

5. Intervention Area

Mapping Methodology

When mapping FTTC, FTTP and Wireless coverage responses, premise level information using Unique Property Reference Number (UPRN) (a unique numeric identifier for every spatial address in Great Britain as provided by Ordinance Survey), was requested by the

OMR. However, in the absence of premise level data from all operators SFNY has mapped areas as White, Grey or Black using the following criteria: -

For Basic Broadband; all premises are assumed to have access to a basic broadband service either through existing suppliers or through a request for subsidy for the installation of a service under the Better Broadband Scheme.

For NGA Broadband, premises are summarised at a postcode level and classified according as follows:-

- A postcode is marked NGA White if it contains any NGA White premises

- A postcode is marked NGA Grey if it contains NGA Grey premises

- A postcode is marked NGA Black if it contains only NGA Black premises

In addition, the proposed intervention area includes a number of "under review" areas (coloured blue on the map). These areas have previously been indicated to have planned commercial coverage for NGA broadband (i.e. mapped as grey or black NGA), but those plans have been reported through the OMR as being 'at risk' of not being completed. A postcode is marked "under review" if it contains any "under review" premises (though) will be mapped white if it contains any white premises as set out above.
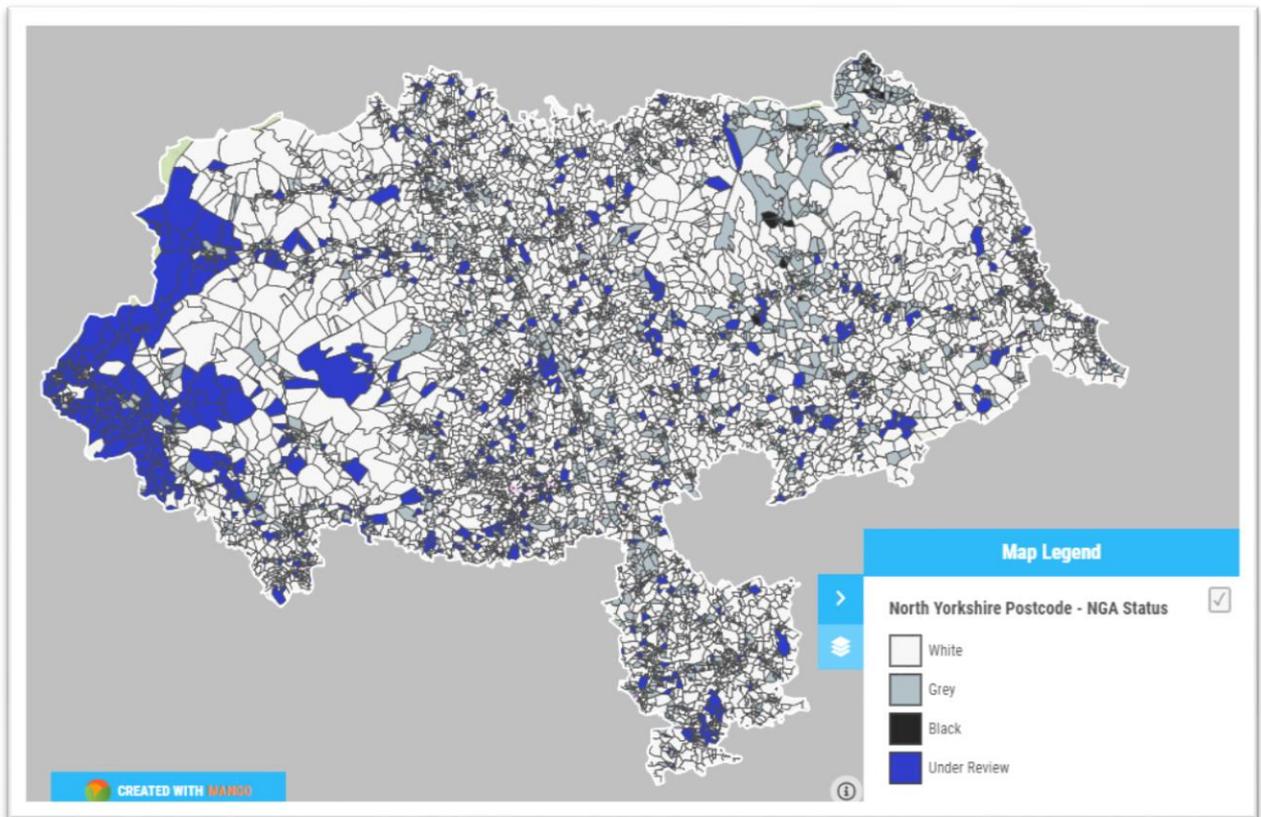
These areas will be subject to continued monitoring and verification of supplier plans within the 3 year period by Superfast North Yorkshire and in the event that these commercial plans fall away these premises will be mapped as white NGA and form part of the proposed intervention area and eligible for intervention via this aid measure.[1]

The mapping analysis of existing and concretely planned coverage (within the next 3 years) has identified significant remaining 'white NGA' areas. The outcome of the OMR is summarised in terms of NGA White, Grey, Black and 'Under Review' premises below.

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[1] See paragraph 65 of the Commission's guidelines.

	Number of Postcodes	Number of Black Premises	Number of Grey Premises	Number of Under Review Premises	Number of White Premises
White	7,498	301	57,763	7,341	38,038
Grey	13,256	1,172	194,897	0	0
Black	82	785	0	0	0
'Under Review'[2]	2,334	235	20,814	16,856	-
Totals	23,170	2,493	273,474	24,197	38,038

[2] The white premises in these postcodes will be subject to monitoring and review as explained above.

This interactive map can be viewed at [SFNY OMR MAP](#)

SFNY have premise level data on the remaining Phase 4 intervention area, which will be used in the concluding tender and contract.
Should you require a copy of this data please contact via the email below.

6. Timescales

This State Aid public consultation will run from **04/05/2020** and will close on **04/06/2020.**

Once the State Aid public consultation is complete and the Intervention Areas have been formalised, SFNY will undertake a further procurement to deliver NGA Broadband coverage into a Third Phase of its roll out programme.

The procurement of Phase 4 will conclude by 31st December 2020, given the complexities involved in securing the most economically advantageous solution and the monitoring requirements incumbent on complying with State aid regulations. Deployment of Phase 4 is then forecast to take a further 24 to 30 months. The procurement will be carried out in accordance with the Public Contracts Regulations 2015 and EU Public Procurement Directives.

[The tender may utilise the Competitive Procedure with Negotiation and will be conducted in a transparent and non-discriminatory manner, as required by the 2016 NBS.]

The procurement will be designed to meet the specific requirements of the 2016 NBS, which recognises the need to optimise the number and quality of bidders, in particular by reducing the hurdles to participation in procurements by smaller suppliers and

encouraging collaboration between larger and smaller operators so that a range of appropriate solutions can be brought forward.

SFNY has also considered the ability of the private sector to deliver the project, available resources, and its own capacity and capability to develop its approach to intervention. It has decided that the project will use an investment gap funding approach to procure an infrastructure operator.

7. Responding to this State Aid Public Consultation

When responding to this request, SFNY would be grateful if you could confirm the following information:

- Your organisation's name

- Your organisations address

- Your name

- Position in organisation

- Contact telephone number

- Email Address

SFNY 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 business on 04/06/2020 to:

Via email to public.consultation@superfastnorthyorkshire.com

Or by post to:

SFNY Project.
80 High Street,
Starbeck,
Harrogate,
North Yorkshire,
HG2 7LW

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.

SFNY is requesting information and supporting evidence in relation to NGA broadband infrastructure within the project area and wish to hear from all relevant stakeholders (including residents, businesses as well as broadband infrastructure operators).

For the avoidance of doubt, there is no need to respond to this public consultation if you have no comment to make.

For residents and businesses, where this relates to the ability to receive an NGA service, any information provided in response to this State Aid public consultation should as a minimum include (but need not be limited to) the address of the property or area that the submission relates to and the nature of the concern.

If the response is from an infrastructure provider and comments on the white, grey and/or black or under review classifications within the attached maps or data, or on the wholesale products to offered via the subsidised network, then the submission should also include the specific information set out in Section [7].

All responses to the public consultation will be carefully considered and where necessary will be incorporated into the final map of the intervention area. The final intervention area maps and a summary report confirming details of the changes made to the proposed intervention area will be published on the SFNY website shortly after the close of the consultation period. Where responses to the consultation are received, SFNY will respond to these and provide an explanation of how the information submitted has been treated. The finalised intervention area will then be submitted to BDUK's National Competence Centre (NCC) for approval against the State aid Framework.

8. Information Requested

This section specifies the information you are requested to provide in response to this State aid public consultation in relation to the presence of broadband infrastructure.

SFNY is requesting information on, and supporting evidence for, any current or planned (within the next 3 years) investment in broadband infrastructure in the SFNY Project Area, where this may not be already included within the proposed NGA and Basic broadband intervention area maps attached.

For any current or planned coverage not included within the proposed State aid intervention areas shown on the attached map, SFNY is requesting information at premise level, using the template issued by SFNY on 9 November 2015 to show existing or planned coverage by your broadband infrastructure investment. By 'covered' (or 'passed') SFNY 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, 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 broadband showing existing and planned coverage, for at least the next 3 years.
● Details of premises covered or passed that fixed network infrastructure is or will be available to the premises within the next 3 years, potentially subject to a final drop connection, or that the premises are able to receive a suitable quality radio signal over the air interface, 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, demonstrating 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 or demand.

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

SFNY would also be interested to hear from operators their views as to the types of wholesale access products they would like to see offered on any newly created subsidised NGA network infrastructure. This information may inform the intervention design. Please note that SFNY are not obliged to include these products in the invitation to tender (unless already required under any State aid Decision)[2].

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[2] Operators will still be able to request new forms of access products on the subsidised NGA network infrastructure through the formal general access provisions under the terms of a future State aid Decision.