

## **PUBLIC CONSULTATION**

### **Connecting Cheshire – Digital Cheshire Project – “Jan24”**

**Update to the existing Digital Cheshire project, to clarify the coverage of Next Generation Access (NGA) Broadband within an existing Intervention Area in Cheshire.**

#### **1. INTRODUCTION AND BACKGROUND**

The Connecting Cheshire “Digital Cheshire” Project is currently in delivery of its BDUK phase, which is expected to complete by April 2025.

Prior to the Digital Cheshire contract award, an Open Market Review (OMR) was undertaken which concluded with the “Checkpoint B2” passed on 4th June 2020. The OMR consulted with the market to help define existing and planned coverage of broadband infrastructure (capable of delivering download speeds of at least 30 Mbps) within the Cheshire Region covered by the Connecting Cheshire Partnership (Consisting of Cheshire East, Cheshire West, Warrington and Halton Borough Council Authority areas) and helped to define the Intervention Area for Digital Cheshire.

The legal period in which the OMR is valid is 3 years. As this time frame has now lapsed, it is necessary to engage with the market to reassess any premises which remain within the Intervention Area which have not yet been planned or built. This will assure that Digital Cheshire does not fund deployment to premises which have received an NGA, or greater service commercially (or subsidised) from other providers in the intervening 3 year period, termed “Overbuild”.

Digital Cheshire is now required to undertake public consultations when changes are required to bring premises into the contracted coverage. Inclusion of premises in this consultation does not necessarily mean they will be included in future contracted coverage, it means they can be considered for inclusion if viable under a number of factors.

Current funding available to the project has not been increased to cover additional properties, any new coverage resulting from this exercise will be funded by a number of descopes from existing coverage that are required due to coverage deployed commercially prior the projects funded deployment.

#### **Digital Cheshire Contract**

Connecting Cheshire completed its original public consultation under the National Broadband Scheme for the United Kingdom (referred to hereafter as the 2016 NBS) on 4<sup>th</sup> of June 2020.

Following completion of the public consultation, Connecting Cheshire completed a procurement in respect of the remaining area without NGA broadband supply (known as the Intervention Area), which comprised around 24,000 premises. Connecting Cheshire awarded the contract to Airband Community Internet Limited.

As set out under paragraph 89 of the 2016 NBS, Connecting Cheshire wishes to remove premises within the scope of the existing intervention area that are no longer classed as NGA WHITE (indicates premises with no NGA network infrastructure and none is likely to be developed within 3 years). Connecting Cheshire needs to ensure that the remaining coverage proposed, continues to target NGA white areas. Therefore, it is required to run a new public consultation and mapping exercise for this area, as more than three years have lapsed since the public consultation for the whole intervention area was identified in the tender.

## **2. MARKET ENGAGEMENT AND ANALYSIS OF EXISTING COVERAGE**

Connecting Cheshire conducted an OMR late in 2019 and was completed June 2020 to establish pre-existing and planned (within the 3 years) coverage of broadband infrastructure across the Connecting Cheshire Area. This included both commercial coverage by existing and prospective NGA broadband infrastructure providers and coverage procured under Connecting Cheshire's prior contracts with BT Openreach. A public consultation was subsequently published to determine the intervention area and enable Connecting Cheshire to target white areas with public funds. The outcome of the public consultation was achieved (Checkpoint B2) on the 4<sup>th</sup> of June 2020 and enabled targeting of public funds for 3 years from this date.

Connecting Cheshire 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 and public consultation were publicised through the Connecting Cheshire website. 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 level to enable greater granularity of mapping.

This information was used to define the existing intervention area (eligible premises) for the Digital Cheshire project.

This further public consultation sets out a particular area of concern within the existing intervention area, to enable all interested stakeholders (including the public, businesses, internet service providers and broadband infrastructure operators) to comment on their own commercial and funded build or plans for the next 3 years. This area contains existing planned deployment and the intention is to identify any premises that may have been missed on the original OMR and validate any that were included as eligible, but were not contracted in the 3 year period.

Address data used in this consultation is based on the most recent OMR exercise carried out by BDUK in Cheshire. Addresses included have been identified as currently not achieving the 30Mbs Superfast Standard and having no planned network roll out in that area.

All responses to the public consultation will be carefully considered and where necessary will be incorporated into the final map of the revised intervention subset. The final intervention area maps and a summary report confirming details of the changes made to the existing intervention area will be published on the Connecting Cheshire website shortly after the close of the consultation period. Where responses to the consultation are received, Connecting Cheshire 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 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 can deliver 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 @ <https://www.gov.uk/government/publications/2016-nbs-tech-guidelines>

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 based on 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.

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. EXISTING INTERVENTION**

Connecting Cheshire has used premises level data and has mapped premises as white, grey or black, using the following criteria:

For NGA,

- A premises is turned grey if there is only one broadband infrastructure operator providing NGA services (with speeds greater than 30Mbps) to that premises.
- A premises is turned black if there are at least two broadband infrastructure operators providing NGA services (with speeds greater than 30Mbps) to that premises.
- All other premises remain white.

For Under Review,

- Should there be a level of uncertainty of the proposed or planned deployment of the intervention area premises submitted, Connecting Cheshire will class the premises as “Under Review”, which will mean that the premises could potentially be returned to the NGA classifications above once certainty is provided.

Connecting Cheshire intends to perform a public review of **171** premises selected from the existing intervention area. This will create certainty of provision of NGA service and allow Connecting Cheshire to remove any of these premises from the Intervention Area if they have become ineligible.

Future change controls will target the remaining ‘white NGA’ areas using its existing contract with Airband Community Internet Limited under the 2016 NBS (and in accordance with the Public Contracts Regulations 2015). This will be delivered within the current level of public funding already committed via the existing contract.

## **5. Timescales**

This consultation will remain open until 18<sup>th</sup> February 2024.

Once the consultation is closed and Connecting Cheshire has finalised the intervention area subset, additional NGA broadband coverage will be targeted to the premises set out in the public consultation via its existing contract. The related extended deployment plans for broadband infrastructure will take place during the existing deployment timescale, concluding spring 2025.

## **6. 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 existing aid measure, and seeking feedback from all interested stakeholders. The mapping for NGA broadband are shown in the attached map.

The attached map of the NGA broadband Intervention Areas relies on the definitions of white, grey and black areas, as set out in the EU Guidelines (and as summarised above). Connecting Cheshire will only target the areas identified as White on the map.

This State aid public consultation and the existing NGA broadband Intervention Area map are available to all stakeholders on the Digital Cheshire website at [Broadband Connectivity - Digital Cheshire \(digital-cheshire.co.uk\)](https://digital-cheshire.co.uk) and will also be available via BDUK's website at [BDUK Table of local broadband projects](#).

## **7. Responding to this State Aid Public Consultation**

Connecting Cheshire is requesting information and supporting evidence in relation to basic and NGA broadband infrastructure within the project area and wish to hear from all relevant stakeholders (including residents, businesses as well as broadband infrastructure operators), particularly in relation to premises to be targeted as part of the NGA intervention area in the document "Public Consultation Intervention Area Premises Jan24.xlsx"

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 8.

For all submissions, Connecting Cheshire would be grateful if you would contact Connecting Cheshire to register your intention to submit a response and could confirm in your submission the following:

- Your organisation's name (if applicable)
- Your organisation's address (if applicable)
- Your name
- Position
- Contact telephone number
- Email Address

Connecting Cheshire also requests confirmation from an authorised signatory that the information provided is suitably accurate and up to date.

Please send your responses no later than noon on 18<sup>th</sup> February 2024 to:

Email: [info@connectingcheshire.org.uk](mailto:info@connectingcheshire.org.uk)

[PLEASE MARK YOUR ENQUIRY “DIGITAL CHESHIRE CONSULTATION JANUARY 2024”]

Please note that the data 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 data with our professional advisers and/or DCMS/BDUK, Ofcom, the National Competence Centre and the European Commission in the course of seeking State aid approval.

It should also be noted that it is a State aid requirement to use this information to produce State aid maps to define white, grey and black areas for basic and NGA broadband. However, the published maps will show the aggregated White/Grey/Black NGA areas, not the data provided on a per-operator basis. The final maps that will be used will be published shortly after the conclusion of this State aid public consultation and once approved by the National Competence Centre.

If you have any questions about any of the above, please contact Connecting Cheshire by email as above.

## **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.

Connecting Cheshire is requesting information on, and supporting evidence for, any current or planned (within the next 3 years) investment in NGA or faster, broadband infrastructure in the Connecting Cheshire Area.

Files Included in this request

- “Map of Intervention Area Premises Jan24 .pdf”
- “Public Consultation Intervention Area Premises Jan24.xlsx”
- “[NGA Technical Assessment Template \(BDUK\).docx](#)” (external)

Requirements

- For any current or planned coverage included within the existing State aid intervention areas shown on the attached map “Map of Intervention Area Premises Jan24.pdf”

and within the attached file “Public Consultation Intervention Area Premises Jan24.xlsx”. Connecting Cheshire is requesting information at premise level, using the file issued by Connecting Cheshire to show existing or planned coverage by your broadband infrastructure investment.

- Please indicate in columns E, F and G the details for those premises you are able to provide Next Generation Access broadband to at the present time
- Please indicate in columns H to K, details for those premises you plan to provide Next Generation Access Broadband to within the next three years.

NGA Technical Assessment information “[NGA Technical Assessment Template \(BDUK\).docx](#)” should be completed 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 (attached).
- 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).



## **8. Next Steps**

Following any responses received to this State Aid public consultation by the closing date of 18<sup>th</sup> February 2024, Connecting Cheshire plans to publish the final Intervention Area map and summary document, shortly after the close of the consultation period.

Information about the Digital Cheshire Project can be found at:  
[Broadband Connectivity - Digital Cheshire \(digital-cheshire.co.uk\)](https://digital-cheshire.co.uk)