



PUBLIC CONSULTATION 2016

SHROPSHIRE COUNCIL - CONNECTING SHROPSHIRE

New procurement to further extend coverage of Next Generation Access (NGA) Broadband across the Shropshire Council area.

1. INTRODUCTION AND BACKGROUND

The Connecting Shropshire programme is striving to extend the availability of NGA broadband infrastructure to meet the Government's target for 95% of the UK to have access to superfast broadband speeds¹ by the end of 2017.

To achieve this, Shropshire Council intends to procure further coverage of NGA broadband infrastructure (capable of delivering download speeds of at least 30 Mbps) in the Council area where such broadband is currently unavailable. The key objective of the Connecting Shropshire Local Broadband Plan is to provide 100% coverage with NGA broadband infrastructure and for as many premises as possible to be able to have access to superfast broadband speeds.

Shropshire Council conducted its initial Open Market Review (OMR) in September/ October 2012. The OMR indicated that planned commercial coverage for NGA broadband would reach approximately 49.6% of premises within the next 3 years, and would therefore leave the remaining 50.4% of premises without access to NGA broadband. In March 2013, Shropshire Council selected British Telecommunications plc to deliver NGA broadband to these premises.

In the 2013 Spending Review, the Government announced a further allocation of funding under the Broadband Delivery UK (BDUK) Superfast Extension Programme, with the aim of increasing NGA coverage across the UK to at least 95% by the end of 2017. Shropshire Council was allocated £11.38m of this additional public funding.

Following an open procurement, a contract for Phase 2 was awarded by Shropshire Council to British Telecommunications plc.

¹ The Government policy defines superfast broadband speeds as greater than 24Mbps

Shropshire Council now intends to conduct a further open procurement for the remaining premises without NGA broadband infrastructure (known as “white NGA”), which comprises around **15,754** premises.

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

2. MARKET ENGAGEMENT AND ANALYSIS OF EXISTING COVERAGE

In preparation for this procurement, Shropshire Council conducted an OMR between 3 June 2016 and 3 July 2016 to establish existing and planned (within the next 3 years) coverage of broadband infrastructure across the Shropshire Council area.

Shropshire Council 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 Connecting Shropshire website. Operators were requested to provide information about their plans for the next 3 years, 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 so as to enable greater granularity of mapping. The review included coverage of NGA broadband infrastructure plans procured under existing Connecting Shropshire’s contracts with British Telecommunications plc.

This information, together with Shropshire Council'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 of where the Council intends to invest. In particular, this provides an opportunity for broadband infrastructure operators to review Shropshire Council’s mapping to ensure that it accurately represents the information provided by them in the course of the OMR.

All responses to this public consultation will be carefully considered. Where necessary, adjustments will be incorporated into the final map of the intervention area. The final intervention area maps and a summary report confirming details of any changes made to the proposed intervention area will be published on the Connecting Shropshire website shortly after the close of the consultation period. Where responses to the consultation are received, Connecting Shropshire 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 Government’s 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)². 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 (e.g. 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 BDUK³.

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;

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:025:0001:0026:EN:PDF>

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/536767/2016_NBS_-_State_Aid_Guidance_-_NGA_Technology.pdf

- The new infrastructure brings significant new capabilities to the market in terms of broadband service availability and capacity, speeds and competition⁴.

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

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

- 'White' (coloured 'yellow' on the Shropshire Public Consultation Map) 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)⁵ 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. PROPOSED INTERVENTION

NGA

Shropshire Council has mapped premises as NGA white, grey or black, using the following criteria:

- A premise is turned grey if there is only one broadband infrastructure operator providing NGA services (with speeds greater than 30Mbps) to the premises;
- A premise is turned black if there are at least two broadband infrastructure operators providing NGA services (with speeds greater than 30Mbps) to that postcode, and those speeds are available (from at least one network) to at least 90% of premises in that postcode;

⁴ See Footnote 66 of the Commission's Guidelines - this sets out that the subsidised network should be pro-competitive (i.e. allow for effective access at different levels of the infrastructure).

⁵ Substantially higher upload speeds means at least a doubling of the maximum upload speed available on current generation access network(s) for given 'up to' packages available on basic broadband networks in the relevant intervention area.

- All other premises remain white (coloured yellow on the map).

‘Under review’ areas (where premises are coloured blue on the map) are in planned commercial coverage areas which will be subject to continued monitoring and verification of supplier plans over the 3 year period. 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.

The mapping analysis of existing and planned coverage (within the next 3 years) is summarised in terms of NGA White, Grey, Black and ‘Under Review’ premises below.

Total number of Premises	Number of NGA Black Premises	Number of NGA Grey Premises	Number of NGA White Premises (coloured yellow on the Shropshire Map)	Number of NGA White ‘under review’ ⁶ Premises (coloured blue on the Shropshire Map)
144,460	13,275	112,297	15,754	3,334

Shropshire Council intends to procure coverage to target the remaining ‘white NGA’ premises by conducting a new procurement under the 2016 NBS (and in accordance with the Public Contracts Regulations 2015)

As noted above, if commercial plans fall away for the ‘under review’ premises then these will be considered as eligible for intervention and considered as ‘white NGA’ premises.

If possible, Shropshire Council intend to make coverage information available to potential bidders at a premise level to ensure that bids can target those premises without NGA broadband coverage efficiently. This will include information at a premise level received in response to this consultation.

Basic Broadband

In the absence of premise level data from broadband infrastructure operators for basic broadband, Shropshire Council has mapped areas as white, grey or black at a postcode level using the following criteria:

- A postcode is turned grey if there is only one broadband infrastructure operator providing basic broadband services (with speeds greater than 2 Mbps) to that postcode;
- A postcode is turned black if there are at least two broadband infrastructure operators providing basic broadband services (with speeds greater than 2Mbps) to that postcode;
- All other postcodes remain white.

⁶ The white premises in these postcodes will be subject to monitoring and review as explained above.

It should be noted that whilst this consultation includes mapping of basic broadband coverage, the procurement will not deploy basic broadband technologies. The intention is to provide bidders with details of all the areas where there is basic broadband coverage so as to ensure, so far as possible, that these areas are only overbuilt by NGA broadband infrastructure where the premises will receive over 30Mbps or at least a doubling of speeds, in accordance with the requirements of the 2016 NBS. Where doubling is not possible, the supplier will be obliged to demonstrate that the design is optimised to limit overbuild of existing basic broadband networks with speeds that are below 30Mbps.

4.1. New Procurement

Shropshire Council commenced extensive market engagement and warming from in June 2015, held a 'Supplier Engagement Day' on 15 June 2016.

Shropshire Council 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 provider.

The procurement will be carried out in accordance with the Public Contracts Regulations 2015 and EU Public Procurement Directives. The tender is most likely to utilise the Open Procurement Procedure 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. This was also a key objective of the market engagement exercise.

Shropshire Council's priority will be to ensure that the available public funding is used most effectively by ensuring coverage of premises currently getting relatively slow broadband speeds of less than 15Mbps. However, premises with higher speeds will also be targeted, subject to the need to provide a 'step change' in broadband capability (as outlined above), and where value for money can be demonstrated.

As noted above, Shropshire Council received an allocation of £11.38m from DCMS for the extension of NGA broadband, of which £6.68m remains unspent from the previous procurement. Additionally, Shropshire Council has been awarded £5.02m by the Marches Local Enterprise Partnership

In total, public funding of up to £11.7m may be committed via the forth-coming procurement.

5. TIMESCALES

This consultation will be open until 5 September 2016.

Once the consultation is closed and Shropshire Council has finalised the intervention areas, an Invitation to Tender (ITT) will be issued to suppliers to bid for the opportunity to deliver extended NGA broadband coverage during September/ October 2016. The intention is to award a contract during 2017. The related extended deployment plans for broadband infrastructure should begin by the end of 2017.

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 proposed aid measure, and seeking feedback from all interested stakeholders. The mapping for basic and NGA broadband are shown in the attached maps.

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). Shropshire Council will only target the premises identified as White on the map. However, if the premises currently identified as 'Under Review' fall away then these areas could be added to the contract intervention area.

'Under Review' premises (coloured 'blue' on the Shropshire Public Consultation Map) are in those areas that 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.

This State aid public consultation and the proposed NGA broadband Intervention Area maps are available to all stakeholders on the Connecting Shropshire website at <http://connectingshropshire.co.uk/public-consultation/> and will also be available via BDUK's website at [BDUK Table of local broadband projects](#).

7. RESPONDING TO THIS STATE AID PUBLIC CONSULTATION

Shropshire Council is requesting information and supporting evidence in relation to basic and NGA broadband infrastructure within the Shropshire Council area and wishes to hear from all relevant stakeholders (including residents and businesses as well as broadband infrastructure operators), particularly in relation to premises to be targeted as part of the NGA intervention area at Annex A.

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 locality 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 be offered via the subsidised network, then the submission should also include the specific information set out in Section 8 and should be emailed to connecting.shropshire@shropshire.gov.uk.

For all other submissions, please use the response form, which can be accessed via the following link: <https://www.surveymonkey.co.uk/r/connecting-shropshire-public-consultation>

Please send your responses no later than 5 September 2016.

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/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 premises/areas for basic and NGA 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 National Competence Centre.

If you have any questions about any of the above, please contact the Connecting Shropshire Council by email at: connecting.shropshire@shropshire.gov.uk.

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.

Shropshire Council is requesting information on, and supporting evidence for, any current or planned (within the next 3 years) investment in broadband infrastructure in the Shropshire Council 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, Shropshire Council is requesting information at premise level, using the template issued by Shropshire Council during June 2016 to show existing or planned coverage by your broadband infrastructure investment. By 'covered' (or 'passed') Shropshire Council means that fixed network infrastructure is or will be available to the premises, subject to a final drop connection, or that the premises are able to receive a suitable quality radio signal over the air interface, 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). Information should be emailed to connecting.shropshire@shropshire.gov.uk.

Shropshire Council 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 we are not obliged to include these products in the invitation to tender (unless already required under any State aid Decision)⁷.

9. NEXT STEPS

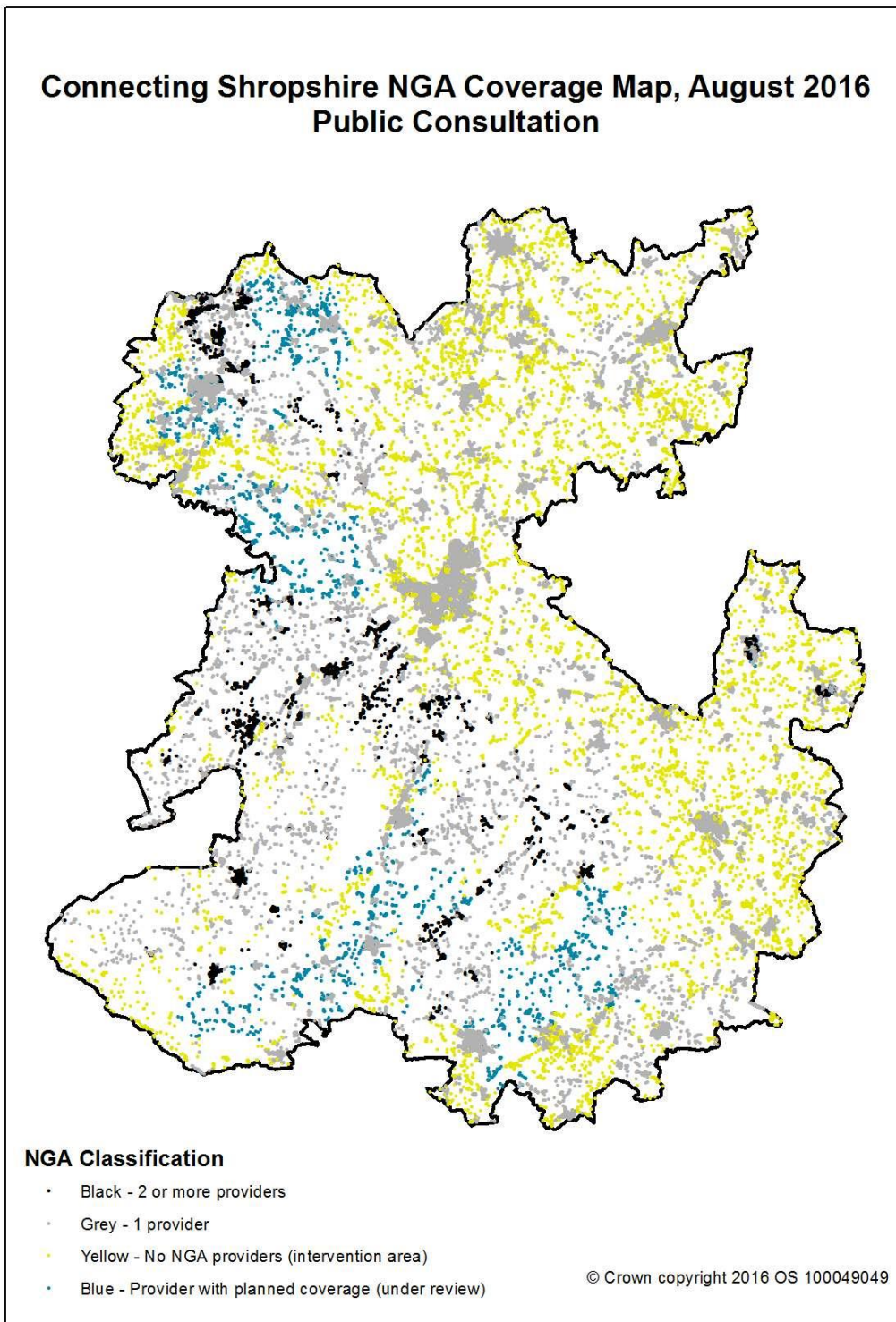
Shropshire Council plans to publish the final Intervention Area maps shortly after the close of the consultation period.

This will be followed by the launch of the ITT to Suppliers to bid for the opportunity to fulfil a new contract to deliver the extended coverage.

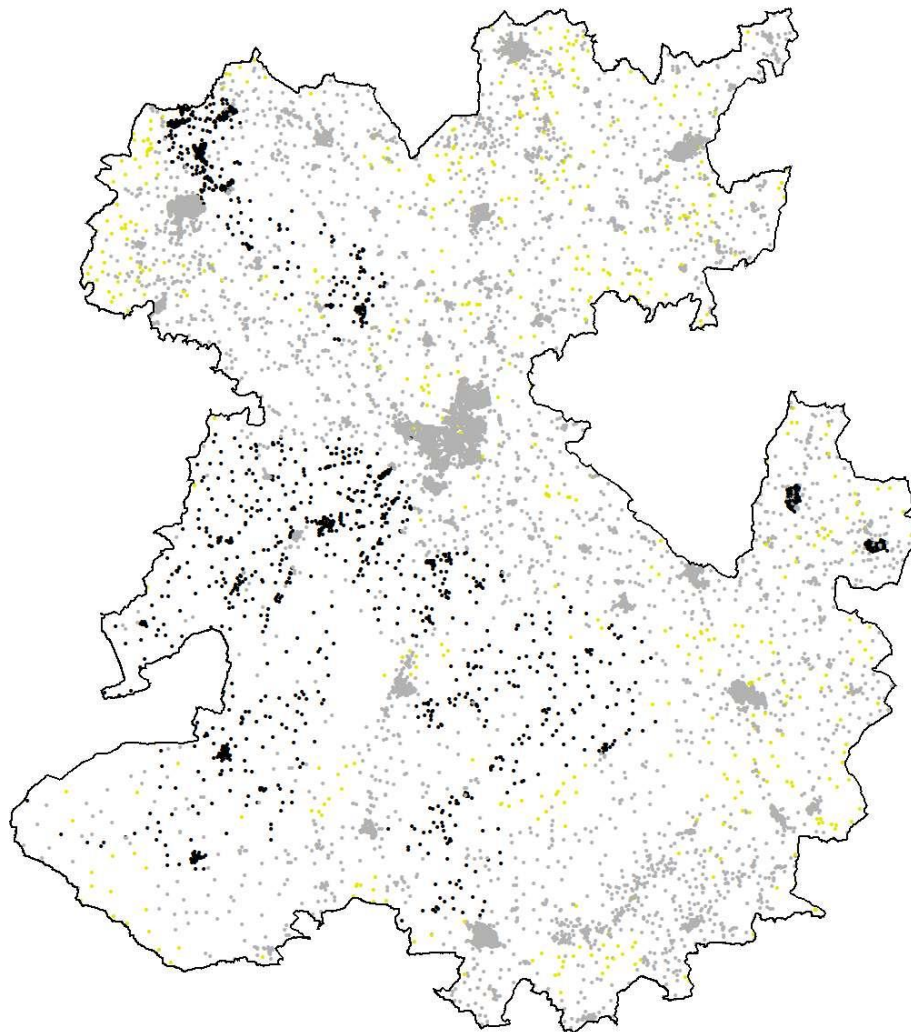
⁷ Operators will still be able to request new forms of access products on the subsidised NGA network infrastructure through the formal general access provisions under the terms of a future State aid Decision.

Information about the Connecting Shropshire programme can be found at:
<http://connectingshropshire.co.uk/>.

ANNEX A



Connecting Shropshire Basic Broadband Coverage Map,
August 2016
Public Consultation



Basic Broadband Classification

- Black - 2 or more providers
- Grey - 1 provider
- Yellow - no basic broadband provision