

PUBLIC CONSULTATION

20th June 2017 to 19th July 2017

Superfast South Yorkshire - Phase 2

New procurement to further extend the coverage of Next Generation Access (NGA) Broadband across South Yorkshire.

1. INTRODUCTION AND BACKGROUND

The four local authorities of South Yorkshire Region (Sheffield, Rotherham, Barnsley and Doncaster), with support from the Sheffield City Region Local Enterprise Partnership (SCR LEP) are striving to further extend the availability of NGA broadband infrastructure in the region to improve the quality of life for residents and create a connected region for businesses. In our region we already have plans in place to reach 98.7% of superfast broadband connectivity by 2018.

To extend coverage to as many of the remaining areas as possible, Superfast South Yorkshire which is led by Barnsley Metropolitan Borough Council (on behalf of the South Yorkshire authorities namely Barnsley, Doncaster, Rotherham and Sheffield) intends to procure further coverage of NGA broadband infrastructure (capable of delivering speeds of at least 30Mbps) in areas within its programme area where such broadband is currently unavailable by the end of 2020. Geographically, the proposed Phase 2 covers the administrative boundaries of Barnsley, Doncaster, Rotherham and Sheffield local authorities. Although some further prioritisation will be made within these areas as part of the procurement.

In the 2013 Spending Review, the Government announced a further allocation of funding under the Broadband Deliver UK (BDUK) Superfast Programme, with the aim of increasing NGA coverage across the UK to at least 95% by the end of 2017. South Yorkshire was allocated a total of £10.4m of grant funding from the BDUK programmes. The South Yorkshire local authorities secured match funding for the BDUK allocation of £10.4m from the Sheffield City Region Investment Fund (SCRIF).

Superfast South Yorkshire conducted its first Open Market Review (OMR) in February 2014. The OMR indicated that the planned commercial coverage for NGA broadband would reach approximately 80% of premises within the following three years, therefore leaving the remaining premises without access to NGA broadband.

In September 2014, following a framework procurement to deliver the phase one of the Superfast South Yorkshire programme, a contract with a public funding value of £14,850,000 was awarded to BT. Barnsley Metropolitan Borough Council, on behalf of the four South Yorkshire local authorities, selected BT to deliver NGA broadband to 103,433 of those unserved premises under Superfast South Yorkshire phase 1. In March 2016 a further £4.8m was invested to bring speeds of 100Mbps and above to South Yorkshire Enterprise Zones and key strategic business parks. This investment was conducted under the change control of the BT contract taking the total public investment across South Yorkshire to £19,620,000.

Superfast South Yorkshire now intends to conduct a further procurement in respect of the remaining areas without NGA broadband infrastructure (known as “white NGA”), which comprises 30,897 premises.

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

2. MARKET ENGAGEMENT AND ANALYSIS OF EXITING COVERAGE

In preparation for this procurement, Superfast South Yorkshire conducted a new Open Market Review between 28th February 2017 and 31st March 2017 to establish existing and planned coverage of NGA broadband infrastructure across the South Yorkshire region in the next three years. This included both commercial coverage by existing and prospective NGA broadband infrastructure providers and coverage procured under Superfast South Yorkshires existing contract with BT.

Superfast South Yorkshire contacted all known broadband infrastructure operators within the Programme Area and other providers known to have (or potentially have) plans to deploy new networks across the UK with a formal request for information. The OMR was also publicised through a notification on Superfast South Yorkshire’s website and on Barnsley Metropolitan Borough Councils procurement portal YORTender. Operators were requested to provide information on their existing and planned NGA infrastructure (capable of delivering download speeds of 30Mbps), and to provide more details of their coverage at a premise level to enable greater granularity of mapping.

The information collected in response to the OMR, together with Superfast South Yorkshire’s own data sources have been used to define the proposed Intervention Area for the forthcoming procurement.

The Public Consultation sets out the proposed Intervention Area, so as to enable all interested stakeholders (including public, business, internet service providers and broadband infrastructure operators) to comment on the proposals. In particular, this provides an opportunity for broadband infrastructure operators to review Superfast South Yorkshire’s mapping to ensure it accurately represents the information provided by them in responding to 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 Superfast South Yorkshire website shortly after the close of the consultation period. Where responses to the consultation are received, Superfast South Yorkshire will respond to these and provide an explanation of how the information submitted has been dealt with. The finalised Intervention area will then be submitted to BDUKs 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 purposes 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/C25/01')¹. These guidelines summarise the principles of the Commissions 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 BDUKs National Competence Centre.

The Commissions 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.²

¹ [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC0126\(01\)&from=N](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013XC0126(01)&from=N)

² <https://www.gov.uk/government/publications/2016-nbs-tech-guidelines>

The Commission's guidelines also require that public intervention should be able to ensure 'step change' in broadband availability. This is demonstrated by:

- Significant new investments in broadband network;
- The new infrastructure brings significant new capabilities into the market in terms of broadband service availability and capacity, speeds and competition;³

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' 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)⁴ 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 likely to be deployed in the next three years.

4. PROPOSED INTERVENTION

Using a mix of premises level and postcode level data as received from the broadband infrastructure operators, Superfast South Yorkshire has mapped areas as white, grey or black at a postcode level, using the following criteria:

For basic broadband;

- A postcode is turned grey if there is only one broadband infrastructure operator providing basic broadband services (with speeds greater than 2Mbps) 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.

³ See footnote 66 of the Commissions Guidelines

⁴ Substantially higher upload speeds mean 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 intervention area.

- All other postcodes remain white.

For NGA;

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

In addition, the proposed intervention area includes a number of “under review” areas coloured blue on the map this totals 9321 premises. 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 latest OMR as being ‘at risk’ of not being completed. These areas will be subject to continued monitoring and verification of supplier plans within the next 3 year period by Superfast South Yorkshire and in the event that these commercial plans do not materialise, 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 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.

Postcode Classification	Number of Postcodes	Number of Black Premises	Number of Grey Premises	Number of White Premises
White	3,618	0	38,743	30,897
Grey	19,517	0	393,302	0
Black	7,048	140,196	0	0
‘Under Review’	728	0	12,080	9,321

The Superfast South Yorkshire (SFSY) Intervention Area includes 30,897 NGA White premises spread over 3,618 NGA White postcodes, but could include up to an additional 9,321 “Under Review” premises, creating a total of 40,218 premises if the “Under Review” premises become White in scope.

The analysis from the OMR has identified that the Superfast South Yorkshire Intervention Area includes no (Zero) Basic Broadband White premises, table below.

Postcode Classification	Number of Postcodes	Number of Black Premises	Number of Grey Premises	Number of White Premises
White	0	0	0	0
Grey	4,483	0	40,218	0
Black	26,560	584,321	0	0

Superfast South Yorkshire intends to procure coverage to target the remaining ‘white NGA’ areas by conducting a new procurement under the 2016 NBS (and in accordance with the Public Contracts Regulations 2015).

Where possible, Superfast South Yorkshire intends to make coverage information available at a premise level within the identified white postcode areas to bidder to ensure that bidders can target those premises without NGA broadband coverage efficiently. This will include information at a premise level received in response to this consultation.

It should be noted that whilst this consultation includes mapping of the 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 to ensure, as 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 speed, in accordance with the requirements of the 2016 NBS. Where the doubling of speed is not possible, the supplier will be obliged to demonstrate that the design is optimised to limit the overbuild of existing basic broadband networks with speeds that are below 30Mbps.

5. New Procurement

Superfast South Yorkshire has undertaken market engagement and considered the ability of the private sector to deliver the project, available resources, and its own capacity and capability to develop its approach to the intervention. It has decided that the project will use a gap funding investment model approach to procure an infrastructure provider.

Due to the current funding position Superfast South Yorkshire will seek to procure a single lot, however, multiple lots will be considered in the event of further funding becoming available.

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 use the Open Procedure and will be conducted in a transparent and non discriminatory way, as required by the 2016 NBS.

Additionally, 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.

Superfast South Yorkshire's priority is to guarantee that the available public funding is used in the most economically advantageous way by ensuring coverage of premises currently receiving relatively slow broadband speeds (<30Mbps). However, areas with higher speeds may be targeted, subject to the need to provide a 'step change' in broadband capability (as outline above).

The planned Phase 2 programme will seek to commit an overall investment of public funding up to £10million via the forthcoming procurement.

Currently £795,000 is available, which is residual funding from the existing Superfast South Yorkshire contract and a further, minimum amount of, £770,000 is being sought from the European Agricultural Fund for Rural Development . Further additional funding is being sought from a variety of local, national and European sources to secure the investments identified.

6. Timescales

This consultation will be open until 19th July 2017.

Once the consultation is closed and Superfast South Yorkshire has finalised the intervention areas, an Invitation to Tender (ITT) will be issued to suppliers via the YORtender procurement portal during August 2017, inviting them to bid for the opportunity to deliver the programme to extend NGA broadband coverage. The intention is to award a contract at the end of 2017. The related extended deployment plans for broadband infrastructure must begin early 2018.

7. 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 is shown in the Appendix to this document.

The map of NGA broadband Intervention Areas relies on the definitions of white, grey and black, as set out in the EU Guidelines (and as summarised above). Superfast South Yorkshire will only target the areas identified as White on the map. However, if the areas of commercial coverage currently identified as “Under Review” fall away then these areas could potentially be added to the contract intervention area.

This State aid public consultation and the proposed NGA broadband Intervention Area maps are available to all stakeholders on the Superfast South Yorkshire website at www.superfastsouthyorkshire.co.uk/publicconsultation

And will also be available via BDUKs website at BDUK New Procurement Pipeline <https://www.gov.uk/government/publications/bduk-new-procurement-pipeline>

8. Responding to this State Aid Consultation

Superfast South Yorkshire is requesting information and supporting evidence in relation to basic and NGA broadband infrastructure within the project area and wishes to hear from all relevant stakeholders (including residents, businesses as well as broadband infrastructure operators), particularly in relation to those areas to be targeted as part of the Intervention Area, that is the areas shown as “white” on the NGA broadband map in the Appendix.

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

Residents and businesses, where this relates to the ability to receive 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 areas that the submission relates to and the nature of concern. For this type of response, could residents and businesses please email hello@superfastsouthyorkshire.co.uk and include the title “Public Consultation” in the subject line.

Infrastructure Operators, comments on the white, grey and/or black or under review classifications within the appended maps, or on wholesale products to be offered via the subsidised network, then a submission should also include the specific information set out in section 9.

For all submissions from Infrastructure Operators, Superfast South Yorkshire would be grateful if you would email jennifersalt@barnsley.gov.uk to register your intention to submit a response and include the following:

- Subject line: Public Consultation
- Organisation name
- Organisation address

9. 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.

Superfast South Yorkshire is requesting information on, and supporting evidence for, any current or planned (within the next 3 years) investment in broadband infrastructure in the Superfast South Yorkshire Intervention Area, where this may not be already included within the proposed NGA and basic Broadband Intervention Area maps shown in the Appendix.

For any current or planned coverage not included within the proposed State aid Intervention Area shown on the appended map, Superfast South Yorkshire is requesting information at premise level (using the template available on request, as published as part of the Open market Review on 3rd March 2017) to show existing and planned by your broadband infrastructure investment. By 'covered' or 'passed' Superfast South Yorkshire means that fixed network infrastructure is or will be available to premises, potentially subject to final drop connection, or that the premises are able to receive a suitably quality radio signal over air interface, potentially subject to the installation of a suitable antenna.

All information provided in response to this State aid public consultation should include, but need not be limited to:

- Premises detail for basic broadband and NGA broadband showing the existing coverage and separately maps detailing the planned investment in the basic broadband and NGA infrastructure networks for at least the next three years;
- Exact detail of premises passed or covered, including information on the number of premises passed (in the case of a fixed network) or covered and able to receive services (in the case of a wireless/satellite network);
- Details of the technology and where these claim to be NGA, demonstrate how they meet the minimum standards as set-out in the BDUK Technology Guidelines.
- Description of the services/ products currently offered and separately those to be offered within the next 3 years;
- Installation and rental tariffs for those services/products clearly identifying whether they are inclusive or exclusive of VAT;
- Upload and download speeds typically experienced by end users;
- Appropriate indicators of quality of the service e.g. contention ratio or bandwidth allocation per end user;
- Evidence to substantiate actual or planned coverage claims including business cases and evidence of available funding to enable plans to be fulfilled.
- Details and timing of roll-out for future investment; and
- Confirmation from an authorised signatory that all information provided is of suitable accuracy.

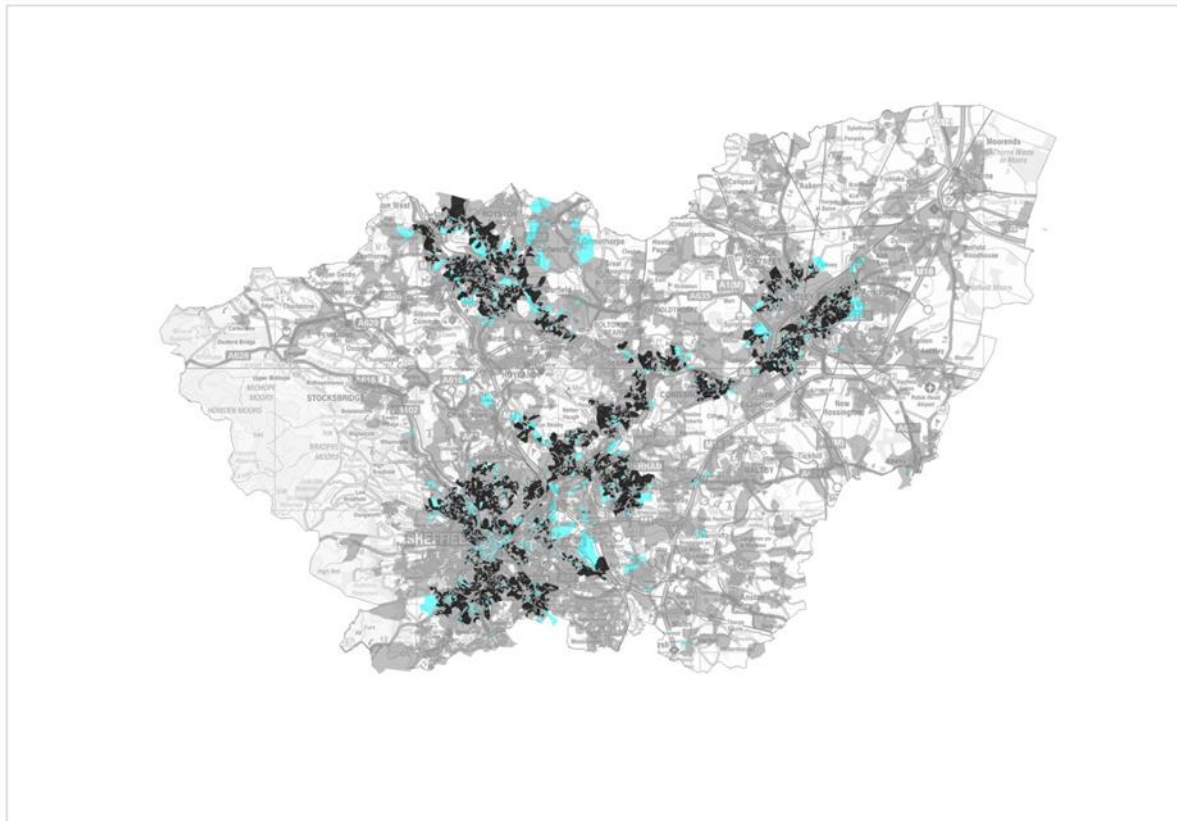
Please note Superfast South Yorkshire needs to receive your full response no later than 19th July 2017, please submit this to natalieward@barnsley.gov.uk.

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 the white, grey and black 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 the above please do not hesitate to contact the Superfast South Yorkshire team.

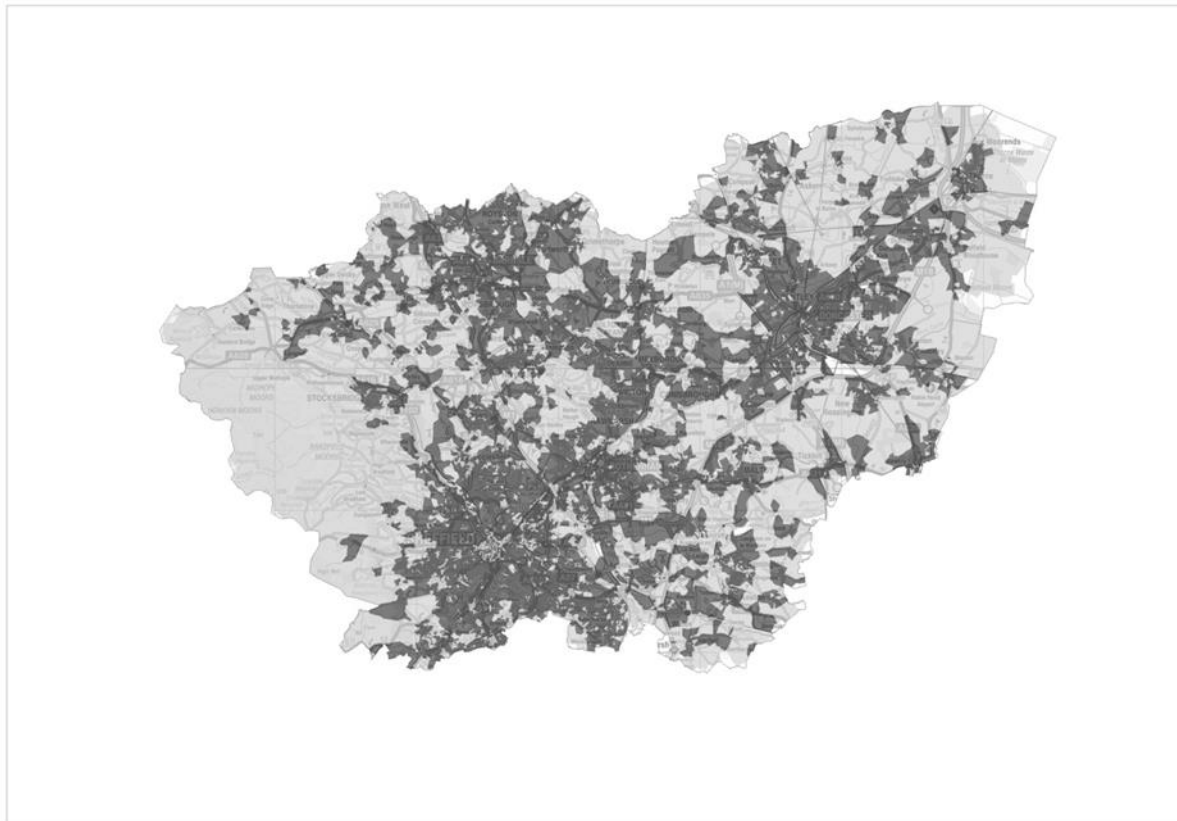
Appendix 1 - South Yorkshire State aid Map – NGA



Key for State aid map

- Black – NGA connectivity provided by more than 1 operator
- Grey – NGA connectivity provided by 1 operator
- White – No Operators providing NGA connectivity
- Blue - State aid classification is under review

Appendix 1 - South Yorkshire State aid Map – Basic Broadband



Key for state aid map

Black – Basic connectivity provided by more than 1 operator

Grey – Basic connectivity provided by 1 operator