

Superfast Dorset

New Procurement to further extend coverage of Superfast Broadband across Dorset

State Aid Public Consultation

1. Introduction

The Superfast Dorset Project is aiming to significantly extend the availability of Superfast Broadband (at least 24Mbps) across rural Dorset with our ambition, in Dorset's Local Broadband Plan (LBP) to deliver ubiquitous coverage by 2020.

Dorset County Council conducted its first Open Market Review (OMR) process on Next Generation Access (NGA) broadband infrastructure availability in December 2012. At the time, the planned commercial coverage of Superfast Broadband (within a 3 year timeframe) was due to reach approximately 76% of premises in our project area, potentially leaving the remaining 24% of premises without access to superfast broadband. Dorset County Council subsequently awarded a contract to British Telecommunications (BT) Plc. in June 2013 under the Broadband Delivery UK (BDUK) Rural Broadband Programme Procurement Framework to deliver additional superfast broadband access.

The County Council is making good progress with the deployment of this contract, with over 18,000 premises passed by November 2014 and the contract is due to reach circa 87,000 premises passed by September 2016. When combined with commercial plans, this means that about 95% of premises in Dorset, Bournemouth and Poole should have access to superfast broadband by September 2016.

In the 2013 Spending Review, the Government announced a further allocation of £250m funding for broadband under Phase 2 of the BDUK Rural Superfast Broadband Programme, which has the aim of increasing coverage across the whole of the UK to 95% by 2017. The County Council received an allocation of up to £1,540,000 provided this was matched locally in Dorset, £1,409,100 has been made available locally to match this resulting in a total budget of £2,818,200 with which Dorset County Council intends to conduct a mini-competition, by issuing an Invitation to Tender, under the BDUK Framework to award a second local call-off contract to deliver extended coverage from this additional funding.

There is the potential for additional funding to become available during the life of the contract to deploy greater coverage of NGA superfast broadband, which Dorset County Council may wish to incorporate into contract through change control. At this stage it is unclear the exact value of additional funding which may become available in years to come. Any additional funding would be used in a manner compliant for procurement and State Aid purposes.

As part of this new procurement process, the County Council conducted an Open Market Review (OMR) which ran between 08 September and 24 October 2014 to establish current and planned (next 3 years) coverage of broadband services in Dorset by existing, and any prospective broadband infrastructure providers. The information gathered through this Open Market Review has been used to define the scope of the Intervention Area for the purpose of the forthcoming mini-competition under the BDUK Framework. The Intervention Area defines

those postcodes and premises where market failure is present and are therefore eligible for State Aid subsidy.

The purpose of this public consultation document is to set out the County Council's understanding of the potential Intervention Areas for superfast and basic broadband. This is to enable the market and public 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 OMR and ensure these are correct. A final Intervention Area proposal is then 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 for one calendar month from 12 December 2014 until 12 January 2015. Once the State Aid public consultation is complete and the Intervention Area has been formalised by the County Council, an Invitation to Tender (ITT) will be issued through the BDUK Framework to bid for the opportunity to fulfil a new contract to deliver the extended superfast broadband coverage.

The County Council envisage publishing the ITT in January 2015. The procurement will run over the winter of 2014/5 and be concluded in spring. The extended deployment plans for broadband infrastructure should result in contract award in May 2015.

3. State Aid Framework

This section provides a brief introduction to the State Aid Framework for the purpose of informing responses to this public consultation.

The European Union State Aid rules are designed to ensure that any use of public funding is targeted at areas of market failure and to ensure 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 disincentivising 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 areas where there are no current or planned (next three years) provisions 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 a 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 Next Generation Access (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)), 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/publications/state-aid-guidance-technology-guidelines>

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 infrastructures thus:

- 'White' areas are those in which 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 network operators.

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 only, respectively.

4. Open Market Review

The County Council issued an Open Market Review – Request for Information on 08 September 2014 to gather information on existing and planned (next 3 years) broadband deployments. This information has helped us to define our proposed Intervention Areas in which additional public funding could be invested to further extend superfast broadband coverage across Dorset. The Open Market Review was a precursor to this formal State Aid public consultation on the proposed Intervention Area. The Open Market Review process is not a specific requirement of the EC guidelines, but is regarded as good practice to help inform the definition of the Intervention Area prior to a State Aid public consultation (which is a requirement of the EC Guidelines).

The OMR Request for Information was sent to all known broadband infrastructure providers in Dorset.

The Open Market Review process also took account of the actual and planned extension of broadband coverage being delivered through the County Council's contract with BT (awarded 10 June 2013).

The Open Market Review process has now been concluded and the scope of the proposed Intervention Area, where additional public funding could be invested, has been defined for State Aid public consultation purposes. The proposed Intervention Area 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.

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 predicts that at least 90% of premises in the postcode can receive (or are planned to receive) a broadband speed greater than 2Mbps;
- OR, 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 greater than 2Mbps;
- OR, a wireless service or other qualifying technology is available at greater than 2Mbps to at least premises in the postcode;
- OR, the postcode is included in the Basic Broadband Intervention Area of the current deployment Contract between the County Council and BT (June 2013).

Each postcode is turned Black for Basic Broadband if it satisfies at least two of these conditions, i.e. multiple providers offering Basic Broadband access. All other postcodes remain White.

For NGA, each postcode is turned Grey if:

BT has upgraded the network infrastructure serving at least 90% of premises within the postcode, and they have an estimated (VDSL2 for FTTC) Access Line Speed of greater than 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 Guidelines¹.

Each postcode is turned Black for NGA if it satisfies at least two of these conditions i.e. multiple providers offering NGA Broadband access. 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 NGA broadband, the County Council considers 15 premises to be NGA white. This assumption aims to ensure that no premise is left behind in the objective of achieving full availability by the end of 2020.

Note 2: In accordance with the National Broadband Scheme for the UK and the Superfast Dorset project, the speed threshold criterion used to determine an area as NGA white remains 24 Mbps or less. However, some OMR data supplied to the County Council was based on a threshold of 15Mbps instead of 24Mbps. The principle behind Dorset County Council accepting an Open Market Review response threshold of 15Mbps is to ensure that public subsidy is prioritised at areas most in need of intervention. The County Council has compared previous data releases from suppliers to those recently received and areas of reduced commercial activity will be treated as 'Conditional' White areas, whilst the Superfast Dorset team work closely with suppliers to maximise the commercial deployments.

Note 3: In addition, the proposed NGA Intervention Area includes a number of other NGA Conditional White areas – these areas are currently within planned commercial coverage but have been reported through the OMR as being at risk of not being completed commercially.

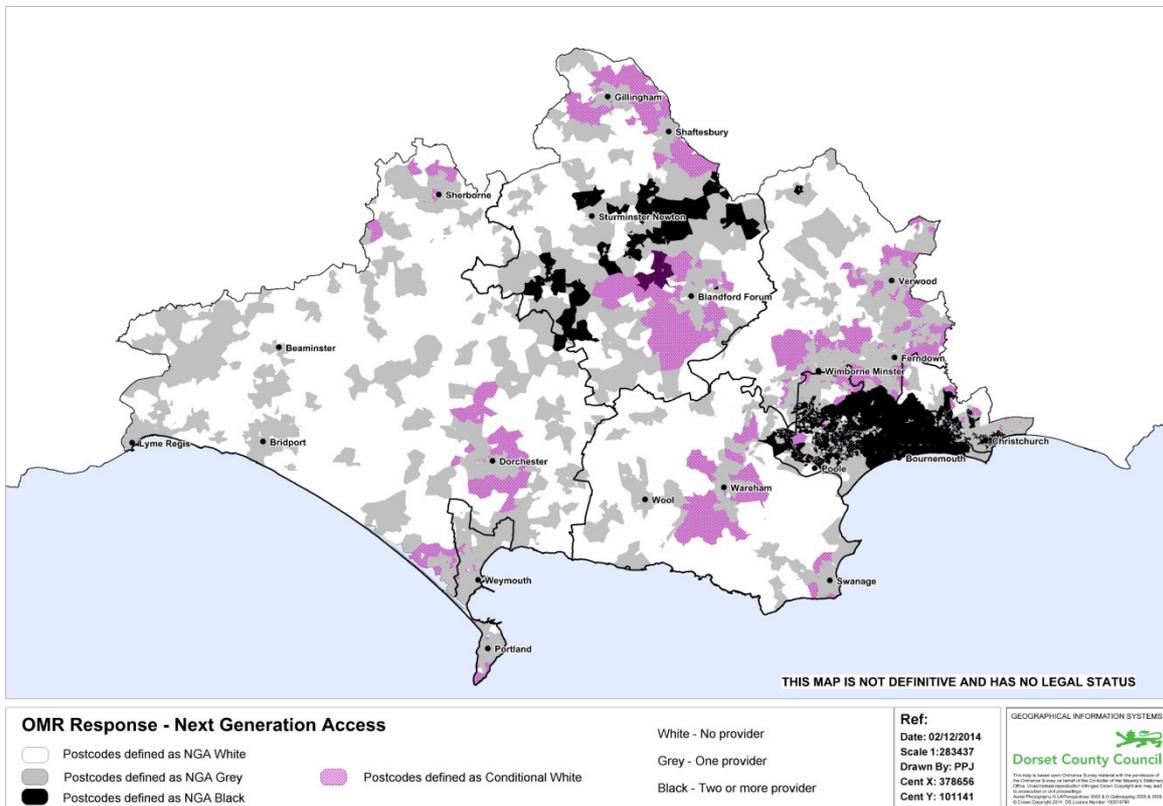
It is proposed that Conditional White areas will be eligible for public sector intervention to support the deployment of superfast broadband subject to monitoring and verification of supplier plans within the 3 year period by the Local Body that a superfast broadband service has not or will not be delivered during the period.

The following table summarises the outcome of the Open Market Review in terms of White, Conditional White, Grey and Black postcodes and premises for Superfast Broadband:

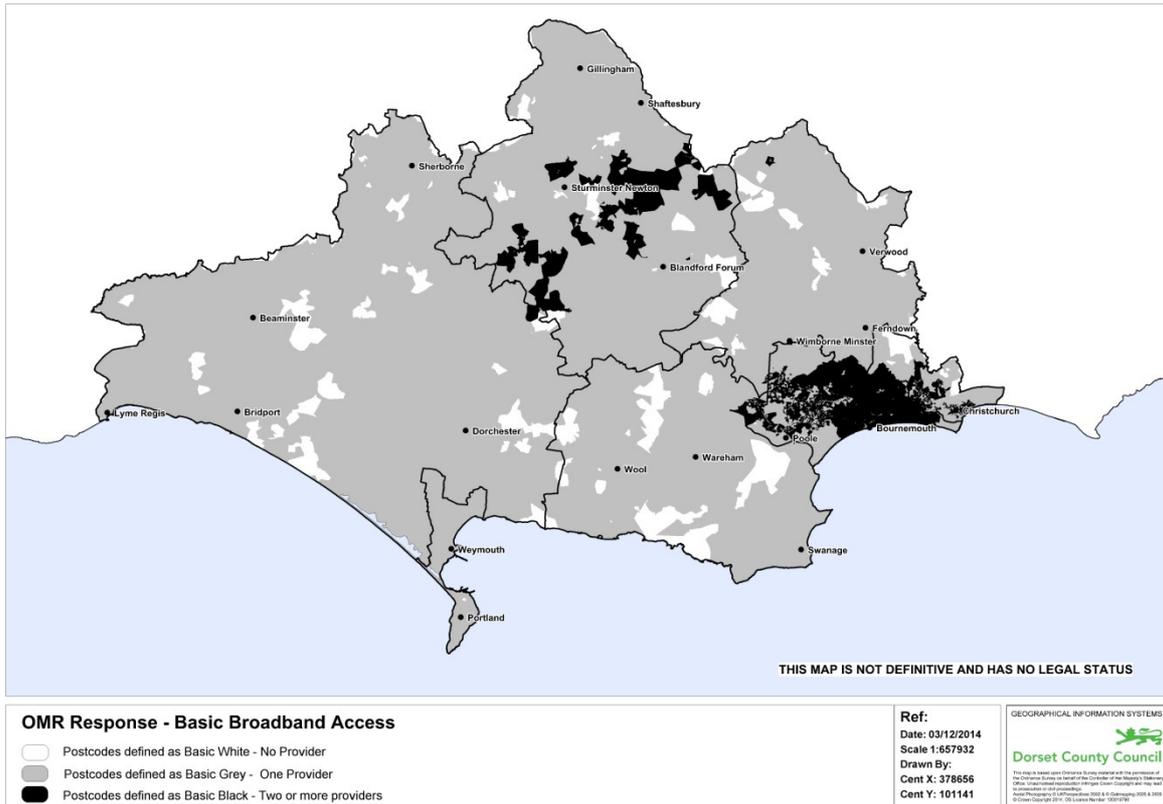
¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236341/NGA_Technology_Guidelines_300813.pdf

Number of postcodes		Number of black premises	Number of grey premises	Number of white premises
Black postcodes	7218	149711	522	14
Grey postcodes	11643	9220	179810	415
'Conditional' White postcodes	844	870	8847	56
White postcodes	1903	115	3788	13173
Total	21608	159916	192967	13658

The Superfast Broadband Intervention Area includes 13,658 NGA White premises and 1,908 NGA white postcodes. There are also 8903 Conditional White premises and 844 Conditional white postcodes which we may include should private sector plans to deliver NGA superfast broadband fail. These Conditional White areas are identified in the below map as hatched blue.



The Basic Broadband Intervention Area for this second procurement round is 278 postcodes and 2711 premises. The below map illustrates the basic broadband availability in Dorset.



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, defined at OMR, 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. The attached maps rely on the definitions of White, Grey and Black areas, as set-out in the EU Guidelines (and as summarised above). The NGA map also includes Conditional White areas identifying additional areas at risk of not having access to superfast broadband and which could potentially be added to the NGA Intervention Area.

The priority for the County Council 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 (less than 15Mbps). Therefore, in the first instance, the focus of the forthcoming procurement under the BDUK Framework 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 the areas classified as 'Conditional' White in the event that the risks of these premises not achieving superfast broadband is verified.

This State Aid public consultation and the proposed NGA and Basic Broadband Intervention Area maps are available to all stakeholders on the Superfast Dorset project website at www.dorsetforyou.com/superfast. They are also attached to this document as an appendix.

A link to this State aid public consultation is also available on the BDUK webpage at:

<https://www.gov.uk/government/publications/state-aid-advice>

6. Responding to this State Aid Public Consultation

The information requested is specified in the following section. When responding to this request, the County Council would be grateful if you could confirm the following:

- Your organisation's name
- Your organisation's Address
- Your name and position
- Contact telephone number
- Email Address

We 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 10 December 2014 to:

Via email to:

superfast@dorsetcc.gov.uk (marked "Superfast Dorset Public Consultation Response").

Or by post to:

Superfast Dorset Public Consultation Response,
Environment and Economy Directorate,
Dorset County Council,
1st Floor Colliton Annexe,
County Hall, Colliton Park,
Dorchester, Dorset,
DT1 1XJ

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 following approval by the BDUK National Competence Centre.

If you have any questions about this State Aid public consultation process, please contact the Superfast Dorset Project Team by email at: superfast@dorsetcc.gov.uk

This State Aid Public Consultation also provides the opportunity for the project team to communicate about the status and the strategic aim of the project to the wider public, and for local stakeholders (businesses, public sector bodies, voluntary groups, local communities and residents) to comment on the strategic objectives, local priorities and commercial approach of the project. Please contact superfast@dorsetcc.gov.uk with your response'

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 Dorset, Poole and Bournemouth which 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 (to enable us 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 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. 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

Guidelines²

- 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 and demand.

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

8. Next Steps

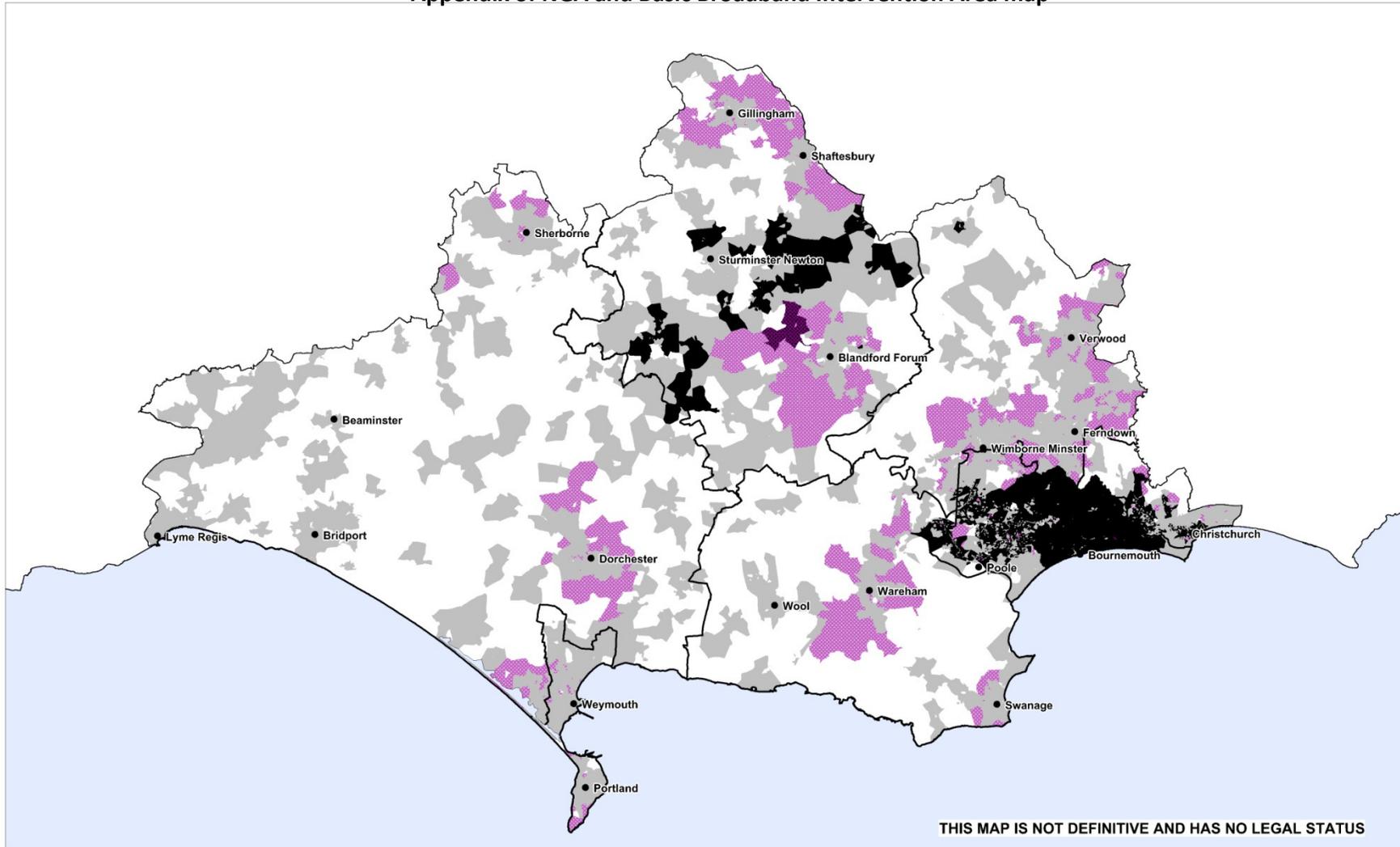
Following any responses received to this State Aid public consultation by the closing date of **12 January 2015**, the County Council plans to publish the final Intervention Area maps shortly after the close of the consultation period. For the avoidance of doubt if no valid responses are received the mapping contained in this document will be classed as final. Following this, an Invitation to Tender (ITT) to BDUK's Framework will be issued offering the opportunity for bids to fulfil a new contract to deliver the extended coverage. This process should be concluded in the spring.

Information about the Superfast Dorset project can be found at

www.dorsetforyou.com/superfast

²https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236341/NGA_Technology_Guidelines_300813.pdf

Appendix of NGA and Basic Broadband Intervention Area map



OMR Response - Next Generation Access

- Postcodes defined as NGA White
- Postcodes defined as NGA Grey
- Postcodes defined as NGA Black
- Postcodes defined as Conditional White

- White - No provider
- Grey - One provider
- Black - Two or more provider

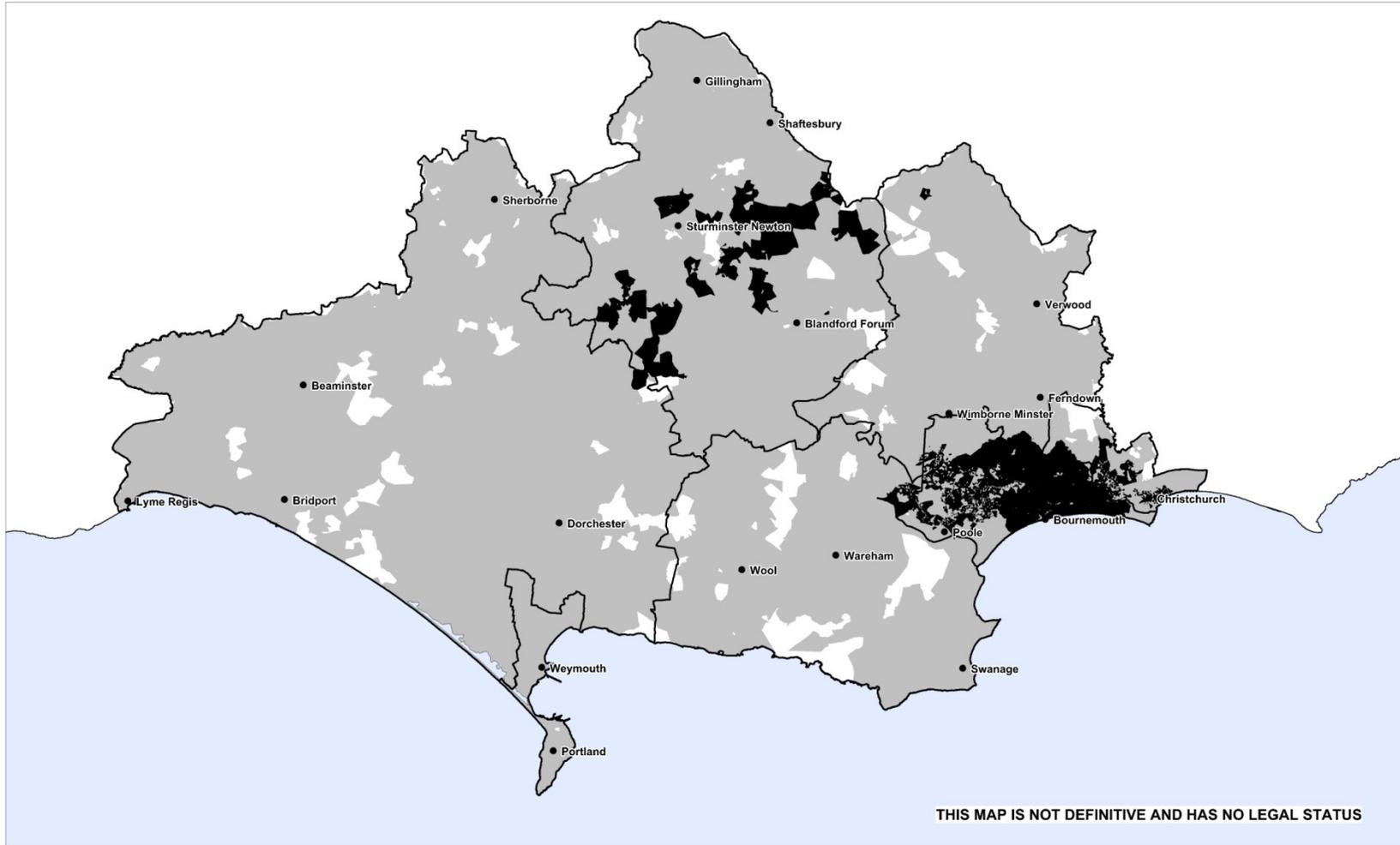
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 Cent X: 378656
 Cent Y: 101141

GEOGRAPHICAL INFORMATION SYSTEMS



Dorset County Council

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OMR Response - Basic Broadband Access

- Postcodes defined as Basic White - No Provider
- Postcodes defined as Basic Grey - One Provider
- Postcodes defined as Basic Black - Two or more providers

Ref:

Date: 03/12/2014
 Scale 1:657932
 Drawn By:
 Cent X: 378656
 Cent Y: 101141

GEOGRAPHICAL INFORMATION SYSTEMS

Dorset County Council

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