

LGA Submission – New Build Developments: Delivering gigabit-capable connections

December 2018



Submission

1. About the Local Government Association

- 1.1. The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government. We are a politically-led, cross party organisation which works on behalf of councils to ensure local government has a strong, credible voice with national government.
- 1.2. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems. The LGA covers every part of England and Wales, supporting local government as the most efficient and accountable part of the public sector.

2. Introduction

- 2.1. It is now widely accepted that access to fast and reliable digital connectivity is no longer a luxury, but a necessity. It is something residents and businesses expect in their premises; a vital component for supporting growth in urban and non-metropolitan areas, and an enabler of public sector digital transformation.
- 2.2. Local government has been a key player in the roll-out of improved digital connectivity to the most hard to reach areas over the last five years. It has partnered with broadband providers to extend coverage to local communities via the Superfast Broadband Programme and has worked closely with mobile network operators and local communities to find the best locations for new mobile infrastructure. Councils across the country are also adopting digital infrastructure strategies to set out how they will support the extension of digital connectivity to all residents and businesses.
- 2.3. In recent years, it has become apparent that the standard of digital connectivity provided to rural and remotely rural new build homes is below par, and doesn't reflect the Government's national ambition to roll out world-class digital infrastructure across the country. Without future-proofed full fibre being installed as standard, residents are unable to feel the benefits of decent connectivity such as the ability to work from home or video call loved ones. Furthermore, by living in homes in need of expensive full fibre retrofitting, many now face long waits for connection as well as upheaval due to the extra roadworks required to facilitate installation.
- 2.4. Within the current legislative and policy framework, councils cannot ensure that all new build developments come with full fibre broadband installed. Many have tried to tackle the problem by amending local planning policies in line with previous Government guidance¹, to make clear to developers the local expectation that all developments are adequately connected. Despite this, some councils have faced legal challenges from developers

¹ [Ed Vaizey Calls on Councils to Push Superfast Broadband for New Builds](#)

when holding up planning permission on the basis of inadequate provision. In one successful appeal by a developer, the Planning Inspectorate ruled “the provision of broadband and telecommunications would not be necessary to make the development acceptable in planning terms.”²

2.5. In this context, we fully support the Government’s plans to legislate for developers to connect all new builds to future-proofed connectivity. However, in this submission we outline a range of areas the Government should consider to ensure the policy is as effective as possible.

3. Do you have any further evidence on the state of New Build Development connectivity in the UK?

3.1. Earlier this year, the LGA commissioned analysis of new build connectivity across England disaggregated by urban and rural premises. It showed a continuing urban and rural digital divide across newly built homes.

3.2. Of those premises built in rural areas in the last three years, one in five is still not connected to superfast broadband; one in ten cannot achieve the USO minimum speed of 10 Mbps; and only one in four has full fibre connectivity.³ If the Government is to succeed in both building an average of 300,000 homes a year by the mid-2020s and achieving nationwide full fibre coverage by 2033, it must introduce legislation to ensure that developers connect all new builds with future-proofed digital infrastructure.

4. Do you have any information or evidence to suggest that the costs developers would incur under the proposed policy would prevent homes being built?

4.1. We do not foresee the additional costs of full fibre provision, as presented in this consultation, preventing new homes from being built. However, we do see a potential problem arising for developers if broadband providers do not connect new build properties in good time. Previous studies have identified that the installation of broadband into new homes can cause “development drag”.⁴ Delays to a development’s build out rate can be costly for both developers and local communities. As such, it would be advisable for the Government to monitor installation timescales over the first year of the proposal and, if necessary, bring broadband providers into line with the standard installation timeframes expected of utilities companies as outlined in recent guidance from Government.⁵

4.2. The Government should also ensure that the installation costs of gigabit connectivity cannot be used by developers to influence viability assessments to allow them to decrease the amount of affordable housing that is built within a development.

5. Do you have any comments on this proposal for a connectivity plan? We propose that developers would be obliged to provide a simple connectivity plan for their developments to LAs. This plan would demonstrate that developers had consulted with at least two network providers to provide gigabit-capable networks and inform LAs when a site is connected.

² [The Planning Inspectorate - Appeal Decision, Appeal Ref: APP/H1705/A/14/2219718](#)

³ LGA analysis of ThinkBroadband data – April 2018

⁴ [The Housing and Finance Institute – Better Connections](#)

⁵ [Government - Better Connected: A practical guide to utilities for home builders](#)

- 5.1. We support the Government's proposal to require developers to submit an iterative connectivity plan to the planning authority. However, more clarity and guidance is needed on the process.
- 5.2. We understand that there will be no enforcement or regulatory body overseeing the submission of developments' connectivity plans. Instead the plans will provide an 'audit trail' to record the actions taken to connect the site in the case of a legal challenge. Whilst we do not believe receiving and storing the connectivity plan will create new costs for planning authorities, the Government has not yet set out the role it would expect of the planning authority in the case of legal challenge being brought on the developer. Considering the position of councils at the centre of communities, residents raising a legal challenge against a developer could expect local government to play a more active role in proceedings. As such the sector needs more clarification of its potential position in this circumstance before any policy is implemented.
- 5.3. We believe there could be a role for planning authorities to play, supported by clear Government guidance, to ensure developers are adhering to due process through each of the connectivity plan's iterative stages. The Government could consider advising developers to outline their broad connectivity plans during pre-planning application discussions about sites. At the planning application stage, a condition could be imposed precluding the occupation of new dwellings prior to evidence that the site/properties in that phase have actually been connected.
- 5.4. Finally, this process might also be helped by the creation of a connectivity plan template document to ensure consistency.
- 6. Do you agree that developers should have to engage with at least two network operators who can provide gigabit-capable connections to the development?**
 - 6.1. We agree with the proposal that developers should engage with at least two network operators. We would ask the Government to go further and require that one of the operators be an open access infrastructure provider. This would increase the ability of new home owners to choose from a variety of retail broadband services and achieve the best price.
 - 6.2. We would also advise that, at this operator engagement stage, the developer establishes a conversation with the council responsible for digital infrastructure deployment in the area (often the county council in a two tiered area) to explore whether there would be potential to leverage other digital infrastructure deployment programmes locally such as the Government's Local Full Fibre Networks programme, or any areas where the Universal Service Obligation is being delivered.
 - 6.3. Finally, in a scenario where both the operator and developer cost thresholds are breached, and therefore both parties are considering a lower standard of connectivity, we believe the relevant council should be approached to help explore whether there is an opportunity to secure funding from a third party. This could prevent public funding having to step in at a later date to expensively retrofit full fibre connectivity to the premises.
- 7. What further measures could we consider to promote the availability of networks from multiple providers at an early stage to minimise costs and disruption?**

7.1. Many local authorities already provide guides for developers outlining the local availability in their area to support them to connect new build premises.⁶ To complement this, the Government should consider using its digital infrastructure portal to host a register of broadband providers interested in being contacted by developers to provide a quote for connecting a new development.

8. Do you agree with the assumption that deploying the necessary infrastructure to deliver gigabit-capable networks is best achieved when the site is being built?

8.1. We agree with this assumption. Deploying broadband infrastructure retrospectively is an expensive and disruptive process for communities and local government owing to the required roadworks and road surface reinstatement.

8.2. We believe there is potential for network operators to engage with local authorities at an early stage to broadly identify new developments planned over the coming decades.

9. What technical specifications should the physical infrastructure (ducts etc) have?

9.1. Given our role, the Local Government Association is not in a position to comment in detail on the technical specifications required of the physical infrastructure. However, we believe that adequate duct access must be built in to allow for multiple fibre providers to supply each premises on a new build site. This will help promote competition in the long run.

10. Do you agree that developers should deploy, and pay for, the necessary infrastructure from the in-building connections to the boundary edge of the development?

10.1. We agree that developers should deploy, and pay for, the necessary infrastructure from in-building connections to the boundary edge of the development. This would help tackle the issue that a number of councils have experienced where a network operator has been prevented from carrying broadband installation or upgrade works within a new build site as the developer is unwilling to grant access to highways before they have been adopted by the council, a process which in extreme cases can take a number of years.

11. Taking £3,000 as a suggested aggregated cost cap per premise, do you agree with the proposed how should costs be divided between developer and operator?

What information and evidence can you provide to help refine the 'in scope sites' policy design choice - aggregated cost cap or number of premises?

11.1. Firstly, we are disappointed that the Government has not undertaken or made public any modelling, as it did with the Universal Service Obligation, to understand how many developments could potentially breach the threshold of £3,000 per premises connection cost, and thus be unserved by gigabit connectivity. We advise the Government to conduct this modelling to fully understand the impact of this threshold. We believe it is likely to expose a large variance between urban and rural as well as rural and remotely rural premises.

⁶ Some examples include: [Dorset County Council](#), [Isle of Wight](#), [Hampshire County Council](#)

11.2. With this in mind, to ensure new build rural and remotely rural premises are not unduly disadvantaged by the higher costs associated with installation, we believe the Government should consider new measures in the upcoming Spending Review to ensure that in cases where a small-scale development breaches the cost threshold, national funding can provide a “top up” to ensure gigabit provision is provided.

11.3. We do not support implementing a cap based on the number of houses in a development, and would be concerned that small-scale developments in remotely rural areas could face exclusion from a gigabit connection if a cap such as this was implemented. We strongly believe that the full economic benefits of digital connectivity can only be achieved through ubiquitous coverage.

12. Do you agree that developers should have the overall responsibility to ensure Gigabit connectivity for their developments (allowing for the fact that developers can oblige operators to connect using the ‘duty to connect’ provision).

12.1. We believe it is right to place the overall responsibility on developers to ensure gigabit connectivity to their developments. We believe that the duty to connect provides them with a powerful way to ensure broadband providers connect their developments. As previously mentioned, we believe the Government will need to monitor infrastructure installation times to make sure that network operators’ broadband deployment timescales are appropriate.

13. How would this policy affect small housebuilders?

13.1. Across the country, especially within remotely rural areas, there will be developments where installation costs will potentially be excessive, requiring a downgrading of connection speeds. In the case of small housebuilders, as previously mentioned, we believe the Spending Review could be an opportunity for Government to create a top up fund to support small housebuilders to cover costs that breach the developer threshold to ensure that all new builds are fully connected.

14. Do you have any comments on the proposed legislative approach? Do you have an alternative solution that would deliver gigabit-capable connections to NBDs?

14.1. In its recent Future Telecoms Infrastructure Review, the Government committed to consider further how its ambitions for fibre deployment can complement existing programmes including the roll out of the broadband Universal Service Obligation (USO) from 2020 to maximise investment in full fibre. With this in mind, we believe the Government needs to make clear how the delivery of the USO will align with this new build connectivity provision.

14.2. Finally, we believe there is potential to roll out a fibre connectivity kite mark to all new build premises which will support purchasers in making appropriate choices.