



## Land Securities response to Ofcom's consultation on Next Generation Access

5<sup>th</sup> December 2007

### General Comments

Land Securities very much welcomes Ofcom's consultation "Future Broadband: Policy approach to next generation access" and Ofcom's recognition that new building developments will be important in the development of Next Generation Access (NGA) networks. As the property developer behind Ebbsfleet Valley, "the first large scale deployment of next generation access in the UK" (para 9.19), we are particularly pleased that Ofcom has recognised the importance of Ebbsfleet Valley and that it continues to support Land Securities' ambition to create a NGA community there. We therefore fully endorse Ofcom's comments in para 9.20 stating that Ofcom does not want to see regulation unnecessarily hindering the development of NGA in Ebbsfleet Valley.

We agree with Ofcom that new building developments create an exciting opportunity for the deployment of NGA, especially given the government's ambitious target to increase the housing stock. We therefore look forward to the forthcoming consultation on NGA in new building developments. We expect to respond in detail to this consultation based on our experience at Ebbsfleet.

### Answers to Consultation Questions

1. *When do you consider it would be timely and efficient for next generation access investment to take place in the UK?*

It is almost certain that investment in Fibre to the Home (FTTH) will happen earlier in substantial new building developments than where there is existing current generation infrastructure to replace, due to the lower network construction and operating costs. Given our long standing commitment to promoting FTTH at Ebbsfleet Valley, we would say that such investment is timely now, at least in large scale property developments.

When it will be efficient to make such investments depends at least in part on the regulatory environment. In particular, how Ofcom reflects risks in regulated access terms may distort investment incentives, either in favour or against NGA. We will return to this in response to Question Three below.

2. *Do you agree with the principles outlined for regulating NGA?*

Our objective at Ebbsfleet has always been to ensure residents have a choice of communications providers. As the proposed regulatory principles also appear to support this objective we agree.

However, in pursuit of a regulatory objective (e.g. contestability and competition at the deepest level of the network) a degree of pragmatism must also be applied. We would not want to see undue costs placed on developers to provide unnecessary additional duct capacity or on network builders to provide point-to-point access rather than GPON if the

latter will deliver NGA more efficiently. Such obligations may make it less efficient for investments to take place.

3. *How should Ofcom reflect risk in regulated access terms?*

This is perhaps the most important of the five questions in this consultation. If the regulated access terms change the level of risk then investment incentives will be distorted and either encourage inefficient investment or discourage efficient investment. Investment incentives will also be affected by the regulated access terms *of both copper and fibre* and so such terms should be set taking account of each other.

Our main concern, therefore, is that regulated access terms do not artificially distort investment incentives. We would not want to see future developments on the scale of Ebbsfleet Valley being connected by copper only because regulation, rather than market economics, make it more rational to invest in copper. Any regulated access terms should therefore be neutral between the current and next generation access taking account of relative risk, capital and operating costs.

“Regulated access terms” implies regulated prices which should take account of both operating and capital costs. The operating costs of NGA, at least in green/brownfield sites is likely to be considerably lower than where it replaces existing networks. This is largely because the network operator can build an efficient access network with lower maintenance costs. Similarly, in green/brownfield sites, such as Ebbsfleet, the capital costs are expected to be lower, particularly the costs of civil engineering costs and exchange buildings.

Whatever risk may be perceived for the use of fibre rather than copper should be offset by these lower operating and capital expenses.

4. *Do you agree with the need for both passive and active access remedies to promote competition?*

In line with our comments to Question Two we would not want to see a rigid adherence to a regulatory objective force investors to make inefficient investments in an over-engineered network just to ensure passive access remedies when active access remedies would deliver equivalent benefits to retailers and consumers.

Duct access may be attractive in principle, but if this imposes additional costs on new developments it may make investment in fibre less attractive.

5. *Do you consider there to be a role for direct regulatory or public policy intervention to create artificial incentives for earlier investments in NGA?*

Provided there are no artificial barriers preventing private sector investment we do not currently see such a role. We believe it is more important for public policy to remove barriers to private investment rather than promote public investment.

However, we would not want to rule out a future role for public sector involvement if the market proves itself unwilling or unable to invest and if there is public value in NGA.