

Public Report

Birmingham City Council

Report to Cabinet

Date: 12 February 2019



Subject: METRO WESTSIDE EXTENSION AND ASSOCIATED MEASURES – FULL BUSINESS CASE
Report of: DIRECTOR INCLUSIVE GROWTH
Relevant Cabinet Member: Councillor Waseem Zaffar – Cabinet Member for Transport and Environment
Relevant O &S Chair(s): Councillor Liz Clements – Sustainability and Transport
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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s): Ladywood, Edgbaston, North Edgbaston		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 005743/2019		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential :		

1 Executive Summary

This report:

- 1.1 Provides details of the proposed Metro Westside Extension capital scheme including the background to the development, to be delivered and funded by West Midlands Combined Authority (WMCA)/Transport for West Midlands (TfWM), at a total estimated capital cost of £149.200m, and seeks authority to approve the proposals in the Council's capacity as the Highway Authority;

- 1.2 Lists Complementary Highway Works (CHW) and proposed camera enforcement and locations which jointly make up the Associated Measures to be delivered as part of the scheme, and seeks approval for their provision;
- 1.3 Notes the procurement of the camera enforcement equipment will be through the existing Council Information Technology and Digital Service (IT&DS) contract on behalf of WMCA/TfWM, and that the costs will be funded by WMCA/TfWM as part of the capital cost of implementation;
- 1.4 Seeks approval for the Council taking ownership of the camera enforcement equipment and responsibility for the ongoing operation of the enforcement activity including the operational income and expenditure;
- 1.5 Seeks approval for the Council taking responsibility for the ongoing maintenance resulting from the highways works and notes the proposed commuted sum to be provided by the WMCA/TfWM to fund these costs;
- 1.6 Explains the financial implications, including potential risks to the City Council as a result of these proposals.

2 Recommendations

That Cabinet:

- 2.1 Acting on behalf of the Council in its capacity as Highway Authority, notes the route of the Westside Metro Extension set out in Appendix B and authorises the Assistant Director, Transportation and Connectivity (ADTC), in consultation with the Leader of the Council and the Cabinet Member for Transport and Environment (CMTE), to agree the details of the route with WMCA/ TfWM who are acting in their capacity as project sponsors/funders;
- 2.2 Approves the required CHW proposed at Appendix C noting that some of these CHW have already been approved to enable the WMCA/TfWM to commence works to meet the Metro delivery deadlines;
- 2.3 Authorises the ADTC to develop additional CHW that may be required with WMCA/TfWM, in consultation with the CMTE, including preparing and entering into the associated Section 278 Agreements for the CHW and Traffic Regulation Order (TRO) requirements;
- 2.4 Approves the implementation of up to 17 proposed enforcement cameras as set out in Appendix D, notes that the procurement of the camera enforcement equipment will be through the existing Council Information Technology and Digital Service (IT&DS) contract on behalf of WMCA/TfWM and that the Capital cost will be funded by the WMCA/TfWM;
- 2.5 Approves the Council taking ownership of the enforcement cameras equipment provided by WMCA/TfWM as Highway Authority assets and authorises the ADTC to be responsible for the ongoing operation of the enforcement activity and the operational income and expenditure including

future maintenance obligations (as detailed within Appendix A Section 2) and notes that any net surplus will be utilised in line with regulations;

- 2.6 Acting on behalf of the Council in its capacity as Highway Authority approves the proposed Metro Westside Extension and Associated Measures, as set out in Appendices B, C and D, being delivered by the Midland Metro Alliance (MMA), or approved contractors as identified in Appendix A, on behalf of the WMCA/TfWM;
- 2.7 Approves the Council taking responsibility for the ongoing maintenance resulting from the highways works and notes the proposed commuted sum to be provided by the WMCA/TfWM to fund these costs and the financial implications for the recommendations in this report;
- 2.8 Authorises the City Solicitor to negotiate, execute, seal and complete all necessary documentation to give effect to the above recommendations.

3 Background

- 3.1 In 2005, a Transport and Works Act Order (TWAo) was granted to the West Midlands Passenger Transport Executive (WMPTE, also then known as Centro) for the further extension of the Midland Metro tram line to serve Birmingham City Centre, Broad Street and Hagley Road. The overall scheme terminates at 54 Hagley Road, with the scheme being developed and constructed in three sections. The city centre section between Snow Hill station and Stephenson Street was completed in 2016. The section between Stephenson Street and Centenary Square commenced in summer 2017, and is due to be completed in December 2019. The remaining Edgbaston Extension is due to complete in late 2021. These last two sections are jointly known as the Metro Westside extension.
- 3.2 A set of Associated Measures, encompassing the CHW detailed within Appendix C and the camera enforcement, are required to supplement the Metro Westside Extension.
- 3.3 The CHW will provide bus priority advantages to help maintain bus service resilience, encourage modal shift, facilitate road closures and reduce the impact of the works. Some of the schemes in Appendix C had to be commenced prior to this report being presented to Cabinet in order to meet delivery deadlines. The ADTC authorised a Section 278 Agreement (Highways Act, 1980) with the WMCA, with all works to be procured by the WMCA and under Delegated Authority, approved the Complementary Highway Works commencing in August 2018 at Sheepcote Street, and the Holloway Head bus lane. The ADTC in consultation with the CMTE subsequently approved the traffic management closures required to construct the Metro Extension at Paradise Circus Queensway and Broad Street commenced on the 3rd September 2018 as planned. Public consultation outcomes are provided in Appendix E. Further historical background to the

development of the CHW is provided within Appendix A. This includes CHW already delivered as well as the remaining schemes listed in Appendix C.

- 3.4 Camera enforcement is required to prevent/discourage general traffic from using the bus/tram lanes, which disrupts services and reduces journey time reliability. Providing more reliable/'attractive' public transport options is crucial to encouraging modal shift from private vehicles. The proposed camera locations are listed in Appendix D, with the cameras to be delivered in phases to suit the construction programme.
- 3.5 The West Midlands Combined Authority (WMCA)/Transport for West Midlands (TfWM), have responsibility for delivery and funding of the implementation of the Metro Westside Extension capital scheme, including Associated Measures, at a total estimated capital cost of £149.200m, with the Council approving proposals in its capacity as the Highway Authority.
- 3.6 Following implementation of the scheme the Council will take ownership of the enforcement cameras provided by WMCA/TfWM as Highway Authority assets and responsibility for the ongoing operation of the enforcement activity and the operational income and expenditure including future maintenance obligations. Further details are detailed within Appendix A Section 2.

4 Recommended Proposal

- 4.1 It is recommended that the proposed CHW as detailed within Appendix C and the proposed camera enforcement as detailed within Appendix D are implemented as part of the Metro Westside Extension.

5 Consultation

- 5.1 The CMTE has been consulted on all proposals related to the Metro Westside extension and Associated Measures and supports them. Ward Members have previously been consulted as part of the TWAO process for the Metro, and for each CHW measure which has already been taken forward.
- 5.2 The Cabinet Member for Finance and Resources has been consulted and supports the proposals.
- 5.3 Officers within Transportation & Connectivity and Highways & Infrastructure have been consulted and support the proposals. Recent external consultation for the CHW at George Road/Bath Row/Islington Row Middleway, Sheepcote Street and Holloway Head had to be undertaken ahead of this report to Cabinet. This was necessary to allow these works to be commenced, which facilitated meeting the wider Metro project deadlines. The outcome is summarised in Appendix E.
- 5.4 Officers from City Finance, Procurement, and Legal and Governance have been involved in the preparation of this report.

6 Risk Management

6.1 Please refer to Appendix F for further information.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

7.1.1 The proposals for the Metro Westside Extension and Associated Measures support the City Council's Plan and Budget 2018-2022 priorities, specifically by the promotion of 'better places to live and work' and 'a city with clean air' through investment in transport infrastructure and improved connectivity that supports new developments being built in Birmingham. The project is aligned with the policies set out in Birmingham Connected, West Midlands Strategic Transport Plan, the Big City Plan, and the Curzon HS2 Masterplan.

7.1.2 The Midland Metro Alliance operates to the same themes as Birmingham Business Charter for Social Responsibility (BBC4SR), and further information is provided in the Full Business Case at Appendix A and in Appendix G.

7.2 Legal Implications

7.2.1 The City Council carries out transportation, highways and infrastructure works under the relevant primary legislation including the Town and Country Planning Act 1990, Highways Act 1980, Road Traffic Regulation Act 1984, Traffic Management Act 2004, Transport Act 2000, and other related regulations, instructions, directives, and general guidance.

7.2.2 WMCA has powers to construct the Metro under the Transport and Works Act, 1992.

7.2.3 Bus lane enforcement cameras are installed in accordance with the 'Provisional Guidance on bus lane (including tramway) enforcement in England outside London' (2005, revised 2008) and 'A Code of Practice for Bus Lane Camera Enforcement' (March 2007) and the 'Surveillance Camera Code of Practice' (June 2013)

7.3 Financial Implications

Capital

7.3.1 Delivery and funding of the Metro Westside Extension and Associated Measures capital works, including the acquisition and installation of enforcement cameras, is the responsibility of WMCA/TfWM. The total estimated capital cost is £149.200m, (including development, fees and contingency), funded by WMCA/TfWM. Details of the breakdown of this cost can be found in the financial tables in Appendix A.

7.3.2 The Procurement of the camera enforcement equipment will be through the existing Council Information Technology and Digital Service (IT&DS) contract on behalf of WMCA/TfWM, and the costs will be funded by WMCA/TfWM as part of the capital cost of implementation.

Revenue

7.3.3 Camera Enforcement Operational Income and Expenditure - The City Council will be responsible for the ongoing enforcement operations and income will be generated from Penalty Charge Notices (PCNs) issued as part of the enforcement regime. This income will be used in the first instance to cover the operational costs including cameras and administration costs of enforcement. Any surpluses generated will be used in line with applicable regulations. The table below shows a summary of the estimated income and expenditure based upon the proposed enforcement regime, which assumes the maximum 17 cameras, and experience from Bus Lane Enforcement schemes already in operation within the city.

Camera Enforcement Operational Income and Expenditure:

	2019/20 £m	2020/21 £m	2021/22 £m	2022/23 £m	2023/24 £m	2024 to 2028 £m
Operational Income	(0.568)	(0.421)	(0.356)	(0.322)	(0.265)	(0.786)
Operational Expenditure	0.251	0.227	0.225	0.241	0.221	0.783
(Surplus)/Deficit at Year-End	(0.317)	(0.194)	(0.131)	(0.081)	(0.044)	(0.003)
(Surplus)/Deficit B/Fwd	0.00	(0.292)	(0.456)	(0.562)	(0.613)	(0.632)
Other Expenditure	0.025	0.030	0.025	0.030	0.025	0.118
(Surplus)/Deficit C/Fwd	(0.292)	(0.456)	(0.562)	(0.613)	(0.632)	(0.517)

Full details are included in Appendix A, Table 2.

7.3.4 Highways Infrastructure Maintenance - The impact to the City Council in terms of on-going maintenance liabilities arising from additional highway assets will be assessed during scheme development and are expected to be funded by WMCA/TfWM through a commuted sum payment. The current estimated ongoing maintenance value for the new assets created by the works is £0.740m over a 30 year period (£0.025m per year for full year of maintenance). The split of asset maintenance responsibilities between the City Council and WMCA has

been indicatively identified on a typical highway cross-section in Appendix H.

7.3.5 In the event that a financial shortfall is experienced in the WMCA/TfWM budget, the city may be asked to assist in finding an alternative source of funding for all, or part of, the highway maintenance liabilities. This would have to come from funds identified for the provision for Highways Maintenance held within Corporate Policy Contingency.

7.3.6 The risk register identifies the potential for the implementation to impact on businesses along the direct route during construction period. This will be carefully monitored and mitigations considered during construction.

7.4 Procurement Implications (if required)

7.4.1 All civils works will be procured by WMCA/TfWM via the MMA or an approved contractor.

7.4.2 Enforcement cameras must be procured by the City Council via the existing Capita IT&DS contract. The number of cameras, up to seventeen, required will be agreed with WMCA/TfWM prior to procurement and will be funded by WMCA/TfWM as part of the capital cost of the scheme implementation. A Transfer Agreement for their ownership by the City Council will be undertaken once implemented and operating. See Appendix A for further information.

7.5 Human Resources Implications (if required)

7.5.1 None.

7.6 Public Sector Equality Duty

7.6.1 The October 2013 Project Definition Document Report to Cabinet for the Metro extension to Centenary Square. Initial screening reference DC0913ME had identified that “.. *improvements to public transport will have a positive effect on all sectors of the community ..*”. The recommendations in this report did not require a further full Equality Impact Analysis assessment as the Metro does not prejudice against any of the protected groups and characteristics under the Equality Act 2010. This recommendation is maintained for the continuation of the tram extension up to 54 Hagley Road.

8 Background Documents

8.1 List of previous related Reports:

- Report to Cabinet 10th January 2005, City Centre Bus Mall – Moor Street Queensway
- Report to Cabinet 13th November 2006, Metro, Birmingham City Centre Extension - Birmingham City Council / Centro Development Agreement
- Report to Cabinet Committee (Procurement), 25th March 2010, Ladywood Circus Junction Improvement Scheme – Full Business Case
- Report to Cabinet, 14th March 2011, Midland Metro Birmingham City Centre Extension and Associated Highway Works
- Report to Cabinet Member for Transport, Environment and Regeneration: City Centre Quality Partnership Scheme: February 2012
- Report to Cabinet 21st October 2013, Metro Extension to Centenary Square and Associated Works – Project Definition Document
- Cabinet Report, Bus Lane Enforcement – Full Business Case, 4 March 2013
- PEP - Bus Lane Review: August 2014 Report to Cabinet Member for Development, Transport and the Economy & Cabinet Member for Commissioning, Contracting and Improvement jointly with the Deputy Chief Executive, 6th March 2015, Signalisation of Five Ways Roundabout & Spring Hill Traffic Management
- Cabinet Report, Updated Transportation and Highways Capital Funding Strategy 2015/16 to 2020/21 Programme Definition Report, 16 February 2016
- Highlight Report - Bus Lane Enforcement Review, July 2016
- Report to Cabinet, Bus Lane Enforcement (Tranche 1) - Full Business Case, 24 January 2017
- Report to Cabinet Members for Transport and Roads and Value for Money and Efficiency jointly with the Corporate Director, Economy, 3rd August 2017, Holloway Circus Improvement: Revisions to Full Business Case and Contract Award
- Report of Assistant Director, Transportation and Connectivity under Delegated Authority, 8th August 2018: Metro Edgbaston Extension Complementary Highways Works, Construction under Section 278 Agreement
- Report of Assistant Director, Transportation and Connectivity under Delegated Authority, 15th August 2018: Metro Edgbaston Extension Complementary Highways Works, Objections to Traffic Regulation Orders – Approval to Proceed Notwithstanding

8.2 List of Appendices accompanying this Report:

8.2.1 Appendix A Full Business Case

8.2.2 Appendix B Route of the Metro Westside Extension and location of the Associated Measures

- 8.2.3 Appendix C The current proposals for the Complementary Highway Works
- 8.2.4 Appendix D Current proposals for Metro Westside Enforcement Camera locations
- 8.2.5 Appendix E Complementary Highway Works - Consultation summary
- 8.2.6 Appendix F Risk Management
- 8.2.7 Appendix G Midland Metro Alliance (MMA) compliance with BBC4SR themes
- 8.2.8 Appendix H Typical Highway Cross-Section with asset maintenance responsibilities indicated.

PROTOCOL

PUBLIC SECTOR EQUALITY DUTY

- 1 The public sector equality duty drives the need for equality assessments (Initial and Full). An initial assessment should, be prepared from the outset based upon available knowledge and information.
- 2 If there is no adverse impact then that fact should be stated within the Report section 7.6 and the initial assessment document appended to the Report duly signed and dated. A summary of the statutory duty is annexed to this Protocol and should be referred to in section 7.6 of executive reports for decision and then attached in an appendix; the term 'adverse impact' refers to any decision-making by the Council which can be judged as likely to be contrary in whole or in part to the equality duty.
- 3 A full assessment should be prepared where necessary and consultation should then take place.
- 4 Consultation should address any possible adverse impact upon service users, providers and those within the scope of the report; questions need to assist to identify adverse impact which might be contrary to the equality duty and engage all such persons in a dialogue which might identify ways in which any adverse impact might be avoided or, if avoidance is not possible, reduced.
- 5 Responses to the consultation should be analysed in order to identify:
 - (a) whether there is adverse impact upon persons within the protected categories
 - (b) what is the nature of this adverse impact
 - (c) whether the adverse impact can be avoided and at what cost – and if not –
 - (d) what mitigating actions can be taken and at what cost
- 6 The impact assessment carried out at the outset will need to be amended to have due regard to the matters in (4) above.
- 7 Where there is adverse impact the final Report should contain:
 - a summary of the adverse impact and any possible mitigating actions (in section 7.6 or an appendix if necessary)
 - the full equality impact assessment (as an appendix)
 - the equality duty (as an appendix).

Equality Act 2010

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

The public sector equality duty is as follows:

- 1 The Council must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 2 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
 - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 3 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 4 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
 - (a) tackle prejudice, and
 - (b) promote understanding.
- 5 The relevant protected characteristics are:
 - (a) marriage & civil partnership
 - (b) age
 - (c) disability
 - (d) gender reassignment
 - (e) pregnancy and maternity
 - (f) race
 - (g) religion or belief
 - (h) sex
 - (i) sexual orientation