

Birmingham City Council

Report to Cabinet

7th June 2022



Subject: Enhanced Partnership – Amendments to Plan and Scheme Extents

Report of: Strategic Director Place, Prosperity and Sustainability

Relevant Cabinet Member: Councillor Liz Clements, Transport

Relevant O&S Chair(s): Councillor Chaman Lal, Sustainability and Transport

Report author: Philip Edwards, Assistant Director – Transport and Connectivity
Tel: 07557 203167 Email: philip.edwards@birmingham.gov.uk

Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No - All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 009998/2022		
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, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential :		

1 Executive Summary

- 1.1 An Enhanced Partnership (EP) is a formal agreement between a local transport authority, local highway authorities and local bus operators to work together to improve local bus services. It requires a clear vision for the improvements that the EP is delivering, known as the EP Plan and at least one EP Scheme, which sets out the actions, requirements and commitments to achieve the improvements within the Plan.

- 1.2 A previous Cabinet report dated 17th December 2019 entitled “Enhanced Partnership for Sprint”, authorised the developing and making of an Enhanced Partnership (EP) Plan and Scheme in the West Midlands Combined Authority (WMCA) area to enable improved bus travel, primarily through the introduction of two Sprint bus rapid transit routes, on the A34 and A45 corridors in readiness for the 2022 Birmingham Commonwealth Games (CWG).
- 1.3 The existing Birmingham City Centre Advanced Quality Partnership Scheme (BCCAQPS) expires on 9th July 2022. TfWM is proposing to amend the EP Plan and Scheme areas to cover the whole of the West Midlands (including the BCCAQPS area after 9th July 2022), to allow future investment and commitments to be protected through the EP (including those included in the West Midlands Bus Services Improvement Plan BSIP).
- 1.4 The report summarised in paragraph 1.2 specified that any future EP Schemes for other routes, would be subject to further approvals through reports to Cabinet. To that end, It is proposed that Cabinet delegates to the Assistant Director Transport and Connectivity, in consultation with the Cabinet Member for Transport, authority to negotiate and finalise any future specific facilities and/or measures under the responsibility of the Council, to be included in the amended EP Scheme to ensure that high quality bus infrastructure and service provision is available across the whole of the City of Birmingham in time for the CWG.
- 1.5 Subject to approval of this report, consideration will be given to potential EP Scheme variations highlighted either by one of the organisations represented on the EP Reference Group (which comprises of TfWM, Local Authorities and bus operators) or an operator of qualifying local bus services. This consideration will be given at the EP Reference Group with the Council represented by officers, with the approval of the Assistant Director Transport and Connectivity in consultation with the Cabinet Member for Transport, in accordance with recommendation 2.5. The obligations that the City Council will take on under the EP agreement all relate to existing functions for which the City Council already has statutory powers including in its role as the Local Highway Authority, and the EP does not replace any of those powers.

2 Recommendations

- 2.1 Notes the benefits of amending the Enhanced Partnership Plan and Scheme area for improving bus travel across the whole of the City of Birmingham and the wider West Midlands Combined Authority area, in readiness for the 2022 Birmingham Commonwealth Games and in delivering the future investment and commitments included in the West Midlands Bus Services Improvement Plan.
- 2.2 Notes that Transport for West Midlands is proposing to extend the Enhanced Partnership Plan and Scheme areas, to cover the whole of the West Midlands Combined Authority’s geographical area, with the exception of the existing Advanced Quality Partnership Scheme areas for Birmingham City Centre, Solihull Town Centre, and Wolverhampton City Centre.

- 2.3 Notes that Transport for West Midlands proposes to further extend the Enhanced Partnership Plan and Scheme areas, to replace the Birmingham City Centre Advanced Quality Partnership Scheme when the latter expires on 9th July 2022.
- 2.4 Supports the ambition included in the West Midlands Bus Services Improvement Plan, for all buses in the West Midlands (including all buses operating in Birmingham) to be zero emission by 2030 at the latest, subject to available funding.
- 2.5 Delegates to the Assistant Director Transport and Connectivity, in consultation with the Cabinet Member for Transport, authority to negotiate and finalise any future specific facilities and/or measures under the responsibility of the Council, to be included in the amended Enhanced Partnership Scheme. If any of those facilities and/or measures include those which do not already have Full Business Case approval, or otherwise have additional financial and/or legal implications for the Council, then these would be subject to separate approvals under existing governance processes.
- 2.6 Authorises the Acting City Solicitor to negotiate, execute, seal and complete all necessary documentation to give effect to the above recommendations.

3 Background

- 3.1 An EP is a formal agreement between a local transport authority, local highway authorities and local bus operators to work together to improve local bus services. It requires a clear vision for the improvements that the EP is delivering, known as the EP Plan and at least one EP Scheme, which sets out the actions, requirements and commitments to achieve the improvements within the Plan.
- 3.2 An EP Scheme can include specific requirements on a Local Transport Authority (LTA) or Highway Authority in two ways: by providing facilities (new physical assets or changes to existing assets) and/or taking Measures. There is no definition of what a 'measure' is, so there is flexibility to agree what commitments to include as 'measures' to deliver outcomes from the West Midlands Bus Services Improvement Plan. The only requirement is that 'measures' must be for the purpose of: increasing the use of local services serving the routes to which the measures relate or ending or reducing a decline in their use; or improving the quality of local [bus] services.
- 3.3 A Cabinet report dated 17th December 2019 entitled "Enhanced Partnership for Sprint", authorised the developing and making of an Enhanced Partnership (EP) Plan and Scheme in the West Midlands Combined Authority (WMCA) area to enable improved bus travel, primarily through the introduction of two Sprint bus rapid transit routes, on the A34 and A45 corridors in readiness for the CWG. This report specified that any future EP Schemes for routes other than the A34 and A45 would be subject to further approvals through separate reports to Cabinet.

- 3.4 The EP Plan is based on TfWM's Strategic Vision for Bus, approved by the WMCA Board on 9th November 2018. The Strategic Vision for Bus clearly sets out the objective to achieve modal shift by providing exceptional service and reliability along with improved comfort and accessibility.
- 3.5 The EP Plan is also in accordance with the West Midlands Bus Services Improvement Plan (BSIP), as published by TfWM on 5th November 2021, which set out the following principles for improving the bus network:
- We will have Better Buses to cut carbon dependency and be the fastest to a 100% zero emission bus fleet;
 - We will create Better Journeys to tackle congestion with a massive 106km increase in bus priority, speeding up buses and making them reliable as part of a new cross-city and cross-regional bus network;
 - We will remove complication in ticketing to deliver Better Fares, simplifying our ticket range and keeping the lowest bus fares in England.
- 3.6 The BSIP includes a commitment for all buses in the West Midlands to be zero emission by 2036. Through additional Government funding the ambition is to accelerate this timeframe towards 2030 for all remaining 1,750 vehicles to be zero emission.
- 3.7 The EP Plan currently excludes the three existing Advanced Quality Partnership Scheme (AQPS) areas in the West Midlands Combined Authority area, as an EP and an AQPS cannot both apply within the same geographical area. The three AQPS areas are as follows (as shown in Appendix A):
- Birmingham City Centre, with the area bounded by the A38, Park Street and Moat Lane (as approved through a report to the Cabinet Member for Transport, Environment and Regeneration dated 23rd February 2012);
 - Solihull Town Centre; and
 - Wolverhampton City Centre.

The existing Birmingham City Centre Advanced Quality Partnership Scheme (BCCAQPS) expires on 9th July 2022. At the EP Reference Group meeting on 25th January 2022 (which included representatives from the Council, other Local Authorities, TfWM, bus operators and bus user groups), it was agreed to proceed with an amendment to the EP Plan and Scheme areas' geographical coverage, to cover the whole of the West Midlands (which includes the whole of the City of Birmingham), except for the remaining AQPS areas for Solihull Town Centre and Wolverhampton City Centre.

- 3.8 As the amendments noted in paragraph 3.8 constitute a major change, Cabinet is asked to note that the EP Plan and Scheme areas have been amended by TfWM to include the whole of the City of Birmingham (except that presently covered by the BCCAQPS). Cabinet is also asked to note that TfWM proposes to expand, under its existing powers under the Bus Services Act (2017), the EP Plan and Scheme area to replace the BCCAQPS when the latter expires on 9th

July 2022. The existing operator requirements, local highway authority requirements and TfWM facilities would remain unchanged at that point.

- 3.9 Cabinet is asked to delegate to the Assistant Director Transport and Connectivity, in consultation with the Cabinet Member for Transport, authority to negotiate and finalise any future specific facilities and/or measures under the responsibility of the Council, to be included in the amended EP Scheme. If any of those facilities and/or measures include those which do not already have Full Business Case (FBC) approval from the Council, or otherwise have additional financial and/or legal implications for the Council, then these would be subject to separate approvals in accordance with the Council's governance processes.
- 3.10 The Council is legally bound to provide the facilities and measures it commits to in the EP Scheme. Ordinarily TfWM has overall delivery and funding responsibility for bus infrastructure, however the likely requirements of facilities and measures on the City Council in partnership with TfWM include:
- The Council would be responsible for approval of highway infrastructure measures to provide priority for buses, reducing journey times and improving journey time reliability. Specifically, including bus lanes, bus gates, junction improvements, parking restrictions and other similar measures. Primarily TfWM would (through Section 278 agreements with the Council) be responsible for procurement and delivery of these measures, although these tasks could also be undertaken by the Council, and the Council would be responsible for maintaining them after they are delivered;
 - Changes to the Traffic Regulation Orders (TROs) within the Birmingham boundary would be the responsibility of the City Council, e.g. bus lanes, parking restrictions;
 - Enforcement of bus stop and bus lane TROs would be within the remit of the Council, with enforcement of TROs to be covered under the Council's existing powers;
 - TfWM would be responsible for securing network operator/s and suitable vehicles, and procuring bus shelters, ticketing and passenger information systems, and maintaining other bus/Sprint infrastructure.
- 3.11 Approval for the above facilities and measures (including the Section 278 agreements) would be covered by separate approvals in accordance with the Council's governance processes. The EP delivers the legislative framework under which improved bus travel in Birmingham is delivered and subsequently managed.
- 3.12 Subject to approval of this report, consideration will be given to potential EP Scheme variations highlighted either by one of the organisations represented on the EP Reference Group (which comprises of TfWM, Local Authorities and bus operators) or an operator of qualifying local bus services. This consideration will be given at the EP Reference Group with the Council represented by officers, with the approval of the Assistant Director Transport and Connectivity in

consultation with the Cabinet Member for Transport, in accordance with recommendation 2.5.

4 Options considered and Recommended Proposal

4.1 Option 1 – Do Nothing. Not recommended; as failure to secure approval to replace the existing BCCAQPS would have an impact on the deliverability of the bus infrastructure and services in time for the 2022 Birmingham Commonwealth Games.

4.2 Option 2 – Franchising. The Bus Services Act (2017) provides Mayoral Combined Authorities (including WMCA) with powers to Franchise the bus network. Under Franchising, the deregulated market would be suspended and all bus routes would be operated under contracts specified by the Transport Authority (in this case TfWM) following competitive process. In 2019 TfWM commenced an analysis of how best to achieve the objectives within the region's adopted Vision for Bus, including an Outline Business Case (OBC) for Franchising. This work was paused in 2020 to better understand the potential impacts of the Covid-19 pandemic on the ability of bus operators and the Local Transport Authority to deliver the ambitions of Vision for Bus alongside a post-pandemic recovery. Following the conclusion of this work, on 14th January 2022 the WMCA Board approved a recommendation supporting the continued assessment of the Business Case for Franchising in line with WMCA assurance processes (Single Assurance Framework) and legislation within the Bus Services Act (2017), as a possible mechanism to address the challenges facing the bus industry (including patronage recovery from COVID-19, residual concerns from vulnerable travellers, funding constraints) should EPs fail to effectively deliver WMCA's ambitions.

Amending the EP helps support a structured approach to assess Franchising against alternative delivery options as required by the legislation. The previous Cabinet report on EP for Sprint dated 17th December 2019, stated that as the OBC was not (at that time) due to report until April 2021, then it was proposed to support the use of an EP, as franchising could not be delivered in readiness for the CWG. Also, the BCCAQPS expires on 9th July 2022 just prior to the CWG in August 2022.

4.3 Option 3 – Extended or Renewed (BCC)AQPS. Not recommended; TfWM's assessment concluded that current partnership legislation does not provide the level of protection for local authorities and bus operators when considering the value and scale of investment which ruled out a new AQPS, therefore it is proposed that the existing BCCAQPS is left to expire on 9th July 2022, to be replaced by the amended EP.

4.4 Option 4 – Recommended Proposal, Amended Enhanced Partnership. TfWM's reasons why an EP is the preferable mechanism to deliver bus infrastructure and services in Birmingham City Centre are as follows:

- The ability to manage access to infrastructure by bus services;
- The powers to set maximum frequencies or restrict access to only certain vehicles (e.g. Sprint) on individual route sections/locations (which cannot be achieved with an AQPS);
- The flexibility to trigger a review of the EP at certain points of the EP lifetime (whereas an AQPS has a minimum 5 year lifespan);
- The ability to develop additional EP schemes at a later date in the region if they are deemed an appropriate mechanism without having to create a new EP Plan;
- The ability to implement an amended EP before the 2022 CWG;
- Supports the timescales for the operating model where commercial operators are required to procure the vehicles for use on the service; and
- Provides clear accountability for all partners including bus operators.

5 Consultation

- 5.1 At its meeting on 28th June 2019, the WMCA Board gave approval for TfWM to proceed with the preparation of an EP.
- 5.2 On 17th July 2019, TfWM issued a notice of the intention to prepare an EP Plan and accompanying EP Schemes.
- 5.3 On 4th November 2019, the WMCA Transport Delivery Committee (WMTDC) approved the Consultation Strategy for the EP Plan and associated EP Scheme, and approved TfWM proceeding to formal (public) consultation, subject to the preparation of the EP Plan and EP Scheme and the successful outcome of the operator objection mechanism. TfWM lead on consultation, with timescales as follows:
 - Approval was given by Cabinet on 17th December 2019 for the EP and delegated 'making' the EP to the Assistant Director Transport and Connectivity, in consultation with the Leader of Birmingham City Council and the Cabinet Member for Transport and Environment, subject to the statutory preparation, notice and consultation on the EP;
 - On 20th December 2019, TfWM issued a notice that an EP Plan and Scheme had been prepared, as set out in section 138F of the Transport Act 2000 and Section 9 of the Bus Services Act 2017. TfWM did not receive any operator objection to the EP Plan or Scheme;
 - A further review of the EP Scheme was undertaken with partners and it was agreed to issue another notice that an EP Scheme had been prepared. On 28th February 2020, TfWM issued a notice that an EP Scheme had been prepared. Again, TfWM did not receive any operator objections to this EP Scheme.

- A formal (public) consultation on the proposed EP Plan and Scheme ran for 10 weeks from Monday 6th July to Sunday 13th September 2020. The consultation responses were analysed for any modifications to the EP Plan and / or Scheme. A copy of the consultation report is available on the TfWM website. It was recommended following the review of the responses that the EP Plan was unchanged following consultation. The EP Scheme was proposed to be modified to take account of the consultation responses.
- On 9th November 2020, TfWM issued a notice of intent to make the EP Plan and a modified Scheme, following the formal consultation, as set out in section 138G of the Transport Act 2000 and Section 9 of the Bus Services Act 2017. The modified Scheme included changes to remove any reference to voluntary partnerships; strengthen the role of bus with walking and cycling; ensure consistent terminology for local highway authority practices and to fully align with the programme of bus priority infrastructure to be delivered in the area.
- Following this notice, all local bus operators that may be affected were made aware of the details of the modified EP Scheme. They had until 7th December 2020 to offer views and were entitled to object to the modified Scheme before the EP Plan and modified Scheme can be made by the WMCA and relevant local highway authorities. No objections were received from local bus operators.
- The EP Plan and EP Scheme was then 'made' by each of the formal parties to the EP (WMCA, Local Authorities – including the Council - and bus operators) on 28th June 2021.
- Consideration will be given to potential EP Scheme variations (amendments) highlighted either by one of the organisations represented on the EP Reference Group (which comprises of TfWM, Local Authorities and bus operators) or an operator of qualifying local bus services. This process is not subject to public consultation however the EP Reference Group is independently chaired by a representative of Bus Users UK which seeks to represent the interests of bus users. Facilities and measures for which the Council is responsible, would be subject to separate public consultation as appropriate.

6 Risk Management

6.1 A summary of Risk Management is included in Appendix B. Key risks are:

- Obligations are placed by the amended Scheme upon the Council which are not fundable/acceptable/deliverable;
- Bus Operators could object to the provision or amendment or removal of specific facilities/measures in the Scheme.

These risks are being mitigated through continued engagement between the Council and the other parties to the EP, including through the EP Reference Group.

7 Compliance Issues:

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

- 7.1.1 The EP is consistent with the City Council Financial Plan 2021 to 2025. It will support delivery of the primary goals of an Entrepreneurial City, an Aspirational City, a Fulfilling City to age well in, a Great City to live in, a city whose residents gain the most from hosting the 2022 Commonwealth Games, and a city that takes a leading role in tackling climate change.
- 7.1.2 The EP supports the Additional Climate Change Commitments including the aspiration for the City Council to be net zero carbon by 2030, as agreed by Cabinet on 30th July 2019, following the declaration of a Climate Change Emergency passed by full City Council on 11th June 2019.
- 7.1.3 The proposal will also support the aspirations of the Birmingham Transport Plan, and supports the objectives of the 'Birmingham Bus Statement – Supporting Recovery' published in July 2020.

7.2 Legal Implications

- 7.2.1 The EP agreement was entered into pursuant to section 9 of the Bus Services Act (2017), which amended the Transport Act (2000) by inserting relevant sections relating to EPs. As a statutory document there are legal implications arising from the EP and advice will be sought from the Acting City Solicitor before the amendment of the EP Scheme regarding any changes to facilities/measures under the responsibility of the Council. The specific requirements to be placed on the City Council are summarised in paragraph 3.11, with more detail on these set out in the EP agreement. TfWM is permitted to amend the EP Plan and Scheme areas under its existing powers under the Bus Services Act (2017).
- 7.2.2 The obligations that the Council took on under the EP agreement all relate to existing functions in respect of which the Council already has statutory powers. It is not proposed to alter this position at this time, however should additional powers be considered for the Council through the EP then these would be subject to separate approvals in accordance with the Council's governance processes.

7.3 Financial Implications

- 7.3.1 The report is asking Cabinet to note that TfWM is expanding the area covered by the EP Plan and Scheme to cover the whole City – the costs for amending the plan and scheme will be met by WMCA. This report does not commit the Council to any additional spend. Delivery and funding of schemes as part of the amended EP Scheme area is principally the responsibility of WMCA, however, the Council would be responsible for funding ongoing revenue maintenance costs. Separate approvals are required if future scheme proposals would result in a financial implication for the council, whether capital or revenue (including enforcement and maintenance).

7.4 Procurement Implications (if required)

- 7.4.1 This report has no procurement implications as TfWM is responsible for amending the EP Plan and Scheme areas. Procurement implications of any facilities/measures for which the Council is responsible, as included in any future amendments to the EP Scheme, would be covered by separate approvals in accordance with the Council's governance processes.

7.5 Human Resources Implications (if required)

- 7.5.1 This report has no Human Resources implications.

7.6 Public Sector Equality Duty

- 7.6.1 An Equality Analysis (EA) has been undertaken for this report and is attached in Appendix C. TfWM is responsible for equalities issues for the EP. Relevant organisations with an interest in equalities issues were included in the consultation.
- 7.6.2 Individual Scheme proposals will be further screened for equalities analysis as part of standard Council governance and approval processes, and EAs will be completed at Options Appraisal and FBC stage for individual projects and programmes.

8 Appendices

Appendix A – Map of Areas

Appendix B - Risk Register

Appendix C - Equality Analysis

9 Background Documents

- City Centre Statutory Quality Bus Partnership Scheme, Report to Cabinet Member, Transport, Environment & Regeneration 23rd February 2012
- Sprint Bus Rapid Transit Network Development and Implementation Strategy, Report to Cabinet 24th January 2018
- Vision for Bus, Transport for West Midlands 2018
- Enhanced Partnership for Sprint, Report to Cabinet 17th December 2019
- WMCA Board and Transport Delivery Committee Decisions, 2019-2021
- Birmingham Transport Plan, Report to Cabinet 12th October 2021
- West Midlands Bus Service Improvement Plan, Transport for West Midlands, 5th November 2021