

Birmingham City Council

Report to Cabinet



9th November 2021

Subject: WESTSIDE METRO EXTENSION – REIMBURSEMENT OF UTILITIES COSTS TO THE WEST MIDLANDS COMBINED AUTHORITY

Report of: Acting Director, Inclusive Growth

Relevant Cabinet Member: Councillor Ian Ward – Leader
Councillor Waseem Zaffar – Transport and Environment
Councillor Tristan Chatfield – Finance and Resources

Relevant O &S Chair(s): Councillor Liz Clements – Sustainability and Transport
Councillor Mohammed Aikhlaq – Resources

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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		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 009466/2021		
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

1 Executive Summary

- 1.1 This report provides details of the costs incurred in the diversion of an Engie combined heat and power (CHP) main along Centenary Square, and the subsequent financial contribution required from the Council to reimburse the West Midlands Combined Authority (WMCA). The location is shown in Appendix A.

- 1.2 The diversion works were required by both the WMCA as project sponsors for the Westside Metro extension, and the Council as project sponsors for the Centenary Square project. The works were undertaken by Engie, their sub-contractors and the Midland Metro Alliance (MMA) on behalf of the WMCA.
- 1.3 The costs have been apportioned accordingly as set out in the table in paragraph 7.3.2. WMCA had the costs independently audited by cost consultancy Corderoy, and the summary of this is provided in Appendix B.
- 1.4 The WMCA requires the Council to contribute £0.933m towards the overall Engie cost of £2.077m, with payments to be based upon the opening to passenger service of the Westside Metro extension and the completion of associated remedial works to the public realm, signage and side roads.
- 1.5 This report explains the financial implications, including potential risks to the Council as a result of these proposals.

2 Recommendations

- 2.1 Notes the reasons for the Engie diversion, as outlined in this report, and the apportionment of costs between the West Midlands Combined Authority and the Council as detailed in Appendix A.
- 2.2 Notes the outcome of the independent financial audit of these Engie costs, as set out in Appendix B, which concluded that the Council's share of the cost is £0.933m.
- 2.3 Authorises the Assistant Director Transport and Connectivity, to place orders and make payment to the West Midlands Combined Authority for the Council's contribution to the main diversion costs up to a value of £0.933m
- 2.4 Authorises the Assistant Director Transport and Connectivity to agree a payment schedule with the Interim Managing Director of Transport for West Midlands based upon the opening of the Westside Metro Extension and the completion of associated remedial works for which a delivery plan is being finalised.

3 Background

- 3.1 WMCA and the Council had independently discussed utility works requirements with the various providers affected by their respective projects. From initial conversations with Engie, the Council had been advised that a diversion of the existing Engie CHP main under the proposed Centenary Square water feature was unlikely to be necessary.
- 3.2 WMCA had anticipated the need to divert part of the existing Engie main, and to then tie-in to the section that was remaining within Centenary Square (see Appendix A). As part of these negotiations, Engie advised WMCA that they would not accept any sections of the Engie main remaining within the Centenary Square area. Any works would have to involve the full diversion of the main out of Centenary Square into the new carriageway/footway created by the Metro Westside extension.

- 3.3 The re-development of the former Lloyds TSB Bank building (formerly 301 Broad Street) and the proposed amendments to the Symphony Hall entrance/frontage further complicated the matter. The new owners of the former Lloyds TSB Bank building had requested an Engie supply, and the Symphony Hall works required local diversions of the Engie main at their frontage.
- 3.4 Discussions between WMCA and the Council concluded that:
- Engie would not accept the original response given to the Council, that no diversion from under Centenary Square was required;
 - Delay in reaching agreement with Engie would increase costs for the Metro Westside extension, and put the programme for delivering the passenger service at significant risk;
 - Any connection provided for the former Lloyds TSB Bank building would be more significant/disruptive if the main pipe remained in its current position. Engie's proposal would avoid that;
 - Any works undertaken would need to accommodate the Symphony Hall proposals; and
 - The former Lloyds TSB Bank building and Symphony Hall would have to pay for any Engie works they required.
- 3.5 WMCA agreed to lead the discussions with Engie for a full diversion and, along with the MMA, helped to ensure that suitable resources were available for the works. This included liaison with the former Lloyds TSB Bank building and Symphony Hall to ensure that Engie provided for their requirements also. This maximised efficiency of delivery and avoided the new connection and Symphony Hall works from having to disrupt the tram/Centenary Square in the future. The drawing in Appendix A shows how the various elements of the works were apportioned. However, this meant that WMCA had to incur the upfront costs on the agreement that they would share the outturn costs 'open book' with the Council to identify the Council's contribution.
- 3.6 An estimate of the cost to the Council was identified through the annual corporate capital planning process, with the WMCA advised that proportional reimbursement would only occur following independent due diligence of the costs and necessary approvals via the Council's gateway and related financial approval framework.
- 3.7 The diversion works were successfully completed and the Metro extension to Centenary Square was opened to passengers in December 2019. The full opening of the Westside Metro extension to Edgbaston is scheduled to open later this winter, with a small number of remedial works remaining to be completed alongside the main build programme. These are predominantly focussed on the public realm, signage and side road treatments between New Street Station and the Hagley Road terminus. A delivery plan for these works is currently being finalised.

- 3.8 WMCA ensured that the various costs received from Engie, their sub-contractors, and the MMA were audited independently by cost consultancy Corderoy. A summary of this audit process is provided in Appendix B.

4 Options Considered and Recommended Proposal

Refuse to implement the Engie diversion

- 4.1 Refusing to cooperate with Engie would have led to the Westside Metro works coming to a standstill. The delay costs incurred by the MMA would have equated to £0.095m per calendar month. The tram would not have opened to Centenary Square in line with the programme, which would have put the extension to Hagley Road at risk of not opening in time for the Commonwealth Games. This was not an option that could be recommended. Furthermore, moving the old main from under the new water feature provides long term benefits as it removes the likelihood of damage to the water feature if future maintenance of the Engie main is required. As such, the proposed approach set out in this report is recommended.

5 Consultation

- 5.1 No further public consultation is applicable for these works.
- 5.2 Detailed engagement has been undertaken with WMCA and MMA as articulated within this report.

6 Risk Management

- 6.1 There are no risks to consider for the Engie works, as these were completed and no action beyond settlement of this monetary contribution is required.

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 support the Council Plan and Budget 2018-2022 priorities (as updated in 2019), specifically:

- *'an entrepreneurial city to learn, work and invest in', particularly 'develop our transport infrastructure, keeping the city moving through walking, cycling and improved public transport'.*
- *'a great, clean and green city to live in', particularly 'improve the environment and tackle air pollution'.*
- *'gain the maximum benefit from hosting the Commonwealth Games' particularly "deliver high quality ... transport infrastructure for the benefit of our citizens'.*
- *'takes a leading role in tackling climate change'.*

7.1.2 The proposals also support the objectives of Birmingham Development Plan (BDP) 2031 including:

- *‘To provide high quality connections throughout the city and with other places including encouraging the increased use of public transport, walking and cycling’.*
- *‘To create a more sustainable city that minimises its carbon footprint’.*
- *‘To encourage better health and wellbeing’.*

7.1.3 The scheme supports the additional Climate Change Commitments agreed by Cabinet on 30 July 2019 following the motion on Climate Emergency passed at the full Council meeting of 11 June 2019, including the aspiration for the city to be net zero-carbon by 2030.

7.1.4 The measures will support the aspirations of the Birmingham Connected Transport Strategy, Birmingham Transport Plan and the Health and Wellbeing Strategy. They will contribute to the vision of a sustainable, low emission, inclusive, integrated public transport system. It will also complement the Clean Air Zone (CAZ), by helping the Council towards achieving compliance with the annual legal Limit Values for nitrogen dioxide (NO₂) of 40µg/m³.

7.1.5 WMCA’s contract with the MMA incorporates similar requirements to provide social value commitments as the Birmingham Business Charter for Social Responsibility (BBC4SR), and further information is provided in the Metro Westside Extension Full Business Case.

7.1.6 The Westside Metro Extension is an important element in the expansion of Midland Metro, and in the development of the West Midlands Strategic Transport Plan’s Metropolitan Rail and Rapid Transit Network.

7.2 Legal Implications

7.2.1 The Council carries out transportation, highways and infrastructure work under the relevant primary legislation including the Town and Country Planning Act 1990, Highways Act 1990, 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 Orders granted by the Government for this purpose.

7.2.3 Section 1 of the Localism Act 2011 contains the Council’s general power of competence and Section 111 of the Local Government Act 1972 contains the Council’s financial and ancillary powers required for the discharge of any of its functions.

7.3 Financial Implications

Capital Costs

7.3.1 The initial principle for the apportionment of the Engie costs was based on the length of diversion required for each authority. This equated to approximately 55% of the length being required for Centenary Square

(Council) and 45% for the Metro works (WMCA). For the estimated value of £1.900m this would have equated to £1.045m.

7.3.2 The table below shows the actual requested contribution, following the audit of the outturn costs. All figures exclude VAT. The outturn apportionment of costs equated to the Council paying approximately 45% of the total figure. The Council's contribution will be funded from Town and Country Planning Act 1990 Section 106 (S106) contribution for Arena Central (2018/00610/PA) which is expected in May 2022. The works are consistent with the terms of the S106 agreement. Payment of the contribution to WMCA will initially funded from corporate prudential borrowing until the S106 money is received,

BCC (£,000)	WMCA (£,000)	Total (£,000)
933.404	1,143.694	2,077.098

7.3.3 A further breakdown of the costs is provided in Appendix B.

Revenue Implications

7.3.4 No ongoing revenue costs are applicable to the Engie works.

7.3.5 The relevant contracts are between TfWM and MMA and TfWM and Engie, so TfWM will hold the warranties for the work carried out.

7.4 Procurement Implications (if required)

7.4.1 Contracts for the civil engineering works for the Engie requirements were awarded by WMCA/TfWM via the MMA, which is their route for work of this nature, to supplement any activities that Engie (or their sub-contractors) were unable to undertake.

7.5 Human Resources Implications (if required)

7.5.1 No implications

7.6 Public Sector Equality Duty

7.6.1 None of the issues identified in this report have an adverse impact on any of the protected groups. Equality matters were dealt with in the 2019 FBC report and this financial transaction does not make any changes to works already completed.

8 Appendices

8.1 List of Appendices accompanying this report:

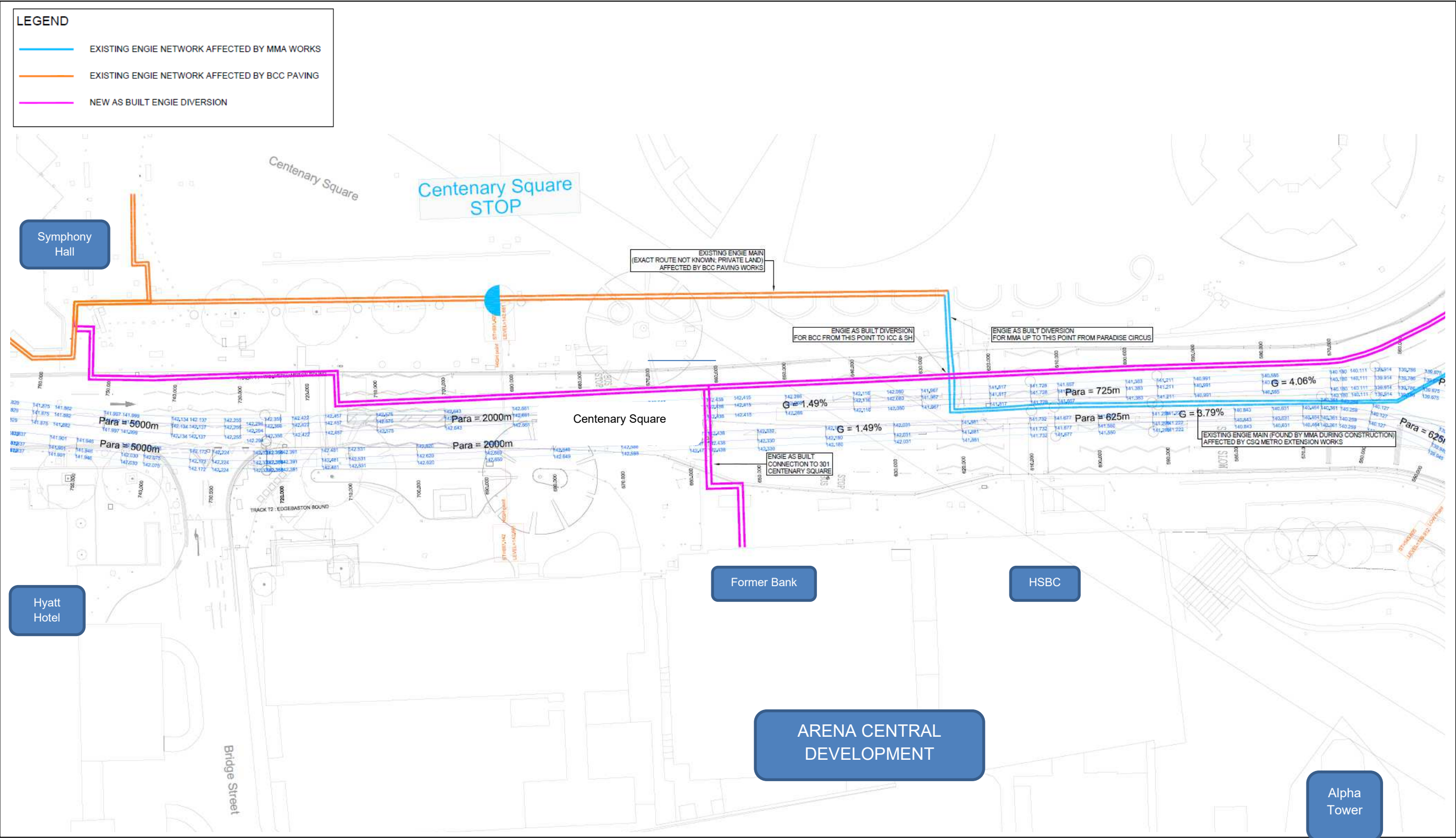
Appendix A – Plan of the Engie diversion works

Appendix B – Summary of Engie works costs

9 Background Documents

- 9.1 Report to Cabinet, dated 12th February 2019, Metro Westside Extension and Associated Measures – Full Business Case

Appendix A – Plan of the Engie diversion works



Appendix B – Summary of Engie works costs

Cost element	Value after Corderoy assessment (£'000)	BCC costs (£'000)	TfWM costs (£'000)
MMA sub-total	957.132	668.464	288.668
Engie C9 – Broad Street	668.804	264.940	403.864
Engie C9 - pipe damage costs	310.722	0.000	310.722
Engie sub-total	979.526	264.940	714.586
CPC civils sub-total costs to repair pipe damage	140.440	0.000	140.440
Total	2077.098	933.404	1143.694

(all figures exclude VAT)

The Corderoy assessment of the MMA costs established that the additional cost was £0.957m.

The original C9 figure submitted by Engie was £1.356m. Following the assessment by Corderoy, the value was reduced to £1.234m. Furthermore, the assessment separated out the costs for:

- works in Victoria Square (not the Council's responsibility, and not included in this report/table); and
- the Engie C9 pipe damage costs (not the Council's responsibility but included in the table above for clarity).

Hence, the final value for Engie's C9 costs on Centenary Square were £0.979m, of which only £0.265m is attributable to the Council.

The costs incurred by CPC for repairing damage to pipes was not the Council's responsibility but is included in the table above for clarity