

## **BIRMINGHAM CITY COUNCIL**

### **PUBLIC REPORT**

**Report to:** CABINET  
**Report of:** CORPORATE DIRECTOR, ECONOMY  
**Date of Decision:** 26<sup>th</sup> JUNE 2018  
**SUBJECT:** METRO BIRMINGHAM EASTSIDE EXTENSION (BEE)  
AND DIGBETH PUBLIC REALM IMPROVEMENTS  
PROJECT DEFINITION DOCUMENT (PDD)  
**Key Decision:** Yes Relevant Forward Plan Ref: 005047/2018  
**If not in the Forward Plan:** Chief Executive approved   
(please "X" box) O&S Chair approved   
**Relevant Cabinet Members:** Councillor Waseem Zaffar – Transport and Environment  
Councillor Brett O'Reilly – Finance and Resources  
**Relevant O&S Chair:** Councillor Liz Clements – Sustainability and Transport  
Councillor Sir Albert Bore – Resources  
**Wards affected:** Ladywood, Nechells, Bordesley & Highgate

#### **1. Purpose of report:**

- 1.1 To update Cabinet on the progress of the Midland Metro Birmingham Eastside Extension (BEE) scheme, which is the subject of an application to the Secretary of State for an Order under Sections 1 and 5 of the Transport and Works Act 1992.
- 1.2 To seek approval for the Project Definition Document (PDD) for the Midland Metro Birmingham Eastside Extension (BEE) and the Digbeth Public Realm Improvements. The preferred option will provide trams running two-way on the southern side of Digbeth with a single two-way carriageway and wide public realm area on the northern side.
- 1.3 To accept grant funding of £0.515m from the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) Enterprise Zone and to grant this funding to the West Midlands Combined Authority (WMCA) to develop preliminary designs for the Digbeth Public Realm Improvements in coordination with the Metro BEE project.

#### **2. Decision(s) recommended:**

That Cabinet:

- 2.1 Approves the Project Definition Document contained in Appendix A for the Midland Metro Birmingham Eastside Extension, the Digbeth Public Realm Improvements, and associated highway works. The estimated capital cost of the Digbeth improvements (including associated modifications to the Metro scheme) is £15.0m, to be funded from the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) Enterprise Zone.
- 2.2 Approves option 2 in the PDD at Appendix A, which will provide trams running two-way on the southern side of Digbeth and a single carriageway and wide public realm on the northern side (see para 5.2.4).
- 2.3 Authorises the Corporate Director, Economy to accept capital grant funding of £0.515m from the GBSLEP Enterprise Zone, as per the offer letter attached in Appendix H.
- 2.4 Approves the City Council, acting as the Accountable Body for the GBSLEP Enterprise Zone, prudentially borrowing up to £0.515m to fund preliminary design and development of the Full Business Case for the Digbeth Public Realm project.
- 2.5 Authorises the Corporate Director, Economy to pay a grant to the West Midlands Combined Authority of up to £0.515m for development and design costs, subject to the completion of a Conditions of Grant Aid (COGA) agreement.

- 2.6 Authorise the City Solicitor to negotiate, execute, seal and complete all necessary documentation to give effect to the above recommendations.

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### **3. Consultation**

#### **3.1 Internal**

- 3.1.1 Ward Members for Ladywood, Nechells and Bordesley and Highgate have been advised of the Metro BEE project which crosses all three Wards. The Digbeth Public Realm Improvements scheme is contained within the Bordesley and Highgate Ward and the relevant Councillor will be consulted as part of on-going scheme development.
- 3.1.2 Officers from City Finance, Procurement, and Legal and Governance have been involved in the preparation of this report.

#### **3.2 External**

- 3.2.1 The Metro BEE preliminary design has been subject to extensive consultation and stakeholder engagement, and a public enquiry was held in November 2017. A summary of the consultation can be found in Appendix G.
- 3.2.2 The Digbeth Public Realm Improvements have been subject to initial engagement with local stakeholders and key partners including High Speed 2 (HS2) Ltd. and Transport for West Midlands (part of WMCA). A summary of the consultation outcomes can be found in Appendix G.
- 3.2.3 Key Stakeholders and the public will be consulted by Midland Metro Alliance (MMA) on behalf of WMCA and the City Council during the detailed design stage, and the details reported in the FBC.

### **4. Compliance Issues:**

#### **4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?**

- 4.1.1 The Metro BEE and Digbeth Public Realm Improvement projects support the City Council's Plan and Budget 2018+ priorities, specifically growing the creation of 'Jobs and Skills' 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.
- 4.1.2 The project aligns with the GBSLEP documents Strategy for Growth, Strategic Economic Plan and Curzon Investment Plan.
- 4.1.3 The City Council has a duty under the Environment Act 1995 to review the quality of air within its boundary, and the whole city has been declared an Air Quality Management Area for nitrogen dioxide. An Air Quality Action Plan was produced in 2011 which considered Low Emission Zones. This is presently under review. In line with Government direction to deliver compliance with legal NO<sub>2</sub> levels as set out in the National Air Quality Plans (December 2015 and July 2017). Birmingham is planning to introduce a Clean Air Zone (CAZ) in the city centre, and this project will support this action to improve air

quality by improving the pedestrian environment and reducing the dominance of private vehicles in the area, and is commensurate with the wider objectives of CAZ. An air quality assessment will be carried out as part of the project development to ensure that any air quality impacts which arise as a result of the scheme can be mitigated.

#### 4.1.4 Birmingham Business Charter for Social Responsibility (BBC4SR)

The conditions of the grant to the WMCA, who will use their project delivery consortium; Midland Metro Alliance, will require such contractors undertaking the work to be certified signatories to the BBC4SR and produce an Action Plan with actions proportionate to the value of the work.

#### 4.2 Financial Implications

4.2.1 The estimated capital cost of the Digbeth Public Realm Improvements is £15.0m. This includes any additional costs which will be incurred by WMCA to modify the Metro BEE design to incorporate the Digbeth scheme. Funding to meet this cost has been allocated in principle by the GBSLEP in the current Enterprise Zone Investment Plan, subject to development of a Full Business Case (FBC). The City Council is the Accountable Body for Enterprise Zone funding. The City Council is receiving the grant directly because it is responsible for the delivery of public realm and highway works but will replicate the grant conditions in a Conditions of Grant Aid (COGA) with the WMCA.

4.2.2 An initial allocation of £0.515m has been identified from the Enterprise Zone capital programme for detailed design and development of the FBC for the Digbeth Public Realm Improvements (offer letter attached as Appendix H). City Council prudential borrowing of up to £0.515m will be funded from future business rate income growth in the Enterprise Zone. The period of borrowing will be linked to the maximum 30-year life of the EZ (up to 2045/46), in accordance with the City Council's debt repayment policy for the EZ.

4.2.3 The City Council on behalf of the GBSLEP will provide a capital grant of up to £0.515m to the WMCA for the preparation of preliminary design work to progress the Digbeth Public Realm Improvements to FBC stage. The terms and conditions of the funding will be set out in a COGA agreement between both parties.

4.2.4 There should not be any adverse VAT implications arising from the WMCA carrying out work on the City Council's public realm and highway as, if this is statutory work and non-business, any VAT incurred should be reclaimable by the WMCA.

4.2.5 The Digbeth Public Realm project will create assets that will form part of the highway upon completion and as such they will need to be maintained within the overall highway maintenance regime. Existing carriageway will be reduced and replaced with enhanced quality paving, street furniture and trees. The estimated net cost of including these newly created assets within the highway maintenance regime will be calculated and reported at FBC stage. The cost for maintenance of standard highway assets will be funded from the provision for Highways Maintenance within Corporate Policy Contingency funding. An initial assessment suggests the scheme could be revenue neutral (see Appendix A), but a funding source will still be required to cover maintenance of 'enhanced' quality items.

4.2.6 The impact to the City Council in terms of on-going maintenance liabilities arising from additional highway assets created specifically for the Metro BEE scheme will be assessed during scheme development and are likely to be funded by WMCA through a commuted sum payment. The track and associated light rail assets will be maintained by the operator of the system on behalf of WMCA. Details of these maintenance implications will be reported in the FBC.

#### 4.3 Legal Implications

4.3.1 MMA have applied to the DfT for a Transport and Works Act Order (TWAO) which will

provide powers to deliver the BEE including Compulsory Purchase Orders, Stopping-Up Orders and deemed Planning Consent for works within the TWAO boundary. Any works outside this boundary may require Planning Permission and MMA will be required to enter into an agreement with the Council under Section 278 of the Highways Act 1980.

4.3.2 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.

#### 4.4 Public Sector Equality Duty

4.4.1 An initial Equality Assessment (EA002880) was carried out in March 2018 for the Digbeth Public Realm project which concluded that a full EA is not required as there are no adverse impacts on protected groups (attached within Appendix B). A further assessment will be carried out as part of the development of the project and will be reported at FBC.

4.4.2 An Equalities Impact Assessment was carried out by MMA in July 2017 for the Birmingham Eastside Extension and is attached within Appendix B.

### **5. Relevant background/chronology of key events:**

#### 5.1 Metro Birmingham Eastside Extension (BEE)

5.1.1 The Midland Metro is a light rail/tram system, the first phase of which opened in 1999 between Wolverhampton and Birmingham Snow Hill Station. In 2015/16 the former Centro delivered an extension to this route, connecting onward to Birmingham New Street Station. Further extensions are proposed to Edgbaston via Five Ways and Centenary Square, to Birmingham Airport and the planned HS2 Interchange Station, from Wolverhampton to Wolverhampton Station, and from Wednesbury to Brierley Hill via Dudley town centre.

5.1.2 In October 2016, a TWAO application was submitted by the WMCA for the Metro BEE scheme. This is the proposed extension of the tram line to serve Digbeth and the planned HS2 station at Curzon Street, running for 1.7km from the existing Metro line at Bull Street, via Albert Street, New Canal Street, Meriden Street and Digbeth to High Street Deritend in the vicinity of the Custard Factory. This extension will provide four new tram stops serving the eastern side of the city centre, and create a direct light rail connection between Birmingham New Street, Birmingham Snow Hill and the new HS2 station at Curzon Street. This new route is intended to be completed in advance of the Commonwealth Games in 2022. The proposed route plan can be found in Appendix E.

5.1.3 A preliminary design has been produced by WMCA, which identifies the land required to deliver the BEE including a works envelope and the required changes to traffic regulations. A public inquiry was held in support of the TWAO application in November 2017, and the Inspector's report has been submitted to the Secretary of State for Transport.

5.1.4 The BEE scheme includes a new bus interchange at Albert Street / Masshouse Lane, adjacent to the Clayton Hotel, in order to mitigate loss of bus stops nearby. This will also provide one of the city centre stops for the proposed 'Sprint' Bus Rapid Transit routes. The preliminary design also includes for the permanent closure through a Stopping-Up Order of New Canal Street where it passes under the new HS2 Curzon Station. The new Metro / HS2 Interchange stop in this area is being led by the City Council and will be subject to a separate internal approval process.

5.1.5 As well as connecting to the existing Metro line at Bull Street, it is intended that the BEE scheme will become the first phase of a longer extension through East Birmingham and

Solihull (EBS) to Birmingham Airport and the planned HS2 Interchange Station.

5.1.6 The BEE Metro scheme will be delivered by MMA on behalf of the WMCA, funded by the GBSLEP and the Department for Transport (DfT). This will not have any direct capital financial implications for the City Council. There will be a requirement for some City Council staff time and other costs to support the delivery of the scheme, which will be reimbursed by MMA.

5.1.7 Development work and public consultations are due to take place on this further extension during 2018, with works taking place in 2022-26 ahead of the opening of HS2, subject to approvals and funding being obtained. The track at the junction of Meriden Street and Digbeth will also be designed to be future-proof against possible further extensions through the proposed Smithfield development.

## 5.2 Digbeth Public Realm Improvements

5.2.1 In July 2015 the City Council approved the Curzon HS2 Masterplan, which sets out a comprehensive vision for the Eastside and Digbeth areas of Birmingham in light of the major opportunities for growth afforded by the forthcoming HS2 link. The Masterplan highlights the importance of the High Street and its potential to become an environment that is more pedestrian focused and acts as a link between the Curzon area and City Centre, in particular the Smithfield development area.

5.2.2 The BEE preliminary design proposes a centrally-running tram alignment through the Digbeth / Deritend area with two traffic lanes retained in each direction, either side of the central tram alignment. Footway widths would remain similar to existing with few enhancements to the public realm or the pedestrian environment.

5.2.3. In January 2017 the City Council commissioned WMCA to prepare a feasibility study exploring the potential to deliver the Curzon HS2 Masterplan vision for Digbeth through the coordination of the BEE Metro with public realm improvements. The study was jointly funded by the GBSLEP Enterprise Zone and WMCA. The feasibility study was prepared by MMA alongside the engineering and design work being undertaken to develop the BEE, with the goal of seeking an optimised traffic solution that aligns the movement of vehicles, Metro and people, and addresses any conflicting priorities.

5.2.4. Following an initial stakeholder workshop during May 2017, MMA prepared a number of design options for consideration which were presented to City Council officers and key stakeholders at a further event in February 2018. Stakeholders selected a preferred option which includes trams running two-way on the southern side of Digbeth (closest to the Coach Station) and a single carriageway (one lane in each direction) and wide public realm on the northern side. The proposal includes a 'bus, cycle and hackney carriage only' restriction on one part of the road to remove through traffic while still allowing local access for servicing. Details of the preferred option can be found in Appendix F.

5.2.5. It is proposed to utilise further Enterprise Zone funding from GBSLEP to grant aid WMCA to develop the preferred option for the Digbeth Public Realm scheme to FBC stage.

5.2.6 The capital grant provisionally allocated by the Enterprise Zone for the Digbeth scheme covers public realm improvements in the section of the road where Metro is to be introduced (shown as Sequence 2 on the plan in Appendix F) and associated highway works on adjacent roads in the wider area, as well as any additional costs to Metro BEE for the implementation of southern-running compared with the original design of centre-running. It is proposed to implement the public realm scheme at the same time as Metro BEE, but the far eastern end of the scheme (around Adderley Street junction) may not be fully implemented until the construction of the further Metro East Birmingham to Solihull (EBS) extension in 2022-16, to avoid unnecessary abortive works.

- 5.2.7 This project will also cover the cost of tie-ins to existing carriageway beyond the Metro BEE scheme, ie to the west of Meriden Street up to the gyratory at Moat Lane, and to the east of Adderley Street towards Camp Hill. However, these areas will not receive public realm improvements as part of the current scheme. It is expected that public realm measures towards Moat Lane will be incorporated into the emerging Smithfield redevelopment proposals, and public realm measures towards Camp Hill will be dependent on redevelopment proposals coming forward in that area as well.
- 5.2.8 The scheme will take into account the proposals for a Sprint route from Birmingham to the Airport, which will run along Digbeth High Street. The scheme will also include the necessary re-signing for general traffic, car parks and local delivery routes. The signing strategy will be developed in conjunction with other adjacent schemes including Moor Street Queensway and the emerging Clean Air Zone (CAZ) proposals and will be incorporated into reports for those schemes in due course.
- 5.2.9 It is expected that it will be necessary to introduce a number of prohibited turning movements for traffic onto and off Digbeth, and at junctions on nearby side roads.
- 5.2.10 Although cyclists will not be prohibited from Digbeth they will be encouraged to use adjacent roads away from the tram tracks and busy bus corridor, such as Fazeley Street and Bradford Street. The EZ funding does not include any allocation for cycling measures beyond signing and lining to encourage route choice. Improved cycling facilities could be considered on the alternative routes, but if these were to be provided then the City Council would be required to provide the necessary additional funding.

### 5.3 Procurement Route and Delivery

- 5.3.1 The grant will fund the provision of preliminary design and development of the full business case by WMCA. The services will be delivered by the MMA, which is a partnership between the WMCA, the design consortium of Egis, Tony Gee and Pell Frischmann and a contractor Colas Rail, (supported by their sub Alliance Partners Colas Ltd.; Barhale; Thomas Vale; and Auctus Management Group) to implement a 10 year programme of tram system enhancement works that should enable social & economic regeneration, and deliver local jobs and training. The contract to MMA was awarded following an OJEU procurement process.
- 5.3.2 The proposed solution requires significant changes to the BEE reference design to convert it from centre-running to southern-running. The extra cost to MMA in making these changes is included in the project budget for the Digbeth Public Realm scheme. In order to maximise efficient delivery ahead of the Commonwealth Games, minimise disruption and ensure that the joint scheme benefits are fully realised, it will be desirable for the public realm and Metro schemes to be designed and implemented together as a single package of works. The procurement strategy for the delivery of the works which addresses this requirement will be developed and set out in the FBC. A procurement options appraisal will be undertaken to determine the most effective route to market that will include using the MMA partnership, carrying out a full OJEU tender process or a further competition exercise using a collaborative framework agreement.
- 5.3.2 The majority of the public realm measures can be implemented alongside the Metro BEE scheme but some measures around Adderley Street junction may be delivered later, alongside the Metro EBS scheme in 2022-26.
- 5.3.3 A risk management schedule is attached as Appendix C.

## 6. **Evaluation of alternative option(s):**

- 6.1 An alternative option would be to not deliver the Digbeth Public Realm scheme at this time, and allow Metro BEE to proceed based on its original design with centre-running. However, it would be significantly more expensive and disruptive to deliver the public

realm measures later, once the Metro is operational, and the centre-running arrangement would mean that the high quality public realm set out in the Curzon Masterplan could not be fully achieved, with a corresponding reduction in the growth and investment that would be unlocked.

6.2 The public realm measures could be designed and delivered by the City Council’s consultants and contractors under existing procurement framework contracts. However this could lead to a lack of coordination with the Metro works with the potential for abortive works, extra costs, additional disruption and safety conflicts in delivering the two schemes.

6.3 Alternative options for the combined scheme have been explored and discussed with stakeholders, including consideration of the type and level of traffic restrictions and the extent of the public realm works, before the agreement of the southern-running option. Further details are given in the PDD in Appendix A.

**7. Reasons for Decision(s):**

7.1 To approve the PDD and accept development funding from the GBSLEP to progress the Digbeth project to FBC stage, to allow both schemes to be developed simultaneously ahead of the Commonwealth Games in 2022 and to unlock growth across the area through the delivery of enhanced public realm and connectivity.

**Signatures**

**Date**

Councillor Waseem Zaffar – Cabinet  
Member for Transport and Environment

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Councillor Brett O’Reilly – Cabinet  
Member for Finance and Resources

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Waheed Nazir –  
Corporate Director, Economy

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**List of Background Documents used to compile this Report:**

City Centre Enterprise Zone Extension and Curzon Investment Plan – Cabinet report dated 20th September 2016

Birmingham Development Plan 2031

Curzon HS2 Masterplan For Growth

GBSLEP Strategy for Growth, Strategic Economic Plan

Birmingham Eastside Extension Transport and Works Act 1992 Draft Order (BEE/A8/1)

Birmingham Eastside Extension Report Detailing Consultation Undertaken (BEE/A10)

**List of Appendices accompanying this Report (if any):**

Appendix A – Project Definition Document

Appendix B – Equality Analysis Ref EA002880 and MMA Equalities Impact Assessment for BEE

Appendix C – Risk Register

Appendix D – BEE Implementation Programme

Appendix E – BEE Metro Proposed Route

Appendix F – Scheme Plan for Digbeth Public Realm (including amended Metro proposals)

Appendix G – Consultation Summary

Appendix H – Offer letter from EZ dated 23/05/18

## **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 4.4 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 4.4 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 4.4 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