

# BIRMINGHAM CITY COUNCIL

## PUBLIC REPORT

<b>Report to:</b>	<b>CABINET</b>
<b>Report of:</b>	<b>STRATEGIC DIRECTOR FOR ECONOMY</b>
<b>Date of Decision:</b>	<b>20<sup>th</sup> September 2016</b>
<b>SUBJECT:</b>	<b>LARGE LOCAL MAJOR SCHEMES FUND: BROMFORD GYRATORY</b>
<b>Key Decision: Yes</b>	<b>Relevant Forward Plan Ref: 002347/2016</b>
<b>If not in the Forward Plan: (please "X" box)</b>	Chief Executive approved <input type="checkbox"/> O&S Chairman approved <input type="checkbox"/>
<b>Relevant Cabinet Member(s) or Relevant Executive Member:</b>	<b>Councillor Stewart Stacey – Cabinet Member for Transport and Roads</b> <b>Councillor Majid Mahmood – Cabinet Member for Value for Money and Efficiency</b>
<b>Relevant O&amp;S Chairman:</b>	<b>Councillor Zafar Iqbal – Economy, Skills and Transport</b> <b>Councillor Mohammed Aikhlaq – Corporate Resources and Governance</b>
<b>Wards affected:</b>	<b>Hodge Hill, Nechells and Tyburn</b>

<b>1. Purpose of report:</b>	
1.1	In the March 2016 Budget, the Chancellor announced that the Government would begin inviting bids (from Local Enterprise Partnerships) for schemes from the £475m Large Local Major Schemes Fund (LLMSF) for the period 2016/17 to 2020/21, with the acknowledgement that some schemes may require funding beyond 2020/21. The aim of the LLMSF is to support exceptionally large and potentially transformative local schemes that are too big to be funded through Local Growth Fund allocations and could not otherwise be funded. Guidance issued by the Department for Transport (DfT) set out that bids could either be for development costs to produce an outline business case (OBC) or the construction of a scheme if an OBC had already been prepared.
1.2	This report sets out details of a bid to the LLMSF for £1.35m of development funding (towards a total development funding requirement of £1.55m) made by the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) on behalf of the Council for major improvements to Bromford Gyratory in the east of the city. In addition, it sets out next steps, timescales and future governance arrangements in the event of funding being awarded.

<b>2. Decision(s) recommended:</b>	
2.1	That Cabinet: Notes the bid, provided as Appendix A to this report, to the Large Local Major Schemes Fund made by the Greater Birmingham and Solihull Local Enterprise Partnership on behalf of the Council for £1.35m to develop an outline business case for improvements to Bromford Gyratory.
2.2	Delegates grant acceptance in the case of a successful bid to the Assistant Director Transportation and Connectivity in conjunction with the Strategic Director Finance and Legal.
2.3	Authorises the Assistant Director Transportation and Connectivity, in the case of a successful bid, to expend grant funding up to £1.35m and place orders with relevant consultants in accordance with Standing Orders and the Council's Procurement Governance Arrangements.
2.4	Notes that a Project Definition Document will be prepared in accordance with the Council's Gateway and Related Financial Approval Framework ahead of any outline business case submission to Government.
2.5	Authorises the Acting City Solicitor to negotiate, execute and complete any necessary legal documentation to give effect to the above recommendations.

<b>Lead Contact Officer(s):</b>	Phil Edwards – Head of Growth and Transportation
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<b>3. Consultation</b>	
3.1	<u>Internal</u> Consultation has been undertaken with the Leader, Deputy Leader, Strategic Director Finance and Legal, Assistant Director Regeneration and Assistant Director Transportation and Connectivity who support the proposals contained within this report. Issues at Bromford Gyratory are a concern for local councillors who have been advised of the bid content.
3.2	Officers from City Finance, Procurement and Legal and Democratic Services have been involved in the preparation of this report.
3.3	<u>External</u> The bid documentation was prepared in partnership with the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP), with formal written support received from the West Midlands Combined Authority (WMCA), Members of Parliament for Erdington, Hodge Hill and Ladywood, Highways England, National Express and Jaguar Land Rover.

<b>4. Compliance Issues:</b>	
4.1	<u>Are the recommended decisions consistent with the Council's policies, plans and strategies?</u>
4.1.1	Improvements to Bromford Gyratory align with the Council's Birmingham Connected Transport Strategy and the Birmingham Development Plan (BDP) and will support safe and sustainable travel, with resultant benefits of reducing road congestion, improving the environment and improving health and well-being. These objectives are embedded within the Council Business Plan and Budget 2016+. Proposals are also consistent with the HS2 Growth Strategy and the GBSLEP Strategy for Growth.
4.1.2	Birmingham Business Charter For Social Responsibility: The framework providers on the West Midlands Transportation Professional Services Framework Agreement are certified signatories to the Charter. The recommended supplier for each area of professional services will be required to commit to actions proportionate to the value of the contract awarded.
4.2	<u>Financial Implications (Will decisions be carried out within existing finance and Resources?)</u>
4.2.1	The total estimated development funding requirement is £1.55m. In the event of a successful bid for £1.35m, LLMSF resources will be provided as capital grant under Section 31 of the Local Government Act 2003 to the Council as 'Accountable Body' for GBSLEP. A subsequent 'Service Level Agreement' will be required to secure resources in a Council scheme promoter capacity. A grant funding profile of £0.850m has been requested in 2017/18 and £0.500m in 2018/19 working on the basis of a funding approval in the November 2016 Autumn Statement.
4.2.2	The Council has also committed as part of the bid to provide a £0.200m local contribution to support the preparation of an outline business case, which meets normal DfT requirements of between 10 and 20%. This funding consists of Integrated Transport Block capital resources and HS2 revenue grant, with expenditure incurred during 2015/16 and 2016/17 eligible in this respect. This expenditure has already been approved under Chief Officer delegation.
4.2.3	As shown in the bid documentation the estimated capital cost of major improvements to Bromford Gyratory is £83.470m. This cost will be refined as proposals develop as part of preparing an outline business case submission to Government. Approval to this business case will be sought from Cabinet before its submission.
4.2.4	There are no HR implications or ongoing revenue costs associated with this report.
4.3	<u>Legal Implications</u>
4.3.1	The relevant primary legislation required to implement improvements at Bromford Gyratory comprises the Highways Act 1980; Road Traffic Act 1974; Road Traffic Regulation Act 1984; Traffic Management Act 2004; Town and Country Planning Act 1990 and Planning and Compulsory Purchase Act 2004.

4.3.2	Pre-Procurement Duty under the Public Service (Social Value) Act 2012: Consideration of whether to undertake a consultation exercise was discussed during the planning stage and it was agreed that this would not be required as tenderers will be asked how their bid addresses social value as part of the evaluation and no additional stakeholder consultation was required. This consideration also included how this procurement exercise might improve the social and economic well-being of the city and will be addressed by evaluating social value
4.4	<u>Public Sector Equality Duty (see separate guidance note)</u>
4.4.1	An initial screening for an Equality Assessment (EA) has been undertaken and has concluded that a full EA is not required, with no adverse impacts on protected groups. The initial screening EA001411 is provided as Appendix B to this report.

<b>5. Relevant background/chronology of key events:</b>	
5.1	In the March 2016 Budget, the Chancellor announced that the Government would begin inviting bids from Local Enterprise Partnerships (LEPs) for schemes from the £475m Large Local Major Schemes Fund (LLMSF) for the period 2016/17 to 2020/21, with the acknowledgement that some schemes may require funding beyond 2020/21. The aim of the LLMSF is to support exceptionally large and potentially transformative local schemes that are too big to be funded through Local Growth Fund allocations and could not otherwise be funded.
5.2	Guidance issued by the Department for Transport (DfT) set out that bids could either be for development costs to produce an outline business case (OBC) or the construction of a scheme if an OBC had already been prepared. The guidance did not set out hard eligibility criteria for applications; however, decisions will be strongly based upon the following factors: the size of the scheme relative to the size of the LEP; the indivisibility of a scheme; the availability of other local funding; and the ability of schemes to be progressed and prioritised through other Government funding. From a GBSLEP and Council perspective these factors in essence determine that any scheme proposal would have to have a capital cost in excess of £75m and not be deliverable through the WMCA devolution deal.
5.3	Bromford Gyratory is located on the Key Route Network (KRN) as defined by the WMCA at the intersection of A4040 Bromford Lane and A47 Fort Parkway. The A47 Fort Parkway was opened in the late 1990's as new road construction and effectively links junction 5 of the M6 with Birmingham city centre through the east of the city. The A47 Fort Parkway also intersects with the A452 Chester Road adjacent to the Jaguar Land Rover factory at Castle Bromwich, where the Chester Road major scheme funded by the DfT has recently been completed. In addition, the route is used as a major link out towards Birmingham Airport, the NEC and development proposals at UK Central relating to the HS2 Interchange station.
5.4	In the context of the Strategic Road Network (SRN), the A47 and Bromford Gyratory play a vital role in relieving congestion on the Birmingham Motorway Box, offering an alternative route into and out of Birmingham between junctions 4 and 6 of the M6. The A47 also serves as a formal diversionary route for the M6 as defined by Highways England. This is particularly relevant considering the ongoing requirement for major maintenance on elevated sections of the M6 and substantial repairs that have required the closure of junction 6 (Spaghetti junction). Additionally the route will support major maintenance works to the A38 (M) Aston Expressway provisionally funded through the Local Growth Fund in respect of diversions.
5.5	Bromford Gyratory is one of the most congested major junctions in Birmingham and the subject of significant numbers of complaints from businesses, local residents, public transport operators, local councillors and Members of Parliament. Congestion is identified as a challenge in the GBSLEP Strategic Economic Plan (SEP) and congestion on the M6 through the West Midlands and on the rest of the Motorway Box is identified by the Midlands Connect sub-regional study as a key corridor constraint.

5.6	<p>With an existing daily throughput of 56,000 vehicles on an average weekday major works are required to significantly enhance the capacity of Bromford Gyratory and also support key public transport services, walking and increased levels of cycling in accordance with the Birmingham Connected Transport strategy. Improvements to Bromford Gyratory are complex (and costly) given that it is located directly beneath an elevated section of the M6 and above the Birmingham to Nottingham railway line and the River Tame. HS2 will also align in a tunnel beneath Bromford Gyratory, with the complexities and capacity issues of the gyratory a major factor in this decision by HS2 Ltd.</p>
5.7	<p>In the above context and also that of major growth detailed in the Birmingham Development Plan, GBSLEP Strategic Economic Plan and HS2 Growth Strategy, study work already commenced to look at access to the Washwood Heath development site/HS2 Rolling Stock Depot was utilised to develop initial options and costings for major improvements to Bromford Gyratory and subsequently feed into an application for development funding from the LLMSF. Further scheme details are provided in Appendix A to this report setting out a major £83.470m project for further development.</p>
5.8	<p>As stated above, bids were required to be submitted to the DfT by LEPs with the support of the relevant delivery authority. The bid for Bromford Gyratory covering strategic, economic, financial and management cases was submitted by GBSLEP on the 28<sup>th</sup> July 2016 at the same time as a submission for Local Growth Fund 3 resources. It should be noted that Council proposals included within the Local Growth Fund 3 bid will be the subject of a separate executive reports. Additionally it should be noted that no other schemes offered the strategic fit of Bromford Gyratory, nor met the minimum scheme size set out in the DfT guidance.</p>
5.9	<p>In terms of next steps the DfT are evaluating LLMSF bids over the summer period, with a view to announcing successful applications and funding awards in the Autumn Statement. Such awards will be announced alongside Local Growth Fund 3 allocations to individual LEPs. It is expected that funding will be provided to LEPs directly and that relevant funding or service level agreements will be needed with scheme promoters.</p>
5.10	<p>In the event of the Bromford Gyratory bid being successful it is proposed that the Assistant Director Transportation and Connectivity in conjunction with the Strategic Director Finance and Legal is delegated authority to accept any relevant grant offer from the DfT (via GBSLEP), with the Assistant Director Transportation and Connectivity authorised to expend grant and place orders with necessary consultants needed to support the development of an outline business case. The latter will be subject to competition exercises in accordance with Standing Orders and full compliance with the Council's Procurement Governance Arrangements following the protocol of the West Midlands Professional Services Framework the Council's approved route for professional services of this type. Key work tasks required to produce the outline business case include: transport, geotechnical, structural and topographical surveys (£200,000); land referencing (£50,000); strategic transport modelling (£350,000); options development (£300,000); transport appraisal (£200,000); consultation (£50,000); business case materials and strategic, economic, financial, delivery and management cases (£150,000); and traffic management requirements (£50,000). The £0.200m local contribution represents design development work already undertaken and approved under Chief Officer Delegation.</p>
5.11	<p>Assuming that development funding is confirmed in the 2016 Autumn Statement it is anticipated that that an OBC will be submitted to Government in October 2018. Ahead of this submission a Project Definition Document report will be brought to Cabinet for approval, with full public consultation undertaken. Further key milestones would see construction commence in January 2021 and scheme completion in January 2023. These dates will be refined as detailed feasibility work progresses.</p>
5.12	<p>Given the competitive nature of the LLMSF the Council will be well placed to resubmit the OBC to future funding rounds should the bid be unsuccessful this time, as detailed scheme proposals and business case work will already be complete and available.</p>
5.13	<p>It should be noted that limited improvements are planned to Bromford Gyratory over the next 12 months to increase capacity and improve traffic flows in the short term. These improvements will be reported separately and are funded from capital resources provided through the Local Growth Fund (round one).</p>

<b>6. Evaluation of alternative option(s):</b>	
6.1	Do not seek development funding from the LLMSF. This option is not recommended as the Council does not have alternative means to develop an OBC for major improvements to the Bromford Gyratory.

<b>7. Reasons for Decision(s):</b>	
7.1	To note the bid, provided as Appendix A to this report, to the Large Local Major Scheme Fund made by the Greater Birmingham and Solihull Local Enterprise Partnership on behalf of the Council for £1.35m to develop an outline business case for improvements to Bromford Gyratory.
7.2	To delegate grant acceptance in the case of a successful bid to the Assistant Director Transportation and Connectivity in conjunction with the Strategic Director Finance and Legal.
7.3	To authorise the Assistant Director Transportation and Connectivity in the case of a successful bid to expend grant funding up to £1.35m and place orders with relevant consultants in accordance with Standing Orders and the Council's Procurement Governance Arrangements.
7.4	To note that a Project Definition Document will be prepared in accordance with the Council's Gateway and Related Financial Approval Framework ahead of any outline business case submission to Government.
7.5	To authorise the Acting City Solicitor to negotiate, execute and complete any necessary legal documentation to give effect to the above recommendations.

<b>Signatures</b>	<b><u>Date</u></b>
Cllr Stewart Stacey – Cabinet Member for Transport and Roads	.....
Cllr Majid Mahmood – Cabinet Member for Value for Money and Efficiency	.....
Waheed Nazir Strategic Director for Economy	.....

<b>List of Background Documents used to compile this Report:</b>	
1	Council Business Plan and Budget 2016+
2	Birmingham Connected Transport Strategy
3	Birmingham Development Plan
4	HS2 Growth Strategy
5	Large Local Major Schemes Fund Guidance

<b>List of Appendices accompanying this Report (if any):</b>	
1.	Funding Application for Scheme Development Costs for Bromford Gyratory – Appendix A
2.	Equalities Assessment Initial Screening – Appendix B

## **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 at 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 the standard 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 – see page 9 (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	<p>The Council must, in the exercise of its functions, have due regard to the need to:</p> <ul style="list-style-type: none"><li>(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;</li><li>(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;</li><li>(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.</li></ul>
2	<p>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:</p> <ul style="list-style-type: none"><li>(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;</li><li>(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;</li><li>(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.</li></ul>
3	<p>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.</p>
4	<p>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:</p> <ul style="list-style-type: none"><li>(a) tackle prejudice, and</li><li>(b) promote understanding.</li></ul>
5	<p>The relevant protected characteristics are:</p> <ul style="list-style-type: none"><li>(a) Age</li><li>(b) Disability</li><li>(c) gender reassignment</li><li>(d) pregnancy and maternity</li><li>(e) Race</li><li>(f) religion or belief</li><li>(g) Sex</li><li>(h) sexual orientation</li></ul>