

South Gloucestershire Council

REPORT TO: CABINET

DATE: 10 JULY 2017

REPORT TITLE: TO PROVIDE AN UPDATE ON THE DELIVERY OF THE NORTH FRINGE TO HENGROVE METROBUS CAPITAL SCHEME AND TO SEEK APPROVAL TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH BRISTOL CITY AND NORTH SOMERSET COUNCILS TO PROCESS AND SETTLE COMPENSATION CLAIMS BROUGHT UNDER PART 1 OF THE LAND COMPENSATION ACT 1973 IN RESPECT OF METROBUS AND TO SEEK AUTHORITY TO ENTER INTO AN INTER AUTHORITY AGREEMENT WITH BRISTOL CITY COUNCIL TO MANAGE AN INTELLIGENT TRANSPORT SYSTEMS COMMUNICATIONS NETWORK

(All Wards)

Purpose of Report

1 The purpose of this report is to provide an update on the latest cost forecast estimate for the North Fringe to Hengrove Package MetroBus capital scheme and to seek approval for the increase in forecast outturn costs to be added to the Capital Programme.

2 To seek approval to enter into a Memorandum of Understanding with Bristol City and North Somerset Councils to process and settle compensation claims brought under Part 1 Land Compensation Act 1973 in respect of MetroBus.

3 To seek approval to delegate to the Director of Environment and Community Services in consultation with the Cabinet Member for the Planning, Transportation and the Strategic Environment to negotiate and conclude an Inter Authority Agreement with Bristol City Council to procure and manage MetroBus Intelligent Transport Systems Communications Network.

Recommendations

4 In order to support the delivery of the North Fringe to Hengrove Package MetroBus scheme, Cabinet is recommended to:

1 Note the cost forecast and mitigation measures identified in this report, and

2 Approve the amendment to the approved Capital Programme to cover the increase in the scheme total for the North Fringe to Hengrove Package MetroBus scheme by £4.6m to £117.9m, being an increase in South Gloucestershire Council's local contribution of £2.8m

3 Approve the conclusion of a Memorandum of Understanding with Bristol City and North Somerset Councils to investigate, process and settle valid

compensation claims brought under Part 1 Land Compensation Act 1973 arising from the MetroBus schemes.

4 Approve Bristol City Council as Lead Authority under the Memorandum of Understanding to recruit a Claims Team to process and settle Part 1 claims centrally on behalf of the three authorities.

5 Approve the delegation of authority to the Director of Environment and Community Services in consultation with the Cabinet Member for Planning, Transportation and the Strategic Environment to approve settlement terms and to authorise the payment of claims managed by the Claims Team.

6 Approve the delegation of authority to the Director of Environment and Community Services in consultation with the Cabinet Member for Planning Transportation and the Strategic Environment to negotiate and conclude an Inter Authority Agreement with Bristol City Council to procure and manage MetroBus Intelligent Transport Systems Communications Network within the South Gloucestershire and Bristol areas.

Policy

5 The Council's financial regulations and standing orders set out the process for budget monitoring and control. This requires identification of new capital resources to support any proposals to increase the approved Capital Programme.

6 Financial regulations state that where the estimated capital scheme expenditure exceeds the Capital Programme provision by £100k, Cabinet must approve the increase subject to identification of the additional funding resources.

Background

7 The North Fringe to Hengrove Package is the largest of three MetroBus schemes being delivered in the West of England area.

8 The scheme spans both South Gloucestershire Council and Bristol City Council areas, with South Gloucestershire Council being the nominated Lead Authority for the scheme. At the time of Department for Transport Full Approval in May 2015 the estimated scheme cost was £101.885m with a financial contribution of £51.1m from the Department for Transport, with the remaining funding amount split between South Gloucestershire Council (£30.5m) and Bristol City Council (£20.5m).

9 Environment and Community Services Committee considered a report on the forecast outturn for the North Fringe to Hengrove Package MetroBus on 9 November 2016, noting that at that point in time, the total estimated cost of the completed scheme would be £113.3m, an increase of £11.4m over the Department for Transport Full Approval in May 2015. South Gloucestershire Council's share of this forecast outturn would be £7m above its original funded local contribution of £30.5m, in keeping with the agreed funding split for costs post full approval with Bristol City Council.

10 Environment and Community Services Committee on 29 March 2017 approved that £0.75m of the Council funded highways maintenance allocation would be used to fund the

required additional North Fringe to Hengrove Package MetroBus local contribution in 2017/18.

11 In June 2017, the MetroBus Project Assurance Board received a report on the current forecast financial position for all three MetroBus schemes. The MetroBus Project Assurance Board directed that additional budget provision should be sought to cover an increased total estimated cost for MetroBus schemes, including the North Fringe to Hengrove MetroBus scheme. Appendix 1 (exempt) contains an extract on the forecast financial position for all three MetroBus schemes from the MetroBus Project Assurance Board report.

12 Bristol City Council's Cabinet will be considering a report on 15 August regarding the forecast financial position for MetroBus schemes.

The Issues

13 The North Fringe to Hengrove MetroBus scheme has faced a number of issues during the delivery phase, which have now resulted in an estimated forecast outturn cost of £117.9m (based on a 50% probability of identified risks occurring), this is an increase of £4.6m over the November 2016 forecast outturn cost of £113.3m. Appendix 2 (exempt) contains further more detailed information on the breakdown of the £117.9m sum by spend category.

14 It should be noted that this increase in the estimated forecast outturn cost reflects the view of the identified current risks on the project and the estimated costs of these risks, which may or may not arise. However, it is prudent for the Council to make financial provision for its share of the increased costs based on the £117.9m estimated forecast outturn cost. South Gloucestershire Council's share of this increase in costs is a further increased local contribution of £2.8m, making this Council's total local contribution to be £9.8m (£2.8m increased local contribution plus the £7m local contribution based on the November 2016 estimate), above its original funded local contribution of £30.5m. As this is an ongoing construction project, cost forecasts will continue to change over time. Savings can be made but additional costs may also be incurred.

15 The primary reasons for the increase in forecast costs are:

- Increases in project management costs due to additional resource being added to the team and factoring in project management requirements for a longer period.
- Increases in site management costs due to the longer duration of construction contracts and additional resource required to resolve on site issues.
- Increases in construction costs due to:
 - Additional delays to the completion of Bradley Stoke Way, due to further unforeseen utility diversion work
 - Costs related to the delayed start of the M32 South Bound Bus Lane and M32 bus only junction due to awaited Highways England approvals
 - Delay costs and additional construction costs relating to scheme changes and redesign of piling in the City Centre due to the difficulty and complexity of the City Centre environment.
 - Additional earthwork requirements on the Stoke Gifford Transport Link (SGTL) and the Hambrook Bridge
 - Additional delay costs to the SGTL due to interfaces with Network Rail.

16 There have also been areas where forecast costs have decreased, for example, in the provision for successful Part 1 claims.

17 The forecast costs still include a risk budget (Quantified Risk Assessment (QRA)) of £1.2m. In addition to this, the forecast also includes £1m to cover 'early warnings' which may or may not materialise.

18 The forecast is based on what is known as a P50 risk level. This is an assessment of risk on the basis that 50% of the expected value of risks will materialise. The P50 level is the standard risk reporting level accepted by the Department for Transport when forecasting costs for Major Schemes.

19 If risk is calculated at the higher P80 level, the risk QRA value would be £2m, with a forecast outturn of £118.8m

20 Opportunities for cost savings are also considered and the likelihood of the opportunities are calculated using the same methodology as the calculation of risk. These are also included within the overall cost forecasts. At P50, the opportunities are £248k and at P80 they total £66k.

21 It should be noted that spend to date on the project is £88.9m and forecast remaining spend is £29m. Within this remaining spend of £29m is £2.2m (approximately 8%) covering risk and early warnings.

22 Construction is still ongoing on the scheme. The M32 works are nearly complete as is the work on the A4174 ring road and Bradley Stoke Way near Aztec West. On Bradley Stoke Way, the bus lane on the approach to Great Stoke Roundabout is still under construction. Construction work in the City Centre, Coldharbour Lane, Stoke Lane and on Hartcliffe Way is continuing, and is expected to complete in the Autumn 2017. Work on the Stoke Gifford Transport Link is also continuing, with the Hambrook Bridge being the last area expected to complete, again in Autumn 2017.

23 The bus shelters and I-Points (bus information and ticket machines) will be installed along the route through the summer and autumn.

24 Therefore, although the two year construction programme is coming towards its end, there are still risks and therefore cost forecasts are still subject to fluctuation and final costs will only be confirmed once final accounts are settled with the contractors.

Part 1 Claims

25 South Gloucestershire and Bristol City Councils have jointly promoted the North Fringe to Hengrove MetroBus scheme with Bristol City and North Somerset Councils jointly promoting the Ashton Vale to Temple Meads and South Bristol Link MetroBus schemes. As a result of the MetroBus schemes South Gloucestershire, Bristol City and North Somerset Councils are liable to meet legitimate claims brought under Part 1 of the Land Compensation Act 1973.

26 Under Part 1 of the Land Compensation Act 1973, compensation can be claimed by people who own and also occupy property that has been reduced in value by more than £50 by physical factors caused by the use of a new or altered road. The physical factors are noise, vibration, smell, fumes, smoke, artificial lighting and the discharge on to the

property of any solid or liquid substance. The cause of the physical factors must be the new or altered road in use.

27 It is proposed to enter into a Memorandum of Understanding with Bristol City and North Somerset Councils to fund and support jointly an in-house 'Claims Team' comprising valuation and legal officers to receive, process and settle such claims centrally arising from the three MetroBus schemes. It is further proposed that in order to ensure a robust and consistent approach, Bristol City Council who is promoting all three MetroBus schemes is appointed as Lead Authority for the delivery of the legal and valuation advice, processing, negotiation and settlement of Part 1 claims for all three MetroBus schemes. The team would therefore be appointed and managed by Bristol City Council, subject to approval of the Bristol City Council Cabinet on 15th August.

28 It is important to note that South Gloucestershire Council would only be liable for the cost of successful Part 1 claims in respect of the North Fringe to Hengrove MetroBus scheme jointly with Bristol City Council in keeping with the provisions of the North Fringe to Hengrove MetroBus scheme Joint Promotion Agreement. South Gloucestershire Council would also be liable to meet its share of the cost of the Claims Team led by Bristol City Council, which would be initially based on an estimated number of successful Part 1 claims adjusted for actual successful Part 1 claims, under the provisions of the Memorandum of Understanding. A copy of the draft Part 1 Claims Memorandum of Understanding Heads of Terms is included at Appendix 3. This Part 1 Claims Memorandum of Understanding Heads of Terms sets out the joint governance process with South Gloucestershire and North Somerset Councils that would oversee the operation of the Claims Team led by Bristol City Council.

29 The estimated cost of successful Part 1 claims and South Gloucestershire Council's share of the cost of the Claims Team are included in the estimated forecast outturn cost for the North Fringe to Hengrove MetroBus scheme.

Options

30 The North Fringe to Hengrove Package MetroBus scheme current forecast total cost is £117.9m, which is £16m (16%) above the Full Approval budget, with South Gloucestershire Council being liable for up to £9.8m of additional local contribution over and above its original funded local contribution of £30.5m.

31 Environment and Community Services Committee on 29 March 2017 approved that £0.75m of the Council funded highways maintenance allocation would be used to fund the additional North Fringe to Hengrove Package MetroBus local contribution in 2017/18 with the remaining additional local contribution also proposed to come from the Council funded highway maintenance allocation over a number of years. A decision was made in respect of the Capital Programme 2017/18 only at that point in time, with the future financial years' proposals remaining indicative only at that stage.

32 It was noted by the Environment and Community Services Committee that the opportunity would be taken, to fund the required additional local contribution, from alternative additional funding sources, as set out below in the priority order that will now be potentially considered on an annual basis, as part of the Council's overall financial position:

Opportunity	Comments
1. Revenue and Capital Underspends	The opportunity to seek approval for the use of Environment and Community Services departmental revenue and capital underspends to be used to support the required additional local contribution will be considered annually, subject to the overall financial position of the Council
2. Commercial Opportunities	The Environment and Community Services department will continue to pursue commercial opportunities, for example, in the Streetcare division, to potentially generate a revenue surplus.
3. National and West of England Funding Streams	Bids will be made in the medium term to support our local priorities for highways maintenance and improvements
4. Council Funded Highways Maintenance Allocation	A fall-back position of the Council funded highways maintenance allocation will be the default position should sufficient funds not be forthcoming on an annual basis from the sources in this table together with any other funding opportunities identified.

33 In keeping with the priority of funding opportunities in the table above, it is now proposed as part of the Revenue Outturn 2016/17 report being considered elsewhere on this meeting's agenda to make use of £0.5m from the total Council revenue outturn underspend to part fund the additional North Fringe to Hengrove Package MetroBus local contribution requirement.

34 The future year's proposals to resource the remaining additional local contribution of £8.55m (£9.8m less £0.75m approved by the Environment and Community Services Committee in March 2017 and making use of £0.5m from the revenue underspend, subject to the decision of the Cabinet) will continue to be considered as part of future year's revenue budgets and Capital Programmes, in keeping with the proposal of the Environment and Community Services Committee on 29 March 2017. At this point in time, the fall-back position would be for the remaining additional local contribution of £8.55m to be funded from the Council funded highways maintenance allocation over a number of years at a rate of £1m per year until 2025/26, and the remaining £0.55m in 2026/27. Departmental reserves will be used in the short term to bridge any funding gap between annual expenditure and the funding available.

Intelligent Transport Systems Communications Network (for MetroBus Stops)

35 In order for the I-Points (including Real Time Information and ticket machines) and the CCTV coverage at the MetroBus stops to work, a communications network is being procured and installed. As this will span the South Gloucestershire Council and Bristol City Council areas and feed into the Bristol Operations Control Centre, an inter-authority agreement (IAA) between the two authorities will be put in place to cover overall management responsibilities in relation to this. This IAA is in the process of being developed by South Gloucestershire.

36 In order to progress the MetroBus Scheme in a timely manner and with the procurement of the ITS Communications Network being critical to the MetroBus scheme, Cabinet is requested to delegate authority to the Director of Environment and Community Services in consultation with the Cabinet Member for Planning, Transportation and the Strategic Environment for South Gloucestershire Council to enter into the Inter Authority Agreement.

Consultation

37 There has been no formal consultation undertaken in the development of this report.

Alternative Options Considered

38 The West of England Combined Authority Order came in to force on 9 February 2017 and saw the Department of Transport government grants formerly allocated direct to the Council for the purpose of maintaining highways and work against local priorities for improving road safety, improvements for cycling and walking and the general improvements needed to keep up with the pressures of traffic growth, being managed in a single capital pot by the West of England Combined Authority. The West of England Combined Authority have decided to allocate the same amount of resource to South Gloucestershire Council as would have been received by direct allocation from the Department of Transport for 2017/18. As the Local Transport Capital Programme is now and will be going forward largely resourced by funding received from the West of England Combined Authority, the making use of this funding source as an option to fund the additional required local contribution for the North Fringe to Hengrove MetroBus scheme is not a considered to be a viable alternative option given that the West of England Combined Authority have responsibility for allocation.

39 It should be noted that if Prudential Borrowing were to be considered as an alternative option to fund South Gloucestershire Council's share of the additional local contribution there would need to be a new annual revenue saving in the region of £0.5m identified from within existing revenue funding for Environment and Community Services to fund the annual repayment cost of the borrowing.

40 The future year's proposals to resource the remaining additional local contribution will continue to be considered as part of future year's revenue budgets and Capital Programmes, in keeping with the proposal of the Environment and Community Services Committee on 29 March 2017.

Risk Assessment

Financial Implications (includes tax implications such as VAT)

41 The North Fringe to Hengrove Package MetroBus scheme current forecast cost is £117.9m, which is £16m (16%) above the Full Approval budget, with South Gloucestershire Council being liable for up to £9.8m of additional local contribution over and above its original funded local contribution of £30.5m. Environment and Community Services Committee on 29 March approved the use of £0.75m of Council funded highway maintenance funding allocation to fund the North Fringe to Hengrove Package MetroBus additional local contribution in 2017/18.

42 The future year's proposals to resource the remaining additional local contribution of £8.55m (£9.8m less £0.75m approved by the Environment and Community Services Committee in March 2017 and making use of £0.5m from the revenue underspend, subject to the decision of the Cabinet) will continue to be considered as part of future year's revenue budgets and Capital Programmes, in keeping with the proposal of the Environment and Community Services Committee on 29 March 2016. At this point in time, the fall-back position would be for the remaining additional local contribution of £8.55m to be funded from the Council funded highways maintenance allocation over a number of years at a rate of £1m per year until 2025/26, and the remaining £0.55m in 2026/27. Departmental reserves will be used in the short term to bridge any funding gap between annual expenditure and the funding available.

43 The cost plan that is used to estimate the forecast outturn for the North Fringe to Hengrove Package MetroBus scheme has recently been through a review of all actual spending, future spending commitments and the assumptions in the cost plan at a detailed level, working with all parties involved in the scheme in order to provide a high degree of certainty on the estimated forecast outturn cost for the scheme.

44 The estimated cost of successful Part 1 claims and South Gloucestershire Council's share of the cost of the valuation and legal team are included in the estimated forecast outturn cost for the North Fringe to Hengrove MetroBus scheme.

45 South Gloucestershire Council's funding package for this scheme includes a number of estimated and future funding sums. All these sums will continue to be regularly reviewed to ensure that the total funding required is available in a timely manner to meet the full costs of this scheme. As previously reported to Members, it is highly unlikely that the full assumed capital receipts value from disposals will be met, leaving a further funding shortfall that will need to be met through the Council's Capital Programme and is continually monitored as part of the ongoing development and delivery of the Capital Programme and its financing arrangements

Nina Philippidis, Deputy Head of Finance

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Legal Implications

46 The requirements under the Council's Standing Orders are summarised at paragraphs 5 and 6. A decision not to approve the increase in funding package presents a very significant risk to the delivery of the North Fringe to Hengrove Package MetroBus scheme.

47 Part 1 compensation is a statutory entitlement where it can be demonstrated that the relevant qualifying criteria have been met.

48 A collaborative solution to processing claims and the appointment of Bristol as Lead Authority is practical and cost effective. Final settlement of those claims agreed by the Lead Authority, arising from the promotion of the North Fringe to Hengrove MetroBus scheme, will not be authorised for payment until approval has been given by South Gloucestershire under the governance arrangements provided for in the Memorandum of Understanding.

49 There are no other legal implications arising directly from the recommendations in this report.

Andrew Griffiths, Legal & Democratic Services (Legal)

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Human Resources Implications

50 There are no direct HR implications arising from this report.

Gaynor Fisher, HR Business Partner

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Environmental Implications

51 The MetroBus is designed to include bus lanes and cycling infrastructure and therefore aims to facilitate a shift towards more sustainable modes of transport. Failure to support the extra funding needed for completion of this project would put these benefits at risk.

Jane Antrobus, Senior Environmental Policy Officer

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Social Implications

52 There are significant social benefits linked to the wider MetroBus project which are identified in the impact assessment for the project. Failure to support the extra funding needed for completion of this project would put these benefits at risk.

Mark Pullin, Strong, Safer Communities Manager

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Economic Implications

53 A key objective of the MetroBus is to support and encourage economic development. There are no additional or adverse economic impacts associated with the recommendations in this report.

Antony Merritt, Strategic Economic Development Manager

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Equality Impact Assessment

54 The Cabinet is reminded of the Council's statutory duty, in the exercise of its functions, to have due regard to the need to:

i Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act 2010.

ii Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. This means:

- removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

- taking 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;
- Encouraging 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.

iii. Foster good relations between persons who share a protected characteristic and persons who do not share it. This means:

- tackling prejudice;
- promoting understanding

55 An Equalities Impact Assessment for the North Fringe to Hengrove Package MetroBus scheme has been undertaken. There are significant equality benefits linked to the wider MetroBus project which are identified in the impact assessment for the project. Failure to support the extra funding needed for completion of this project would put these benefits at risk.

Mark Pullin, Strong, Safer Communities Manager

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Privacy Impact Assessment

56 There is no direct requirement arising from this report for a Privacy Impact Assessment to be undertaken.

Richard Gillingham

Major Projects Senior Responsible Officer

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Risks, Mitigations & Opportunities

57 It should be noted that there will continue to be a level of financial risk should the costs (currently based on the P50 risk level) of the North Fringe to Hengrove Package MetroBus scheme further increase or future funding streams not materialise. The funding package for the North Fringe to Hengrove Package MetroBus scheme is predicated on a number of estimated and future funding sums, in particular, capital receipts and S106 Developer Contributions. These are not guaranteed. Officers are reviewing options available should there be any shortfall on these sums. The Council will need to underwrite any further increases in costs or any shortfall in the estimated and future funding through additional capital resources from within the future Council funded highways maintenance allocation, the wider capital programme, or through Prudential Borrowing. The above risks and mitigations presume Bristol City Council will meet their share of the additional costs.

Reasons for Decision

58 The North Fringe to Hengrove Package MetroBus scheme current forecast total cost is £117.9m, which is £16m (16%) above the Full Approval budget, with South Gloucestershire Council being liable for up to £9.8m of additional local contribution over and above its original funded local contribution of £30.5m. The Council's financial regulations and standing orders set out the process for budget monitoring and control. This

requires identification of new capital resources to support any proposals to increase the approved Capital Programme.

59 With reference to the Memorandum of Understanding for Part 1 Claims, the decision is required to allow South Gloucestershire Council to enter into the Memorandum of Understanding with Bristol City Council and North Somerset Council.

Author

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Appendix 1 (Exempt) - Project Assurance Board MetroBus Funding – Extract

Appendix 2 (Exempt) - North Fringe to Hengrove MetroBus Scheme Estimated Forecast
Outturn By Spend Category

Appendix 3 - Part 1 Claims Memorandum of Understanding Heads of Terms

Background Papers

Capital Programme 2017/18 Onwards – Environment and Community Services Committee
29 March 2017

North Fringe to Hengrove Cost Forecast Update. – Environment and Community Services Committee, 9th November 2016

Capital Programme 2017/18 to 2019/20 – Council 15 February 2017

Allocation of funding to deliver the North Fringe to Hengrove Package. - Policy and Resources Committee 27th July 2016 (Exempt under the Local Government Act 1972, Schedule 12 A, Sections 7 and 8)

Planning, Transportation and Strategic Environment Local Transport Capital Programme – Planning, Transportation and Strategic Environment Committee 27 January 2016

Capital Programme 2016/17 to 2018/19 – Policy and Resources Committee 1 February 2016 and Council 17 February 2016

Allocation of Funding to Deliver Stoke Gifford Transport Link – Policy and Resources Committee 10 February 2014.

Mulgrove Farm – Policy and Resources Committee 17 April 2015 and 9 October 2015