

**BRISTOL CITY COUNCIL
FULL COUNCIL**

19 January 2010

Report of: Cabinet

Title: Ashton Vale to Temple Meads and Bristol City Centre Rapid Transit

Ward: Cabot, Lawrence Hill, Southville, Bedminster

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RECOMMENDATIONS

That Full Council jointly with North Somerset Council apply for and promote an Order under the Transport and Works Act 1992 to confer powers for the purposes of and in connection with the construction and operation of a rapid transit system between Ashton Vale and Temple Meads and Bristol City Centre and to make provision in the City of Bristol and in North Somerset for the stopping up or diversion of existing rights of way, traffic regulation, street works, the construction of stops along the route, other associated and consequential works, the compulsory purchase of land and rights in land and the use of land permanently or the temporary possession of land.

That the Strategic Director City Development in consultation with the Executive Member for Transport and Sustainability be authorised to take all such steps as may be necessary or expedient for the purposes of the promotion of the Order, including settling the form of the application, agreeing modifications to it and entering into undertakings or commitments in relation to it.

That submitting the Transport and Works Act Order application be subject to achieving programme entry status for funding from the Department for Transport.

That the corporate seal of the Council may be affixed to any documents required to be sealed in connection with the application for and subsequent promotion of the Order.

Summary

1. In March 2009 a Major Scheme Business Case (MSBC) submission was made to the Department for Transport (DfT) to gain access to £43.12 million of regional funding allocated to the Ashton Vale to Temple Meads and Bristol City Centre rapid transit scheme (“the rapid transit scheme”). The scheme is currently awaiting Programme Entry Approval from the DfT.
2. The next stage of the project is application for the required powers and consents to construct and operate the scheme. The project needs a Transport and Works Act Order (TWAO) to do this.
3. Submission of an application for a TWAO requires two resolutions by both Full Councils of Bristol City Council and North Somerset Council under s239 of the Local Government Act 1972.

Policy

1. The project is fully consistent with Council policy and priorities and the West of England Joint Transport Plan through provision of an effective transport system offering an alternative to car use, reducing congestion, supporting the city's dynamic and growing economy and improving quality of life.
2. Cabinet resolved on 10th December to recommend to Full Council that it should resolve to apply jointly with North Somerset Council to the Secretary of State for Transport for a Transport and Works Act Order for the project and that the Council should enter into a joint promotion agreement with North Somerset Council so as to do this. As explained in this report, the application for the Order itself requires two resolutions of Full Council.

Consultation

Internal

3. The project has consulted extensively within the Council and many of the different areas have been involved in developing the scheme proposals.

External:

4. The project has continued to regularly meet with stakeholder groups, statutory consultees and environmental bodies. In addition, working with the Neighbourhood Planning Network, the project has established a Community Involvement Group which includes representatives from resident and user groups which provides an ongoing opportunity for local people to be involved in influencing the details of the proposals. A series of three meetings have been held through September to November to obtain input on the scheme design. A list of consultees is included in the 10th December Cabinet report.

Context

5. This rapid transit scheme is part of a wider package of measures proposed by the current Joint Local Transport Plan. It has been identified for South West regional funding since 2006.

Proposals

6. Rapid Transit will provide a fast, frequent and reliable public transport service. Services will run on a largely segregated route, separate from car traffic, and will be given priority over other road users at traffic signals.
7. There will be a set of core services running frequently from Long Ashton Park and Ride to Bristol Temple Meads and on to Cabot Circus, Broadmead and the Centre (running on-street in an anti-clockwise loop around the city). Additional services to and from North Somerset will make use of the alignment to provide faster journey times and improved reliability. The route between the Museum of Bristol and Long Ashton Park and Ride will wherever possible include a parallel cycling and pedestrian route.
8. A Transport and Works Act Order (TWAO) is necessary for the section of the scheme from the Long Ashton Park and Ride to Prince Street Bridge. A TWAO authorises guided transport schemes and can confer the range of powers needed to put such a scheme into practice. A TWAO can include compulsory powers to buy land, closure or alteration of roads and footpaths and provides the statutory authority to operate. It is also the most appropriate way to deal with any significant alterations to existing rail configurations.
9. A TWAO is a bespoke piece of legislation or an 'Order' made under the Transport and Works Act 1992 and has the following advantages:
 - (a) the application is made to the Secretary of State for Transport and brings together most of the powers in one process and potentially one Public Inquiry which can be easier and more transparent for consultees than several different processes;
 - (b) it allows for planning permission to be granted in tandem with, and in effect as part of, the TWAO process;
 - (c) it could assist with control over the access to the infrastructure including the ability to confer exclusive rights to use the infrastructure and to specify frequencies and standards of services; and
 - (d) it allows amendment to local legislation such as the required changes to the Bristol Harbour Railway legislation to retain the heritage rail services.

10. A TWAO can only authorise guided transport systems and matters deemed to be ancillary to the guided system. The TWAO will therefore only apply to the section of the scheme from Long Ashton Park and Ride to the north of Prince Street Bridge. The works in the central city area from north of Prince Street Bridge will be secured through BCC's permitted development powers Traffic Regulation Orders and other highway powers.

Risk Assessment and Mitigation

11. The project has an established Risk Management Strategy, monitors the risk register monthly and provides regular updates to the Project Board. The main risk of not agreeing to this course of action is the sub-region not meeting the RFA programme and delayed or non-delivery of the major scheme programme of the Joint Local Transport Plan.

Legal and Resource Implications

Legal

12. The next stage in the project requires the formal submission of an application for an Order under the Transport and Works Act 1992 to establish the route for the Rapid Transit System and to be able to exercise the legal powers of site assembly that will be needed before construction of the route can commence.
13. It is proposed that the TWAO application is jointly made by Bristol City and North Somerset Councils as the scheme is a single project straddling both Councils. The relationship between the authorities will be governed by the Joint Working Agreement (as endorsed by the Joint Transport Executive Committee) and supplemented by a joint promotion agreement. This will give both authorities the powers they require. The key heads of terms are attached to the 10th December Cabinet report and give an overview of all the issues that will be governed by the agreement.
14. Although in the normal way the decision to proceed with the project would be a key decision and a matter for Cabinet, s 239 of the Local Government Act 1972 imposes on local authorities seeking to promote a TWAO an additional prescribed procedure in respect of making the application for the Order itself. This includes two resolutions of the Full Councils of each authority, one before making the application and the other as soon as possible after the expiry of 14 days from submitting it, each passed by a majority of the all the members of the authority, i.e. $\frac{1}{2}$ the total number of councillors + 1, not $\frac{1}{2}$ of those present +1, i.e. 36 votes in favour. This also requires compliance with prescribed advertising requirements, which have been implemented.

(Legal Advice provided by Joanne Mansfield, Principal Solicitor, ext. 22303 and Dru Brooke-Taylor, Senior Solicitor, ext 22302)

Land

15. The majority of land is in BCC ownership. Power to compulsorily acquire land will be obtained through the TWAO. However it is hoped that agreement will be reached with individual land owners. At this stage it is not anticipated that there is an impact on private land in the city centre section. Any land acquisition in the city centre would be made under separate agreements or CPO applications.

Financial

16. It is expected that all services that use the route will operate commercially (breakeven). However, should the authorities decide to take the revenue risk then it is possible that during the first years of operation the service may require some financial support (i.e. maintenance costs for track and stop infrastructure up to £500k per annum at 2014 prices). These additional costs will either be met from a re-prioritisation of existing budgets or, depending on the procurement model adopted, will be defrayed through, for example, an operators access charge.
17. The total estimated cost of the scheme is £47.8 million, 90% of which will come from DfT through the South West Regional Funding Allocation (£43.12 million). The balance of £4.78 million has to be funded by the authorities. The project cost sharing methodology is set out in the Joint Promotion Agreement. Bristol City Council's share will be 80% of costs (and any surpluses) and North Somerset Council's share will be 20% of costs (and any surpluses). If the local contribution cannot be achieved through S106, it will be met from the Council's Local Transport Plan allocation, currently in the region of £10m per annum.
18. The Council is expected to fund 50% of any increase in the total scheme costs between Programme Entry and the final Approved Scheme Cost. Furthermore the Council is expected to fund 100% of any increase in costs above the final Approved Scheme Cost. To mitigate this risk, there is a contingency of £4.4m included within the total funding available.
19. The total preparatory costs are estimated to be £2.8m from 2009 to commencement of construction in 2011.

(Financial advice provided by Mike Harding, Head of Finance – ext. 23281)

Environmental Impact Assessment

20. An Environmental Statement, which documents a full Environmental Impact Assessment undertaken on the scheme, will be submitted as part of the TWAO. There are no major significant environmental impacts on nationally protected or designated sites. There are some impacts on local sites. These impacts, proposed mitigation measures and residual effects are included in the 10th December Cabinet report.

Appendices: None

Access to information:

www.westofengland.org/rapidtransit

Background Papers:

Cabinet Report Agenda item 6 to Cabinet on 10th December 2009 and Minute 30.12/09.

S. 239 of the Local Government Act 1972, (obtainable from HMSO)

Transport and Works Act 1992, (obtainable from HMSO)