

# Report to Cabinet

17 March 2021

<b>Subject:</b>	Wednesbury – Brierley Hill Metro Extension
<b>Cabinet Member:</b>	Inclusive Economic Growth – Cllr Danny Millard Sustainable Transport – Cllr Jackie Taylor
<b>Director:</b>	Tammy Stokes - Interim Director Regeneration and Growth
<b>Key Decision:</b>	<p>Yes:</p> <p><b>Type (b)</b> - an executive decision which is likely to result in the Council incurring expenditure, the making of savings or the generation of income amounting to:</p> <ul style="list-style-type: none"> <li>- £250,000 or more where the service area budget exceeds £10m;</li> <li>- £100,000 or more where the service area budget is less than £10m;</li> </ul> <p><b>Type (c)</b> - an executive decision which is likely to be significant in terms of its effect on communities living or working in an area comprising two or more wards of the Borough.</p>
<b>Contact Officer:</b>	<p>Andy Miller Strategic Planning &amp; Transportation Manager <a href="mailto:andy_miller@sandwell.gov.uk">andy_miller@sandwell.gov.uk</a></p> <p>Robin Weare Service manager Highways <a href="mailto:robin_weare@sandwell.gov.uk">robin_weare@sandwell.gov.uk</a></p>



# 1 Recommendations

- 1.1 That the Director of Regeneration and Growth be authorised to enter into a deed of variation from the original Wednesbury – Brierley Hill Metro Extension legal agreement that was previously signed in 2005 by Sandwell MBC and Centro, now the West Midlands Combined Authority.
- 1.2 That the Director of Regeneration and Growth be authorised to negotiate the terms of the Deed of Variation to include an agreed West Midlands Combined Authority capped funding contribution of £257,000 for advance maintenance work on the Eagle Lane Viaduct, Metro line closures for inspections and maintenance, and the principle of undertaking revised complementary measures to a similar or lesser extent than scheduled in the original agreement with fee costs funded by West Midlands Combined Authority.
- 1.3 That in connection with 1 above, the Director of Law and Governance and Monitoring Officer be authorised to enter into, and sign, a Deed of Variation of the Wednesbury – Brierley Hill Metro Extension legal agreement that was originally signed in 2005.
- 1.4 That approval be given to transfer Sandwell owned land along the Wednesbury – Brierley Hill Metro Extension corridor to West Midlands Combined Authority at nil consideration subject to terms to be agreed by the Director of Regeneration and Growth.




# 2 Reasons for Recommendations

- 2.1 The Wednesbury – Brierley Hill Extension (WBHE) will be a 11km new metro line through Sandwell to Brierley Hill via Dudley. All of the statutory processes required to deliver the scheme are now completed and the project is fully funded.
- 2.2 The legal agreement between Sandwell MBC and Centro (as for-runner of TfWM/WMCA) relating to the construction of the scheme and the use of SMBC land scheme was signed in 2005 and remains in force. However, in the intervening years the scheme has been modified and further developed, land holdings have changed and so a Deed of Variation is required to update the original Agreement.



- 2.3 The Wednesbury – Brierley Hill Metro Extension will benefit many Sandwell communities and improve sustainable transport options. The scheme is now progressing at a pace, but the legal agreement needs updating to ensure Sandwell’s wants and needs are accounted for.
- 2.4 The Cabinet is therefore asked to approve the recommendations set out above.

### 3 How does this deliver objectives of the Corporate Plan?

	A connected and accessible Sandwell: The new metro route will provide a quality public transport link in a highly congested area. It will connect to Dudley and Brierley Hill, mainline train services at Dudley Port Interchange, Wolverhampton and Birmingham.
	Quality homes in thriving neighbourhoods: The scheme will provide high quality public transport to existing neighbourhoods and potential new housing areas.
	A strong and inclusive economy: The Metro will improve connections between several Sandwell towns unlocking potential and making them more desirable for investment.

## 4 Context and Key Issues

### Background & Context

4.1 The Metro Extension through Sandwell from Wednesbury to Brierley Hill will unlock housing growth and significant economic regeneration in the area supporting the Sandwell Inclusive Economy. It will help to realise the following key benefits:

- Support our housing regeneration priorities through improved connectivity to areas of housing development opportunity;
- Support economic regeneration by improving accessibility to major employment areas such as Golds Hill.
- Encourage modal shift from private car by delivering a high quality and reliable public transport service;



- Support an integrated transport network through providing seamless interchange

4.2 In 2005, the Council entered into a legal agreement with the then West Midlands Passenger Transport Authority (through its executive known as Centro) to support the delivery of the extension of the Midland Metro network from Wednesbury to Brierley Hill. This legal agreement remains in force and in theory its provisions could still be put enacted.

4.3 However, in the intervening years, the design of the metro scheme has evolved, and Sandwell's land holdings have changed. It is therefore necessary to enter into a Deed of Variation to modify the 2005 agreement to reflect the position as it stands today.

4.4 The legal agreement covers matters such as:

- The acquisition and use of the Council's land
- The construction and maintenance of the Extension Works
- Code of Construction Practice
- Bridge reconstructions
- Complementary Measures
- Developments and Managing Interdependencies
- Traffic management and highway measures
- Maintenance of existing highway structures
- Funding

### **Acquisition and use of Council's land**

4.5 Council land will be required either permanently as part of the metro corridor itself or temporarily to facilitate construction to accommodate compounds for materials and welfare facilities for construction staff. The details are set out in the Transport and Works Order.

4.6 The 2005 agreement was entered into on the basis that Sandwell would provide its land at nil consideration as a contribution to the overall scheme. The agreement remains valid insofar as it relates to the sites identified in the agreement but, as stated in para 4.3, the Council's land holdings and the design of the scheme has changed since 2005 such that there is now more Council-owned land required.



- 4.7 The metro extension is a priority project within both the West Midlands Local Transport Plan and the Black Country Core Strategy which are the Councils main policy documents for transport and land use planning respectively. The principle of the Council's land being provided at nil consideration as a contribution to the project therefore remains well-founded.
- 4.8 The Council has procured external valuation advice to provide information on land values to the scheme (see report at Appendix B).
- 4.9 10 permanent sites have been identified together with seven temporary sites; of the temporary sites, six will be required for a two-year duration and one for a three-year duration.
- 4.10 The sites required permanently are of the value of £827,000 based upon open market transactions. If statutory powers were enacted to compulsorily acquire the sites, then compensatory payments would be applicable with a final value to the council of £925,000.
- 4.11 The seven temporary sites would yield a rental figure of £262,000 over the period. The sites are currently vacant and unused. The income could be seen as a potential windfall as in isolation, it would be extremely difficult for these individual sites to be used.
- 4.12 Cumulatively, this produces a figure of £1,089,000 if the sites are acquired by agreement or £1,187,000 if acquired by compulsory purchase.

## Complementary Measures

- 4.13 In the 2005 agreement the Council agreed to fund a series of measures including pedestrian crossings and highway measures to improve connectivity between the tram stops and our footpaths and highways. Some of the measures originally proposed have since been implemented but in order to fully assess what is now needed we await the full design and precise location of stops from Midland Metro Alliance (MMA) which we anticipate being available in the coming months. We will take a programme approach to this and explore all possible avenues of funding. This caveated approach will be reflected in the refreshed agreement.





- 4.14 Individual elements that form part of the Complementary Measures programme will be subject of consultation with Ward members, the public and local business as appropriate.
- 4.15 Some measures (parking restrictions and pedestrian crossings) are subject to statutory consultation processes which also includes emergency services and all other interested stakeholders.

### **Eagle Lane Viaduct Maintenance**

- 4.16 The Metro route travels under the Eagle Lane Viaduct beneath the A41 Black Country New Road that is highway maintained by Sandwell at public expense. The Metro infrastructure includes overhead power cables that will have limited clearance under the steel bridge beams of the viaduct. The Metro design consequently includes shielding between the cables and the bridge beams to prevent induced electrical potential in the bridge.
- 4.17 The shielding will obstruct bridge inspections and maintenance work and consequently the deed of variation will need to include Metro line closures to facilitate access for Sandwell contractors.
- 4.18 To mitigate the increased cost of future maintenance work by Sandwell over the Metro line, a preventative maintenance scheme has been designed and will cost £257,000. The appended letter confirms that WMCA will fund the cost of this advance work that is expected to provide at least 15 years of corrosion protection to the bridge beams. This WMCA funding will be formalised in the deed of variation.
- 4.19 The Deed of Variation will be between SMBC and the West Midlands Combined Authority as successor body to the WM Passenger Transport Authority.

## **5 Alternative Options**

- 5.1 The complementary measures programme will be modified and further developed following completion of the overall metro project detailed design. Options at individual locations will be considered as part of that process and, where necessary, reported to the Cabinet Member for Sustainable Transport.



5.2 It is possible to progress matters relating to the use of the Council’s land holdings through WMCA enacting its powers through the 2019 Transport & Works Act Order. However, it is considered beneficial, and more cost effective, to both parties to conclude this by agreement.

## 6 Implications

<p><b>Resources:</b></p>	<p>The 2005 Agreement provided for the programme of complementary measures to be funded by the Sandwell with a similar agreement with Dudley MBC. It was envisaged that the annual Integrated Transport Block (ITB) allocation would be used to fund these works.</p> <p>ITB is allocated annually by Central Government to Local Transport Authorities, such as the West Midlands Combined Authority. In the West Midlands the WMCA then re-allocates this funding to the districts on a ‘per-capita’ basis.</p> <p>It is not proposed to change this principle for the 2021/22 financial year. Consultation on how ITB should be distributed in future years is now underway but it is envisaged that the principle of a Government allocated budget for local transport improvements will remain. However, it should be noted that the amount of ITB allocated to the West Midlands since 2015, and the consequent ‘per-capita’ allocation to Sandwell, has reduced to around a third of that received in in the years before 2010.</p> <p>Until detailed design is complete, it is not possible to identify the overall cost of the Complimentary Measures programme. The works will be carried towards the end of the overall WBHE programme so ITB funding will need to be set aside in financial years 2021/22, 2022/23 and 2023/24. The ITB programme is reported to Cabinet each March/April as part of the annual Local Transport Settlement (LTS) Report.</p>
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Approval for the required amounts will therefore be sought from Cabinet in the 2021, 2022 and 2023 editions of the LTS report.

The Midland Metro Alliance are contributing £410k to fund fee costs associated with the complementary measures. However this is to be shared between Sandwell and Dudley and given that the route in Dudley will incur greater costs they are likely to receive a larger proportion of this.

There remains the possibility that other sources of funding may become available such as through the Local Enterprise Partnership or WMCA and where appropriate, bids will be submitted. Where possible, developer contributions will be sought but it should be noted that viability issues are likely to limit such opportunities.

Highway budgets will be impacted in three ways. Most significantly the route of the Metro under the Eagle Lane viaduct will prevent access for maintenance of the viaduct bridge beams. As a consequence, consultants estimate that £257,000 of advance work to the bridge beams will be funded by WMCA to mitigate the maintenance requirements for the next 15 years.

In addition, mandatory principle bridge inspections and future maintenance work will also need to be undertaken under a planned closures and power down of the Metro. The line closures requirements will be included in the deed of variation.

A smaller revenue liability arises from the new highway infrastructure provided as part of the complementary measures that will generate additional maintenance requirements in the future.

One of the sites to be used as a temporary compound is situated at Coneygre Community Centre. The site is located adjacent to a football pitch that the centre derives an income from.





	<p>The use of the site would render the playing pitch inoperable and as such would cause financial loss to the Centre and the Council.</p> <p>The site is required for an estimated three years providing a loss in fees of £12,000 over the period. The remaining sites are currently in control of the Council and can be used by the scheme with no other financial loss.</p> <p>We would like to see the WMCA cover this loss and will investigate how we can recoup the £12,000.</p> <p>The access road is currently the main access to Sacred Heart Primary school and hence an additional new entrance will be required to serve the playing fields.</p> <p>Complimentary measures and bridge work will impact on the public highway and may well restrict the expeditious movement of traffic during the construction period.</p>
<p><b>Legal and Governance:</b></p>	<p>It is recommended that Cabinet delegate authority to the Director Regeneration and Growth, and Director Law and Governance and Monitoring Officer to oversee the creation of a deed of variation for the legal agreement.</p>



<b>Risk:</b>	<p>The principle risks relating to this report concern the maintenance of the Eagle Lane Viaduct and the use of ITB (or its replacement) to fund the complimentary measures programme.</p> <p>The Eagle Lane issues are dealt with in the main body of the report whilst issues relating to risk arising from the delivery of individual complementary highway measures will be dealt with in the reports authorising these works at the appropriate time.</p>
<b>Equality:</b>	<p>There are no equality impact implications arising from the recommendations set out in this report.</p> <p>The equality implications of the Metro proposals were considered through the WMCA approvals process and as part of the Transport &amp; Works Act Order that authorised the construction of the scheme.</p> <p>Any equality implications arising from individual complementary highway measures will be dealt with in the reports authorising these works at the appropriate time.</p>
<b>Health and Wellbeing:</b>	<p>There are no direct Health and Wellbeing implications resulting from the course of action recommended in this report.</p>
<b>Social Value</b>	<p>There are no direct Social Value implications arising from the course of action recommended in this report as it relates purely to legal processes. The implications for Social Value arising from individual complementary highway measures will be dealt with in the reports authorising these works at the appropriate time.</p>

## 7. Appendices

Appendix A - Draft Deed of Variation to 2005 Legal Agreement between Centro and Sandwell MBC

Appendix B - Valuation Report

Appendix C - Letter from TfWM relating to Eagle lane Viaduct



## 8. Background Papers

The Midland Metro (Wednesbury to Brierley Hill Land Acquisition) Order  
2019

2005 Legal Agreement between SMBC and Centro

