

Report to Cabinet

16th November 2022

Subject:	West Midlands Enhanced Partnership Scheme Variation
Cabinet Member:	Cabinet Member for Regeneration & Growth Councillor Peter Hughes
Director:	Director Regeneration & Growth Tony McGovern
Key Decision:	Yes Type (c) - 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.
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1 Recommendations

- 1.1 That Cabinet approves Variation 002 of the Enhanced Partnership Scheme in conjunction with Transport for West Midlands, West Midlands Combined Authority and the other six local authorities in the West Midlands metropolitan area, subject to compliance with the relevant statutory objection and consultation processes for varying the Enhanced Partnership Scheme contained at Appendix A.
- 1.2 That Cabinet delegates authority to the Director Regeneration & Growth in consultation with the Cabinet Member for Regeneration & Growth, and to the Director Borough Economy in consultation with the Cabinet Member






for Environment, to approve any subsequent variation to the West Midlands Enhanced Partnership Scheme.

2 Reasons for Recommendations

- 2.1 An Enhanced Partnership (EP) Plan was made in June 2021 between the West Midlands Combined Authority (as Local Transport Authority), the seven West Midlands Local Highway Authorities and bus operators, for the purpose of ensuring improved high standards of bus services. The EP Plan is contained at Appendix C.
- 2.2 An associated EP scheme was also made (see Appendix D). This was limited geographically to the corridor intended to be served by the first 'SPRINT' service between Walsall and Solihull via Great Barr and Birmingham City Centre. Within Sandwell this covers the A34 Corridor through Scott Arms in Great Barr. The initial EP scheme was therefore only signed by Birmingham City, Sandwell, Solihull and Walsall councils.
- 2.3 It was always the intention that either further EP Schemes would be developed, or the existing EP Scheme be varied, to cover future bus improvement projects as required. The EP Scheme variation now proposed is a direct response to the objectives of the National Bus Strategy and the subsequent West Midlands Bus Service Improvement Plan.
- 2.4 Variation 002 widens the geographical scope of the existing EP Scheme to cover the entire West Midlands metropolitan area, i.e. the cities of Birmingham, Coventry and Wolverhampton and the boroughs of Dudley, Sandwell, Solihull and Walsall. This will enable it to cover all future bus improvements schemes through subsequent variations as required.
- 2.5 Cabinet is therefore recommended to agree to the variation of the EP Scheme in conjunction with Transport for West Midlands, the West Midlands Combined Authority, partner authorities and local bus operators.



3 How does this deliver objectives of the Corporate Plan?

	Strong resilient communities: Successful communities need access to jobs, services and facilities to enable them to remain healthy and vibrant. The public transport network, of which bus services are the major part, is an important enabler of this.
	Quality homes in thriving neighbourhoods: Both new and existing residential developments rely on good quality access and links to shops, services and leisure facilities in order for them to be successful. The public transport network, of which bus services are the major part, is an important enabler of this.
	<p>A connected and accessible Sandwell: The provision of a high quality public transport network will enable Sandwell residents to access jobs, education and services both within and beyond the Borough's boundaries.</p> <p>Bus services are a key component of the public transport network. The Bus Service Improvement plan backed by the enhanced Partnership Plan and Scheme will underpin the provision of a comprehensive and integrated bus network throughout Sandwell.</p>

4 Context and Key Issues

- 4.1 The West Midlands Enhanced Partnership (EP) was made in June 2021 to enable formal partnership working arrangements between bus operators, the West Midlands Combined Authority (WMCA) and the seven West Midlands councils that act as Local Highway Authorities.
- 4.2 The EP consists of a strategic document which sets out a clear vision of improvements that are envisaged to bus services known as an Enhanced



Partnership Plan (EP Plan). The EP Plan includes a commitment to such things as;

- Transition to a low emission bus fleet,
- Simpler payment methods,
- Faster journeys,
- Safer services,
- Better passenger information and concessions tailored to excluded groups.

4.3 The EP Plan must be accompanied by one or more Enhanced Partnership Schemes (EP Schemes) which set out the actions and commitments to achieve the improvements in the EP Plan. An EP places a legal duty on all signatories of the EP including the local authorities to deliver against the actions and commitments made in an EP Scheme.

4.4 In March 2021, The Department for Transport published a new national strategy for bus services in England ('Bus Back Better') in an attempt to reform bus service provision across the country. The strategy set out an ambition for every local transport authority and bus operator in England to be in a statutory enhanced partnership or franchising arrangement by April 2022, using existing powers within the Bus Services Act 2017.

4.5 In response to this TfWM, in partnership with its constituent authorities developed the West Midlands Bus Service Improvement Plan (BSIP) published in November 2021. The BSIP complements the existing Strategic Vision for Bus. This set out four key objectives for bus service improvement in the metropolitan area:

- a) A more sustainable and attractive service offer
- b) A consistent, good delivery of the service offer
- c) Ensuring a good passenger experience for all
- d) Reducing environmental impacts

4.6 The EP is used to deliver on the themes and objectives set out in the Strategic Vision for Bus and BSIP. The EP Plan covers the entire West Midlands metropolitan area, setting out an overarching strategic roadmap for bus service improvement across the urban area. To complement this,



an associated, more detailed, EP Scheme was developed covering the cross-city A34(N)/A45/B425 'SPRINT' corridor. The EP scheme is therefore geographically limited to this corridor and to highways that are the responsibility of Birmingham, Sandwell, Solihull and Walsall councils.

- 4.7 Sandwell's Cabinet approved the EP Plan and Scheme in February 2021.
- 4.8 To meet the objectives set out in the BSIP, it is now proposed that a variation is made to the EP Scheme so that it covers the same geography as the EP Plan, i.e. the whole of the West Midlands Combined Authority area. This will allow for more detailed planning and specified actions across the urban area to deliver improvements to bus services as outlined in the EP Plan and Bus Service Improvement Plan.
- 4.9 This EP Scheme variation requires approval from all the local authorities within the West Midlands Combined Authority area. As funding for the bus network is dependent on there being a EP Plan and Scheme in place, failure to approve the EP Scheme variation will jeopardise bus service investment as outlined in BSIP.
- 4.10 Sandwell Council as Local Highway authority is under a legal obligation to provide and maintain facilities and measures as set out in the EP Scheme's schedules, outlined in Appendix B. This commitment already existed in relation to the A34 Corridor and the 'SPRINT' scheme and will remain binding on the Council for the duration of the scheme, or until such time it is varied to remove the obligation.
- 4.11 Following the approval of this variation to the EP Scheme, TfWM has proposed a further variation to the scheme to follow in the coming months. This variation will reduce the number of ticket options chargeable by bus operators from 1st January 2023, creating a simpler fare structure for bus users. Additionally, this variation will also introduce maximum service frequencies on certain routes to ensure that bus operators do not overprovide on the most profitable corridors but spread their services to meet passenger demand. Because neither of these changes will directly impact on the council's obligations, it proposed that Cabinet delegate authority to approve this further variation to the Director Regeneration &



Growth in association with the cabinet members for Regeneration & Growth and Borough Economy.

- 4.12 Full consultation with operators and local authorities on the varied EP Scheme was undertaken by TfWM within the Enhanced Partnership Reference Group as outlined in Government guidance.

5 Alternative Options

- 5.1 Cabinet could choose to reject the proposed variation. However, failure to approve the EP Scheme variation would jeopardise future investment in the bus network, as the West Midlands Bus Service Improvement Plan (and associated funding) is predicated on there being an EP Plan and Scheme in place between TfWM, operators and local authorities.

6 Implications

Resources:	<p>The costs of preparing, consulting on and ‘making’ the EP Scheme Revision will be met by TfWM/WMCA.</p> <p>The costs relating to the implementation and ongoing maintenance of the infrastructure associated with projects covered by the revised EP Scheme will be dealt with through their individual approval reports and procedures.</p> <p>The EP Scheme places obligations on the council as Local Highway Authority covering;</p> <ul style="list-style-type: none">• Maintenance of bus lanes• Maintenance of bus lane enforcement cameras (where provided)• Maintenance of bus priority infrastructure at traffic signals (where provided)• Maintenance of pedestrian facilities that serve bus stops
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Legal and Governance:	<p>The Bus Services Act 2017 (the “2017 Act”) amends the Transport Act 2000 by inserting a new wide range of powers to improve the local bus market, which includes franchising and two forms of partnership working.</p> <p>The Enhanced Partnership (EP) Powers are contained in Sections 138A-138S of the Transport Act 2000. An EP is a formal partnership arrangement between a Local Transport Authority (LTA) and local bus operators to work together to improve bus services. It includes a clear vision of the improvements that the EP is aiming for (known as the EP Plan) and accompanying actions to achieve them (the EP Scheme).</p> <p>Sections 138A and 138H of the Transport Act 2000 impose legal requirements that EP Schemes must state:</p> <ul style="list-style-type: none"> a) The area to which it relates; b) The requirements imposed on local bus services under it; c) Whether the operation of the scheme is to be reviewed and, if so, how and by which dates; d) The date on which it is to come into operation; and e) The period for which it is to remain in operation. <p>Section 138 of the Transport Act 2000 also provides that the scheme must:</p> <ul style="list-style-type: none"> a) Specify the 'facilities' (if any) that are to be provided by the authority (and the date from which they are to be provided if it is not the date when the scheme comes into operation); b) Specify the 'measures' (if any) that are to be taken by the authority (and the date from which they are to be provided if it is not the date when the scheme comes into operation); and c) Include provision (if any) about its variation or revocation (including any dates on which they come into force or cease to apply).
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The requirements of an EP Scheme apply to all local bus services unless the scheme either:

- a) excludes a particular category of local bus service, or
- b) Defines a particular category of local service that particular requirements apply to.

An EP is only intended to cover bus services that are:

- a) Registered as 'local bus services' with the traffic commissioner; and
- b) used by local people.

The LTA must comply with the notice requirements set out in S138F and S138G, which relate to the intention to make and prepare EP Plans and Schemes.

Under Section 138A(10) of the Transport Act 2000, an EP Plan may not be made unless the authority or authorities are satisfied that the scheme will contribute to the implementation of:

- a) The Policies set out in the related EP Plan, and
- b) The Local Transport Policies.

In addition, an EP Scheme may not be made unless the authority or authorities are satisfied that the scheme will:

- a) Bring benefits to persons using the Local services in the whole or any part of the area to which the scheme relates by improving the quality or effectiveness of those services; or
- b) Reduce or limit congestion, noise or air pollution.

The commitments made by the by the authority or by a bus operator once a formal EP Plan and EP Scheme are made are legally binding. If an authority does not fulfil its obligations it can face legal action by the bus operators in the Courts. Likewise, an operator not meeting its service standards could be in breach of its bus service registration and face its bus registration being cancelled by a traffic commissioner.



	<p>Under Section 138(11) of the Transport Act 2000, an EP Plan or EP Scheme may not be made unless the authority or authorities have complied with the requirements in:</p> <p>(a) Section 138F (preparation, notice and consultation), and</p> <p>(b) Section 138 G (1) to (4) (making of plan and scheme).</p> <p>Further under s138 (12) an EP Plan may not be made without also making an EP Scheme.</p> <p>If a Local Authority includes any facilities or measures under an EP Scheme they have a legal obligation in accordance with s138 J of the TA 2000:</p> <p>a) Provide the facilities and take the measures not later than the date(s) specified in the Scheme; and</p> <p>b) Continue to provide those facilities and take those measures throughout the lifetime of the scheme or until a scheme is varied to remove the obligation to do so.</p> <p>The only exception to this rule is if:</p> <p>a) The scheme is formally postponed; or</p> <p>b) If the local authority is temporarily unable to provide a facility or take a measure due to circumstances beyond their control.</p> <p>The LTA has formal responsibility for making the Scheme, but at set points in the process they can only proceed with the proposals if they have the support of a defined number of bus operators on the expiry of the objection periods.</p>
Risk:	<p>The principal risks for Sandwell relate to its statutory functions as Local Highway Authority; in particular those relating to traffic management, road safety and maintenance of infrastructure. The means of mitigating these risks are set out in the EP scheme and will be incorporated into legal agreements under sections 8 and 278 of the Highways act 1980 as appropriate.</p>
Equality:	<p>TfWM as the lead organisation is responsible for equalities issues for the EP. Relevant organisations</p>



	<p>with an interest in equalities issues were included in the consultation.</p> <p>The equality implications of individual proposals which the EP Scheme facilitates will be included in the reports presented to Cabinet seeking approval to those projects.</p>
Health and Wellbeing:	There are no direct Health and Wellbeing implications resulting from the course of action recommended in this report.
Social Value	The Enhanced Partnership itself does not directly deliver either physical works or any jobs so it has no direct implications for Social Value. However, the EP will facilitate infrastructure projects and upgraded public transport service provision. The implications of these will be dealt with in the reports seeking approval for those projects.

7. Appendices

Appendix A – West Midlands Enhanced Partnership Scheme Notice of Variation

Appendix B – Obligations on SMBC under EP Scheme

Appendix C - West Midlands Enhanced Partnership Plan (November 2020)

Appendix D - West Midlands Enhanced Partnership Scheme (December 2020)

8. Background Papers

Report to West Midlands Combined Authority Board 28:06:19

Report to Cabinet 24:02:21

Report to West Midlands Combined Authority Board 10:06:22

West Midlands Bus Service Improvement Plan (November 2021)

