

Cabinet – 17 March 2021

Black Country Transport Hub Collaboration Agreement

Portfolio: Councillor Adrian Andrew, Deputy Leader and Regeneration

Related portfolios: None

Service: Highways and Transport

Wards: All

Key decision: Yes

Forward plan: Yes

1. Aim

1.1 The more efficient organisation of strategic transport functions across the four Black Country local authorities (Walsall, Dudley, Sandwell and Wolverhampton) and the acceleration of the major transport scheme programme (or 'project pipeline').

2. Summary

2.1 This report provides details of the proposed Black Country Transport Hub and Team that will complement the work of the strategic transport teams in each of the four Black Country local authorities. The scope of this team will be to support the development of major transport schemes, although the delivery of these schemes will remain with individual local authorities.

2.2 The proposal to create this team is based on a business case completed and presented to the Association of Black Country Authorities (ABCA) in September 2019. It requires the four Black Country local authorities to enter into a legally binding agreement that sets out: -

- How the work of the team will be managed;
- That decisions will rely on existing governance arrangements;
- That annual capital and revenue funding will be required to meet a share of the team's costs that cannot be allocated or capitalised to other budgets;
- That underwriting is required for an equal share of the team's overall costs should project- and programme-based grant funding fall away in the future.

2.3 In light of the recommendations below, Cabinet should take note that the City of Wolverhampton Council will host the Black Country Transport Team on behalf of the four Black Country local authorities and provide ancillary services as defined in the Collaboration Agreement.

- 2.4 The City of Wolverhampton Council will be the Accountable Body for the majority of external funds that will be used for development of major transport projects, although this may be reviewed on a scheme by scheme basis in case alternative arrangements are preferential and can be mutually agreed.
- 2.5 The City of Wolverhampton Council will hold and manage budgets provided by each Black Country local authority and act as the Lead Authority (as defined in the Collaboration Agreement).
- 2.6 On behalf of the four local authorities, the City of Wolverhampton Council Director of Finance will be empowered to sign grant agreements relating to the receipt of grants for the Black Country Transport Team.

3. Recommendations

It is recommend that Cabinet: -

- 3.1 Approve the financial implications of the Black Country Transport Team set out within Section 4 (specifically paragraphs 4.34 to 4.43) of this report.
- 3.2 Delegate authority to the Executive Director for Economy, Environment and Communities, in consultation with the Cabinet Member for Regeneration, to authorise the sealing of the Collaboration Agreement for the Black Country Transport Hub at **Appendix A** and the sealing or signing of any associated contracts, deeds or other related documents to give full effect to the work of the Black Country Transport Team.

4. Report detail – know

Context

- 4.1 The purpose of this report is to seek approval for the Black Country Transport Hub Collaboration Agreement, and that Walsall Council seal the agreement alongside the three other Black Country local authorities.
- 4.2 The report sets out the background to the Black Country Transport Team, the rationale behind its development and the financial and legal aspects for Cabinet to consider.
- 4.3 The Black Country has a proud past and a strong future. Much private and public sector activity is currently underway to grow its economy, equip people with skills for jobs of the future, transform its centres and local environments, build new homes, achieve cleaner air, improve public health and make the Black Country a thriving, decent place for all of its people.
- 4.4 The Black Country has a clear overall development strategy, as set out in the Black Country Core Strategy (BCCS), which was adopted in 2011 and is now under review (now known as the Black Country Plan). This Strategy is based

on steering growth to the four strategic centres (Wolverhampton, Walsall, Brierley Hill and West Bromwich) and sixteen regeneration corridors, where transport improvements underpin and enable the new employment and housing growth. Overall, the Black Country's approach will create: -

- 132,000 new jobs from 2023
- 630,000 new homes by 2026
- Increased incomes to the national average by 2033
- An extra £17bn Gross Value Added (GVA) by 2033

- 4.5 The Issues and Options Consultation for the Black Country Plan in summer 2017 demonstrated the need to continue with the sustainable growth aspirations in order to fulfil the Black Country's potential. The Black Country Plan will set out the plans for land use across the sub-region for the next 15 years.
- 4.6 The Black Country Transport Priorities include a pipeline of projects across several key themes: motorways, rail, tram (Metro), key road corridors and transport interchanges, totalling some £2.1bn of investment. The Black Country will advocate and promote these transport priorities at all available opportunities, with all relevant stakeholders and partners to ensure that the Black Country achieves a transport system in line with the scale of its bold plans.
- 4.7 Over recent years, the four Black Country local authorities have been identifying priority schemes to be delivered over the medium- to long-term, which will help connect the area to key opportunities emerging across the West Midlands. In doing so, this will help the Black Country become an attractive place to work and live, whilst delivering transport improvements that will help bolster the local economy by enabling new homes and jobs to be created.
- 4.8 To ensure the Black Country is strongly positioned within the West Midlands Combined Authority (WMCA), capital funding is required for both the development and delivery of major transport schemes. The Black Country Local Enterprise Partnership (BCLEP) has previously provided capital funding for the development of the pipeline schemes, but this needs to be used efficiently and effectively in order to lever-in further capital and revenue funding from the WMCA and central government for the delivery of the schemes.
- 4.9 The BCLEP will not be able to fund the development and delivery of all schemes currently planned, therefore new funding streams (both capital and revenue) from West Midlands and national sources will need to be identified and secured.
- 4.10 Major transport schemes historically require significant development funding allocated to them prior to securing implementation funding from the Department for Transport (DfT) or other government departments for delivery. Although some development funds can be capitalised, there is always the risk

of them becoming abortive and requiring a revenue budget to underwrite them should the costs not result in a capital asset. In addition, due to requirements for planning, land acquisition and stakeholder engagement, each scheme typically takes up to 5 years to develop and work through the necessary statutory processes before commencing construction on site.

- 4.11 High Speed Two (HS2) and the two train stations at Curzon Street (Birmingham city centre) and Interchange (Solihull, near Birmingham Airport and the NEC) will dramatically reshape the economic landscape of the West Midlands Metropolitan Area, including the current travel to work patterns. The Black Country stands to benefit from the economic uplift these schemes will deliver, but only by ensuring Black Country residents have fast and reliable transport networks and services to make the Black Country an attractive place to live, whilst enabling people to access these new job opportunities in other parts of the conurbation.
- 4.12 Historically the Black Country local authorities have developed major projects and made representation at West Midlands and to government departments individually across various transport agendas. As resources are stretched and budgets are under pressure, there are opportunities for greater effectiveness by looking at ways in which the existing teams can work more efficiently, whilst finding new ways to provide additional capacity.
- 4.13 The Black Country local authorities have sought to identify ways in which they can work more effectively, considering areas of responsibility with Transport for West Midlands (TfWM) and Midlands Connect (the transport arm of Midlands Engine), by prioritising key schemes of work. This will ensure that the Black Country local authorities deliver on key priorities and successfully make representations at a regional and national level, whilst simultaneously seeking to utilise resources across the various stakeholders effectively and efficiently.

Progress and Priorities

- 4.14 In 2018, the Black Country Director of Transport commissioned management consultants to undertake a review of the strategic transport capabilities across the Black Country. Through this work, and detailed discussions between Regeneration Directors and Chief Executives, a clear rationale and business case were developed demonstrating the need and benefit in establishing a new Black Country Transport Team to provide additional capacity to the four Black Country local authorities.
- 4.15 The new Black Country Transport Team working on behalf of the four Black Country local authorities and the BCLEP would deliver benefits of at least £4.3bn in the long-term from current schemes. Research generated by the appointed consultants in May 2018 identified that all strategic transport teams are at full capacity and over 50% of the total pipeline of transport projects remains unfunded and not resourced.

- 4.16 A new Black Country Transport Team would work dynamically developing strategies and major schemes, which unlock growth and help support key agendas. Working collaboratively with key regional and national partners such as Highways England, Network Rail, Midlands Connect and Department for Transport amongst others.
- 4.17 Recognising the new political landscape that has emerged over recent years with the formation of the WMCA, the team will work seamlessly with TfWM to drive forward investment in key Black Country priorities. Combined the Black Country Transport priorities amount to £2.1bn of total investment in transport infrastructure and services.
- 4.18 There is currently an emerging 'perfect storm' of transport funding opportunities in the West Midlands. Through ongoing dialogue with Executive Directors and Heads of Service, all have agreed there is a need to explore new ways in which the Black Country can work more effectively on major transport programmes to maximise the opportunities.
- 4.19 A Black Country Transport Team Business Case presented to ABCA in September 2019 set out the clear strategic approach and rationale for the new team; how this would operate; and the financial implications to each local authority.
- 4.20 The new team will be hosted by the City of Wolverhampton Council, which will also be the Accountable Body for external funds secured for development of schemes and funding of the team. In order for this to be financially viable and sustainable, a Collaboration Agreement is required to set out the legal and financial framework within which the team will operate.
- 4.21 The Collaboration Agreement at **Appendix A** sets out how the team will operate, governance arrangements, financial recharging and how risks and liabilities are dealt with. The document also sets out how disputes between parties to the agreement may be resolved.
- 4.22 The principles and business case for the Black Country Transport Team were approved by the Association of Black Country Authorities (ABCA) in September 2019.

Evaluation of alternative options

- 4.23 Through the development of the business case and the original work undertaken by management consultants, two alternative options were considered as follows: -
- 'Do Nothing' –leave the existing teams operating exactly as they were prior to the review. This option was discounted on the basis that there was a clear rationale to improve the current working situation and seek to lever-in a greater level of investment. Failure to improve and evolve would have resulted in a decreased level of investment.

- Merge Existing Teams—an option identified was to merge the four local authority strategic transport teams together. Although in principle this may seek to utilise the existing available personnel, it was discounted for a number of reasons. The merging of teams would not have benefit to the existing setup, because there would be no additional personnel to assist with the increasing workload. Each of the four teams are also funded and structured in different ways, with some funded via revenue, some funded capital, whilst some teams included additional functions e.g. planning policy and development control. In order to meet the funding opportunities on offer, undertaking a complicated merger of teams with TUPE and restructure implications, would have had a negative impact on the level of funding available to the Black Country. The option was discounted on time, financial and legal grounds as being too expensive and complicated.

4.24 The preferred option as outlined in this report and reflected in the recommendation to enter into the Collaboration Agreement, is to create a new Black Country Transport Team that will work with, and complement the work of, the existing teams in each of the four Black Country local authorities.

Council Corporate Plan priorities

4.25 As set out in the Corporate Plan 2018-2021, the Council's stated purpose is 'to create an environment that provides opportunities for all individuals and communities to fulfil their potential' and will achieve this by focusing on five priorities. The Black Country Transport Team will improve highways and public transport, helping to meet the Council's priorities of ensuring 'economic growth for all people, communities and businesses' and creating communities that are 'prospering and resilient with all housing needs met in safe and healthy places that build a strong sense of belonging and cohesion'. This will in-turn contribute to the people of Walsall having 'increased independence, improved health and can positively contribute to their communities'.

Risk management

4.26 All project risk, including financial risk and opportunity, is to be shared between the participating local authorities, with specific clauses on clawback as per paragraph 4.32.

4.27 The Collaboration Agreement ensures the host authority is protected proportionally against financial and legal risks related to hosting the team and any work undertaken on behalf of the team.

4.28 However, it should be noted that there are residual risks for Walsall Council that will require management and mitigation.

4.29 *Influence Risk* – the development of major schemes will now be managed by the Black Country Transport Team, hosted by Wolverhampton. It is

anticipated that in most scenarios, development funds will be held and managed by the Lead Authority, although this may be agreed on a scheme by scheme basis. This will include schemes within Walsall. There is therefore a risk of dilution of control of development of Walsall schemes, but this is mitigated by strategic transport leads for each local authority being part of the team and having full oversight and input in the programme of scheme development. Consultation with Heads of Regeneration Working Group and transport portfolio holders will also ensure local authority engagement.

- 4.30 *Overspend Risk* – the risk that that Walsall Council can't control overspends that the Council is funding and sharing the underwriting of. This risk is mitigated by clauses in the Collaboration Agreement that require the local authorities to regularly monitor and manage joint funds, and use reasonable endeavours to minimise shared costs.
- 4.31 *Clawback Risk* – the Collaboration Agreement sets out specific clauses in relation to clawback of external grants. Clause 7.5 states that in the event of a clawback by a funder, the authorities shall agree to meet any liability in respect of the repayment of grant monies and any other costs of dealing with the clawback and taking steps to mitigate as shared costs.
- 4.32 This is a risk of Walsall Council contributing to a clawback of grant when the grant is being managed by another local authority. This is mitigated by: -
- Clause 7.6 which states if due to negligence, breach or default of a specific authority then that authority would be liable.
 - Clause 7.9 that says if project doesn't involve a local authority then they wouldn't be liable.
 - Clause 7.7 stating partners will agree at the outset how clawback will be managed.
- 4.33 Therefore a small residual risk is that Walsall Council may need to share clawback when the Council has less involvement in the development of major schemes than the Council would under the current arrangement (pre-Black Country Transport Team). This will be managed by the strategic transport lead for Walsall having oversight and continued participation in projects specifically relating to Walsall.

Financial implications

- 4.34 The four existing Black Country technical lead posts will form part of the Black Country Team although remain employed by their respective local authorities, for Walsall Council this currently being the Transportation Major Projects & Strategy Manager. This post will continue to be funded from existing Council budgets. In practice this will mean that Walsall officers have a direct role in determining and agreeing the work programme and priorities of the Black Country Team and ensures that Walsall Council has sufficient oversight and management control within this collaborative arrangement.
- 4.35 In order for the team to be based within one local authority (City of Wolverhampton), a collaboration agreement is required as per this report to set out ways in which the four local authorities will cover the risks and costs of employing staff and commissioning work.
- 4.36 Costs incurred in relation to the new Black Country Transport Team will include: -
- (a) Employee costs: the new team will comprise of 6 new posts, estimated at circa £330,000 per annum in total. This includes x3 programme managers; x2 graduates; and x1 apprentices. Redundancy costs will need to be covered separately.
 - (b) Ancillary services provided by Wolverhampton, including but not limited to finance, legal, IT, human resources, and accommodation. These are estimated to be negligible costs and are able to be managed within the Local Authority revenue contributions detailed below.
 - (c) Development, strategy, business case and other costs to support the successful delivery of the joint commissioning programme, such as commissioning external technical advisors and professional services, which is estimated at £640,000 over a 4-year period. This will facilitate the preparation of applications for transport scheme delivery funding, and is therefore expected to help lever-in additional funding.
- 4.37 It is proposed that the Black Country Transport team costs will be funded from the following:
- Local Authority capital contributions of £40,000 each authority per annum (£160,000 total per annum) (para 4.38)
 - Local Authority revenue contributions circa £25,000 each authority per annum (£100,000 total per annum) (para 4.39)
 - External Development grants (para 4.40)

- 4.38 The requirement for local authorities to contribute capital contributions is covered within the Collaboration Agreement. Walsall Council can fund its contribution from the annual capital Integrated Transport Block grant, although this relies on the annual allocations from the Department for Transport. As these allocations are provided to the WMCA, which are then allocated to the Black Country local authorities, it also depends on local agreements on how the fund is allocated.
- 4.39 The Collaboration Agreement states any costs that cannot be capitalised (to either the local authority capital contribution or external grants) shall be treated as revenue costs and shared equally by the local authorities. The amount is not specified in the agreement although it is estimated that this will be circa £25,000 per local authority per annum. This can be funded from existing revenue budgets.
- 4.40 An agreement in principle has been reached between Wolverhampton City Council and the WMCA for £1.3m of the Transforming Cities Fund capital monies for the period to 31 March 2023. No staff will be appointed by the City of Wolverhampton until funding has been agreed in writing with this initial funding provider. However, as the team develops and wider political agendas change, then it is likely that funding for the team will come from multiple sources. Various potential funding sources are available in the period to 31 March 2023 and beyond.
- 4.41 The Transforming Cities Fund grant and the local authority budgets can therefore fund the transport team and ancillary costs for the medium term. For illustrative purposes (as specific costs will not be specific to budgets as this will depend on grant conditions, grant end dates and whether costs can be capitalised), Transforming Cities Fund is sufficient to cover staff costs for a maximum 4-year period. Also to note that the team are yet to be recruited to so there will not be a full year effect of costs in 2021/22. The remaining budget will be spent on development and commissioning costs. This will be managed within the existing budgets available and costs will be monitored and reported to local authorities on an ongoing basis.
- 4.42 At this stage it is not possible to project funding availability for the Black Country Transport Team beyond 31 March 2023, as Transforming Cities Fund monies have only been allocated until this date. The funding has been devolved to the WMCA and profiled for spend in the period to 31 March 2023, although there are no specific restrictions associated with this fund. Risk is being managed in part by some posts being appointed on a fixed term basis.
- 4.43 If external funding ceases for either Walsall Council (i.e. the Integrated Transport Block grant) or cannot be secured by City of Wolverhampton to continue to fund the team, then each Council has the ability to exit the Collaboration Agreement, and will not be required to make any further

contributions in the year after its exit. This limits the financial risk, which would be limited to the contribution to redundancy costs of the Black Country Transport Team. The City of Wolverhampton Council will review and monitor the likelihood of redundancy costs. Should these costs arise, they should be funded in the first instance from unspent amounts from the £25,000 per annum local authority revenue contributions. There is a risk that redundancy costs will exceed the budgets, but this is considered unlikely as the new staff members will include graduates i.e. employees at the start of their transport careers.

Legal implications

- 4.44 As contained in more detail within the Collaboration Agreement the key legal considerations are as follows: -
- 4.45 That the City of Wolverhampton Council will host the Black Country Transport Team on behalf of the four authorities. The four authorities will be jointly accountable for any legal implications relating to the team unless the liability arose as a result of the negligent or wilful act of one authority.
- 4.46 That delegated authority be granted to appropriate officers to authorise the sealing of the Collaboration Agreement for the Black Country Transport Hub at **Appendix A** and the sealing or signing of any associated contracts, deeds or other related documents to give full effect to the work of the Black Country Transport Team.
- 4.47 The team will follow the governance process set out in the Collaboration Agreement.
- 4.48 By entering into the Collaboration Agreement, the Council will be entering into a legally binding commitment.

Procurement implications/Social Value

- 4.49 There are no direct procurement implications for the Council.
- 4.50 Procurement of consultants and contractors in support of delivery of the business case will be undertaken by the City of Wolverhampton Council.
- 4.51 Supporting development is a key objective in the local plan, and wherever possible tendering processes should ideally provide for the recruitment and retention of a local workforce to be taken into consideration.

Property implications

4.52 There are no direct property implications arising from this report.

Health and wellbeing implications

4.53 The Black Country Transport Team proposal has been tested against the 'Marmot Objectives'. These are:-

- Giving every child the best start in life – *strategic transport programmes support travel to school by sustainable modes.*
- Enabling all children, young people and adults to maximize their capabilities and have control over their lives – *strategic transport programmes encourage sustainable travel and public transport use, which helps promote healthy and independent travel choices;*
- Creating fair employment and good work for all – *strategic transport programmes aim to improve public transport networks and help people access employment and training opportunities;*
- Ensuring a healthy standard of living for all – *access to paid employment is facilitated by improved transport networks and services;*
- Creating and developing sustainable places and communities – *strategic transport programmes promote and assist with active travel and travel by public transport, which support sustainable places and communities;*
- Strengthening the role and impact of ill-health prevention – *healthy travel choices, such as walking or cycling, can help prevent ill health, as well as positively affecting improving air quality.*

4.54 'Good quality work' as outlined in the Marmot Review is key to ensure positive physical and mental health outcomes. Enhancing the local transport infrastructure – both within Walsall but across the Black Country and West Midlands – is a key component to enabling the local workforce to access a wider range of training and employment opportunities.

4.55 The joint commissioning arrangements represent an efficient utilisation of local resources, skills and expertise and ensure effective working partnerships across the Black Country. The aspiration is that this will have a long-term impact on wider health benefits, such as improvements in air quality, reduced road traffic incidents and reduction in the level of social isolation amongst vulnerable groups (due to limited access to suitable transport). The wider social, economic and health benefits will be monitored as part of the evaluation of major projects and programmes.

Staffing implications

4.56 There are no staffing implications; employees will remain employed by Walsall Council. There are no changes to job roles or terms and conditions of employment, and staff will continue to be managed by their existing managers.

Reducing Inequalities

- 4.57 A robust programme of major transport scheme development and delivery across the Black Country supports access to education, training, jobs, healthcare shopping and leisure opportunities for residents and businesses across the Borough of Walsall.
- 4.58 The City of Wolverhampton Council have consulted with their Equalities Team and completed an initial analysis of the equalities implications of this proposal. This exercise has determined that there are no concerns that the proposal affects, or could affect, people differently or that the needs of certain groups would not be met. This has been reviewed by Walsall Council officers who are satisfied with the assessment. The Equality Analysis is available at **Appendix B**.

Consultation

- 4.59 Elected Members and Council officers have been actively consulted on the Black Country Transport Team proposals, including at the Association of Black Country Authorities in September 2019.
- 4.60 External consultation has not been undertaken as the organization of resources for the development of transport projects does not directly impact on the public understanding of, and input to, transport outcomes. External (public) consultation will instead be undertaken at an individual project and programme level.

5. Decide

- 5.1 The Council requires Cabinet approval for the approach outlined in this report and to seal the Collaboration Agreement alongside the three other Black Country local authorities.
- 5.2 The Collaboration Agreement binds the four local authorities together and sets out a clear framework for obtaining approval to major transport projects, and for working together once such approval has been obtained.

6. Respond

- 6.1 The four strategic transport teams in the Black Country local authorities have been working collaboratively for several years. The agreement to establish a Black Country Transport Team and the sealing of the Collaboration Agreement will allow dedicated staff resources to be appointed in further support of this work, together with commissioning of any necessary support services.

7. Review

- 7.1 The Black Country local authorities will continuously monitor the performance and operation of the Black Country Transport Team and the associated delivery of a major transport scheme programme in support of wider social- and economic-regeneration. Within Walsall Council, the work of the Black Country Transport Team is accountable to the Black Country Director of Transport, senior officers and the Regeneration Portfolio Holder.

Appendices

Appendix A – Black Country Transport Hub Collaboration Agreement

Appendix B – Black Country Transport Hub Equality Analysis

Background papers

Black Country Transport Business Case, August 2019 (ARCADIS for Black Country Director of Transport)

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17 March 2021

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