

Cabinet – 2 November 2022 (Special Meeting)

West Midlands Enhanced Partnership Scheme Variation

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 improvement of bus services across the West Midlands through an improvement plan for the whole of the West Midlands Combined Authority area and a more-detailed improvement scheme to cover the same geography. This will support the implementation of West Midlands Bus Service Improvement Plan and Enhanced Partnership Plan.

2. Summary

- 2.1 The West Midlands Enhanced Partnership (EP) has been set up to enable formal partnership working arrangements between bus operators, the West Midlands Combined Authority (WMCA) and local authorities in the West Midlands (Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton). The EP consists of a strategic document which sets out a clear vision of improvements that are envisaged to bus services (e.g. transition to a low emission bus fleet, simpler payment methods, faster journeys, safer services, better passenger information and concessions tailored to excluded groups) known as an **Enhanced Partnership Plan (EP Plan)**. 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 members of the EP including the local authorities to deliver against the actions and commitments made in an EP Scheme.
- 2.2 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.
- 2.3 In response to this TfWM, in partnership with its constituent authorities (Walsall, Wolverhampton, Dudley, Sandwell, Birmingham, Coventry and Solihull), 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
- 2.4 The EP is used to deliver on the themes and objectives set out in the Strategic Vision for Bus and BSIP. The EP Plan is concerned with services throughout the West Midlands Metropolitan Area, setting out an overarching strategic roadmap for bus service improvement across the urban area. To complement this, there was previously a single, more detailed EP Scheme for the A34(N) and A45 / B425 SPRINT routes.
- 2.5 Walsall Metropolitan Borough Council (WMBC) Cabinet approved the EP Plan and Scheme in February 2021.
- 2.6 To meet the objectives set out in the BSIP, it is now proposed that a variation is made to the EP Scheme (**Appendix A**) so that it covers the same geography as the EP Plan (the whole of the West Midlands Combined Authority area), rather than just the A34 and A45 corridors.
- 2.7 This will mean that Walsall is legally committed to delivering the measures as outlined in the varied EP scheme. These measures (alongside measures operators and TfWM are committed to delivering) are outlined in **Appendix B**.
- 2.8 This EP Scheme variation requires approval from all the local authorities within the West Midlands Combined Authority area.
- 2.9 As funding for the bus network is dependent on there being an EP Plan and Scheme in place (£87.9m has been allocated to the West Midlands over a 3-year period), failure to approve the EP Scheme variation will jeopardise bus service investment as outlined in BSIP.

3. Recommendations

- 3.1 It is recommended that Cabinet: -
- 3.1.1 Agree to vary the Enhanced Partnership Scheme in conjunction with Transport for West Midlands, West Midlands Combined Authority and the other local authorities in the West Midlands, subject to compliance with the relevant statutory objection and consultation processes for varying the Enhanced Partnership Scheme annexed as **Appendix A**.

- 3.1.2 Delegate authority to the Executive Director – Economy, Environment & Communities to approve any subsequent variation to the West Midlands Enhanced Partnership Scheme that does not have any direct implications for Walsall Council.

4. Report detail – know

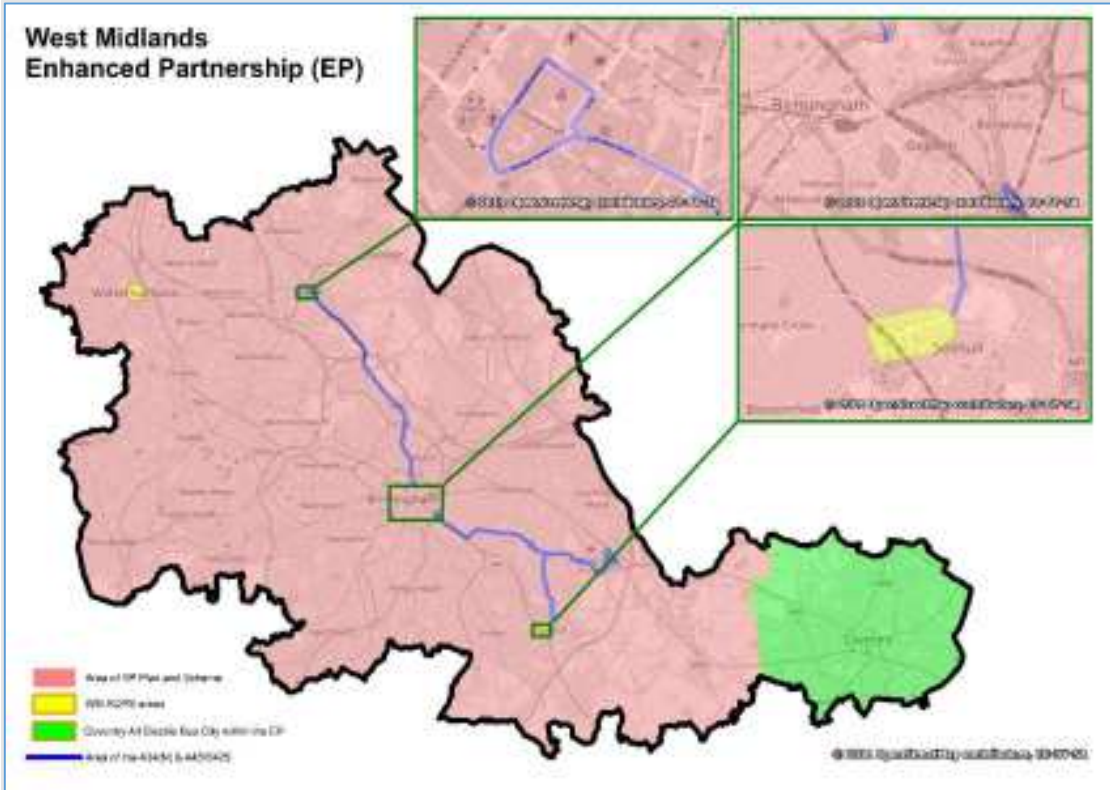
Context

- 4.1 The Strategic Vision for Bus was set out by TfWM in November 2018 to improve bus services right across the West Midlands. In November 2021 this was complemented by the West Midlands Bus Service Improvement Plan (BSIP) which sets out a clear strategic vision for bus service improvement in the West Midlands Combined Authority Area. The BSIP itself was a response to a requirement within the national bus strategy '*Bus Back Better*' for all local transport authorities to publish a Bus Service Improvement Plan (BSIP) to be able to access a share of the new £3 billion transformational funding from April 2023 (£87.9m has been allocated to the West Midlands over a 3-year period). Recent legislation has made provision for new powers to enable authorities and local bus operators to establish formal partnership arrangements to achieve improvements to bus services.

Background

- 4.2 The TA 2000 provides local transport authorities, local authorities and bus operators with powers to enable improvements to be made to services in their area. TfWM made an assessment of the legislation currently in use for partnership in the West Midlands as well as the arrangements set out in the TA 2000 (as amended by the Bus Services Act 2017) and determined that the options were Advanced Quality Partnership Schemes, Enhanced Partnerships and Franchising. In 2019, WMCA Board and Walsall Council (in conjunction with WMCA partner authorities) opted for the EP option. The details of this option are summarised below.
- 4.3 Enhanced Partnership (EP)
- a) An EP is a statutory-based partnership to facilitate the Local Transport Authority, local authorities and the majority of their bus operators to work together to improve local bus services;
 - b) It includes a clear vision of improvements that the EP is aiming for which is set out in the EP Plan and accompanying actions to achieve them;
 - c) The EP Plan cannot exist on its own and must be accompanied by one or more EP Schemes;
 - d) Can be indefinite, varied and/or revocable;
 - e) There is no mandatory requirement for the Local Transport Authority to commit bus facilities or measures. The Local Transport Authority can prescribe not only the same characteristics as an Advanced Quality Partnership Scheme but also entitlement passes, on-bus information equipment, vehicle and ticket appearance, ticketing arrangements (including multi-operator ticket prices, timetable change windows and other scheme facilitating arrangements);
 - f) Plans and schemes cannot be made where a 'sufficient number' of 'operators of qualifying local services' object.

4.4 The West Midlands Enhanced Partnership Scheme Variation is set out in the plan below.



4.5 Specific EP Schemes provide the details of the actions and developments to be taken by the EP to deliver a marked improvement in bus services to meet the above objectives, particularly by speeding-up bus journey times and improving journey time reliability. Such schemes may be proposed and promoted by TfWM, constituent local authorities or bus operators.

4.6 Within each EP Scheme the details of the infrastructure commitments, service specification and standards, customer standards, performance requirements and maintenance are agreed between partners.

4.7 The original EP Scheme (approved at Cabinet in February 2021) only identified the two SPRINT routes – A34(N) and A45/B425 – as these were a priority to facilitate the transport element of the 2022 Commonwealth Games. However, it is now proposed that the EP Scheme be 'varied' so that it covers the same, wider geography as the EP Plan (the WMCA 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.

4.8 WMBC 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**.

4.9 The commitment made by WMBC to provide the facilities and measures set out in the EP Scheme is a legal obligation which will remain binding on WMBC for the duration of the scheme, or until such time it is varied to remove the obligation.

4.10 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 tickets options chargeable by bus operators from 1 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 WMBC, it proposed that Cabinet delegate authority to the Executive Director – Economy, Environment & Communities to approve this variation in Walsall Council’s capacity as a member of the Enhanced Partnership Reference Group.

Council Corporate Plan priorities

- 4.11 The EP Scheme supports WMBC’s vision that *‘Inequalities are reduced and all potential is maximised’* as set out in the Corporate Plan 2022-2025. The proposed variation of the scheme so that it covers the entire metropolitan area will facilitate better bus services across the borough and wider region, which will help delivery against WMBC’s priorities, particularly: -

“Supporting a dynamic, resilient and diverse economy where businesses invest and everyone has the right jobs and the right housing in the right place.”

Risk management

- 4.12 Failure to secure approval would have an impact on WMBC’s ability to participate in the delivery of the EP Plan and the completion of the A34 SPRINT scheme, including the introduction of bespoke tram-style zero emission, low floor, articulated SPRINT vehicles.

Financial implications

- 4.13 Obligations on WMBC regarding the EP Scheme will be as follows: -
- a) Maintenance of bus lanes (six locations) will be in line with the WMBC’s current reactive and planning maintenance procedures and will be managed within existing budgets;
 - b) Maintenance of bus lane enforcement cameras post the initial defects and maintenance period will be between £2,500 and £3,500 per year per site for four sites, which will be offset by anticipated revenue from penalty charge notices.
 - c) Maintenance cost of bus priority equipment at traffic signals post the initial defects and maintenance period will be up to £750 per year per site for one site, which will be offset by anticipated revenue from penalty charge notices.
 - d) Maintenance cost of pedestrian crossings controlled with traffic signals post the initial defects and maintenance period will be up to £750 per year per site for five sites, which will be offset by anticipated revenue from penalty charge notices.
 - e) Sprint A34/A45 Phase 2: This has been budgeted for with £30.6m CRSTS capital funding across the entire scheme with funding approval by WMCA, subject to WMBC approval at a future (as yet unspecified) date. Risk of time and cost overspend rests with WMCA (and TfWM as their delivery organisation) and TfWM’s appointed contractor.

- f) A41/A4038 Moxley Iron Park to Walsall Town Centre: WMBC has an indicative funding allocation of £19m of CRSTS capital funding to deliver the bus and active travel elements of a proposed corridor-based scheme (Phase 1), subject to business case finalisation, WMCA approval and WMBC approval at a future (as yet unspecified) date.

4.14 If electric vehicles are selected to operate the SPRINT service, any rapid electric vehicle re-charging infrastructure for buses subsequently installed as part of the SPRINT scheme will be owned and maintained by WMCA/TfWM, at nil cost (both capital and revenue) to WMBC. If hydrogen vehicles are selected, refuelling will be off-road in a dedicated facility owned and operated by the bus operator, at nil cost (both capital and revenue) to WMBC.

Legal Implications

4.15 The Bus Services Act 2017 (the “2017 Act”) amends the TA 2000 by inserting a new wide range of powers to improve the local bus market, which includes franchising and two forms of partnership working.

4.16 The EP powers are contained in Sections 138A-138S of the TA 2000. An EP is a formal partnership arrangement between a Local Transport Authority (LTA) and local bus operator 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).

4.17 Section 138A and 138H of the TA 2000 impose legal requirements in relation to EP Schemes must state: -

- 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.

4.18 Section 138 of the TA 2000 also provides that the scheme must: -

- 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).

4.19 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.

- 4.20 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.
- 4.21 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.
- 4.22 Under Section 138A(10) of the TA 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.
- 4.23 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.
- 4.24 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. An authority that does not fulfil its obligations 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.
- 4.25 Under Section 138(11) of the TA 2000, an EP Plan or EP Scheme may not be made unless the authority or authorities have complied with the requirements in: -
- (a) Section 138F (preparation, notice and consultation), and
 - (b) Section 138 G (1) to (4) (making of plan and scheme).
- 4.26 Further under s138 (12) an EP Plan may not be made without also making an EP Scheme.
- 4.27 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: -
- a) Provide the facilities and take the measures not later than the date(s) specified in the Scheme; and
 - 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.
- 4.28 The only exception to this rule is if: -
- a) The scheme is formally postponed; or
 - b) If the local authority is temporarily unable to provide a facility or take a measure due to circumstances beyond their control.
- 4.29 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.

Procurement Implications/Social Value

4.30 There are no procurement implications.

Property implications

4.31 There are no property implications.

Health and wellbeing implications

4.32 The EP Plan has been tested against the 'Marmot Objectives'. These are:-

- a) Giving every child the best start in life – the EP will see bus-based schemes deliver measures to support travel to school by sustainable modes. Schemes will also positively improve air quality throughout the borough.
- b) Enabling all children, young people and adults to maximize their capabilities and have control over their lives – the EP goal is to deliver bus-based sustainable travel which help promote healthy and independent travel choices;
- c) Creating fair employment and good work for all – improved public transport networks help people access employment and training opportunities;
- d) Ensuring a healthy standard of living for all – access to paid employment is facilitated by improved public transport networks;
- e) Creating and developing sustainable places and communities – schemes delivered through the EP all promote and assist with active travel and travel by public transport, which support sustainable places and communities;
- f) Strengthening the role and impact of ill-health prevention – healthy travel choices, such as walking or cycling to and from bus based public transport routes, can help prevent ill health, as well as positively impacting on improving air quality.

Staffing implications

4.33 There are no staffing implications.

Reducing Inequalities

4.34 Access to a wide range of opportunities (such as employment, education, training, healthcare and leisure) are important to all residents. The EP Plan and EP Scheme enable high-quality public transport, such as SPRINT, which can help ensure that young people, elderly people, disabled people and non-car drivers/owners, have access to the full range of services available in the Borough and wider West Midlands. SPRINT is part of a wider network of public transport (bus, rail and Metro) across the metropolitan area developed and promoted by TfWM. Whilst Sprint Phase 1 and Phase 2 is focused on the Walsall to Birmingham corridor along the A34 and will inevitably have the most impact for residents of St Matthews ward and Paddock ward, the importance of good connectivity to the regional centre, Birmingham Airport and the wider West Midlands is important to all residents.

4.35 All vehicles operating SPRINT services will be low-floor and fully accessible for wheelchair users and parents with buggies. Engine standards and the ambition articulated for 'zero emissions at the point of use' will help promote improved air quality in the corridor.

4.36 WMCA previously undertook a Stage 1 initial analysis of the equalities implications for the EP Plan and Scheme for A34(N) and A45/B425, in which it concluded that there were no concerns that the proposal affected or could affect different groups adversely or that the needs of certain groups would not be met. This has been reviewed by WMBC officers who are satisfied with the assessment. TfWM officers have confirmed that EIA produced for the original EP Plan and Scheme remains sufficient for the variation of the EP Scheme as outlined in this report. It is to be noted that improved bus services can particularly benefit the elderly, disabled and those on lower incomes as these groups have fewer transport options available to them.

Consultation

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

Climate Change

4.43. The City Region Sustainable Transport Settlement from the Department for Transport incentivises local authorities to actively promote sustainable modes by only funding capital schemes that can demonstrate that they are placing the needs of pedestrians, cyclists and bus users ahead of other road users. Guidance to local authorities published in July 2021 highlights the importance of carbon reduction, the need to develop schemes in accord with Local Transport Note 1/20 - Cycle Infrastructure Design, and the importance of helping deliver against the objectives set out in the National Bus Strategy.

4.44. The EP Scheme Variation is a direct response to the objectives of the National Bus Strategy and the subsequent West Midlands BSIP.

4.45. Improved bus services in the West Midlands will enable people to shift all or some journeys to bus and SPRINT services from private modes, thereby reducing harmful carbon emissions in Walsall and surrounding areas.

5. Decide

5.1 Cabinet is asked to agree to the variation of the EP Scheme in conjunction with Transport for West Midlands, West Midlands Combined Authority and partner authorities.

5.4 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 – £87.9m has been allocated to the West Midlands over a 3-year period) is predicated on there being an EP Plan and Scheme in place between TfWM, operators and local authorities.

5.3 Cabinet is asked to note WMBC's new obligations as outlined in **Appendix B** Scheme.

6. Respond

- 6.1 The intention is for TfWM and WMBC to deliver and maintain the bus facilities and measures (SPRINT and non-SPRINT) within the Borough of Walsall, which will achieve the improvements envisaged in the West Midlands EP Scheme Variation.
- 6.2 Now that SPRINT Phase 1 highway works are completed, a commercial bus operator – National Express West Midlands – is operating bus services that meet the standards set out in the EP Scheme on the SPRINT corridor. These will operate as cross-conurbation services (Walsall – Birmingham – Solihull/Airport) from 2023.
- 6.3 SPRINT Phase 2 will continue to be developed by TfWM and will be subject to public engagement and future approvals for funding and highway works. If these approvals are obtained and SPRINT Phase 2 works are implemented it is envisaged that tram-style zero emission, low floor, articulated vehicles will be operated commercially on the SPRINT route.
- 6.4 TfWM and WMBC will continue to develop other schemes envisaged as part of the City Region Sustainable Transport Settlement, and subject to these schemes receiving WMCA and WMBC approval, will be delivered to help achieve the improvements envisaged in the EP Scheme Variation.

7. Review

- 7.1 As part of developing the EP Plan, the original EP Scheme and the EP Scheme Variation, how the EP Scheme is to be monitored and managed and what the triggers are for variation and revocation have been agreed.

Appendices

Appendix A – West Midlands Enhanced Partnership Scheme Notice of Variation
Appendix B – West Midlands Enhanced Partnership Scheme Outline of Obligations

Background papers

- Report to Cabinet, February 2021 – West Midlands Enhanced Partnership Plan and Scheme

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21 October 2022



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