



WEST MIDLANDS
COMBINED AUTHORITY

Investment Board

Date	30 October 2017
Report title	Approval to Entering into a Development Agreement for Curzon Tram Stop Interface with HS2 for the Birmingham Eastside Extension and underwriting of costs up to £18.5m
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Report to has been considered by	Metro Programme Board: 10/10/17

1. Recommendations

1.1. The WMCA Investment Board is recommended to:-

- I. Note the WMCA Board approval of 30 September 2016,
- II. Note the Assurances in place relating to the integration of the Metro stop at Curzon Station,

- III. Note the sift process undertaken in 2016 leading to the selection of Option 4 and the production by HS2 Ltd of an estimated £27.5m (worst case scenario) of additional works required comprising £18.5 utility diversions and £9m station and urban realm
- IV. Note that HS2 require to go through governance with relation to the interface costs and scope in order to reflect this in the procurement of the design of the station and this necessitates WMCA and BCC to commit to underwriting the costs identified in Option 4 at this stage
- V. In response to this to authorise the underwriting of the maximum £18.5m cost for additional utility diversions arising as a result of the tram stop integration
- VI. Subject to (V) note the Head of Governance has delegated authority to enter into and execute the Development Agreement in accordance with the delegation of powers as authorised by WMCA Board in September 2016

2. Purpose

- 1.2. To authorise WMCA to underwrite the £18.5m estimated maximum cost of additional utility works, design and management incurred by HS2 in order to integrate the metro and stop at the Curzon Street HS2 station and to note that the Head of Governance was delegated Authority on 30 September 2016 to enter into the Development Agreement with Birmingham City Council (BCC) and HS2 Ltd. This places certain obligations upon WMCA including underwriting costs and for the parties to work together to seek to reduce these.

3. Impact on the Delivery of the Strategic Transport Plan

- 3.1 Expansion of Midland Metro, as set out in this report, is an important element in the development of the Strategic Transport Plan's Metropolitan Rail and Rapid Transit Network.

4. Wider WMCA Transport Implications

- 4.1. This Midland Metro extension, as part of an integrated Rail and Rapid Transit Network, will enable better connectivity of central Birmingham, HS2 and key centres and corridors in Birmingham and the Black Country with the wider Combined Authority area. This is through effective interchange with suburban and regional rail services in Birmingham city centre. There are currently no proposals in the wider Combined Authority geography beyond the area covered by Transport for West Midlands for Metro schemes.

5. Background – HS2 Agreement

- 5.1. Proposals for the extension of the Midland Metro through the Curzon area to Digbeth were included within the West Midlands HS2 Growth Strategy which was endorsed by Government following the Budget Statement in November 2015. The Birmingham Curzon HS2 Masterplan for Growth (2015) included proposals for the Metro route and its connectivity via a stop with the eastside concourse at Curzon station.
- 5.2. The HS2 Hybrid Bill proposals did not allow for Metro's inclusion within the space below the proposed HS2 viaduct on New Canal Street. Therefore BCC and WMCA (then Centro) petitioned the HS2 Select Committee with concerns that the hybrid bill scheme failed to acknowledge the Metro proposals. Subsequent Assurances were provided to BCC and WMCA and the development of options undertaken to ensure full integration of the Metro extension and stop as part of the HS2 station.
- 5.3. In February 2016, following collaborative joint working on options, the HS2 Delivery Board approved the recommended Option 4 as the preferred design approach for the integration of the Metro stop with Curzon station and to formally include this within the PQQ requirements for the station. This report is included within Appendix 1.
- 5.4. In the period between February 2016 and August 2017 there has been continued dialogue between WMCA, BCC and HS2 relating to the integration at Curzon station. A tri-partite heads of terms (BCC/HS2/WMCA) was entered into on 10 March 2017 providing for a joint working group and to progress to a Development Agreement (DA) for the subsequent design and construction phases of the projects. HS2 have included the integration of the Metro as part of its core scheme in its prequalification documents and now in its ongoing tender dialogue with bidders for the design of the station.
- 5.5. The parties are close to agreeing final terms for the DA and this paper explains some of the key commitments that this contains. These are:
 - Funding and governance – that WMCA will underwrite the additional utility diversion costs to HS2 of incorporating the tram stop
 - Costs will be determined and agreed in accordance with a schedule of decision points based upon HS2's procurement timescales
 - WMCA cost contribution will effectively be capped at £18.5m and can only be exceeded by going back through WMCA governance
 - Metro operation can take place during HS2 construction subject to this being safe, workable and agreement being reached as to who will pay for any additional cost to HS2

- 5.6. The timescales associated with seeking WMCA approval are in order to enable HS2 to meet its governance requirements to remain on programme. These are:
- 01 September HS2 Board
 - 22 September DfT Scoping Board
 - 23 October BICC Presentation
- 5.7. The 2014 GBS LEP Growth Deal and the WMCA Devolution Deal included funding of £137.2m for the BEE. The additional cost of Option 4 to the base scheme for the hybrid bill was reported to the HS2 Delivery Board in February 2016 with a maximum estimate of £27,472,500 – see Appendix 2. In order to assure a baseline is underwritten BCC have approached the Enterprise Zone to secure £9m which represents the non utility costs for Option 4 and the Investment Board is therefore requested to authorise the commitment to underwrite the utility costs arising. These have been estimated at a maximum of £18.5m.
- 5.8. Whilst significant, the joint view was and remains that there would be considerable scope to reduce the costs through: removal of any duplication between HS2 and Metro projects; harmonisation of utility diversion proposals and refinement of the station design via the design competition process. The DA as currently worded reflects this principle and asserts that the parties shall agree costs and enter into separate agreements to provide funding for each individual work package as development of the HS2 and BEE schemes progresses.
- 5.9. With relation to the scope and associated costs of utility works, HS2 are indicating that the utility work package will be determined during Summer 2018, following the development of designs by the Early Works Contractor. A 'Decision Point' will then arise associated with the approval of the cost and WMCA will be re-approached with regard to these. If in the event that the costs exceed £18.5m then the DA contains provisions that formal governance must be pursued to seek approval for additional monies or rejection of the position presented. The DA therefore contains provisions effectively making the WMCA contribution capped at £18.5m. It is hoped that through working together the costs will be lower and in this scenario WMCA will be advised of the costs position reached.
- 5.10. The process for determining costs within the MMA Project Alliance Agreement is based upon a Target Cost. The next iteration of which is Target Cost 1 and will take place in Autumn 2018. This will consider costs across the project including utilities. These may go down or up and as such a formal review of the overall cost position and funding exposure will take place then including the additional utility costs as clarified and confirmed at that time. At this point WMCA approval will be sought to DfT will be advised of a Final Approval Business Case submission setting out the overall costs position reached.

- 5.11. Agreement in principle has been reached that Metro operation can commence to existing planned timescales in late 2022/early 2023. This will support the regeneration of Digbeth, however it will place operation during HS2 station construction – not the position when option 4 was determined and costed. This is agreed between the parties subject to this being deemed safe and workable which is subject to the appointment of design contractor by HS2 and agreement being reached as to who will pay for the additional cost to HS2. This latter point is subject to DCLG/DfT input and for a more detailed estimate of cost to be produced by the HS2 contractor in due course.

Programme

- 5.12. The programme for delivery will be subject to the timescales and outcome of the statutory process associated with the TWAO and to securing funding approval from the DfT.
- 5.13. The TWAO application was submitted to the DfT in October 2016, and of the 12 objections and 2 representations received, 3 objectors have so far withdrawn and 1 representation and it is anticipated that the majority of the remainder will have withdrawn ahead of submission of proofs in October. The inquiry is scheduled for 22 November and the team are working hard to get all objections withdrawn ahead of this. Assuming a satisfactory outcome to the Inquiry the Order would be expected to come into force in winter 2018 (depending on DfT timescales and resources). This would, subject to meeting WMCA governance requirements, enable submission of a Final Business Case to Government in spring 2019. Advanced utility diversions would then be able to commence following funding approval in mid 2019, with opening to public service in 2023.

Costs

- 5.14. The costs position previously reported to the WMCA Board provided for an outturn of £137.2m with a maximum cost exposure allowing for optimism bias of £158.8m. These figures remain unaltered and may be subject to change reflecting agreement to be reached with HS2, the outcome of statutory process and agreements with objectors, value engineering and innovation, all informing a target cost before final cost figures can be determined. The current cost estimated includes for some £16.9m of utilities costs, plus inflation to outturn, and there is significant double counting in the HS2 maximum estimate. In addition the HS2 sum includes for significant design and client overhead costs, which are not normally attracted by utilities works as these are self-designed and delivered by the utilities.

The Development Agreement

- 5.15. The Development Agreement if entered into will provide for:
- WMCA to underwrite the additional utility diversion costs to HS2 of incorporating the tram stop
 - Costs to be determined and agreed in accordance with a schedule of decision points based upon HS2 procurement timescales
 - Costs contribution to be effectively capped at £18.5m and these can only be exceeded by going back through WMCA governance
 - Metro operation to take place during HS2 construction subject to this being safe, workable and agreement being reached as to who will pay for the additional cost to HS2
- 5.16. Investment Board are recommended to authorise the underwriting of the £18.5m maximum costs and to note the Head of Governance will exercise his delegated authority to enter into and execute the Development Agreement on behalf of the WMCA.

6. Financial Implications

- 6.1. Current estimates show an additional funding of up to £18.5m is required to ensure full integration of the planned Metro stop within the HS2 Curzon development. It is Tfwm view that the additional costs will ultimately not be incurred at this level and as noted in this report further work is underway with HS2 Ltd to refine estimates including investigation of where there may be opportunity to align and deliver utility work at a significantly lower value.
- 6.2. WMCA is actively investigating opportunities of alternative funding sources. Should these prove unsuccessful it is planned that the final cost up to the capped £18.5m will require funding through reprioritisation of the HS2 Connectivity package within the WMCA Investment Programme. This is subject to compliance with and successful progress through the WMCA Assurance framework and approvals process. **The maximum borrowing implications would be approximately £0.93m pa over 40 years and should sufficient funds be unable to be re-prioritised through the Investment Programme ultimately this will require financing from the Transport Levy through a re-prioritisation of transport activity.**

7. Equalities Implications

- 7.1. The extensions of Midland Metro will facilitate fully accessible journeys and access to employment, leisure, education and link to other transport modes.

8. Schedule of background papers

8.1. Report to WMCA 16 September 2016

8.2. Report to HS2 Delivery Board 05 February 2016