

Report of Director of City Development

Report to Executive Board

Date: 13th March 2013

Subject: Submission of the Transport and Works Act Order application for the New Generation Transport (NGT) Scheme

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|---|---|--|
| Are specific electoral Wards affected? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| If relevant, name(s) of Ward(s): Implications city wide, with direct impacts on City and Hunslet, Burmantofts & Richmond Hill, Hyde Park & Woodhouse, Headingley, Weetwood, Adel & Wharfedale and Middleton Park Wards. | | |
| Are there implications for equality and diversity and cohesion and integration? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Is the decision eligible for Call-In? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Does the report contain confidential or exempt information? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| If relevant, Access to Information Procedure Rule number: | | |
| Appendix number: | | |

Summary of main issues

1. Approval is required to submit a report to Full Council to approve the submission of a Transport and Works Act Order (TWAO) and associated applications for the New Generation Transport (NGT) project to the Secretary for Transport
2. Approval is required for the expenditure for the further development of the scheme.
3. Approval is required to enter into a Joint Venture Agreement (JVA) with Metro to develop and progress the NGT project.

Recommendations

Executive Board is requested to note the contents of this report and:

1. To approve that a report should be presented to Full Council recommending the submission of the required Transport and Works Act Order (TWAO) and associated applications for NGT to the Secretary of State for Transport.
2. To approve expenditure of £19.2m from within the existing Capital Programme to meet the Council's share in the development costs to progress the scheme to the

start of the construction phase, subject to the Director of City Development and the Director of Resources receiving regular updates in relation to proposed expenditure throughout the development phase.

3. To approve that the Council to enter into a Joint Venture Agreement with Metro for the development of NGT and authority for the Director of City Development to finalise the detail of the JVA in accordance with the Heads of Terms and, subject to the Council approving the submission of the TWAO, to take all such steps as may be necessary or expedient to carry the Resolution into effect, including all those steps required for the Council to apply for and thereafter to promote the Order.

1. Purpose of this report

- 1.1 To seek approval for the submission of the Transport and Works Act Order (TWAO) application and associated Planning and Highway applications for the New Generation Transport (NGT) Scheme.
- 1.2 To seek approval for authority to spend £19.2m from within the existing Capital Programme to meet the Council's share in the development costs to progress the scheme to the start of the construction phase, subject to the Director of City Development and the Director of Resources receiving regular updates in relation to proposed expenditure throughout the development phase.
- 1.3 To seek approval for the Council to enter into a Joint Venture Agreement with Metro for the development of NGT and authority for the Director of City Development to finalise the detail of the JVA in accordance with the Heads of Terms and, subject to the Council approving the submission of the TWAO, to take all such steps as may be necessary or expedient to carry the Resolution into effect, including all those steps required for the Council to apply for and therefore to promote the Order.

2. Background information

- 2.1 Metro and Leeds City Council have worked in partnership to develop a modern electrically powered trolleybus system for Leeds known as NGT. The NGT project is seeking to provide a high quality transport system that will help to support the growth of Leeds' economy and improve the local environment by helping to address congestion.
- 2.2 Analysis has shown that NGT could generate around 4,000 long term jobs, both in Leeds and the wider City Region in addition to generating a £160m per annum economic boost for the City Region. In addition around 1,000 jobs would be created during the construction phase.
- 2.3 As reported to the Executive Board meeting of 17th October 2012, the Department for Transport (DfT) awarded programme entry status to NGT in July 2012.
- 2.4 A Local Partnerships Gateway 1 Review was held between 29th-31st January 2013. The purpose of this was to consider the 'business justification' for the project and to provide an independent peer assessment of the project's potential for success. The review reported that Leeds' planned New Generation Transport trolleybus system is 'an innovative project and as the first of its type in the UK in recent years, is at the cutting edge of transport provision'.
- 2.5 The NGT scheme would initially serve a route from Holt Park in the North going through Headingley, the City Centre to Beeston and Stourton, covering a distance of just over 13km and linking key trip generators including the Leeds General Infirmary and the 2 Universities. Major park and ride sites will be provided at Stourton and Bodington. It remains the promoters' aspiration to deliver further routes as later phases of NGT. Significant levels of segregation for NGT vehicles will be provided in order to deliver high levels of reliability and journey time savings across the network.

- 2.6 On the South part of the route between Balm Rd bridge and the Wakefield Rd / M621 junction NGT was proposed to run on railway sidings alongside the Pontefract railway line. It has recently been announced that this corridor is the intended route for HS2 which could have implications for NGT. Also Freightliner have acquired a long term lease on these sidings owned by the British Railways Board (BRB). Compensation to both Freightliner and BRB could be very significant.
- 2.7 In view of the above, an alternative alignment along Belle Isle Road and Winrose Grove to the Stourton Park and Ride depot is being adopted. This alternative has the potential advantages of:
- Less costly than the railway sidings option due to potential railway related costs not being incurred and reduced infrastructure required.
 - Increased patronage for NGT and improved public transport links for the Belle Isle community.
- 2.8 Work is proceeding on preparing the documentation for the next critical stage of the approval process – namely the Transport and Works Act Order and associated Planning and Highways applications. These submissions are programmed to be made in September of this year, but approval is required now due to the long technical lead-in for an application of this scale and importance.
- 2.9 Subject to Executive Board agreeing the recommendations in this report, it is proposed that Council authorisation will be sought to promote the Transport and Works Act Order for NGT at its meeting in July and confirmation of this by way of a second resolution of Council (as required by the legislation) at its meeting in November, following submission of the application.

3.0 Main Issues

3.1 Need for a Transport and Works Order submission

- 3.1.1 The project team have carried out a detailed consideration of the potential legislative frameworks for the delivery of the NGT project. From this assessment the TWAO powers appear to offer the process best suited to the promotion of a trolleybus based NGT scheme. Used alone or in combination with other legal powers, the TWAO would provide the Promoters with the powers to build and operate the scheme as currently envisaged and to deliver and sustain it's key objectives in the long term.
- 3.1.2 TWAO powers are also expected to give the Promoters the greatest potential to ensure that the expected scheme benefits are realised and safeguarded for the future. For example, under powers achieved through TWAO, the Promoters would have greater scope to influence the specification for the vehicles and infrastructure, priority given, and road/ infrastructure use, than through any other deliverable options. Also using the TWAO powers, the Promoters will be able to specify the service requirements such as reliability, accessibility, fare level and integration of NGT and through greater enforcement powers than with other deliverable options.

3.1.3 The ability to ensure that the inputs and the outputs requirements for NGT meet the Promoters' expectations means that TWAO powers maximize the potential for NGT to deliver the overall scheme objectives in the long term, as well as maximizing the deliverability of the procurement approach itself.

3.2 Details of the Application to be made

3.2.1 The TWAO is able to provide for, amongst other matters, the acquisition of land or rights over land (whether compulsorily or by agreement), the payment of compensation, the carrying out of civil engineering or other works (including any incidental or ancillary works), fares and tolls, policing and the making of byelaws. In summary the TWAO application is seeking approval for:

- (i) the proposed route
- (ii) the "limits of deviation" within which the alignment can be constructed
- (iii) the location of the NGT stops
- (iv) the Park and Ride sites to be provided at Stourton and Bodington
- (v) the depot for NGT vehicles
- (vi) the required substations to power the electric trolleybuses

3.2.2 In addition the TWAO application will also incorporate:

- (i) a request for deemed planning consent, draft planning conditions and planning direction drawings
- (ii) details of the associated Listed Building and Conservation Area consents required
- (iii) the proposed Traffic Regulation Orders
- (iv) a Code of Construction Practice
- (v) an Urban Design Statement
- (vi) a Traffic Assessment
- (vii) a Sustainability Appraisal
- (viii) a Flood Risk Assessment Strategy
- (ix) an Environmental Statement (detailing the output from the Environmental Impact Assessment)
- (x) powers to compulsorily purchase land and property required to deliver the proposed scheme.

3.2.3 The planning consent application submitted within the TWAO will be similar to an outline planning application and it will be determined by the Secretary of State. Draft planning conditions will be submitted with the application and these will be supplemented by the Secretary of State where appropriate. These conditions will reserve much of the detail for subsequent approval and discharge by the Local Planning Authority. City Plans Panel will consider the detail of the NGT proposals, not the principle and the proposed planning conditions, in advance of the Full Council S239 resolution (see para 3.5)

- 3.2.4 The TWAO application will result in local advertisements and notices and a 42 day period for members of the public and other interested parties to inspect the application and make representations to the Secretary of State,. All documents will be made available to view at Leeds City Council / Metro offices with a version accessible on-line. The Secretary of State will then call a public local inquiry where objectors will be able to present their case to the inspector. The view of the local planning authority on the details of the scheme and the proposed planning conditions will also be given to the inspector. Following the inquiry the inspector will present his report to the Secretary of State who will make a decision on the TWAO.
- 3.2.5 As the Council is a promoter for the NGT TWAO, two resolutions are required from Full Council; (pursuant to section 237 of the local Government Act 1972); one, before the TWAO application submission, resolving to apply for an Order and the second, following the application, confirming the decision to apply for the Order as set out in the application documents. In each case, a majority of the whole of the members (and not just those present and voting) must vote in favour of the resolution in order for it to be passed.

3.3 Joint Venture Agreement

- 3.3.1 In March 2010 Executive Board gave approval to enter into a Joint Venture Agreement (JVA) for NGT. This agreement (JVA1) set out the responsibilities, liabilities and working arrangements between the promoters (Leeds and Metro) up to Conditional Approval. It is now necessary to enter into a further JVA (JVA2) to cover the project up to the start of construction.
- 3.3.2 The new JVA will cover:
- Treatment of Council Land
 - Staff and consultants required to deliver the project
 - The sharing of Project Costs
 - Confidentiality and freedom of information
 - Arrangements for future agreement
- 3.3.3 The terms of the agreement have been the subject of detailed consultation within the City Development Directorate and with Legal Services and are closely modelled on those used in the predecessor Joint Venture Agreement. A further JVA (JVA3) will be entered into prior to the construction phase.

3.4 Next Steps and Key Project Milestones

- 3.4.1 Following the submission of the Transport and Works Order and associated application, the emphasis of work will shift towards the preparation of the detailed proofs of evidence for the Public Inquiry. The current anticipated timescales for the key project milestones are as follows:
- Council approval to promote the TWA Order July 2013
 - TWAO submission September 2013
 - Council confirmation to promote the TWA Order November 2013

- TWAO Public Inquiry early 2014
- Conditional Approval by Spring 2015
- Full Approval by Autumn 2016
- Start of substantive construction by 2017
- Start of Operation 2020

3.4.2 A report will be submitted to Full Council in April 2013 to seek formal authorisation for the promotion of a Transport and Works Act Order for NGT. A further report to Full Council is required post submission to confirm the Order application. Subsequent reports on progress will be provided to future meetings as required.

3.5 Financial Approvals

3.5.1 As reported to Executive Board in October 2012 the DfT will provide a maximum funding contribution of £173.5m towards the capital costs of NGT. All development work which the Promoters undertake prior to Full Approval is therefore undertaken at the Promoters risk.

3.5.2 Executive Board in May 2011 agreed a local contribution from the Council and Metro of £57.1m. This is funded through a combination of:

- Land already in Metro / LCC ownership
- Metro
- Borrowing against scheme revenues
- Local Transport Plan
- S106 funding
- LCC Capital Programme

3.5.3 Of the £57.1m, £25.3m is included for scheme development costs. The Leeds City Council Capital Programme contributions towards scheme development costs 2012/13 to 2016/17 are £19.9m with £0.7m earmarked for construction costs; existing authority to spend of £1.7m was granted by Executive Board up to October 2012 for scheme development. In addition the capital programme provides for an additional £3.5m from S106 contributions towards scheme costs, £1m of which is towards development costs and the remainder towards construction costs.

3.5.4 With the existing £1.7m authority to spend in place, work commenced progressing the TWAO application and refining and updating the NGT costs. The capital costs for the scheme will be updated when the designs have been revised prior to TWAO submission, but the development costs have been reviewed and updated by the project team.

3.5.5 The scheme development costs include such activities as, the public inquiry, scheme design, procurement, and consultation. In order to progress the scheme through to the construction phase additional authority to spend is now sought for the remaining LCC contribution of £18.2m and £1m funded from s106 contributions. The estimated total phasing of the scheme development contributions, as indicated in the Council's Capital Programme, is shown in the table below:

| 2012/13 | 2013/14 | 2014/15 | 2015/16 | 2016/17 | Total |
|---------|---------|---------|---------|---------|--------|
| £0.65m | £5.0m | £10.5m | £3.1m | £1.65m | £20.9m |

3.5.6 This is a highly complex project with multiple workstreams. To provide the greatest flexibility to the team procuring these works, and to avoid delaying the project, the recommendation is to approve the Council's contribution in full at this stage. In 2013/14 it is expected that work with a value of £9m is to be commissioned. Experience to date has indicated that it would be prudent to provide the team with the flexibility to procure work, as and when it arises in year. Delays in commissioning this work speedily would result in the scheme not being implemented according to the already lengthy programme. Regular financial reports will be provided to the NGT Project Board attended by senior finance officers and as stated previously to the Director of Resources and Director of City Development.

3.5.7 The combined approved local and DfT contributions is presently around £20m short of the scheme cost and this shortfall will require additional funding to be identified during the construction phase from 2016. The Council will work with Metro to identify and progress various options for funding this shortfall prior to the construction phase but should a shortfall still exist, proposals for gap funding will be presented to Executive Board.

4. Corporate Considerations

4.1 Consultation and Engagement

4.1.1 A significant amount of consultation and engagement has occurred and is still ongoing with the members, local residents and businesses along the NGT route.

4.1.2 The initial period of NGT public engagement involved undertaking a series of public exhibitions, held jointly with the Transport for Leeds project, in Leeds City Centre in November 2008 and June 2009. The purpose of these exhibitions was to raise awareness of the emerging NGT proposals and to seek feedback from the public on certain key attributes of the scheme.

4.1.3 In terms of the key findings from the 2009 consultation, when public exhibitions were held on 18 days at 6 different locations along the route, these can be summarised as follows:

- 2,594 questionnaires were completed;
- 77% of respondents supported NGT (44% strongly support, 33% support);
- 12% of respondents opposed NGT (6% strongly oppose, 6% oppose);
- 76% of respondents supported the use of trolleybuses (43% strongly support, 33% support); and
- 12% of respondents oppose the use of trolleybuses NGT (6% strongly oppose, 6% oppose).

- Almost three-quarters of those who filled in a questionnaire supported the idea for a park and ride site at the end of the North and South routes;
- The most important things that people wanted to see in a new public transport system were: more reliable services, cheaper fares and faster services; and
- Almost two-thirds of respondents wanted more environmentally friendly vehicles.

4.1.4 At the same time a series of detailed briefings were given to Members, together with presentations to the Inner North West, Inner South and the Inner East Area Committees and attendance at Community Forums where requested.

4.1.5 Following the reinstatement of Programme Entry Approval in July 2012 a number of consultation and stakeholder engagement activities have taken place. These have included:

- Distribution of an NGT update leaflet to all properties within 600 metres of the NGT route (approximately 45,000 properties)
- 8 public drop-in sessions have been held at venues along both the northern and southern arms of the route.
- Updates have been taken to LCC Area Committees along the routes in addition to ward member briefings.
- All landowners who are directly affected by the proposals have been sent an introductory letter and one-to-one meetings are currently being set up.
- General briefings have taken place with various stakeholder/interest groups
- TV and radio coverage to publicise events and raise awareness.
- Further consultation events are planned

4.1.6 At these recent public engagement events a number of issues and concerns have been raised which are similar to issues raised by comparable schemes. In broad terms, feedback from the public could be summarised in the following way:

- Why is action required, what is the problem? – existing bus services are fine;
- If action is required, is NGT the ‘best’ solution / option? Have other options been explored, e.g. Underground, Electric battery operated or Hybrid buses – reduce need for overhead wires and other construction works;
- Better use of buses in conjunction with Park and Ride;
- Lack of demand management to discourage car drivers;
- Concern that the introduction of NGT will lead to the reduction or withdrawal of current bus services for the north of the ring road;
- A desire for more NGT routes and wider coverage of Leeds;
- The need for low fares to encourage use;
- A number of concerns about proposals for certain road layouts and access issues;
- NGT proposals and potential land take on Woodhouse Moor;
- Impacts on cyclists and pedestrians particularly on Headingley Hill section;
- Environmental impact – loss of mature trees and grass verge areas (both on and off the highway) and increase in highway infrastructure;

Heritage and townscape impact in Conservations Areas and on Listed Buildings including the impact of overhead line equipment (OLE), demolition of buildings and setting back of stone walls.

The above comments and concerns are being considered and the designs are being amended wherever possible to reflect local concerns. All representations submitted in writing are being responded to.

4.2 Member Involvement

4.2.1 Detailed briefings with members were carried out as part of the summer 2009 consultation, and a further round of Member and Area Committee briefings were held in December 2009 and January 2010. Since the project restarted in Autumn 2012 presentations have been given to Area Committees and meetings of all of the main political parties. Numerous briefings have been held various ward members along the route. This consultation and engagement with ward members will continue during the life of the project.

4.2.2 An NGT member working party is in the process of being set up to give political guidance to the project.

4.3 Officer Involvement and Stakeholder Consultation

4.3.1 The project team tasked with delivering the project comprises officers from both Leeds City Council and Metro and staff from the appointed advisors.

4.3.2 The preparation of the Transport and Works Order submission, the subject of this report, has also included consultation with and the involvement of key officers from LCC Highways and Transportation and LCC Planning Services as well as key officers in Metro's Development and Passenger Services Directorates.

4.3.3 Detailed briefings on the project have also been provided to the two Universities, all the local public transport operators, city centre partnership as well as key interest and community groups including the Leeds Cycle consultation forum.

4.4 Equality and Diversity / Cohesion and Integration

4.4.1 An Equality, Diversity, Cohesion, and Integration Screening was carried out on the 14 January 2013 and identified that a full impact assessment was required to support the TWAO submission. The impact assessment will take place when the designs have been amended and prior to the TWAO submission.

4.5 Council policies and City Priorities

4.5.1 The NGT proposals support the objectives of the Local Transport Plan and contribute to the delivery of the Council's Strategic Plan objectives for transport and those of the Vision for Leeds. The scheme will make a major contribution to improving the attractiveness and quality of travel by public transport and is predicted to encourage a switch from private car to public transport, thereby alleviating congestion on the NGT routes.

4.5.2 Progress will be reported to the Executive Board at the key stages in the delivery process. Oversight of the scheme is provided by a Project Board chaired by the Director General of Metro. The Board also includes the Director of Resources and Chief Officer Highways and Transportation from Leeds City Council.

4.6 Resources and value for money

4.6.1 The approved capital programme makes provision of £20.6m as the Council's remaining contribution towards the NGT scheme. Throughout the development phase of the scheme, costs are continually scrutinised to ensure that the scheme promoters are securing value for money. Some elements of the development work are sourced externally whilst others are provided internally.

4.6.2 Capital funding and Cashflow

| Funding Approval : | Capital Section Reference Number :- | | X0009 | | | | |
|---|-------------------------------------|----------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| Previous total Authority to Spend on this scheme | TOTAL | TO MARCH | FORECAST | | | | |
| | £000's | 2012 £000's | 2012/13 £000's | 2013/14 £000's | 2014/15 £000's | 2015/16 £000's | 2016 on £000's |
| LAND (1) | 0.0 | | | | | | |
| CONSTRUCTION (3) | 0.0 | | | | | | |
| DESIGN FEES (6) | 0.0 | | | | | | |
| OTHER COSTS (7) | 4761.3 | 3061.3 | 650.0 | 1050.0 | | | |
| TOTALS | 4761.3 | 3061.3 | 650.0 | 1050.0 | 0.0 | 0.0 | 0.0 |
| Authority to Spend required for this Approval | TOTAL | TO MARCH | FORECAST | | | | |
| | £000's | 2012 £000's | 2012/13 £000's | 2013/14 £000's | 2014/15 £000's | 2015/16 £000's | 2016 on £000's |
| LAND (1) | 0.0 | | | | | | |
| CONSTRUCTION (3) | 0.0 | | | | | | |
| DESIGN FEES (6) | 0.0 | | | | | | |
| OTHER COSTS (7) | 19200.0 | | | 3950.0 | 10500.0 | 3100.0 | 1650.0 |
| TOTALS | 19200.0 | 0.0 | 0.0 | 3950.0 | 10500.0 | 3100.0 | 1650.0 |
| Total overall Funding (As per latest Capital Programme) | TOTAL | TO MARCH | FORECAST | | | | |
| | £000's | 2012 £000's | 2012/13 £000's | 2013/14 £000's | 2014/15 £000's | 2015/16 £000's | 2016 on £000's |
| LCC Supported Borrowing | 20627.2 | | 650.0 | 4000.0 | 10500.0 | 3100.0 | 2377.2 |
| Section 106 | 4005.0 | 505.0 | | 1000.0 | | | 2500.0 |
| Corporate USB | 2556.3 | 2556.3 | | | | | |
| Total Funding | 27188.5 | 3061.3 | 650.0 | 5000.0 | 10500.0 | 3100.0 | 4877.2 |
| Balance / Shortfall = | 3227.2 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 3227.2 |

4.7 Legal Implications, Access to Information and Call In

4.7.1 There are no legal implications directly related to this report.

4.8 Risk Management

4.8.1 If this report is not approved there is a risk of increased costs to the project.

4.8.2 The delivery of the project will be managed by a joint Metro/LCC project board who will limit changes to the proposals to limit increases in project costs

5 Conclusion

5.1.1 The DfT funding for a trolley bus system for Leeds offers a real opportunity to deliver a major step change to public transport in the city.

5.1.2 NGT will allow the growing population to access the city centre and other key employment sites in an efficient and sustainable way. This will encourage business to locate in the centre and along the new corridors thereby creating 4,000 new local jobs, and generating a £160 million per annum boost for the Leeds City Region economy.

6 Recommendations

6.1 Executive Board is requested to note the contents of this report and:

1. To approve that a report should be presented to Full Council recommending the submission of the required Transport and Works Act Order (TWAO) and associated applications for NGT to the Secretary of State for Transport.
2. To approve expenditure of £19.2m from within the existing Capital Programme to meet the Council's share in the development costs to progress the scheme to the start of the construction phase, subject to the Director of City Development and the Director of Resources receiving regular updates in relation to proposed expenditure throughout the development phase
3. To approve that the Council to enter into a Joint Venture Agreement with Metro for the development of NGT and authority for the Director of City Development to finalise the detail of the JVA in accordance with the Heads of Terms and, subject to the Council approving the submission of the TWAO, to take all such steps as may be necessary or expedient to carry the Resolution into effect, including all those steps required for the Council to apply for and thereafter to promote the Order.

7 Background documents¹

7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.