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**Meeting:** Executive  
**Date:** 8 December 2009  
**Subject:** Luton Dunstable Busway  
**Report of:** Cllr Tom Nicols, Portfolio Holder for Sustainable Development  
**Summary:** The report seeks member's approval to progress the DfT funding application and on a successful funding offer support Luton Borough Council in awarding a contract for the construction of the Luton Dunstable Busway.

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**Advising Officer:** Gary Alderson, Director of Sustainable Communities  
**Contact Officer:** Dave Buck, Senior Strategic Infrastructure Officer  
**Public/Exempt:** Main report public, Appendix D part 23 to 26 exempt  
**Wards Affected:** Houghton Regis, Northfields, Dunstable Downs, Icknield, Watling, South East Bedfordshire  
**Function of:** Executive  
**Key Decision** Yes  
**Reason for urgency/ exemption from call-in (if appropriate)** N/A

## **CORPORATE IMPLICATIONS**

### **Council Priorities:**

The Luton Dunstable Busway contributes to all five of the Councils priorities:

- It will support the delivery of managed growth by providing a service which is forecast to reduce local vehicle trips significantly.
- It will improve links to educational facilities, including to Dunstable college which will be served by the busway.
- Local perception of crime is an issue that the Busway will also contribute to with increased CCTV and 'help points' at high profile bus stops and potentially the IT infrastructure to boost local communications.
- The provision of a high quality bus service and of a cycleway will contribute to the promotion of healthier lifestyles.
- Access for elderly people will be improved through the provision of a regular bus service including access on to the bus for those with mobility difficulties.

**Financial:**

Details of the financial implications are set out in Appendix D. The two Councils will be required to secure approximately 10% of the scheme cost, made up either from direct Council payments or, where available, from local contributions including under section 106 agreements.

The expected capital costs of the scheme are

	To March 2010	2010/11	2011/12	2012/13	2013/14	2014/15
Expenditure	£5m	£45m	£22m	£0.5m	£0.18m	£1.4m
Funded by						
DFT Grant	£5m	£40m	£22m	£0.5	£0.18m	£1.4m
Luton BC		£5m				
CBC						

These costs are subject to variation in accordance with the sharing formula outlined in appendix D. Cost overruns and change of user specification would be the two main risk areas for a cost overrun.

**Legal:**

Luton Borough Council has all legal powers to construct the scheme under the Luton Dunstable Translink Order 2006, an order made under the Transport and Works Act (TWA) 1992.

A legal agreement between the two authorities was the subject of the report to shadow Executive of 17 March 2009. This agreement provides for joint working, cost sharing and joint ownership of the Busway.

**Risk Management:**

The transport impact of planned development in the southern Central Bedfordshire area will be substantial. Without significant measures to improve the transport network, it will not be possible for the authority to manage this growth sustainably.

Failure to deliver the busway is likely to result in damage to the reputation of the authority with government and may affect future funding decisions for transport.

As a result of previous decisions by the old County Council, ownership and operation of the scheme rests with Luton Borough Council. Failure to agree to go forward with the scheme, will pass all control back to the Borough, giving Central Bedfordshire no say in how it will be developed in the future.

The risk of increased cost to CBC is mitigated by a number of actions including the contractor sharing agreement, effective cost and change control measures and the ability to 'flex' scheme specification and

**Staffing (including Trades Unions):**

None

**Equalities/Human Rights:**

The Busway will offer a step change in the existing public transport infrastructure in the conurbation, this will include greatly improved facilities for people with disabilities, including wheelchair access on to the buses and help points to assist the visually impaired and those requiring extra assistance and information.

**Community Safety:**

Provision of CCTV, 'Help Point' and local lighting at the high profile bus stops will assist in tackling anti-social behaviour issues.

**Sustainability:**

Sustainability is an overarching consideration in the preparation of the Core Strategy. Public transport plays a significant part of this to address the proposed growth. The Busway will set high public transport standards for comfort, reliability and flexible ticketing required to help encourage a modal shift towards public transport.

**RECOMMENDATION(S):**

**1. That**

- (a) Executive confirm the Council's support on the Luton Dunstable Busway to Luton Borough Council and the Department for Transport;**
- (b) Executive agree to proceed with award of contract for the Busway in accordance with the legal agreement between Central Bedfordshire Council and Luton Borough Council as approved at the Shadow Executive on 17<sup>th</sup> March 2009 subject to the Department of Transport's Full Approval / funding offer; and**
- (c) Executive delegate to the Director of Sustainable Communities, in consultation with the Director of Corporate Resources authority to deliver the scheme, subject to 6 monthly bulletin reporting.**
- (d) Executive make future revenue budget allowances for maintenance of the busway currently estimated at £50k for financial year 2012/13 increasing annually to £250kpa by year 3.**

*Reason for Recommendation(s):* To enable the authority to input into the delivery of the Guided busway scheme.

**Purpose for report**

- 1. Members will recall that at Shadow Executive on 17<sup>th</sup> March 2009 it was agreed that the award of contract decision for the Luton Dunstable Busway is reserved to the Executive.
- 2. This report therefore outlines recent progress in relation to the Busway and seeks Members approval to support taking the application forward to the Department for Transport (DfT) for Full Approval and, on a successful application, to agree to proceed with Luton Borough Council to award the contract.

## Background

3. The southern half of Central Bedfordshire is included in the Milton Keynes/South Midlands Sub-Region, which is one of four national growth areas identified by Government. As a result, some 42,000 new homes are planned for the area by 2031, resulting in an increase in population for the council of some 30%.
4. An increase on such a scale in the council area will have a very significant impact on what is already a stretched transport network. Forecasts indicate that, without the introduction of significant measures both to encourage sustainable transport and to re-route existing traffic, traffic in the Dunstable – Houghton Regis area will increase by some 20%. This in turn will lead to an increase in congestion and in journey times and a loss of journey reliability. Combined with an increase in air pollution and in carbon emissions, the effect will be to see an overall reduction in the quality of life of Central Bedfordshire residents.
5. To combat this and to ensure that development can be taken forward in a sustainable fashion, a number of transport initiatives are being developed. These include:
  - The Luton Dunstable Guided busway
  - The A5 to M1 road link
  - The Luton northern bypass
  - Woodside Connection
  - Measures to promote walking and cycling in the area.

These measures form part of the core strategy submission for the Luton and South Bedfordshire Local Development Framework. All are essential if growth is to take place sustainably.

6. The Busway's contribution to sustainable growth is forecast to be as follows:
  - Over 3.5 million passengers a year will use the busway by 2021: around 24% of the total bus market
  - bus usage as a whole is forecast to increase by some 5% because of the busway. The majority of this increase will be as a result of people changing modes, switching from car use.
  - Local vehicle trips in the area will reduce by 10% compared to today's levels.
7. A major part of the scheme involved an application made under the Transport and Works Act. Members will recall that the County Council did not confirm its support for the Order in February 2004 but later agreed to support the scheme (see Appendix B for further detail). This resulted in Luton Borough Council becoming the lead authority with powers to construct as well as being sole beneficiary of DfT funding.
8. The busway was considered by the Shadow Executive on 17<sup>th</sup> March 2009. The following was agreed:
  - Shadow Executive agrees to take over from Bedfordshire County Council, as an equal partner with Luton Borough Council, on the Luton Dunstable Busway on the Luton Dunstable Busway and that it enters into a legal agreement, as set out in Appendix A to the report.....”

- Shadow Executive authorises the Director of Sustainable Communities to write to the Department of Transport confirming that the shadow authority fully understands the consequences of Full Approval for the new authority and that it will be ready to take over the scheme and the costs from Bedfordshire County Council.
  - that the award of contract decision is reserved to the Executive.
9. Following DfT (and Member) approval the scheme has an allocated profile funding spend of £16m for 2009/10. The level of claim on this needs to be maximised (for 2009/10) to reduce any potential impact from a future regional spending shortfall.

### **Details of the scheme**

10. The Busway will include 7.4km of guided busway, 2.4km of unguided busway and 3.6km on highway (including sections of bus lanes) running between Houghton Regis and London Luton Airport. Cycle lanes will be included along key lengths including the guided section between Portland Ride in Houghton Regis and the M1 bridge then extending on into Luton. High profile stops will be on the main Busway and at key locations in the town centres and Luton Dunstable Hospital. Buses will leave and join the system at key access points providing the flexibility to adapt to changing demands.

### **Progress to date**

11. A legal agreement between the authorities provides for equal ownership of the scheme including the existing British Rail Property Board land along the old rail line (within each authority's area). Tenders for the scheme have been received and a preferred bidder identified. An application to DfT for a funding offer is underway and Members are asked to agree to proceed with Luton Borough Council to award the contract.
12. The employer is required to respond to contractual events and requests within preset deadlines, failure to respond may impact on the works programme with subsequent cost implications. Delegated authority to deliver the scheme to the Director of Sustainable Communities, in consultation with the Director of Corporate Resources will ensure these contractual deadlines can be met.

### **Conclusion**

13. When delivered, the Luton Dunstable Busway will make a significant contribution to sustainable transport within the south Central Bedfordshire growth area.
14. Work has now been completed in drawing up the legal agreement agreed by the Shadow Executive in March 2009 and in identifying a preferred tenderer for the scheme.
15. In order to ensure that Central Bedfordshire has a say in how the scheme is delivered, Executive now needs to indicate its support for the scheme to Luton Borough Council and to the Department for Transport.

### **Appendices:**

Appendix A – Progress of the Busway;

Appendix B – Extract of Council report of BCC withdraw and subsequent support for the scheme;

Appendix C – The case for the Busway;

Appendix D – Tender Submissions, costs and risks

**Background Papers:** (open to public inspection)  
Major Scheme Business Case

**Location of papers:**  
Central Bedfordshire Offices, Bedford

## Appendix A – Progress of the Busway

1. The Busway corridor was identified as a key element of the transport strategy for Luton, Dunstable and Houghton Regis in the early 1990s, the wider strategy seeking to promote sustainable transport modes in an integrated way. In June 1993 this strategy was adopted by Bedfordshire County Council, Luton Borough Council, and South Bedfordshire District Council. The provision of a rapid transit Busway as part of a programme of improvements for public transport services throughout the area is seen as a core part of the strategy.
2. The busway follows the route of the Luton-Dunstable railway which was closed to passenger traffic in 1964 and last used for freight in the late 1980s.
3. On 18 December 2003 the Transport and Works Act (TWA) application for the Busway was submitted to the Department for Transport (DfT). On the same day, the Government announced “in principle” funding of the scheme, now referred to as “Programme Entry”.
4. On 12 February 2004 the County Council as an equal promoter of the Busway declined to confirm their support for the submission of the TWA Order. Luton continued as sole promoter. The County Council subsequently reconsidered its decision and a legal agreement was signed between the two authorities to promote the scheme (see Appendix B for further details).
5. The Public Inquiry into the TWA was held during 2005, and a second Inquiry into draft Section 19 certificates for replacement open space was held in early May 2006. On 2 November 2006 the two relevant Secretaries of State published their decision letters following the two Public Inquiries. The Order was subsequently came into force on 13 December 2006.
6. An updated Business Case for the Busway was submitted to the DfT on 29 February 2008, and on 3 September 2008 the Government confirmed Conditional Approval of funding for the scheme, subject to final costs of the schemes construction being confirmed by tender prices. Conditions placed on the promoting authorities called for then to demonstrate progress has been made in securing the commitment of operators to provide services using the Busway and commitment from Central Bedfordshire Council that it is willing to take over as equal partner from Bedfordshire County Council.
7. Tender documents were despatched to contractors on 21 May 2009 and received back on 23 September 2009.
8. Submission to the Department for Transport for Full Approval / Funding offer is an ongoing process, the final application is about to be made. If approved this will result in an offer agreement.
9. Member approval is being requested to ensure the Busway is constructed as a joint project with Luton Borough Council providing Central Bedfordshire with an equal partner status.

## What Happens Next

10. Members will recall that advanced site clearance work will be undertaken starting in January 2010.
11. Following Member and DfT approval for the scheme Luton will under the guidance of their Section 151 officer accept the funding award and award the contract to the preferred bidder.
12. The Busway is being constructed through a design & build contract. The contractor has developed an initial outline design which will need to be developed further. This is expected to take place within the first few months following award. During this period further site clearance and site investigation works will start followed by bridge works, many of these will require wider bridge decks and some such as the Church Street bridge in Dunstable being replaced to provide an additional lane width both for the Busway and for traffic beneath.
13. The main works will start from summer 2010 and continue through to spring 2012.
14. Upgrading of the on-road bus stops will start from about summer 2011, and will include modifications to the kerbs and pavements to allow Busway buses (fitted with a guide wheel) to dock adjacent to the stop. The stops will also be equipped with power for real time information systems and depending on location and expected usage shelters. A hierarchical system is to be adopted with key locations having shelters, advanced real-time interactive displays, help point and CCTV. The other end of the spectrum will provide for a flag pole (bus stop pole) and basic real time information display.
15. Towards the end of the main contract the real time information contractor will install the IT infrastructure required to operate and manage the system.
16. Contracts / agreements with operators will be arranged before opening that set the specification for vehicles and service level.



## **Appendix B – Extract of BCC Full Council report 12 Feb 04 and 22 Apr 04 of BCC withdraw and subsequent support for the scheme.**

1. The Luton Dunstable Busway (previously known as Translink) prior to February 2004 was being jointly promoted with Luton Borough Council and Bedfordshire County Council. A joint application was made under the Transport and Works Act 1992 that required both Councils to confirm their support for the application
2. At the County Councils Full Council meeting of 12 February 2004 (extract below) Members resolved to withdraw the application for the Transport and Works Act 1992.
3. The fallout from this resulted in Luton Borough Council confirming their support for the order and proceeding alone.
4. The County Council at its meeting of 22 April reconsidered its position and a partnering agreement was made with Luton as lead authority.

### County Council - 12 February 2004

#### **03-04/128 TRANSLINK (PROPOSED GUIDED BUSWAY BETWEEN HOUGHTON REGIS, DUNSTABLE, LUTON AND LUTON AIRPORT)**

The County Council considered Executive Minute 03-04/EX/107 relating to this scheme. On 26 January 2004 the Executive had considered a report from Councillor Richard Payne, Executive Member for the Environment on Translink and had made the following recommendation to the Council:-

"That subject to the Council receiving the following reports:-

(a) Item 7 of the Joint Advisory Committee papers of the 13 January 2004

(b) The recommendations from Dunstable Liaison Forum of 12 January 2004 and Dunstable Town Centre Management Committee 20 January 2004.

(c) A financial report in relation to this project together with a risk analysis

the recommendation set out below be considered by the County Council:-

"that the resolution of the Council passed at the meeting of the Council held on 13 December 2001 to apply to the Secretary of State for Transport for an Order under the Transport and Works Act 1992, which was duly applied for on 18 December 2003 and is entitled The Luton and Dunstable Translink Order, is hereby confirmed."

In accordance with the above resolution a report of the Strategic Director (Environment) was submitted with the background information requested above and asking the Council to confirm their support for the submission of the Order application in accordance with the requirements of Section 239 (2)(b) of the Local Government Act 1972.

Councillor Peter Roberts moved an amendment in the form of the resolution set out below which was seconded by Councillor Hollick.

At the request of the Council the County Solicitor advised on this item. If the amendment was approved it was likely that the scheme would fall and that the Government would withdraw the funding for the scheme. If the Council supported an Order for the scheme then it would go to the next stage of a public Inquiry when all parties could put their views and following the Inquiry the Secretary of State would make a final decision.

The amendment having been put, in accordance with Council procedure rules, on the requisition of at least ten Members a recorded vote was taken, the results of which were as follows:

**For the amendment (29)**

Councillors Baker BEM, Burnage, Carter, Duggan, Elford, Mrs Gershon, Gibson, Goodwin, Gwynne Jones, Hall, Hawksby, Hollick, Kinchella, Lawrence, Lee, Mrs Moorhouse, North, Payne, Piggott, Reedman, Mrs A Roberts, P Roberts, Mrs Russell, Saunders, Scott, Stay, Thompson, Wootton and Younger.

**Against the amendment (12)**

Councillors Aylett-Green, Barker, Blaine, Mrs Burley, Colling, Mrs Gillard, Goodchild, Hills, Mitchell, Muir, Owen and Snelling.

**Abstentions (2)**

Councillors Mayes and Oliver.

**The amendment was declared to be carried.**

**The substantive motion having been put to the vote was declared to be carried.**

**RESOLVED:**

That the Council, having considered the reports of the Joint Advisory Committee of the 13 January 2004; the recommendations from the Dunstable Liaison Forum of 12 January and Dunstable Town Centre Management Committee of 20 January 2004; the financial report in relation to this project together with a risk analysis; and being aware of the decision of South Bedfordshire District Council of 3 February 2004 to withdraw support for this project, resolves:

- 1) To withdraw the application under the Transport and Works Act 1992.
- 2) To carry out, in conjunction with other affected authorities and agencies, a full appraisal of the current and future transport, traffic and highway needs of Southern Bedfordshire to cover, particularly but not exclusively
  - a) The impact of the Growth Areas to the north and west of Dunstable, north of Houghton Regis and north of Luton, and the reserve Growth Area east of Luton;
  - b) The impact of the expansion of Luton Airport to 31 Million passengers per annum, with particular reference to access modes and patterns and passenger vehicle parking.
  - c) The impact of the Luton East Corridor, serving Luton Airport from the M1 Motorway;
  - d) The existing needs of that area not covered by the proposed Dunstable and Luton Northern Bypasses;
  - e) The suitability and effectiveness of the Guided Busway scheme in the light of that appraisal.

Note -in the above context the appraisal should cover the needs of the whole of South Bedfordshire District and Luton Borough Council areas and the reserve Growth Area to the East of Luton.

3) To urge Government to create a Strategic Rail connection between the West Coast Main Line near Leighton Buzzard and the Midland Main Line near Luton, to serve the Luton, Dunstable, Houghton Regis Growth Areas; Luton Airport and the Eurostar Terminal at St. Pancras Main Line Station.

## **MINUTES - County Council 22 April 2004**

### **04-05/20 TRANSLINK (PROPOSED GUIDED BUSWAY BETWEEN HOUGHTON REGIS, DUNSTABLE, LUTON AND LUTON AIRPORT)**

The Council considered the report and recommendation from the special meeting of the Executive held on 19 April 2004 relating to this matter.

Councillor Mrs Roberts, Leader recalled that the Council had considered this issue at its meeting on 12 February 2004 and referred to the resolution which was intended to defer a final decision on the application's progress to allow for further work as detailed in the resolution. Since that meeting, discussions had taken place with representatives from Go-East, (the Government's Regional Office), the Office of the Deputy Prime Minister, Luton Borough Council and the Council's own legal advisers. In consequence, the following points had emerged:-

- There was considerable disappointment on the part of Go-East and the Department for Transport that the Council were not prepared to let the application proceed to a Public Inquiry in line with the provisionally agreed timetable. This was particularly so given the bids that had been made by the Council for funding to which Government had responded so positively.
- There could be no guarantee that if the application did not now proceed, funding would remain available. Indeed it was probable that funding would be lost given the considerable competition for funds from a large number of other schemes.
- Go-East remained of the firm view that there is no available alternative scheme to the Translink project
- There was similar disappointment on the part of Luton Borough Council which had worked in partnership with the County Council on the progress of the scheme. It was their wish that the application should now proceed to Public Inquiry whilst continuing to address financial risks.
- It was likely that the intent underpinning the County Council's resolution of 12 February 2004 would not be capable of achievement in that the Luton Borough Council would be able to proceed with a solely promoted application both to Public Inquiry and beyond should that be the ultimate decision following the Inquiry. The Borough Council had met on Tuesday 20 April to consider the matter.

In these circumstances, the Executive believed that it was right for the Council to urgently review its earlier decision. The choices now appeared to lie between:-

- letting Luton Borough Council continue to take the TWA application forward on its own, with the County Council no longer involved in the scheme (even for those parts in Bedfordshire) other than to determine its position at the Public Inquiry or,
- accepting that its earlier resolution could not be achieved and accordingly agreeing to let the application now proceed jointly to a Public Inquiry for the reasons underpinning the Council's earlier decisions to support the scheme.

Councillor Mrs Roberts sought and obtained approval of the Council for Executive recommendation 03-04/EX/152 to be moved in the amended form set out in the resolution below.

The Council debated the amended motion at some length during which period a number of individual members expressed their own personal views on the position the Council now found itself facing on Translink and about the terms of the resolution passed by the Council on 12 February 2004.

Councillor Gwynne Jones then moved that the vote be put.

**The motion having been put to the vote was declared to be carried.**

**The substantive motion having been put to the vote was declared to be carried.**

**RESOLVED:**

That whilst confirming the view that further studies could usefully have been commissioned prior to any final decision on the future of the Translink project, the County Council notes the following developments since its last meeting:-

- The concerns of the Government Office at the decision taken by Council on 12 February 2004.
- The decision of the Luton Borough Council on 20 April 2004 to proceed with sole promotion under the Transport and Works Act affecting not only Luton but also Dunstable, Caddington and Houghton Regis.
- Views of the Department of Transport that the Luton application could apparently be promoted as a sole application and that accordingly the decision of the February County Council, under the Local Government Act 1972 to "withdraw" the application, might not be achievable.

In the light of the above, and for the reasons given in the report, submitted to the Executive, the County Council agrees in the interests of Bedfordshire, that all necessary steps to seek a joint promotion with Luton, should be taken immediately.

Therefore the Chief Executive be authorised, in consultation with the Leader, to take all necessary steps to secure an agreement on joint progression of Translink to the satisfaction of this Council.

## **Appendix C – The case for the Busway**

### **Regional status**

1. The Milton Keynes/South Midlands Sub-Region is one of four growth areas identified in the Government's Sustainable Communities Plan up to 2031 committing the area to approximately 42,000 new homes and 35,000 new jobs.
2. The Luton Dunstable conurbation is identified in the East of England Plan and the Regional Economic Strategy as a Priority Area for Economic Regeneration, based on the high levels of deprivation in parts of the area. Low incomes are a key reason for deprivation and the higher than average levels of unemployment and low educational attainment are two main contributory factors to this.
3. Many of the deprived areas also have lower than average levels of car ownership. The busway services will pass through or close to many areas of deprivation, in particular the Dallow and Biscot wards close to Luton town centre together with parts of Lewsey, Tithe Farm in Houghton Regis and Northfield in Dunstable. These services will open up opportunities for improved access to jobs and further education/training and therefore is expected to contribute to higher standards of living and quality of life in some of the most deprived areas.

### **Local status and challenges**

4. One of the major challenges facing the Luton Dunstable and Houghton Regis conurbation is the 'growth agenda'. While this brings opportunities to benefit new and existing communities the challenges to manage this growth are substantial.
5. Existing travel in the area is localised with 33% of the journeys made being less than 2 miles and 22% being between 2 and 5 miles<sup>1</sup>. The draft Core Strategy seeks to deliver growth in a sustainable way and improve accessibility to public transport.
6. Congestion has a severe impact on the reliability and journey times for bus services in the peak periods, particularly on the approaches to and within Luton and Dunstable town centres, and the heavily trafficked A505 between Luton and Dunstable and East Luton corridors. Bus priority measures have been implemented wherever practicable, though the opportunities for further implementation of measures are limited by the demands on the existing highway network and the lack of attractive alternatives for car users in the event of road space re-allocation.

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<sup>1</sup> Core Strategy: Preferred Options April 2009 (Par 2.6)

## Opportunities

7. The busway corridor was identified as a key element of the transport strategy for Luton, Dunstable and Houghton Regis in the early 1990s, the wider strategy seeking to promote sustainable transport modes in an integrated way. In June 1993 this strategy was adopted by Bedfordshire County Council, Luton Borough Council, and South Bedfordshire District Council. The provision of a rapid transit Busway as part of a programme of improvements for public transport services throughout the area is seen as a core part of the strategy.
8. The Luton-Dunstable corridor is a key element of the transport strategy for Luton, Dunstable and Houghton Regis, and accords with the wider policy framework and objectives as set out in the Local Transport Plan (2006-11) for the conurbation, which identifies improved public transport as being critical to achieving wider economic, social and environmental objectives that will benefit the community as a whole. The Busway is also consistent with the National, Regional and Sub-Regional policy objectives to improve the quality and reliability of public transport and encourage travel by more sustainable modes.

## The Proposal

9. The Busway will be opened as a private route allowing the Councils to set criteria such as standards and level of use. Discussions with bus operators have been ongoing since the Busway's initial concept to establish the viability and preferred service patterns to ensure a successful take-up of the system. The Councils have recently sought and received four formal Expressions of Interest from operators to run services along all or part of the Busway. A Service Delivery Plan is being developed with the operators specifying the principles of operation, namely:
  - (a) A commitment to run buses to a minimum agreed service level.
  - (b) Specification for busway vehicles.
  - (c) Access arrangements (including control of bus operations)
  - (d) Quality standards
  - (e) Ticketing and fares
10. In inviting contractors to tender for the design and build of the Busway the Councils defined a number of objectives for a quality rapid transit system serving Luton, Dunstable and Houghton Regis consistent with the Local Transport Plan objectives and national policy considerations, to deliver a system which:
  - (a) A commitment to run buses to a minimum agreed service level.
  - (b) is an attractive alternative to the car;
  - (c) maximises mobility and accessibility for all, and is easy to use;

- (d) is environmentally friendly;
  - (e) is safe from both a personal and technical viewpoint; and
  - (e) contributes to integration of land use and transport planning by supporting wider planning and regeneration policies, and provides the maximum opportunities to interchange between different modes of transport.
11. While the Busway will be let as a design and build contract the design requirements stipulates that the Busway follows the route of the disused Luton-Dunstable railway. Buses would join and leave the Busway at selected points, enabling them to serve residential areas of Dunstable, Houghton Regis and the west of Luton. In making use of the disused railway alignment, the Busway avoids parts of the congested road network and provides improved journey times and greater reliability. The Busway route passes close to a number of sites proposed for re-development. It will provide improved journey opportunities to jobs, education and retail facilities and support measures to improve social inclusion and regeneration, and provide a sustainable means of transport for those people without access to a car.
12. The scheme involves improved bus stops and the installation of passenger information systems. Stops on the Busway will comprise platforms raised to bus floor level, contiguous with the sides of the guideway. They will be long enough to accommodate a single bus up to 18 metres in length, and will be equipped with high specification infrastructure including shelters, static and real time passenger information, seats, CCTV etc. They may also be equipped with ticket machines.
13. Busway stops will be provided at the following locations:
- (a) Dog Kennel Down serving the Portland Ride area of Houghton Regis and the Printers Way area of Dunstable;
  - (b) The White Lion Retail Park at Dunstable;
  - (c) Toland Close serving the Charnwood Rd/Stavely Rd area and the Luton & Dunstable hospital;
  - (d) Clifton Road serving the Maple Rd/Wimborne Rd area and Luton Town FC;
  - (e) Luton Station serving the town centre and nearby residential areas;
  - (f) Power Court, serving the planned mixed use development in the south-east of the town centre and the University.

14. In addition vehicles will stop at Bedford Square in Houghton Regis, in Dunstable town centre, in Luton town centre, along Kimpton Road, and at London Luton Airport. To give busway services priority where they run on roads, particularly around the town centres, traffic management measures will be introduced including new bus lanes, vehicle detection equipment and signalling. These measures will be carefully designed and monitored to ensure the optimal operation of the local road network.
15. The Luton Parkway Station will be served by its new northern entrance with a strong possibility (CIF funding) of buses also serving the existing entrance by using an existing tunnel. This will result in the Parkway Station being better served than in the original scheme.
16. West of the M1, there will be an emergency access/ maintenance track running alongside the Busway; pedestrians and cyclists will be allowed to use this access track. LBC are also currently exploring the opportunities to continue the cycle track alongside the Busway to the east of the motorway.
17. Combined with other improvements to the transport and land use infrastructure within the conurbation, the busway is predicted to reverse the current decline in local public transport use resulting in a shift away from the use of the car, leading to reduced traffic congestion and improved air quality. A marginal increase in the number of buses on the highway network is forecast but this will have no noticeable impact on traffic conditions and will be more than countered by people transferring from car to bus resulting in fewer cars on the road.

## **Assessment**

18. The scheme has been through an independent comprehensive assessment process as required by the DfT to secure funding. This is via a Major Scheme Business Case (MSBC) submission that demonstrates the case for the scheme in the following five aspects.
19. This MSBC is a live document developed during the DfT approval stages and available on LBC's web site.
  - (a) Strategic - to demonstrate that the scheme is consistent with and will contribute to local, regional, and possibly national, objectives in transport and other relevant areas.
  - (b) Appraisal and value for money - to demonstrate the likely benefits and disbenefits of the scheme against its likely costs (see also section below).
  - (c) Delivery - to demonstrate how the promoter will be able to deliver the scheme to time and budget, including a clear project plan, governance arrangements, plans for stakeholder involvement and engagement and robust risk management plans.



- (d) Financial - to demonstrate that the scheme is based on sound costings, that the promoting Local Authority is able to meet its own contribution, that any proposed third party funding is confirmed, and the Local Authority is willing and able to underwrite this element.
  - (e) Commercial - to demonstrate a sound procurement strategy and a rigorous approach to any private sector involvement
20. The MSBC was submitted to government for funding and progressed from “Programme Entry” status to more recently “Conditional Approval” status.
  21. The Local Partnerships (a joint venture between the Local Government Association and Partnerships UK, incorporating 4ps) have also been involved, undertaking Office of Government Commerce (OGC) Gateway Reviews, firstly on the business justification for the scheme in September 2007 and again in May 2008 on the procurement strategy and readiness for procurement. A third Gateway Review, focused on the investment decision, is scheduled for early December.
  22. These reviews aim to provide independent professional support to local public bodies to improve their ability to source and deliver high quality, cost-effective public services and infrastructure.
  23. Action plans were produced following the reviews and the recommendations from these reviews informed the production of action plans and these have all been fully implemented.

## **Benefits**

24. Major developments proposed as part of the emerging Core Strategy for the Luton and South Bedfordshire Growth Area can be served by public transport through potential extensions to the busway infrastructure.
25. In addition to the town centres and any new commercial premises proposed as part of major mixed use development sites, the busway will also improve transport connections to existing and proposed key employment sites in the south and east of the town such as Luton Airport and the proposed Wigmore employment area on the east side of the airport.
26. The busway will reduce the reliance on car journeys on congested roads leading to the town centres and thereby provide longer term options for traffic management once a viable public transport system is in place.

## **Integrated Ticketing**

27. Through First Capital Connect, rail tickets will be offered to London and other destinations, which will include travel on the bus services to the rail station. More details can be found on plusbus (<http://www.plusbus.info/>). It is intended that the busway services will also participate in the plusbus scheme.

*“PLUSBUS is a discount price 'bus pass' that you buy with your train ticket. It gives you unlimited bus travel around town, at the start, the finish, or both ends of your train journey.”*

28. Longer distance express bus routes to Milton Keynes and Leighton Buzzard will use the guideway, allowing passengers faster and more reliable access to West Coast Main Line rail services to the Midlands and the North.

## **Reliability**

29. Busway will also have priority over other traffic on the "on road" sections of the network by using bus lanes and transponders fitted to the vehicles to switch traffic lights to green as they are approached.
30. Busway vehicles will be linked to a control centre and information about the service will be displayed in real time at each stop. Taken together, this means that passengers:
- (a) Will be able to plan their journeys, knowing they can rely on arriving at work or at the train station or airport by a given time.
  - (b) Will not have to allow extra time for important journeys "in case of traffic".
  - (c) Will always know when the next vehicles will arrive and their destinations.

## **Usage Expectations**

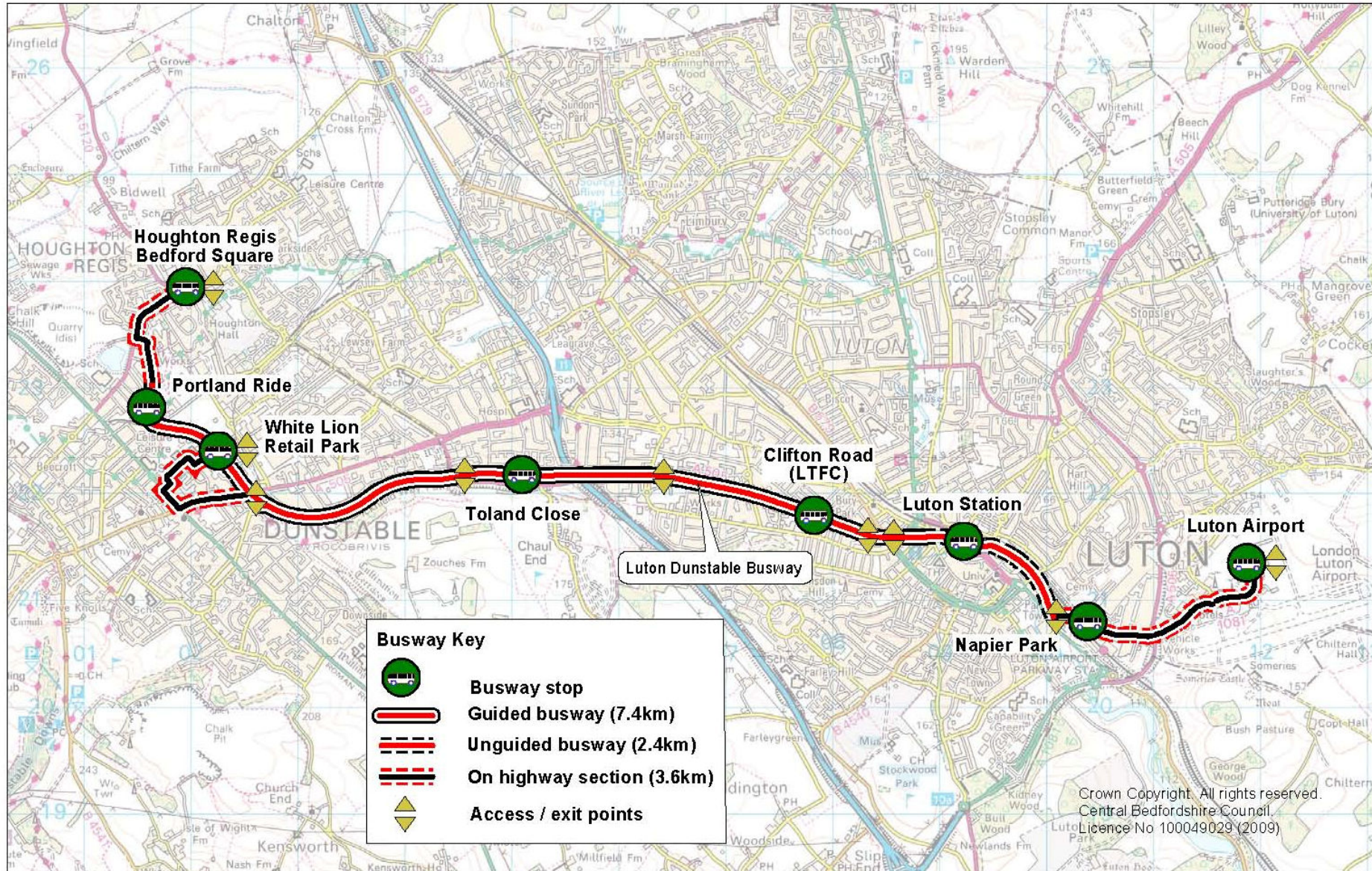
31. Usage is projected at over 3.5 million passengers a year by 2021. This projection is based on modelled forecasts. Previous similar projects such as the Leeds busway, the Fastrack system in Kent Thameside and the Fastway system which operates in West Sussex between Crawley, Horley and Gatwick showed patronage increase well in excess of such modelled forecasts against a background of declining bus patronage.
32. The Luton Dunstable busway is a much larger scheme, with significant additional benefits to those mentioned above. These indications provide a good level of confidence for the future of public transport in our area.

## **Journey Times**

33. Currently, the average speed of a conventional bus over the 6 mile journey from Dunstable town centre to Luton train station is less than 13 miles an hour; the journey can take more than  $\frac{1}{2}$  hour
34. The busway will do the same journey on its dedicated guideway in about  $\frac{1}{4}$  hour, including three scheduled stops, reaching speeds of up to 50mph on the guideway



# Luton Dunstable Busway



## **Appendix D – Tender Submissions, costs and risks**

### **Submission for funding and approvals**

1. Submission for Full Approval (applied for after receiving tenders and before letting a contract) has been an ongoing process with the Department for Transport (DfT) to ensure that appropriate measures and detail of work is covered. While the two councils (LBC & CBC) have a legal agreement in place to provide equal partner status the powers to construct the scheme (via the Transport and Works Act 'TWA') are with LBC and consequently the submission to, and award of DfT funding will be with LBC.
2. The funding application is based on the Major Scheme Business Case (MSBC) and is being made to the DfT with approvals sought from LBC and CBC members to accept the DfT funding (assuming it is approved) offer and award the contract. This needs to be accomplished with a level of urgency to ensure we award early in the new year so the contractor can maximise works during the first summer season and we maximise spend in the 2009/10 period so avoiding any potential regional funding shortfall in future years.
3. The funding submission is based on tender prices of the preferred contractor to construct the Busway together with costs for:
  - (a) On-street bus stop improvement works (to be undertaken by the local authorities highway consultancy (Amey for CBC)
  - (b) Land and compensation (including Part 1 claims)
  - (c) site supervision and design check
  - (d) surveyor and legal fees

### **Type of Contract and funding implications**

4. The type of contract being used is the NEC3 Engineering and Construction Contract Option C: Target Contract with Activity Schedule. This is for a design and build contract based on an outline design provided by the Councils. It works on a type of pain / gain costing scenario as follows:
5. The contractors have submitted a priced schedule of works including a priced risk schedule which forms a Target Cost (TC).
6. Costs, including savings / overspend on the TC are shared according to the table below. This incentivises the contractor to control costs and limits the Councils' risks..



- | 7. | <b>Share Range</b>           | <b>Contractor's Share Percentage</b> |
|----|------------------------------|--------------------------------------|
|    | less than 80% of TC          | 100%                                 |
|    | from 80 to 90% of TC         | 90%                                  |
|    | from 90 to 95% of TC         | 75%                                  |
|    | <i>from 95 to 105% of TC</i> | <i>50%</i>                           |
|    | from 105 to 110% of TC       | 75%                                  |
|    | from 110 to 120% of TC       | 90%                                  |
|    | greater than 120% of TC      | 100%                                 |
8. The detailed design will progress following contract award with discussions between the contractor, Councils and other stake holders to develop the design and programme within the general bounds of the contractors submission. Once the design is agreed (based on the tender submission and information initially provided) a design freeze will result and any further employer changes / requests are likely to result in claims called compensation events.
9. **Contract supervision:** A site supervision team (including consultants 'Atkins') will monitor the contract and report to the Project Board at regular progress meeting. The Project Board comprises of the Corporate Director (Environment and Regeneration) and the Head of Corporate Finance of Luton and the Director of Sustainable Communities and the Director of Corporate Resources of Central Bedfordshire.

## **Tenders**

10. A select list of bidders was established following a pre-qualification submission exercise. Tender documents were despatched to three contractors on 21 May 2009.
11. On 12 June 2009 a letter was received from one stating that they would not be submitting a tender for the project. The following reasons were given:
1. The high level of risk transferred to the contractor under the terms of the contract.
  2. Affordability of the project.
  3. The high cost of tendering, particularly given the extent of design to be carried out and level of investigation required to quantify and mitigate the potential risk.
12. Talks with procurement officers at both councils concluded that providing the tendering process remained confidential it should continue.
13. Meetings were held during the tendering process with tenderers to clarify issues and respond to questions raised.
14. Tenders from the two remaining contractors were returned on 23 September, in accordance with the instructions these were received in two sections, a 'quality bid' and 'financial and programme' section.

## Analysis

15. Two teams were formed with staff from both authorities (LBC & CBC) to assess the sections aided by consultants Atkins who will be assisting in running the contract.
16. The tender documents provided a standard set of questions (and related scores) for the contractors to answer with the final scores based on a 70/30 split with 70% quality 30% price. Contractors were notified of these proportions in advance.
17. Each member of the quality team assessed the documents to form an initial view / list of questions on the contractor's response to each question. Team meetings followed to agree a common set of clarification / questions for the contractors. The following weeks were spent clarifying the contractors bid documents and responses to questions to arrive at a view for the scores.
18. This process was replicated by the financial and programme assessment team.
19. A joint meeting of the two teams was convened to discuss overarching issues that impacted across the two scoring systems to seek further clarification from the contractors.
20. Following communications with the contractors and finalising of each team's scores a Preferred Bidder was proposed to the Project Board who at their meeting of 11 November 2009 agreed to forward that recommendation to Executive.

## Summary of Costs

21. **Maximum funding allowance:** Department for Transport (DfT) Conditional Approval was for a maximum funding contribution of £78.39m (but see 22. below) which equates to 93% of the estimated total scheme cost of £84.39m with a £6m shortfall.
22. **New Funding system:** Further discussions with the DfT over funding have resulted in the scheme moving to the new funding system. This provides a number of advantages to the authorities including:
  - (a) An increase in the level of preliminary design costs that the authorities are allowed to claim back. Previously this was capped at £850k, the new system allows 50% of all eligible preliminary costs since 'Programme Entry' stage. This amounts to 50% of £3.99m, an improvement of £1.145m as the £850k has already been claimed and re-invested in the scheme.
  - (b) Capital scheme costs are now calculated in a different way resulting in an increase in the maximum award from £78.39m to £79.54m.

- (c) The local contribution is now fixed at 10% of the 'Quantified Cost Estimate' (QCE). This is the scheme cost plus preliminary design costs ie £84.39m + £3.99m = £88.38m, where £88.38 is the approved sum from Conditional Approval stage as no new cost has been advised following the move to the new funding system. This can now be offset by the unclaimed preliminary design costs (50% of £3.99m) which reduces local contribution from £8.838m to £6.843m.
- (d) The new funding system addresses overspend with a 'Risk Layer' being added to the QCE. This risk layer is calculated using the optimism bias percentage (a factor indicating cost certainty) set at Conditional Approval stage with 50% of this being applied to the QCE to give the risk layer value. DfT will then commit to funding 50% of the risk layer, but this must be match funded by the promoting authority. On currently approved figures, this would give a risk layer value of £4.86m, of which DfT would contribute £2.43m with the remaining £2.43m to be sourced locally.

### 23-26 Capital Expenditure:

Note: The information contained in these paragraphs is exempt by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972. The exempt information in these paragraphs is presented as an extract at Item EX1 on the agenda.

- 27. **Mitigation measures:** These have been put in place should the scheme overspend and includes a range of measures. As previously stated the type of contract is based on a pain / gain system encouraging the contractor to come in under price and so share the profits with the employer. The impact of a higher tender price being with the DfT rather than local Councils.
- 28. The awarded contract price is referred to as the target cost (TC). Should the scheme costs over-run then providing there has been no change to the TC then the Councils will be liable to share the cost over-run with the contractor in the proportions set out in (7) above.
- 29. This means for example that if there was a construction cost overrun of [say] 25% then the Contractor would be responsible for 81% of this with Councils left to fund the remaining 19% from other local sources. In the worst case of there being no other likely third party contributor then the Councils would share this cost 50:50 between themselves. Provided that this was within the risk layer then this would trigger the DfT match funding the local contribution further reducing each Council's liability. Going back to the example of 25% overrun therefore would leave Central Bedfordshire liable for about 9.5% of a 25% overrun if outside of the risk layer or 4.7% if within the risk layer.
- 30. An allocation has been made in the Councils 5 year capital programme for any overspend of £2m in both 2012/13 and 2013/14 providing a total of £4m. This together with the LBC/CBC cost sharing would account for an £8m allowance with a further £2m allowance from the DfT totalling £10m. This would allow for a substantial cost increase in the TC. This can be reviewed as the project progresses



31. By way of illustration only, the effect that a 25% cost overrun would have on a construction contract of £50m, would be to increase costs to £62.5m.

The first 5% of the overrun would be shared 50:50 with the Contractor:

The next 5% of the overrun would be shared 75% with the Contractor and 25% with CBC

The next 10% of the overrun would be shared 90% with the contractor and :10% with the CBC:

Anything above 20% would be solely at the Contractor's expense

Under the hypothetical scenario, the Councils' joint liability would be capped at £2.375M. As this is within the DfT's risk layer, identified earlier as £4.86M, half of our liability would be met by DfT, leaving £1.188M to be shared between the two Councils (£593.75K each), from a cost overrun of £12.5M

32. The other measures in place include an opportunity to cut back on the real time information systems and the local bus stop improvement measures. These, however will impact on the 'quality feel' of the system.

33. **Revenue costs:** The bus operator will meet all bus operational costs associated with the scheme (including adapting and supplying vehicles). There will be on going maintenance costs to the Councils for the infrastructure, the real time information system and day to day issues such as litter picking and vandalism. Work for this is ongoing and will be developed with the contractor. The business case identified a nominal cost in the region of £350k with recent estimates increasing after the first few years to between £300-600k (for both authorities) depending on level and scope of service required. These values will be refined with the selected contractor as part of the main design. The scheme would also see the authority responsible for additional bridges including the old railway bridge over the M1 that will be refurbished as part of the contract.

No annual operating cost subsidy from either Council is forecast.

34. **Revenue Support:** No allowances have been made for any additional provision of revenue support for services using the busway, nor for any additional costs arising from the national concessionary fares regime. These would be matters to be considered by the relevant local authorities in their normal annual budgeting process.

## Value Engineering

35. Talks with the preferred bidder will take place up to the submission for Full Approval to develop the design, reduce costs and risks to reach a Target Cost.

## **Contract Commitments**

36. DfT funding is awarded through a “Section 31 Grant”. This places various conditions on the authority including making it liable to use and maintain that asset for at least 10 years.

## **Maintenance of the Busway**

37. The contractor will initially be responsible for maintenance of the site (excluding routine maintenance such as litter picking).
38. The Councils liabilities will start from a relatively low cost base increasing as they take on full responsibility for the Busway. This will not include any Bus operational issues such as adapting or running buses, dealing with bus breakdowns but will include incidences such as removal of inappropriate vehicles, policing (private road, Police not liable) and routine maintenance.