

SHADOW EXECUTIVE

17 MARCH 2009

SUBJECT	LUTON DUNSTABLE BUSWAY (This report seeks agreement from Central Bedfordshire Council to take over from the County Council its share of the Luton Dunstable busway.)
REPORT OF	Director of Sustainable Communities
<i>Contact Officer: Dave Buck Tel: 01234 228694</i>	

IMPLICATIONS

SUSTAINABILITY	Promotes sustainable transport modes in an integrated way.
FINANCIAL	A substantial financial commitment may be required. Provision has been made in the Capital Programme 2009/10 and 2012/13, the Revenue Budget 2009/10 and the Medium Term Financial Plan approved by the Shadow Council on 26 February 2009 for Central Bedfordshire Council's anticipated contributions.
LEGAL	A legal agreement between Luton Borough Council and Central Bedfordshire Council to construct a Busway.
PERSONNEL/EQUAL OPPORTUNITIES	None arising from this report
COMMUNITY DEV/SAFETY	Enhanced community cohesion particularly for non-car users and some casualty reductions and improved community safety.
TRADES UNION	None
HUMAN RIGHTS	N/A
KEY ISSUE	Yes
BUDGET/POLICY FRAMEWORK	Yes

OTHER DOCUMENTS RELEVANT TO REPORT

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| <ol style="list-style-type: none"> 1. Conditional Approval letter from Department of Transport 2. Letter from Jaki Salisbury, Interim Chief Executive 3. Legal Agreement |
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RECOMMENDATIONS:

- 1. that the Shadow Executive agree to take over from Bedfordshire County Council, as an equal partner with Luton Borough Council on the Luton Dunstable Busway and that the council enters a legal agreement between Luton Borough Council and Central Bedfordshire Council based on the draft agreement attached to this report.**
- 2. that the Shadow Executive authorise the Director of Sustainable Communities to write to the Department for Transport confirming that the shadow authority fully understand the consequences of Full Approval for the new authority and that they will be ready to take over the scheme and the costs from Bedfordshire CC.**
- 3. that the Director of Sustainable Communities and Director of Corporate Resources be given delegated authority to progress the busway scheme up to the award of tender decision.**
- 4. that the award of contract decision is reserved to the Executive.**

Reason for Recommendation: The Luton Dunstable Busway scheme is expected to go out to tender within the next few weeks. Powers to construct and the award of funding were granted to Luton Borough Council following the County Council's previous withdrawal from the scheme. The County Council currently enjoys an equal partner status following a previous legal agreement which has now expired. A new agreement is required to provide all authorities with the confidence and commitment to continue with the scheme.

1. Overview

- 1.1 The Milton Keynes/South Midlands Sub-Region is one of four growth areas identified in the Government's Sustainable Communities Plan up to 2031. This will impact on the infrastructure of our area in terms of accommodating approximately 42,000 new homes and 35,000 new jobs in Luton and South Bedfordshire.
- 1.2 The Luton Dunstable Busway is one of the measures aimed at reducing the impact of this development on the local road network. A Major Scheme Business Case (MSBC) was submitted to government for funding and has progressed from "Programme Entry" status to more recently "Conditional Approval" status. The final stage for government funding is "Full Approval" applied for after receiving tenders and before letting a contract. A condition placed on applying

for Full Approval by the Department for Transport (DfT) is confirmation from Central Bedfordshire Council (CBC) that they fully understand the consequences of Full Approval for the new authority and that they will be ready to take over the scheme and costs from Bedfordshire CC.

2. **Case for the Busway (based on Business Case accepted by the DfT)**
 - 2.1 The busway corridor was identified as a key element of the transport strategy for Luton, Dunstable and Houghton Regis in the early 1990s. 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.
 - 2.2 The busway follows the route of the old Luton-Dunstable railway line which was closed to passenger traffic in 1964 and last used for freight in the late 1980s. Buses would join and leave the busway at selected points, enabling them to serve a significant part of the Luton-Dunstable- Houghton Regis conurbation. In making use of the disused railway alignment, the busway avoids major parts of the congested road network and provides significantly improved journey times and greater reliability.
 - 2.3 Luton Airport Parkway Station will be served by a new northern entrance with a strong possibility of buses also serving the existing entrance by using an existing tunnel. A CIF2 bid of £1 million for this project has been provisionally accepted by DCLG/DfT. This will result in the Parkway Station being better served than in the original scheme. We anticipate hearing whether the CIF2 funding has been fully approved in March/April. Most buses will continue from the railway station to serve the Airport making use of the newly completed East Luton Corridor dual carriageway scheme.
 - 2.4 The Busway accords with the wider policy framework and objectives as set out in the current Luton-Dunstable Local Transport Plan (2006-11), 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 scheme is also a key deliverable in the approved 2013 Countywide Sustainable Community Strategy. The busway will provide improved journey opportunities to jobs, education and retail facilities and support measures to improve social inclusion and regeneration.

- 2.5 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.

Benefits

- 2.6 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.
- 2.7 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.
- 2.8 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.
- 2.9 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.
- 2.10 The busway will reduce the reliance on car journeys on congested roads leading to Luton and Dunstable town centres and thereby provide longer term options for traffic management once a viable public transport system is in place.

Integrated Ticketing

- 2.11 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 the “Plusbus” website (<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.”

- 2.12 Longer distance express bus routes to Milton Keynes and Leighton Buzzard are expected to use parts of the busway, allowing passengers faster and more reliable access to West Coast Main Line rail services to the Midlands and the North.

Reliability

- 2.13 Busway services 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.
- 2.14 Busway vehicles will be linked to a control centre and information about the service will be displayed in real time at stops. Taken together, this means that passengers:
- 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
 - Will not have to allow extra time for important journeys "in case of traffic"
 - Will always know when the next vehicles will arrive and their destinations.

Demand Projections

- 2.15 Usage is projected at 9,000 trips a day on the busway. This projection is based on modelling work agreed with DfT. Previous projects such as the Leeds busway and the Fastway system which operates in West Sussex between Crawley, Horley and Gatwick have all seen patronage far exceed similar modelled forecasts.
- 2.16 The Luton Dunstable Busway is a much larger scheme, with significant additional benefits. These indications provide a good level of confidence for the future of public transport in our area.

Journey Times

- 2.17 Currently, the average speed of a conventional bus over the journey from Dunstable town centre to Luton train station is less than 13 miles an hour; the journey can take more than ½ hour.
- 2.18 The busway will do the same journey on its dedicated guideway in about ¼ hour, including three scheduled stops, reaching speeds of up to 50mph on the guideway

3. Legal Agreement

- 3.1 Following the County Council's withdrawal as joint promoter of the scheme in February 2004 and its subsequent re-commitment to the scheme, a legal agreement was made between Luton Borough Council (LBC) and Bedfordshire County Council (BCC) which took us up to the Transport and Works Act approval stage in November / December 2006. During this period there was a 60/40 (LBC/BCC) split in terms of funding and development of the scheme.
- 3.2 No legal agreement has been in place since that time but the scheme has progressed on a 50/50 basis with BCC paying an equal share of the costs and having equal representation on the various project groups and the Project Board. The Project Board is the highest level decision making body for the scheme and currently comprises for LBC, the Corporate Director (Environment and Regeneration) (who shall be the Chairman of the Core Project Board) and the Head of Corporate Finance and for BCC the Director of Environment and the Director Of Finance. The revised legal agreement replaces the County Councils representatives with Director of Sustainable Communities and the Director of Corporate Resources of Central Bedfordshire. A second agreement is intended to take the scheme to tender stage followed by further agreements for operation and maintenance.
- 3.3 With the scheme now approaching the tendering stage, longer-term commitments from each authority are required. To secure these, a second legal agreement between the authorities has been approved by the Joint Project Board which will take the scheme through the construction phase. In view of the short time period remaining for the County Council this agreement will now be between Luton Borough Council and Central Bedfordshire Council.
- 3.4 Prior to the approval of the Heads of Terms for the second legal agreement, a letter was requested and received from Central Beds seeking their commitment to the continuation of the scheme. The letter from Jaki Salisbury, Interim Chief Executive, Central Beds dated 2 July 2008 was sent to Huw Jones, Director of Environment, BCC which

reads as follows:

I understand that the County Council wishes to enter into a new legal agreement with Luton Borough Council to move into the implementation phase and to cover the procurement, operational and maintenance details.

I can confirm that I have consulted with the Shadow Leader and Deputy Leader and that there is no objection to this action on the basis of the legal, financial and risk implications set out in the report to your Executive on 8th July 2008.

We recognise that the busway is an important part of the overall growth strategy for Southern Bedfordshire and expect that Central Bedfordshire will want to play a full role in the future implementation arrangements.

Additionally a report went to BCC Executive on 8th July 2008 outlining the Heads of Terms.

3.5 The agreement provides for equal status and cost sharing on the scheme and provides for its termination by either council prior to the letting of a construction contract if either:

- (1) there is a projected funding shortfall of more than six million pounds based on the tender price, or
- (2) the Core Project Board is unable to agree for any other reason to go ahead.

Otherwise, once a contract is let, both councils are committed to go ahead with the scheme and contribute up to half of any shortfall, regardless of amount. Considerable work has been undertaken by the Project Board to manage risk and maximise cost certainty. This work will remain a priority for the Board throughout the life of the project.

3.6 It should be noted that the powers under the Transport and Works Act and DfT funding approval are awarded solely to Luton Borough Council following the County Council's withdrawal from the scheme and LBC's commitment to proceed alone. This means that Luton BC have the power to construct and operate the scheme even if there were no legal agreement with Beds CC or Central Beds.

4. Costs

4.1 Capital shortfall

The Department of Transport (DfT) have awarded the scheme £78.4m in the form of grant. A £6m difference between the original estimated scheme cost of £84.39m and £78.4 grant is to be met from a variety of sources see par 4.1.2 below. The DfT expect all major transport schemes to have an element of local funding. Under new rules this is approximately 10%, switching to this would allow further preparatory costs (approximately £1.2m) to be recovered from the DfT. The Project Board are currently considering the procurement options for the scheme and expected to switch to new DfT funding rules.

While the original scheme was estimated at £84.39m a number of elements have been removed / revised reducing the cost to an estimated £79.2m. These include the removal of significant land and compensation costs associated with going across Luton Retail Park car park & construction costs associated with the link between the Luton Parkway Station and the airport (now built as part of the East Luton Corridor). Inflation has been applied to the scheme costs which results in scheme costs being similar to when the scheme was originally approved.

4.1.1 There are ongoing negotiations including those with British Railways Board (Residuary) Ltd for land that will impact further on this figure but with reducing land costs etc and a conservative approach taken to the original cost estimate the allowances already made are expected to reduce significantly. This may reduce the initial £6m shortfall on the DfT figure and potentially leave a margin for any cost overrun.

4.1.2 Section 106 contributions towards the scheme have been agreed (mainly in Luton, see below) and the County Council have agreed to build and fund the first phase of the Dunstable town centre element of the scheme although this will not take place until 2009/10 and will require Central Beds acceptance in their capital programme.

S106 / contributions in kind (to date): -

- £3M Napier Park (triggered by letting of busway contract - not directly linked to any activity on the development). Developers are currently re-financing with a view to being on site in 2010.

- Construction of retaining wall at Chiltern Park (Skimpot residential development) approximately £150k, works complete.
- Reserved land at Asda, Dunstable (valued at approximately £250k in Q2 2007) - notice already served to claim required land.
- Miscellaneous items totalling approximately £50k
- Early implementation by Central Bedfordshire Council of the Dunstable Town Centre Works consisting of road widening along Church Street Dunstable for a new bus lane and junction improvements to Court Drive / ASDA with local bus stop improvements (costed in business case at approximately £800k, actual cost will be used).

Further contributions are expected from other developments as the market picks up again including Power Court and Network Rail land by the new station development (both in Luton).

4.2 Costs – short term to Full Approval Stage

The current programme is to proceed through to Full Approval stage with documents being sent to selected tenderers in March / April 2009. The estimated costs for 2009/10 will be up to £650k for each authority excluding the Dunstable town centre works although some of this will be reimbursed from the LTP grant funding once full approval is obtained. If the scheme does not proceed these scheme preparation costs to the local authority will not be refunded.

4.3 Costs – revenue longer term on - going maintenance

The bus operator will meet all bus operational costs associated with the scheme. There will be on going maintenance costs to both the infrastructure and the real time information system. These are still being identified and depend on the level of service the system is to provide. The business case identified a nominal cost in the region of £350k pa. This includes items such as replacement bridges after 30 years which in practice is very unlikely. A more realistic overall scheme cost is estimated at £160k for the first year rising to £190k after five years. The scheme would also see the authority responsible for additional bridges including an old BR bridge over the M1 that still needs a structural assessment.

4.4 Costs – potential income

There will be an opportunity to seek income from advertising and wayleaves along the route which could potentially be quite lucrative.

4.5 Full Department of Transport Funding

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. Funding is capped at the level awarded although in practice, providing a case can be made, further funding is sometimes available.

4.6 Revenue Support

The business case makes no allowances 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. All the services using the busway will be commercially operated with the only revenue route support being for any evening or weekend services which the local authorities wish to see – the current situation.

5. Outstanding issues

5.1 Cost certainty

Talks are ongoing with the DfT on procurement to improve cost certainty prior to final approval. The contract procedure follows a ‘design and build’ process where the received tenders are assessed according to agreed criteria and the preferred tender is submitted to the DfT for funding approval. Depending on which procurement process the Project Board adopt (see 4.1) it is possible that a two stage procurement route could be used resulting in further design and development costs in order to achieve greater cost certainty.

5.2 Opportunities to address construction overspend

The Project Board approved the release of tender documents after a detailed review of costs and risks based on a strategy of minimising risk exposure to the councils.

The Busway contract consists of three separate contracts, - the main Busway infrastructure of track / road and on line stops, on street improvements to existing bus stops and provision of real time information systems. Should overspend on the main Busway become an issue there would be an opportunity to consider reducing measures on these other parts in order to keep within overall DfT funding allocation.

Background Papers: Legal Agreement

Location of Papers: Attached

File Reference: