

10.00 am, Thursday, 10 December 2015

Edinburgh Tram Extension - Next Steps

Item number	8.2
Report number	
Executive/routine	
Wards	11 – City Centre and Leith

Executive summary

The Outline Business Case summarised in the report to Council, in November 2015, concludes that extending the existing tram line to Newhaven yields a net economic benefit to the city and a range of wider benefits in relation to employment, population growth, social inclusion and economic regeneration. As the city continues to develop, tram can provide a high capacity public transport spine from the Airport to Newhaven that will support sustainable growth while also serving the most densely populated corridor in Edinburgh, along Leith Walk.

The November report also concluded that, while the Council will need to identify additional resources to fund the borrowing costs required for the project, these could be funded from wider Public Transport revenues.

In response to the November report, the Council approved, in principle, the route option to Newhaven and requested further information, prior to making a final decision as to whether to proceed to the next stage of project development.

Links

Coalition pledges	P18 , P19 , P45 , P46 , P50
Council outcomes	CO7 , CO8 , CO22
Single Outcome Agreement	SO1

Edinburgh Tram Extension – Next Steps

Recommendations

- 1.1 It is recommended that the Council:
 - 1.1.1 notes the findings of the Outline Business Case (OBC);
 - 1.1.2 notes the response from Lothian Buses in relation to the extraordinary dividend;
 - 1.1.3 agrees the high level governance structure as set out in the OBC and authorises the immediate implementation of the same, and in doing so requests that the Corporate Leadership Team merges the Leith Programme with the tram project;
 - 1.1.4 agrees to the commencement of all Option 4 Stage 1 activities as set out in this report, including the mobilisation of internal resources, and where required, the commencement of procurement processes for external support (project management, commercial, legal and technical) and site investigation and waiving Contract Standing Orders to retain the existing tram senior advisor for the delivery of Stage 1;
 - 1.1.5 delegates authority to the Chief Executive or such other officer to whom the Chief Executive may sub-delegate to award the external support contracts and site investigation contract(s), subject to:
 - 1.1.5.1 consultation with the convener of the Finance and Resources Committee; and
 - 1.1.5.2 the summary of the procurement processes being reported to the Finance & Resource Committee;
 - 1.1.6 notes that, at the conclusion of Stage 1, the project financials will be further refined to take account of the new Government guidance on Local Authority borrowing, taxation advice and any revision in assumptions, particularly patronage and capital costs.
 - 1.1.7 notes that a report will be brought back to Council in Spring/Summer 2017 recommending a way forward; and
 - 1.1.8 notes that, in relation to the remaining 67 plots of land for Phase 1b, there may be other means of securing lands in the future should the Council agree to further develop the line and therefore seeks further legal advice confirming this position.

Background

- 2.1 At the November meeting, Council considered the report entitled *Edinburgh Tram Extension – Next Steps* and approved, in principle, the selection of Option 1 (Newhaven) as the Council's preferred option.
- 2.2 In doing so, the Council further noted paragraph 3.51 of the report and on the understanding that Lothian Buses are likely to finalise their 2017/19 business plan in Spring 2016, instructed the Chief Executive to "*write to Lothian Buses to request details of any impacts such an extraordinary dividend would make on their future transport strategy, fleet modernisation plans, the likelihood of future fare increases, loss of other transport initiatives (hidden opportunity costs), and the confidence or otherwise of their ability to ensure the company can continue to meet its liabilities*".
- 2.3 Council also noted "*that there are outputs within the proposed 'Stage One' which may be prudent to undertake now, in order to avoid unnecessary disruption during a future tram extension. These would include the Leith enabling works, and therefore requests that options on taking forward these actions will now subsequently be reported to the next meeting of Council in December. Works already undertaken to 'tram proof' the Leith Walk improvement programme should also be detailed, including specifying previously agreed Council expenditure, to avoid duplication of cost*".
- 2.4 This report responds to the above points, sets out a recommended way forward, in relation to the remaining 67 plots of land for Phase 1b, and seeks approval from Council to move the tram extension to the next phase.

Lothian Buses Response

- 3.1 The Chief Executive wrote to Lothian Buses on 20 November 2015, in response to the request set out at 2.2 above.
- 3.2 A response has been received from Lothian Buses confirming that the additional dividend request will be factored in to the financial modelling it intends to undertake in support of the 2017-2020 strategic plan that will be submitted to Council in September 2016. A copy of the Lothian Buses response is included at Appendix A.
- 3.3 Given the revised Stage 1 activities and budgets set out below, these timescales accord with the anticipated delivery programme.

Stage 1 Activities

- 3.4 In response to 2.3 above, a meeting was held with representatives of the Capital Coalition wherein clarification was provided as to the key issues to be addressed. In providing the clarification the following outline criteria were discussed and agreed:
- 3.5 Subject to recommendation 1.1.7, the end opening date for the tram extension is expected to be no later than the first quarter of 2022;
- 3.6 A revised Stage 1 programme should be extended to Spring/Summer 2017 (18 months); and
- 3.7 The maximum budget available for any revised Stage 1 is likely to be £3.25million, which would be funded out of the £5m revenue reserve retained from previous years' Lothian Buses dividend.
- 3.8 The four options considered are set out below. Options 1, 2 and 3 however would result in expenditure in excess of £4million and can therefore be discounted.
- 3.9 Options 4 would result in expenditure of approximately £3.25million and is discussed in more detail below.
- 3.10 The options considered are:
 - Option 1** – This would involve delivering all the outputs set out in the Outline Business Case with the exception of the Leith Programme Phase 5 Enabling Works which fall outside the 18 month window. The table at Appendix B summarises the outputs against each option.

Option 2 – The outputs from Option 2 would be the same as for Option 1, although the Leith Programme Phase 4 roadway works and the demolition and re-building of the Constitution Street wall would not be carried out. It is worth noting that all tram related footway works within Phase 4 would be carried out under this option to avoid having to re-do these works in the future. The Bernard Street utility diversions would also be included.

Option 3 – This would be as Option 2 but with the Bernard Street utilities deferred to the next stage of project development.

Option 4 – This would be as Option 3 but with a delay to the completion of the Invitation to Tender (ITT) documentation, main contract prequalification (PQQ), and contract risk analysis.

3.11 Options 1 to 3 would maintain the end 2021 completion date, as set out in the OBC. Option 4 would result in a delay to overall completion but can be delivered in the first quarter of 2022.

3.12 The outputs for each option are set out in the table at Appendix B. Detailed descriptions of activities and outputs were set out in the Council paper in November.

3.13 Given the affordability envelope of approximately £3.25million Options 1, 2 & 3 were not considered further. While more physical works could commence under options 1 & 2 and the Invitation to Tender and PQQ would be complete under all 3 options, this could not be done without breaching the £3.25million cap on expenditure.

3.14 Option 4 would provide the following outputs:

- Establish Project Governance & set up project team;
- Develop Financing Solution including discussions with potential lenders;
- Partial Risk Analysis & Apportionment;
- Stakeholder Engagement & Review of 3rd Party Agreements;
- Review Phase 1 Contract Documentation including technical & prior approvals;
- Site Investigation Works;
- Commence Leith Walk Phase 4 Footway Enabling Works;
- Preliminary draft of main contract Invitation to Tender (ITT) including works information;
- Partial completion of pre-qualification of Contractors for main tram works and residual Enabling Works; and
- Complete designs and specifications for Leith Walk Footway Phase 5 Enabling Works.

- 3.15 Option 4 would maintain momentum in relation to project development and retains the early 2022 opening date, it can also be delivered within the £3.25million envelope.
- 3.16 It should be noted that additional time required to deliver Option 4 will increase inflationary pressures on the project in later years which may need to be funded from the £15million project contingency set out in the November report.
- 3.17 In order to deliver the Phase 4 footway enabling works as part of the Leith Programme, there will be a requirement for the tram team to define the detailed scope of works in order to include it in the tender documentation. This scoping work could also be completed for the Phase 5 footway enabling works, although their actual implementation would fall outside the 18 month window.
- 3.18 Assuming a decision to proceed in December, the first activity for the tram team will be to procure external advisors. This process could take up to 3 months, although discussions are underway with procurement to look at ways of reducing this. A decision to proceed was also originally anticipated in October which may have an impact on programme although work is underway to mitigate any delays.
- 3.19 To assist in this mitigation it is recommended that the Tram and Leith Programme projects are brought together under one management team which will provide clearer lines of accountability, streamline the design process, and provide a more consistent approach to communications.
- 3.20 It is therefore recommended that Option 4 is adopted as the revised Stage 1 and in establishing project governance procedures the Corporate Leadership Team will merge the Leith Programme with the tram project.

Phase 1b Land Acquisition

- 3.21 The Council retains powers under the Tram Acts to acquire land under compulsory purchase powers and to commence construction on new sections of tramway. The Council has not exercised its compulsory purchase powers to acquire land between Roseburn Delta to Granton Square (Phase 1b) or between Granton and Newhaven (Phase 1c).
- 3.22 The compulsory purchase powers set out in the Line One Act cease on 7 May 2016 and there is no scope for a further extension within the Act.
- 3.23 If the Council were to not exercise its CPO rights and seek to acquire the land after the expiry of the powers, it could either either promote a new private bill or apply for a Transport and Works Order, as appropriate depending upon the circumstances..

- 3.24 Consideration has been given to exercise the existing powers before 7 May 2016 following the Council meeting on 10 December. However, this is not considered the best way forward for the following reasons:
1. While compensation costs have been calculated at £1.75million for Line 1b there is a possibility that a party who has part of their land included in a GVD could serve a notice of objection to severance which seeks to require the Council to acquire their entire interest. This could add to the compensation costs as estimated by the Valuation Office Agency. It is worth noting that the £1.75million set out in the OBC is not included in the Tram Extension costs and would need to be funded separately. The external legal costs incurred in exercising the CPO powers will also require to be funded separately. In addition, any temporary rights required to facilitate the construction phase will have to be funded separately.
 2. Acquiring the land without certainty over whether Phase 1b will proceed is likely to be controversial and objectors may seek to challenge the process. The costs and delay associated with any legal challenge cannot be quantified at this point.
 3. There could also be reputational issues to consider if the Council proceeds to acquire compulsorily the remaining land without having certainty over whether it intends to proceed with the extension of the current Edinburgh tram network.
- 3.25 As set out above, if the Council were to not exercise its CPO rights and seek to acquire the land after the expiry of the powers, the Council could either promote a new private bill or apply for a Transport & Works Order. Both options would take time to conclude, may be complex and are not without risk.
- 3.26 Given the issues in relation to exercising existing powers it is recommended that further work is done in the first quarter of 2016 to set out in detail the process for pursuing either a new private bill or a Transport & Works Order.

Measures of success

- 4.1 The findings of the draft OBC indicate that that an economic case for extending the current tram line would accrue positive benefits to the City.

- 4.2 Transport investment can increase effective density between places of residence and employment by reducing transport costs and thereby improving accessibility around and between jobs and people. Edinburgh Tram system extension options will reduce the transport costs between a number of key employment locations including:
- Around Leith Waterfront including the Scottish Government at Victoria Quay (for Newhaven and Ocean Terminal Options only);
 - The city centre via the five stops between Picardy Place and Haymarket (inclusive);
 - A reduction in travel time via a direct tram connection to major employment locations on the existing line, notably Edinburgh Park and Edinburgh Airport; and
 - A reduction in travel times to a range of locations within the city and beyond, via interchange with rail at Waverley Station, Haymarket Station and Edinburgh Gateway, and local and intercity bus services (city centre).
- 4.3 Extending the Edinburgh tram system will also support the change in scale and location of jobs through:
- Directly supporting the bringing forward of employment related development in the Leith Waterfront area (for Newhaven and Ocean Terminal Options only); and
 - Increasing the attractiveness of the employment locations in the city centre and West Edinburgh by expanding the effective labour market catchment through reduced travel costs (all options), and through helping bring forward major residential development in Leith Waterfront (for Newhaven and Ocean Terminal Options only).
- 4.4 The extension options will also deliver labour supply benefits. The Leith extension options will connect major existing and planned employment destinations (City Centre, West Edinburgh) with the Leith corridor, which has the highest population density in the city (and amongst the highest densities in the UK) and major planned areas for new residential developments in Leith towards Newhaven.
- 4.5 Enhanced connectivity will better link existing and new jobs with existing and new residents, ensuring that labour market accessibility is increased (businesses will find it easier to recruit, and workers have access to more jobs), and that the economic growth that this will support will be delivered in a sustainable manner, through integrated transport and land use planning.

- 4.6 The purpose of considering Edinburgh Tram extensions is to support the overall level of economic growth of Edinburgh through enhancing the viability and attractiveness of major housing and employment sites identified in the Local Development Plans. The tram extensions can help support a level of economic activity (jobs, development, and housing) at a greater level than would otherwise be the case.

Financial impact

- 5.1 If the Council were to proceed with extending the tram system at this time and pursue the recommendation to extend the tramway to Newhaven, there would be a requirement to find capital funding of £144.7m for the project, plus an additional £15m to provide a contingency.
- 5.2 The costs associated with the next phases of the project total £9.9m, comprising approximately £3.25m for Stage 1 and £6.65m for Stage 2. This can be contained within the overall capital funding requirement of £144.7m for the project. In the event that the Council decides not to proceed with the extension, the costs of stage 1 can be met from reserves set aside from previous Lothian Buses dividend payments.
- 5.3 Over the life-time of the project, financial benefits are similar for all options (including the no extension option).
- 5.4 In the short to medium-term the Council will need to identify additional resources to fund the borrowing costs required for the project
- 5.5 Different capital payment structures may be available to better match borrowing costs to bus and tram revenues, but there will still be a funding gap, which the Council would have to fund from other resources.
- 5.6 A £20m extraordinary dividend from Lothian Buses, plus use of £5m from reserves, would make an extension to Newhaven affordable to the Council.
- 5.7 In the longer term Public Transport revenues can fund the extension and provide additional revenues to the Council.
- 5.8 The Council's draft budget framework, for the period 2016-20, assumes an additional budget contribution of £3.5m per annum from bus and tram is required to assist in balancing the Council's revenue budget. For the purposes of the Outline Business Case, it is assumed that this money is not available for the tram extension project.
- 5.9 Sensitivity testing detailed above shows that, should Capital costs be higher than anticipated or patronage less than forecast, the affordability gap could be considerably greater.

- 5.10 In the event that tram patronage was 10% lower than forecast, then the Council would need to fund an additional initial shortfall, over and above the £25m set out above, of £11m. If tram premium fares dropped by 10%, this shortfall would be £7m, and in the event that capital costs increased by 25% the shortfall would be £6m.
- 5.11 This demonstrates that although an extension to Newhaven may be affordable with the extraordinary dividend from Lothian Buses and £5m of existing reserves, additional capital costs or reduced patronage would present a material financial challenge to the Council. If one or more of the sensitivities were to occur simultaneously the impacts set out in 5.10 above would be compounded and the initial funding shortfall could increase from £25m to approximately £60m.

Risk, policy, compliance and governance impact

- 6.1 The recommendations set out in this report are in alignment with the Local Transport Strategy and the Local Development Plan and reflect the broader Council policy objectives of promoting development and stimulating economic activity in the city.
- 6.2 Although there are a number of risks which require careful management through the delivery phase of the project, including risks associated with traffic management and design, the capital cost estimate represents a fair assessment of the current market condition.
- 6.3 The cost plan and economic appraisal and patronage forecasts have been independently audited by Atkins and Faithful & Gould and are thus considered robust, at this stage of project development
- 6.4 The market consultation that was undertaken during the Summer of 2015 has indicated and provided comfort that the scheme could be delivered within the cost parameters established during this stage.
- 6.5 Robust governance arrangements will be required if the project were to proceed. A key lesson learned from the first phase of tram delivery related to the project governance and contract management structures. Following mediation, revised governance structures were put in place that served the project well through to passenger service.
- 6.6 It is essential that similar arrangements are put in place from the outset for any future extensions. The key principles underpinning any project governance structure are:
- Strong leadership from the top of the client body, key stakeholders and the Contractor(s) selected to carry out the works;

- Strong political support and regular reporting by officers on risks, issues and costs;
 - Clearly defined roles and responsibilities within the client organisation with clear reporting lines;
 - Clear management information used to report through all project levels; and
 - Professional project management support within the client organisation.
- 6.7 There are proposals set out in this report regarding additional contingency allowances to deal with risks not identified in the capital cost estimate.

Equalities impact

- 7.1 The proposals and recommendations described in this report could contribute to the public sector general equality duty to: (i) advance equality of opportunity. There is no distinct relevance in respect of the general duties to; (ii) eliminate unlawful discrimination, harassment and victimisation, or; (iii) foster good relations.
- 7.2 An Equalities and Rights Impact Assessment has been prepared and is available as background reference. There are no direct negative equalities or human rights impacts anticipated.

Sustainability impact

- 8.1 The proposed work packages will be undertaken in consideration of the three elements of the Climate Change (Scotland) Act 2009 Public Bodies Duties. This aligns with the requirements of the Local Transport Strategy. The potential to extend the tram network aligns with, and is cognisant of, the requirement to reduce carbon emissions and the need to travel. In doing so, this will promote a shift to more sustainable modes of transport that will bring reduced carbon dioxide and nitrogen oxide emissions.
- 8.2 The promotion of a high capacity, high quality public transport system aligns with the LTS and draft Local Development Plan and will help achieve a sustainable Edinburgh, as both documents' actions include improving the extent of the public transport offered in Edinburgh, thus enhancing social inclusion and equality of opportunity.
- 8.3 The proposals to integrate with the St James Quarter redevelopment and Leith Programme initiatives aim to improve facilities for cyclists and pedestrians, thus promoting personal wellbeing.

Consultation and engagement

- 9.1 The recommendations set out in the November report were discussed with representatives of the Capital Coalition, Opposition Groups, Transport for Edinburgh, Lothian Buses, Sustrans, as well as between relevant services within the Council including Transport, Economic Development, Finance and Planning. Subsequently meetings have been held with the Capital Coalition and Lothian Buses in compiling this report.

Background reading/external references

A Strategy for Jobs: The City of Edinburgh Council's Economic Strategy 2012-2017

http://www.edinburgh.gov.uk/download/downloads/id/501/a_strategy_for_jobs_2012-17

Edinburgh City Local Plans

http://www.edinburgh.gov.uk/downloads/download/229/edinburgh_city_local_plan

Edinburgh Local Development Plan – Proposed Plan March 2013

http://www.edinburgh.gov.uk/download/downloads/id/122/proposed_local_development_plan_march_2013

Local Transport Strategy 2014-2019

http://www.edinburgh.gov.uk/info/20221/roads_and_transport/341/transport_policy

John Bury

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Links

Coalition pledges	P18 – Complete the Tram in accordance with current plans. P19 – Keep Lothian Buses in public hands and encourage the improvement of routes and times. P45 – Spend five per cent of the transport budget on provision for cyclists. P46 – Consult with a view to extending current 20mph zones. P50 – Meet greenhouse gas targets, including the national target of a 42 per cent reduction by 2020.
Council outcomes	CO7 – Edinburgh draws new investment in developing regeneration CO8 – Edinburgh’s economy creates and sustains job opportunities CO22 – Moving efficiently – Edinburgh has a transport system that improves connectivity and is green, healthy and accessible.
Single Outcome Agreement	SO1 – Edinburgh’s Economy Delivers increased investment, jobs and opportunities for all.
Appendices	Appendix A – Lothian Buses Letter Appendix B – Option Outputs

Appendix A

Lothian Buses Response

Our Ref: JMcf/GL

30 November 2015

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Dear Andrew,

I am responding to your letter of 20 November 2015.

First of all I appreciate having clarity in regard to the Council's annual dividend expectations over the next three years. This will assist the company with its future business planning.

I also note to Council's request, now confirmed that the company consider the possibility of a further extraordinary dividend of £20m over the period 2017-2020.

The extent to which the company can meet this additional dividend request will be factored in the financial modelling that we intend to undertake in support of the 2017-2020 strategic plan that will be submitted to the Council in September 2016.

The company respects the right of the Council as majority shareholder to make this extraordinary dividend request. Equally the council will acknowledge that the company can only make annual or extraordinary dividend payments if it has the financial strength to do so having first taken into account the ongoing cash flow requirements of the business.

Yours sincerely



Jim McFarlane
Chairman & General Manager



Transport for Edinburgh

Appendix B
Options Outputs

Option 1	Option 2	Option 3	Option 4
Establish Project Governance & set up project team	Establish Project Governance & set up project team	Establish Project Governance & set up project team	Establish Project Governance & set up project team
Develop Financing Solution	Develop Financing Solution	Develop Financing Solution	Develop Financing Solution
Risk Analysis & Apportionment	Risk Analysis & Apportionment	Risk Analysis & Apportionment	Partial Risk Analysis & Apportionment
Stakeholder Engagement & Review of 3 rd Party Agreements	Stakeholder Engagement & Review of 3 rd Party Agreements	Stakeholder Engagement & Review of 3 rd Party Agreements	Stakeholder Engagement & Review of 3 rd Party Agreements
Review Phase 1 Contract Documentation including technical & prior approvals	Review Phase 1 Contract Documentation including technical & prior approvals	Review Phase 1 Contract Documentation including technical & prior approvals	Review Phase 1 Contract Documentation including technical & prior approvals
Site Investigation	Site Investigation	Site Investigation	Site Investigation
Commence Leith Walk Roadway and Footway Enabling Works – Phase 4	Commence Leith Walk Footway Enabling Works – Phase 4	Commence Leith Walk Footway Enabling Works – Phase 4	Commence Leith Walk Footway Enabling Works – Phase 4
Draft ITT including works information	Draft ITT including works information	Draft ITT including works information	Preliminary draft ITT including works information
Complete PQQ for Main Works	Complete PQQ for Main Works and Residual Enabling Works	Complete PQQ for Main Works and Residual Enabling Works	Partial completion of PQQ for Main Works and Residual Enabling Works
Complete enabling works at Constitution	Complete enabling works at Bernard	No further enabling	No further enabling

Option 1	Option 2	Option 3	Option 4
Street Wall & Bernard Street	Street	works	works
Complete designs and specifications for Leith Walk Roadway and Footway Enabling Works – Phase 5	Complete designs and specifications for Leith Walk Footway Enabling Works – Phase 5	Complete designs and specifications for Leith Walk Footway Enabling Works – Phase 5	Complete designs and specifications for Leith Walk Footway Enabling Works – Phase 5