

Divisions Affected – All Oxford divisions, plus Kirtlington & Kidlington North, Kidlington South, North Hinksey, Kennington & Radley, Berinsfield & Garsington, Wheatley

CABINET - 22 JUNE 2021

ZERO EMISSION BUS REGIONAL AREAS (ZEBRA) SCHEME CALL FOR EXPRESSIONS OF INTEREST

Report by Bill Cotton – Corporate Director for Environment & Place

RECOMMENDATION

Cabinet is **RECOMMENDED** to:

- (a) authorise officers to finalise and submit an Expression of Interest for the Government’s Zero Emission Bus Regional Areas funding initiative;**
- (b) agree a capital allocation of up to £6m in 2022/23 to provide additional council grant to bus operators, if operators can demonstrate this is required to make the scheme feasible.**

Executive Summary

1. The Government is seeking ‘Expressions of Interest’ (EoI) for local authorities to take part in the Zero Emission Bus Regional Areas (ZEBRA) scheme, in support of the Government’s Road to Zero Strategy for transition to zero emission transport by 2050.
2. The funding, which totals £120 million and is expected to support at least three areas, is intended to enable deployment of zero emission buses and relevant accompanying infrastructure. In order to best meet the criteria and maximise the opportunity and chances of success, urban services operating wholly within the Oxford SmartZone area have been selected as the preferred location for the EoI. The SmartZone area extends from Kidlington in the north to Kennington in the south, and from Cumnor in the west to Wheatley in the east – a map is at **Annex 1**.
3. The development of the EoI is ongoing with further detail being developed rapidly to meet the submission deadline of 25 June. If successful at phase 1, a business case (phase 2) will be required by January 2022.
4. If successful, this bid would support a number of the key corporate priorities related to health and well-being, climate action, air quality and healthy place shaping. A reduction in bus emissions in Oxford would contribute to better air quality and better environments for all users as well as reducing transport’s

contribution to climate change. Electric buses may also improve the image of buses and the passenger experience, helping to boost bus use and reduce traffic congestion. There are also linkages to the Council's current work, for example Connecting Oxford and the Oxford Zero Emission Zone, the first phase of which is due to start operating in summer 2021.

5. Cabinet is asked to agree that officers submit an EoI for part of this funding.

Background

6. The Council submitted an Expression of Interest for the All-Electric Bus City project in June 2020, which was successful despite not strictly being compliant with the terms of the competition. Subsequently, it was determined that this could not proceed to business case stage and the Government advised that the ZEBRA scheme would be more appropriate for Oxford.
7. The stated objectives of the ZEBRA project are to:
 - support the government's commitment to decarbonisation and to reduce the transport sector's contribution to CO2 emissions;
 - support the roll-out of the 4,000 Zero Emission Buses that the government committed to in February 2020;
 - support bus manufacturers in the development of zero emission bus technology;
 - support partnership working between Local Transport Authorities (LTAs), bus operators and other local stakeholders as set out in the National Bus Strategy; and
 - understand better the challenges of introducing zero emission buses and supporting infrastructure to inform future government support for zero emission buses.
8. The Government recognises that buses have a significant role to play in tackling air quality and reducing greenhouse gas emissions. Not only does a fully loaded double decker bus take up to 75 cars off the road which helps to reduce congestion and the impact of transport on the environment, but by switching to the next generation ultra-low or zero emission buses the improvement in air quality is significant.
9. To secure delivery through a partnership with the bus companies and to maximise the competitive offer of the bid through providing a single solution at a city scale, the Oxford SmartZone area has been selected as the preferred location for the ZEBRA EoI. The technology is currently best suited to dedicated urban and sub-urban routes, of which only Oxford (together with its immediate surroundings) and Banbury have any of note – however, the Government have been clear that only one submission is permitted per authority and it must be for a single defined area. They have also confirmed that future funding opportunities linked to zero emission buses will be available which the Council may wish to bid for in due course.

10. Buses already play a key role in Oxfordshire's transport system – getting people to work, to education and to see friends and family. Plans are advanced for the initial pilot phase of a city centre Zero Emission Zone, with implementation planned for summer 2021. The Council has also announced plans for a wider ZEZ to be introduced in 2022. In addition, there is a currently agreed requirement for most buses operating in the city to be Euro VI by the end of 2021, although this may be superseded by the ZEBRA scheme.
11. The ZEBRA scheme would therefore support proposals such as the Oxford Zero Emission Zone and Connecting Oxford. With buses funded by the scheme required to be in operation no later than two years after a successful funding award, this proposal would fit well with the current envisaged timescales for the Connecting Oxford programme, with the infrastructure and supporting measures that includes and the new electric buses complementing each other.
12. The EoI will be required to indicate air quality challenges in Oxford and how the proposal will affect those challenges, detail the overall vision for improving public transport in the area, demonstrate the involvement of stakeholders (including the support of bus operators) and demonstrate an understanding of the risks. Much of this work has already been undertaken as part of the All-Electric Bus City bid in 2020.
13. The Council considers that the proposal would be well-placed to meet the eligibility criteria for the ZEBRA scheme, which are significantly less stringent than for the All-Electric Bus City scheme.
14. A map and details of the routes and number of buses expected to be covered by the bid are contained in **Annex 1**.

Key Issues

15. The key issues surrounding the bid are:
 - Financial – particularly the bus operators' willingness to commit to significant investment at a time when the industry has been weakened by the Covid-19 pandemic, and the means of overcoming any gaps in the funding programme. Bus operators have indicated they are likely to be unable to proceed without additional council grant to help cover the investment which is required in addition to the ZEBRA funding from DfT.
 - Political – bus operators are seeking greater certainty on delivery of the major Council schemes such as Connecting Oxford to give them confidence to make an investment; and
 - Technological – even with the scope now focused on purely urban routes, vehicle range remains a concern for bus operators.
16. A successful bid would contribute significantly towards the Council's strategic objectives and priorities for transport improvement. It would support a number

of the key corporate priorities related to health and well-being, climate action, air quality and healthy place shaping. A reduction in bus emissions in Oxford would contribute to better air quality, better environments for all users and a reduction in transport's contribution to climate change.

17. Of particular relevance is the Council's declaration of a 'climate emergency' in April 2019.

Corporate Policies and Priorities

18. If successful, this bid would support a number of the key corporate priorities related to health and well-being, climate action, air quality and healthy place shaping. The proposed ZEBRA bid area includes three Air Quality Management Areas, where nitrogen dioxide levels exceed national limit values. The proposals would lead to 72% of daily bus mileage within the SmartZone area being operated with zero emission buses. The resulting dramatic reduction in bus emissions would contribute significantly to better air quality and better environments for all users as well as reducing transport's contribution to climate change. Electric buses may also improve the image of buses and the passenger experience, helping to boost bus use and reduce traffic congestion. There are also linkages to the Council's current work, for example Connecting Oxford and the Oxford Zero Emission Zone, the first phase of which is due to start operating in summer 2021.

Financial Implications

19. Government has made available £120 million in total to support the ZEBRA scheme and expect this to fund at least three areas. There is no minimum or maximum bid size, but bids are expected to be in the region of £25-35 million.
20. The amount of support for a place will be based on the following funding formula:
- DfT will contribute up to 75% of the cost difference between a zero-emission bus and a standard conventional diesel bus equivalent of the same total passenger capacity; and
 - DfT will contribute up to 75% of the capital expenditure incurred for infrastructure improvements as a result of its purchase and installation.
21. As an example, an electric double decker bus costs c.£445,000. Under this funding initiative the cost to the bus operator would be the cost of a standard diesel double decker bus £235,000, which would leave a difference of £210,000. ZEBRA would fund 75% of that difference, leaving 25%, or £52,500, to be funded by the bus operator or other funding sources.
22. The Covid-19 pandemic has led to significantly reduced levels of bus patronage, which has detrimentally impacted bus operator finances and their ability to fund the 25% 'gap' between the cost of a diesel bus and an electric bus which remains after the ZEBRA funding.

23. Oxford Bus Company and Stagecoach have indicated that they will likely require additional financial assistance to make the ZEBRA scheme financially feasible. Both operators have been asked to submit a request for the specific additional funding they require to make the scheme feasible, supported by appropriate financial evidence. Subject to this evidence, officers recommend that the county council provides an additional council grant to operators to meet the additional funding requirement.
24. It is recommended however that this additional grant is capped at a maximum of 50% of the 25% gap, or £6m – whichever is smaller. 50% of the gap is currently estimated at £5.3m. The maximum cap is recommended i) to limit the pressure on the council's own budgets to a proportionate level and ii), because contributing a higher amount proportionately brings subsidy control risk which could lead to legal challenge.
25. The amount contributed would be a non-repayable capital grant funded through prudential borrowing, which would be repaid over the next 5 to 8 years, creating an annual revenue pressure on the council's budget of between £0.7m and £1.2m for that period. This would need to be addressed through the Budget and Business Planning process with existing resources reprioritised to meet the pressure or new income streams identified to offset the cost.
26. Based on the latest available figures from operators, in a scenario where the council funded 50% of the 25% gap, total operator costs would be £41.32m (53%) and total government / council grant would be £36.98m (47%).

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Legal Implications

27. Independent legal advice has been sought on the state aid, subsidy control and procurement issues relating to the ZEBRA scheme; the main conclusions are summarised below.
28. EU State aid rules now only apply in limited circumstances, which do not include this project. The new subsidy rules are contained in the UK-EU Trade and Cooperation Agreement (TCA), which require public authorities to consider on a case-by-case basis whether financial support could fall within the definition of "subsidy" and if so whether it would comply with six key principles. Unlawful subsidy can be challenged in the courts by way of judicial review. The government is also intending to introduce a Subsidy Control Bill this year to regulate domestic subsidies.
29. The Council will not itself receive unlawful subsidy as it will pass the ZEBRA Grant in full to the Operators and as a result the subsidy control rules will not be engaged.

30. The ZEBRA Grant will fall within the definition of “subsidy” when paid by the Council to the Operators, which means the Council must, as the next step, satisfy itself that the Grant is consistent with the six key TCA principles. Legal advice suggests the risks on this point are low.
31. If the Council wishes to provide Additional Council Grant, it will need strong evidence to demonstrate how doing so would be consistent with the six TCA principles, in particular around compliance with those concerning proportionality, necessity and the positive benefits outweighing the negative effects. The provision of an Additional Council Grant increases the risks of unlawful subsidy, but it is likely that this can be mitigated if this evidence is in place. Further legal advice will be sought as more detailed evidence becomes available and also in the event that new legislation comes into effect.
32. Risks relating to indirect subsidy can be mitigated by compelling operators to tender the contracts for the buses and related infrastructure using a transparent competitive procedure equivalent to one under the Public Contracts Regulations 2015.
33. Risks relating to public procurement rules are considered low as long as any works contracts for the charging infrastructure are not more than 50% funded by the Council and would be further mitigated if operators’ tender contracts competitively.

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Staff Implications

34. Local authorities are expected to fund the preparation of Eols in phase 1. The costs associated with the submission of the Eol will be met through existing budgets. The DfT have indicated that funding and support can be made available for business case development (phase 2); this may include appointment of an internal project manager and/or external support.

Equality & Inclusion Implications

35. An Equality and Climate Impact Assessment is in preparation and will develop as the Eol is progressed.
36. At this stage it is anticipated that the project would have an overall positive effect, especially on key groups that suffer the effects of congestion and associated pollution. The ZEBRA bid area includes a number of areas of deprivation within Oxford which will benefit from reduced bus emissions and improved bus services.

Sustainability Implications

37. This bid would support a number of the key corporate priorities related to climate action, air quality and healthy place shaping. A reduction in bus emissions in Oxford would contribute to better air quality and better environments for all users as well as reducing transport's contribution to climate change. Electric buses may also improve the image of buses and the passenger experience, helping to boost bus use and reduce traffic congestion.

Risk Management

38. A risk register and management strategy are in development. The project is being proactively managed through the development of the EoI and, if that is successful, the Business Case development stage and on to implementation of our bid.
39. There are likely to be a wide range of risks associated with both the bidding process and the delivery of the bid. These range from ensuring due diligence is completed to minimising subsidy control risk; capital implications on the council's budget for supporting the new bus network by grant funding; to contractually ensuring the buses secured through the project are retained locally. These and other risks are being identified and assessed with officers across the council and will be managed through the Council's established processes.
40. Ongoing timely and effective communications will be needed with the bus operators, city council and stakeholders.

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Annex: Annex 1 – ZEBRA bid area and bus services included

Background papers: Nil

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