

## **Divisions Affected - ALL**

### **CABINET**

**21 June 2022**

## **National Bus Strategy – Draft Enhanced Partnership**

### **Report by Corporate Director for Environment and Place**

#### **RECOMMENDATION**

1. **Cabinet is RECOMMENDED to**
  - (i) **Approve the draft Oxfordshire Enhanced Partnership Document (attached as Annex 1) for submission to the Department for Transport.**
  - (ii) **Consult on the draft Enhanced Partnership Document with all Oxfordshire Bus Operators, for the statutory 28 objection period.**

#### **Executive Summary**

2. The purpose of this report is to set out the proposals for the Oxfordshire Bus Enhanced Partnership (EP), reflecting the Council's indicative Bus Service Improvement Plan (BSIP) funding allocation and the schemes / measures which this is proposed to fund. It also asks for agreement to the draft EP attached as Annex 1, including the Governance arrangements for the Partnership (also summarised separately in Annex 2).
3. The draft Partnership document would then be submitted to the Department for Transport (no later than the end of June) and consulted upon, initially with bus operators, with any changes required included in the Final version, due to be submitted later in 2022.

#### **Background**

4. The National Bus Strategy (NBS), published in March 2021, required Local Authorities to commit to enter into an Enhanced Partnership (EP) with bus operators, or to pursue Bus Franchising, in order to be able to access all future Government funding for buses. In June 2021, Cabinet agreed to *“commit to establishing an Enhanced Partnership across Oxfordshire and give formal notice of the Council's intention to prepare an Enhanced Partnership and invite all local bus operators to confirm their intention to participate”*.

5. In October 2021, Cabinet approved the submission of a £56m Bus Service Improvement Plan (BSIP) to Government, a requirement of the NBS, this was subsequently submitted. The next step is to develop the formal proposals for the EP, to reflect the ambitions and commitments set out in the BSIP. At that time, EPs were due to have been completed and signed off, following BSIP funding announcements that were due to be made early in 2022.
6. The County Council was only advised in early April on its indicative BSIP funding award, of up to £12.7m, covering the 2022/23 to 2024/25 financial years. The funding allocation is subject to a number of requirements and caveats, as set out in the award letter attached as Annex 3.
7. Government requirements and deadlines keep changing. A draft EP is now required to be submitted, by 30<sup>th</sup> June. Statutory consultation with bus operators would then take place, followed by a separate consultation with Stakeholders and other statutory parties. The Partnership Document would then be revised and updated, in the context of the Council's final confirmed BSIP funding allocation. The deadline for completion of the final EP document has yet to be confirmed, but is expected to be autumn 2022.

### ***What an Enhanced Partnership is and what it includes and covers***

8. An EP is a statutory arrangement under the Bus Services Act 2017 which can specify, for example, timetables and multi-operator ticketing. It is important to be clear that an EP is a legally binding commitment between the Local Transport Authority (LTA) and Bus Operators specifying what improvements will be made to bus services that operators (which would remain substantially commercial) would still run. The EP sets out exactly what the County Council and Oxfordshire bus operators must deliver and comply with. Once the EPP and EPS are 'made', as statutory documents, they will need to be formally agreed between the Council and bus operators before the Partnership can come into effect.
9. An EP is therefore a significant step change in joint working and commitment to a shared vision. This will be important to enable Oxfordshire to continue to benefit from the operators' pro-active approach, and to allow them to continue to bring investment and innovation to the Oxfordshire bus market, building upon and supporting the recent 'Zero Emission Buses Regional Areas' (ZEBRA) funding award Oxfordshire has provisionally secured to roll out fully electric buses across the Oxford 'Smartzone' bus operating area
10. An Enhanced Partnership comprises two parts – an **Enhanced Partnership Plan (EPP)** and an **Enhanced Partnership Scheme (EPS)**. The EPP will largely reflect the published BSIP and is proposed to comprise a summary version of the BSIP document. The EPS sets out exactly what the County Council and Oxfordshire bus operators must deliver and comply with. Once made, they will be binding commitments and as statutory documents, will need to be formally agreed between the County Council as Highway Authority and Oxfordshire's Bus Operators before the Partnership can come into effect.

11. The draft of the overall EP document reflects the Council's BSIP and policies/interventions designed to support buses. It is important to note that, even though the indicative BSIP funding award falls some way short of what was bid for, the Council's BSIP remains its agreed commitment to bus improvement – so it is not the case that a lower level of funding than the Council bid for means schemes being removed from the Plan, more a question of what is prioritised for funding at this time. The list of capital and revenue schemes to be funded from the Council's initial BSIP allocation is attached as annex 4.
12. The accompanying EP Scheme identifies the Council's (minimum) level of commitment required irrespective of funding, with the addition of the committed schemes and measures proposed to be funded from the indicative BSIP funding award and other funding sources, in other words which elements of the Plan the Council and operator partners are able to commit to, given the funding awarded.
13. These base commitments include the £1m annual fund for schemes to improve Bus Journey Time Reliability - lining/signing and other engineering/accessibility measures, traffic signal priority schemes and network management. The EP also refers to specific requirements, for example, to at least maintain the current bus priority network, and the opportunity to include proposed new County Council powers to enforce moving traffic offences. A list of OCC and bus operator commitments are included as annexes to the EP document – this reflects the proposed schemes the Council and operators propose to fund from the BSIP allocation and other sources.

### ***Enhanced Partnership Development, Consultation and Governance***

14. The process for agreeing an Enhanced Partnership is prescriptive, with a strong emphasis on bus operator support, ensuring there is the opportunity for objections to the proposals to be made and considered. Operators have already been heavily involved in developing the proposals to date and will be consulted formally on a draft EP once it had been approved and submitted.
15. Consultation on EPPs and EPSs is required by law under the Transport Act 2000. As well as all bus operators (who must be consulted first), statutory consultees include user representatives, the Traffic Commissioner, the Police, affected local authorities, Transport Focus and the Competition & Markets Authority. Best practice also recommends consulting MPs and major local employers. Public consultation is not a requirement and has already been undertaken on the BSIP, informing what is included in the draft EP.
16. It is critical that there is agreement with bus operators and other Stakeholders on our respective commitments. To achieve this, the EPP sets out how the Partnership is proposed to be overseen by a new Board and Governance model, attached as annex 2. This is an extract from the draft Plan, designed to ensure that the main Board has equally balanced local authority and bus operator representation, and that there is a voice for partner District & City Councils and smaller operators.

17. It should be stressed that involvement of partner organisations is not limited by formal Board membership. For example, there will be opportunities for partners to be involved in the EP working groups also set out in Annex 2, which are being set up feed up to and inform Board decisions. Also, consideration can be given to attendance at EP Board meetings without voting rights, should this add value.

## Corporate Policies and Priorities

18. The Bus EP directly supports the Council's priority to *invest in an inclusive, integrated and county-wide sustainable transport network, fit for the 21st century and to create a transport network that invests in public transport to significantly reduce our reliance on car journeys and prioritises [active and] public transport over road capacity for cars*. It is also central to meeting priorities to Address the Climate Emergency (see below) and Tackle Inequalities.

## Climate Impact Assessment

19. An impact assessment has been completed and is included in Appendix 5. The results are summarised in Figure 1, but in summary it is anticipated that the schemes that are being committed to by the Council and operators as part of the Enhanced Partnership will significantly contribute towards the Council's climate change ambitions. It will do this through:
- Encouraging modal shift from private cars to public transport by making buses more reliable, quicker, and cheaper for young people;
  - Linking major growth areas, and so ensuring that new developments are served by sustainable transport;
  - Commit both operators and the Council to work together to deliver Zero Emission Vehicles in Oxford;
  - Enabling healthier lifestyles through the use of public transport, owing to more people walking to bus stops.
20. The development of new infrastructure, for example bus lanes, may increase the likelihood of flooding. Opportunities to mitigate this risk will be explored as the schemes are developed.

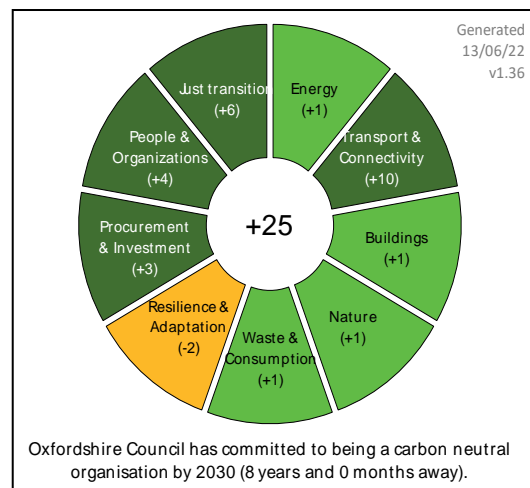


Figure 1 - Climate Impact Assessment Summary of Results

## Financial Implications

21. The Oxfordshire BSIP is a highly ambitious investment programme for buses comprising a number of priority capital investment schemes (which if funded would need to be incorporated into the Council's capital programme), supported by a package of revenue-funded interventions, all considered essential to meeting these outcomes as well as directly supporting other investment/ funding opportunities, in particular the Central Oxfordshire Transport & Connectivity Strategy, its core schemes (specifically Traffic Filters, which has been identified as a priority in the BSIP capital programme) and the ZEBRA zero emission buses projects. A summary table outlining the funding commitments and implications for each of the elements is attached as Annex 4. Note that this does not include the ZEBRA commitments as these are funded separately
22. Given only part of this funding has been secured, consideration will need to be given on what other funding sources or budgetary requirements there could be to achieve these outcomes. At this stage, there are no specific new budgetary implications identified. However, the draft EP document assumes (and requires) current commitments to supporting buses to be at least maintained in the 2022/23 and ongoing commitments will need to be factored into future years' budget setting process. These include, for example, the annual £1m Bus Journey Time reliability fund.
23. The BSIP also identifies revenue funding streams (e.g., to support potential new rural bus services) which, if progressed, may require ongoing Council revenue funding beyond the end of the current BSIP funding period (2024/5) if any services funded are to continue and other funding cannot be secured. These commitments would need to be built into future Council budget planning.
24. The requirement for additional measures to prioritise and support bus operation – including a potential statutory requirement to provide socially or economically necessary services – would also have financial implications. These are not yet able to be quantified, but need not necessarily be additional, as they could for example result in reprioritisation of funding from other projects or programmes.
25. Government has allocated Oxfordshire LTA Bus Capacity Fund revenue funding of £378,00 to support and resource the development of the BSIP and EPs, which can be spent on staff resource, consultancy support or other activity. Approximately £100,000 has been spent so far, with the remainder programmed for spend to support this activity in over the next two financial years.

Comments checked by:

Rob Finlayson, Finance Business Partner (Communities)

## Legal Implications

26. An Enhanced Partnership, once 'made', is a legal undertaking by all parties with specific requirements. The Council as LTA has the formal responsibility for making the Enhanced Partnership Scheme. In doing so, this potentially places more significant and binding obligations on the Council to deliver scheme

requirements. If an authority includes any facilities or measures in an Enhanced Partnership Scheme, they have a legal obligation to provide the facilities and take the measures not later than the date(s) specified in the scheme and continue to provide those facilities and take those measures throughout the life of the scheme or until a scheme is varied to remove the obligation to do so. The only exception to this rule is if the EPS is formally postponed or if the authority is temporarily unable to provide a facility or take a measure due to circumstances beyond their control.

27. It is for this reason that, in the EP documentation, each time it is stated that the Council “will” do something (for example put in a traffic filter or any scheme which requires a Traffic Regulation Order), the wording ‘subject to statutory consultation, etc’ has been included, as clearly the Council cannot predetermine the outcome of any consultation, so it has to be made clear that these are not foregone conclusions. There is a need to ensure that the Council will not end up in breach of the EP if a filter or similar doesn’t proceed, as within the legislative framework that allows us to introduce such measures, that has to be a possibility. This is a risk in terms of potential challenge to the EP by operators, which would be mitigated by the requirement to revise the EP scheme, for which there is a process, to reflect this or any other agreed change (see para 33).
28. When considering any type of partnership, even if underpinned by legislation, LTAs must consider competition issues. In this case, this is not just to ensure compliance with competition law, it is also to preserve as far as possible the passenger benefits of lower fares, quality services and innovation that competition between operators will help foster. This is also an issue for operators and will need to be worked through in finalising any Enhanced Partnership Plan. Further guidance on competition requirements is expected to be issued by the Government in due course.

Comments checked by:

Jennifer Crouch, Principal Solicitor (Environment Team), Law & Governance

## **Staff Implications**

29. BSIP support funding is being used to create a stronger in-house capability to support buses, develop and implement an Enhanced Partnership and Bus Service Improvement Plan, and to maintain this higher level of activity beyond these initial commitments. Commitment to additional staff resource would require an ongoing staff (revenue) budget commitment, once the allocated Government funding has been used and an element of the BSIP (revenue) funding allocation has been identified to fund this.

## **Equality & Inclusion Implications**

30. Supporting bus services, which provide essential connectivity for relatively deprived areas, is an important contributor to the Council’s commitment to Tackling Inequalities in Oxfordshire. Committing to do so via this Partnership framework will strengthen this.

## **Sustainability Implications**

31. The Enhanced Partnership will also provide a framework and Governance for promoting buses (particularly supporting increased bus use and switch away from car travel) and their significant contribution to supporting Climate Action and reducing the Carbon impacts of travel.

## **Risk Management**

32. The principal risk is the uncertainty over the future funding commitments as these influence the Council's ability to deliver the Oxfordshire BSIP and secure its outcomes. One way we have sought to mitigate this is by ensuring that these proposals are closely tied in with the Central Oxford Travel Strategy (plus its Core Schemes) and the recently approved ZEBRA project, demonstrating that they all support each other, increasing the likelihood of funding coming forward.
33. In addition, if the Council does not its obligations set out in the approved Partnership, there is a risk of operators resorting to legal action against the Council, which could result in (for example) funding being withdrawn or the Council unable to bid for future funding streams. One example of any changes to the EP scheme arising from the outcomes of any statutory consultation, as outlined in para 27. The expectation would be that the EP would be revised and agreed/updated by consensus, to reflect any resulting changes.

## **Consultations**

34. Public and Stakeholder consultation on the BSIP took place in summer 2021, which influenced the final submission. The EP effectively translates these BSIP into commitments, subject to funding, so further public consultation is not required. However, as stated, it is a requirement to undertake Stakeholder consultation on the EP proposals. As well as the statutory consultees identified, it will also be important to consult with organisations which provide substantive funding towards buses and/or have a strategic role in the bus network (for example the Hospital Trust, Universities and other major employers).

### **Bill Cotton Corporate Director for Environment and Place**

- Annex 1: Draft Enhanced Partnership Document
- Annex 2: Extract from draft EP document – Summary of Partnership Governance and Working Groups
- Annex 3: Oxfordshire BSIP funding allocation letter
- Annex 4: BSIP Summary and Financial Implications of the Enhanced Partnership
- Annex 5: Completed Climate Impact Assessment

Background papers: Nil

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