



# MetroWest+

## Portishead Branch Line (MetroWest Phase 1)

TR040011

Applicant: North Somerset District Council

### 4.2 Funding Statement (version 2)

The Infrastructure Planning (Applications: Prescribed Forms and Procedure)

Regulations 2009, regulation 5(2)(h)

Planning Act 2008

Author: North Somerset District Council

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## Funding Statement

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## Funding Statement

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## 1. Introduction and Summary

- 1.1 This Funding Statement (version 2) updates the previous version submitted as part of an application for development consent (the **Application**) by North Somerset District Council, in November 2019 (referred to in this document as the **Applicant**) to construct the Portishead Branch Line Railway as part of the MetroWest Phase 1 proposals (**MetroWest Phase 1**).
- 1.2 Since the submission of the Application, the Development Consent Order (DCO) examination followed from October 2020 to April 2021, having been delayed by 5 months due to the covid 19 pandemic. The DCO examination closed on 19<sup>th</sup> April 2021 and the Examining Authority submitted its report and recommendations to the Secretary of State for Transport on 19<sup>th</sup> July 2021. A decision was due to be made on the DCO by the Secretary of State on 19<sup>th</sup> October 2021, however a ministerial statement was issued on 20<sup>th</sup> October 2021 announcing the decision was being extended by 6 months to *“allow further consideration of environmental matters”*. On 19<sup>th</sup> April 2022 a further ministerial statement was issued announcing the Secretary of State is ‘minded to’ consent the DCO but had been made aware of a project funding shortfall. The ministerial statement extended the DCO decision by a further 10 months to 19<sup>th</sup> February 2023 to *“allow North Somerset District Council further time to demonstrate that funding for the entire scheme has been secured”*. A letter also of 19<sup>th</sup> April 2022 was issued to the Applicant from the Department for Transport (DfT)’s Transport and Works Act Orders Unit, setting out the position of the Secretary of State for Transport in more detail (Appendix 1).
- 1.3 These three delays to the DCO (beyond the standard timescales set out in the 2008 Planning Act) cumulatively total 21 months if the DCO decision is not made until February 2023. The first two delays of 5 months and 6 months have impacted the project, causing cost increases which contributed to the project funding gap in early 2022. The funding gap has now been closed as set out in section 4 of this document.
- 1.4 The works for which development consent is sought in the draft Order is referred to in this document as the **DCO Scheme**. This statement explains the current and future funding position for MetroWest Phase 1 as required by Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.
- 1.5 This statement also explains the background to and sources of funding for MetroWest Phase 1 and explains why the Applicant is satisfied that funding will be available to:
  - meet all liabilities for land assembly; and
  - allow the DCO Scheme (and the wider MetroWest Phase 1 scheme) to be constructed

as required by paragraphs 9, 17 and 18 of the Guidance entitled "Planning Act 2008: Procedures for the compulsory acquisition of land", dated 3 September 2013 (**CA Guidance**). In preparing this Statement the Applicant has had full regard to the CA Guidance. Consideration is also given to the tests for compulsory acquisition powers imposed by Section 122 of the Planning Act 2008.
- 1.6 The estimated capital out-turn cost of MetroWest Phase 1 is £152.01m as reported to the Applicants Council meeting of 12<sup>th</sup> July 2022 (Appendix 2) and the West of

England Combined Authority (WECA) committee of 27<sup>th</sup> July 2022 (Appendix 3). This represents a capital cost increase of £35.58m above the original £116.43m budget reported in the Outline Business Case of December 2017. The principal part of that cost is the cost of the DCO Scheme, which is £151.40m, see table 1 below.

- 1.7 The DCO Scheme entails 14km of railway works (of which 9km consists of works to existing operational railway) and two new stations.
- 1.8 The railway works for which development consent is sought are:
  - 1.8.1 the construction of 5 km of railway between Portbury Dock Junction and Portishead on the currently dis-used track bed of the former Portishead Branch Line railway; and
  - 1.8.2 minor works to 9 km of existing operational freight line (almost exclusively single track) between Portbury Junction in Pill, and Ashton Junction in Bristol.
- 1.9 Outside of the DCO Scheme, the MetroWest Phase 1 project includes:
  - 1.9.1 minor improvements to the railway between Parson Street and Bristol Temple Meads, and
  - 1.9.2 improvements to level crossings between Bath and Westbury.
- 1.10 Development Consent is also sought for associated development as part of the DCO Scheme, including highway works at Portishead and compounds for maintenance purposes along the branch line. In addition, new stations are proposed at Portishead and Pill.
- 1.11 The DCO Scheme has been subject to an Environmental Impact Assessment and also requires Habitats Regulations Assessment due to its minor works within the Avon Gorge, which is a designated Site of Special Scientific Interest and Special Area of Conservation.

## 2. The DCO Scheme

- 2.1 MetroWest Phase 1 was mobilised in 2013, building on the previous Portishead re-opening proposal that was developed in 2010 to Stage 3 (option selection) of Network Rail Infrastructure Limited's (**NR**) Governance for Railway Investment Projects (**GRIP**) process, with the addition of enhancements to the local service for the Bath Spa to Bristol Line and the Severn Beach Line.
- 2.2 MetroWest Phase 1 proposes to provide an enhanced half hourly train service for the Westbury to Bristol Line and the Severn Beach Line and an hourly service for the re-opened Portishead Line. The half hourly enhancement to Severn Beach Line was introduced in December 2021.
- 2.3 The DCO Scheme comprises the works required for the restoration of passenger rail services between Portishead and Bristol. This principally comprises a new railway (on the existing disused trackbed) between Portishead and Pill, together with works required to make suitable for passenger services the existing operational freight railway between Pill and Ashton Junction in Bristol. Two new stations are proposed; Pill station situated on site of the former station on Station Road and a new Portishead

station situated at Quays Avenue, Portishead. Highway works are proposed at Portishead together with other works such as maintenance compounds at points along the Portishead Branch Line.

### **3. The Cost of the DCO Scheme**

- 3.1 In early 2022 the total estimated capital out-turn cost of MetroWest Phase 1 increased from £116.43m to £152.01m, creating a funding gap of £35.58m. This includes the estimated cost of the DCO Scheme, the estimated cost of permitted development works to re-open the Portishead Line and the estimated cost of permitted development works on the Westbury to Bristol line.
- 3.2 The principal reasons for the cost increase were a combination of the delays to the DCO process and higher market prices than expected. The market prices received reflected covid 19 impacts, material costs increases and labour cost increases, in the context of emerging economic instability and unprecedented national and international inflationary increases. The Applicant and WECA worked in collaboration with Network Rail and the DfT's Acceleration Unit to reduce project costs. The conclusion of this work was the estimated capital cost of the scheme was brought down to £152.01m. Following that cost validation process, the Applicant and WECA underwent a funding approval process facilitated by the DfT's Rail Infrastructure Team. This entailed an updated assessment of the scheme's economic appraisal based on updated information provided by the Applicant and WECA. This assessment reconfirmed the scheme still provides value for money and following HM Treasury and No 10 Downing Street approval, a formal funding letter from the DfT was issued to the Applicant and WECA on 19<sup>th</sup> July 2022, which is attached in appendix 4.
- 3.3 The total estimated capital out-turn cost of the DCO Scheme and the cost of permitted development works to, undertake minor improvements to the railway between Parson Street and Bristol Temple Meads (all the works required to re-open the Portishead Line for passenger trains) is £151.40m.
- 3.4 A summary of the DCO Scheme estimated capital out-turn cost is set out in Table 1.

| <b>Table 1</b> Cost Description  | <b>Non- Railway Scope/Works Estimated Costs</b> | <b>Railway Scope/Works Estimated Costs</b> | <b>Estimated Cost of the DCO Scheme &amp; Permitted Development works to Re-open Portishead Line</b> | <b>Total Cost of MetroWest Phase 1</b> |
|--|---|--|--|--|
| DCO Scheme development costs to date (to end March 22)   | £18.98m   | £11.42m                                    | £30.40m  | £30.40m                                |
| Costs to date for works other than works required to re-open the Portishead Line, ie works to the level crossings on the Westbury Line   | --  | £0.61m                                     | --   | £0.61m                                 |
| DCO Scheme delivery costs from April 22 to project opening including; detailed design ecology enabling works, construction works, land acquisition, legal interfaces, mitigations, project management and risk allowance | £18.11m   | £102.89m                                   | £121.00m   | £121.00m                               |
| <b>Total Estimated Capital Out-turn</b>  | <b>£37.09m</b>                                  | <b>£114.92m</b>                            | <b>£151.40m</b>  | <b>£152.01m</b>                        |

#### 4. Funding the DCO Scheme

- 4.1 Additional funding to close the £35.58m funding gap has been allocated by the Applicant, WECA and the DfT, see item 7, 8 and 9 in table 2 below. Further assessment of the budget will continue as the DCO Scheme proceeds through the consenting process and detailed design leading into the production of the Full Business Case and the Rail Network Enhancement Pipeline process, following the DCO decision by the Secretary of State. Draw down of funding will be subject to the standard technical and governance requirements of the co-funding partners. The MetroWest Phase 1 co-funding partners and funding sources are set out in Table 2 below:

| <b>Table 2</b> Funding source                            | <b>Available Funding (in £m)</b> |
|--|----------------------------------|
| 1. West of England Local Growth Fund                     | £18.87                           |
| 2. West of England Economic Development Fund             | £49.53                           |
| 3. West of England councils contributions                | £4.41                            |
| 4. NSC additional contribution                           | £5.86                            |
| 5. WECA Investment Fund                                  | £5.86                            |
| 6. DfT RYR contribution                                  | £31.90                           |
| 7. NSC additional contribution (allocated July 2022)     | £10.00                           |
| 8. WECA additional contribution (allocated July 2022)    | £10.00                           |
| 9. DfT additional RYR contribution (allocated July 2022) | £15.58                           |
| <b>Total</b>   | <b>£152.01</b>                   |

4.2 Evidence supporting the funding allocations shown in Table 2 is attached in the appendices to this document.

4.2.1 Appendix 5 is a letter from the Applicant's Director of Corporate Services (s151 officer), confirming items 2, 3, 4 and 7 set out in table 2.

- Item 2 that the Applicant has included the revenue impacts associated with the Economic Development Fund borrowing within its Medium Term Financial Plan
- Item 3 that the £4.41m has been received and already spent,
- Item 4 that the £5.86m has been included within the Applicant's Capital Strategy and funds specifically set-aside, and
- Item 7 that the Applicant has allocated a further £10m of funding to the scheme in July 2022 and added into both the Capital Strategy and Medium Term Financial Plan for 2023/24.

4.2.2 Appendix 6 is a letter from the West of England Combined Authority (**WECA**) (which is the administering body for the West of England Local Enterprise Partnership (**WoE LEP**)) confirming items 1, 2, 5 and 8 set out in table 2.

- Item 1 that an allocation of £18.87m Local Growth Funding has been spent;
- Item 2 that North Somerset Council has an allocation of £49.53m from the Economic Development Fund;
- Item 5 that an allocation of £5.86m from the WECA Investment Fund has been approved, and
- Item 8 that WECA has allocated a further £10m of funding to the scheme in July 2022.

4.2.3 Appendix 4 is a letter from the DfT confirming item 6 and 9 set out in table 2, which totals £47.48m. Item 6 is the allocation of £31.9m and item 9 is the allocation of a further £15.58m in July 2022.

4.3 The local co-funders: the four local councils, WoE LEP and WECA, have adopted the Department for Transport (DfT) technical process for the appraisal of major transport schemes, known as Transport Analysis Guidance (TAG). This means in order for a local transport scheme to be awarded local funding and DfT funding it must demonstrate that it has met the requirements of TAG including demonstrating value for money, at each business case stage. There are three business case stages as follows:

- Strategic Outline (Preliminary) Business Case
- Outline Business Case
- Full Business Case (for railway projects this also includes additional processes for the DfT's Rail Network Enhancement Pipeline)

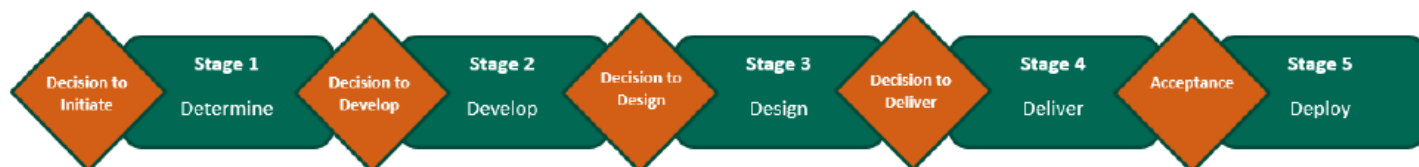
4.4 The governance requirements for funding of local schemes is set out in the WoE LEP Local Growth Assurance Framework which is attached in Appendix 7. The focus of TAG is on economic appraisal to establish the value for money of the proposed intervention (proposed scheme), although it also includes technical requirements for the assessment of wider impacts, including social distributional impacts. The main way that value for money is expressed is through the scheme benefit to cost ratio (BCR). The current BCR is 1.88 – 1.91, including wider economic impacts, which



represents 'medium value for money', based on TAG. This is the upper end of 'medium value for money' as BCR of 2 or over represents 'high value for money'.

- 4.5 The purpose of the Strategic Outline (Preliminary) Business Case is to set out the feasibility of the scheme, based on initial options assessment, consultation and a basic level of design/technical outputs. This business case stage is typically used to demonstrate whether further funding should be allocated to develop the scheme design and progress formal processes, such as planning and environmental consents and land assembly.
- 4.6 The purpose of the Outline Business Case is to set out the scheme proposals in more detail. This includes completion of design milestones / technical approval such as 'Approval in Principle Design'. It also outlines the outcome of consultation with affected parties, statutory bodies and wider stakeholders and normally includes the early stages of formal processes. The Outline Business Case is typically used to secure funding for the delivery of the scheme (subject to the completion of a positive Full Business Case) and to support the delivery case of the scheme through formal processes.
- 4.7 The purpose of the Full Business Case is to demonstrate that the DCO Scheme has completed all technical process, has achieved all planning and environmental consents, and has secured powers for the compulsory acquisition of land, where necessary. For railway projects this also includes additional processes for the DfT's Rail Network Enhancement Pipeline (RNEP). RNEP is a governance process where DfT funding is required for railway enhancement projects. RNEP includes five stages as set out in Fig 1 below.

**Figure. 1: DfT's Rail Network Enhancement Pipeline (RNEP) process**



- 4.8 The DfT confirmed in autumn 2019 approval for MetroWest Phase 1 for 'stage 3 design'. The RNEP requirements for 'stage 4 deliver' will be incorporated into the Full Business Case, following the DCO decision by the Secretary of State, completion of detailed design and procurement processes. The Full Business Case will then be submitted to funding decision makers (DfT, WECA and the Applicant) to seek authorisation to release funding for the construction and implementation of the DCO Scheme. The funding decision makers will principally want to be satisfied that the DCO Scheme is deliverable, that the delivery cost of the DCO Scheme remains affordable and that the DCO Scheme continues to provide value for money. The approval of the Full Business Case (including RNEP 'stage 4 deliver') will enable construction contracts to be awarded.
- 4.9 The MetroWest Phase 1 Strategic Outline (Preliminary) Business Case was completed and endorsed in September 2014. The MetroWest Phase 1 Outline Business Case was completed and endorsed in December 2017. In April 2019 an addendum to the Outline Business Case was produced to assess changes that had been made to TAG since the completion of the business case in December 2017. The Full Business Case is scheduled to be completed in autumn 2023, following the

DCO decision by the Secretary of State, completion of detailed design and procurement processes. Any additional funding requirements arising will be considered at that time.

- 4.10 The MetroWest Phase 1 project is being promoted by the Applicant and WECA on behalf of the authorities across the West of England including; Bath & North East Somerset, Bristol City and South Gloucestershire Councils. The MetroWest Phase 1 project forms part of the wider MetroWest programme to deliver strategic enhancements to the local rail network over the next 10 years. The DfT have confirmed it will assume the sponsor role for the project and with Network Rail taking on the delivery role, as set out in their letter of 19<sup>th</sup> July 2022, in Appendix 5.
- 4.11 The governance arrangements for the MetroWest Phase 1 project are summarised in the governance chart shown in Appendix 8. The funding decision makers comprise:
- WoE Joint Committee – which comprises the leaders of the four local councils and the mayor of WECA,
  - WECA Committee,
  - DfT Rail Executive, and
  - The Applicant (NSDC Full Council).

## **5. Land Assembly, Compensation and Section 122 Planning Act 2008**

- 5.1 Land assembly is required for the DCO Scheme. Although the amount of permanent land required is relatively limited, there is a significant amount of land required temporarily for the construction works. Some permanent land rights are also required for accesses and for installing and maintaining protection apparatus such as soil nails.
- 5.2 The whole of the land forming the railway corridor required for the DCO Scheme is either owned by the Applicant (the part between Portishead and the former Portbury Station) or is already land owned by NR. Negotiations with landowners have been successful with purchases of land at Portishead and Pill. Negotiations continue with other landowners through the Applicant's agent Ardent Management Limited (**Ardent**). If agreement cannot be reached, then powers sought in the draft Order will be relied on and the interests in land will be acquired compulsorily.
- 5.3 The total estimated cost of the remaining land acquisition for the DCO Scheme is £3.388m which includes the estimated cost of compensation likely to be due as a result of the exercise of compulsory acquisition and temporary use powers, as well as claims under Part 1 of the Land Compensation Act 1973. This is evidenced in Appendix 9, being a letter from Ardent confirming the total property cost estimate for the DCO Scheme.
- 5.4 The land shown on the land plans is required for the DCO Scheme and a clear purpose for the proposed acquisition of the relevant interest in land has been established. A compelling case in the public interest exists for the acquisition of the land and new rights and for taking temporary possession powers.
- 5.5 Compulsory acquisition powers are the most appropriate way of progressing the DCO Scheme. In terms of the requirement to demonstrate a compelling case in the public interest:

- (A) funding for the DCO Scheme has been allocated;
- (B) there is a clear technical case for the delivery of the DCO Scheme, including justification for all the Order Lands (See Statement of Reasons Document 4.1);
- (C) the restoration of passenger train services between Portishead and Bristol provides substantial economic and environmental benefits to Portishead, Pill and the wider sub-region;
- (D) the DCO Scheme is part of a package of railway improvements being promoted by the West of England Councils and WECA; and
- (E) there are substantial socio-economic benefits across the demographic and particular advantages for mobility impaired people to have well designed modern rail facilities to allow them to make journeys between Portishead and Bristol.

- 5.6 As can be seen from section 4 of this Statement the Applicant can meet claims for land, rights, and Part 1 Claims as and when they fall due.
- 5.7 The Applicant is also satisfied that it has sufficient resources to deal with any claims for statutory blight that may arise during the time between the application being submitted and the implementation of the DCO Scheme.
- 5.8 For the reasons set out above and as are further detailed in the Applicant's Statement of Reasons the tests in Section 122 of the Planning Act 2008 are met.

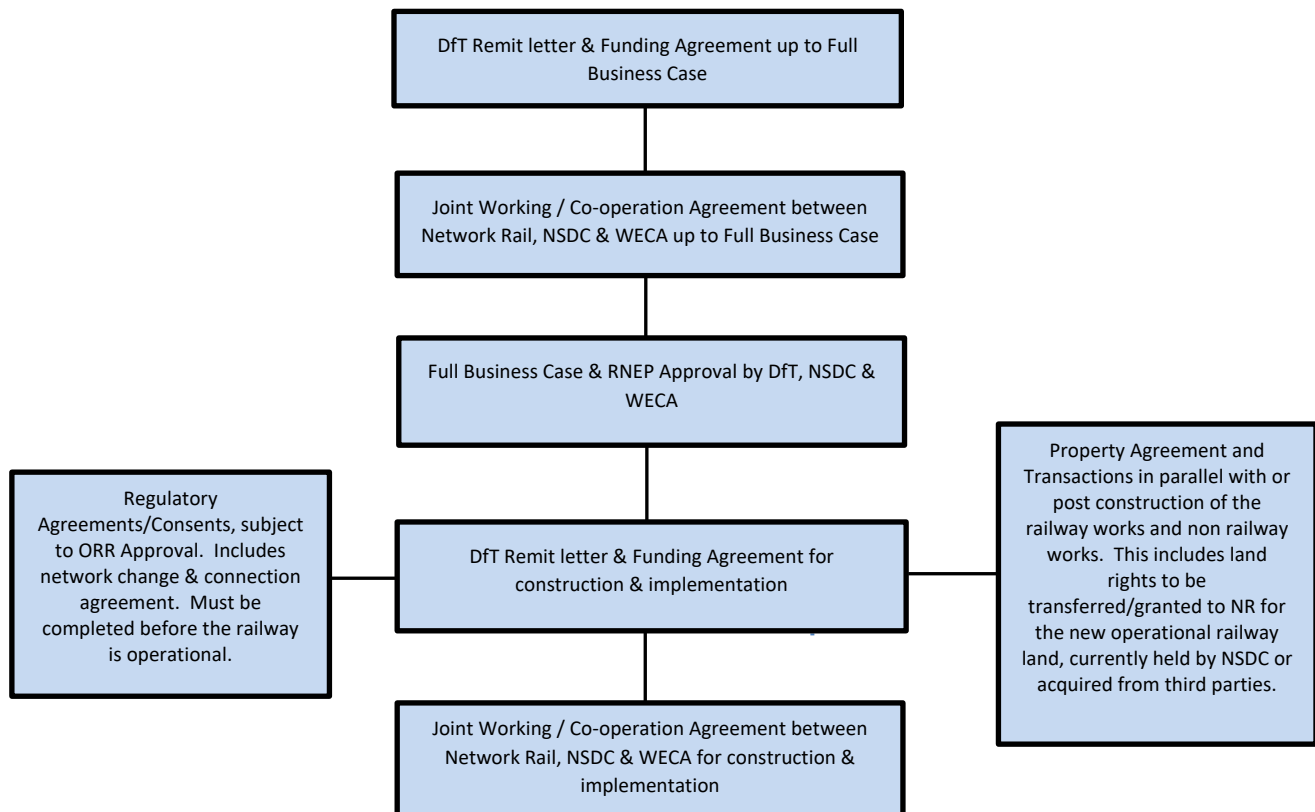
## **6. Meeting the funding tests in the Compulsory Acquisition Guidance**

- 6.1 The Applicant has more than sufficient funds allocated to discharge its obligation to pay compensation to persons interested in land, and its request for compulsory acquisition powers is in conformity with the requirements of paragraphs 9, 17 and 18 of the CA Guidance.
- 6.2 There is also no reason to believe that the required funding for the DCO Scheme and the wider MetroWest Phase 1 project would not be available in the period during which compulsory acquisition powers would be available to the Applicant under the Order, if made.
- 6.3 The Secretary of State can therefore be satisfied that funds are likely to be available to meet the capital expenditure for:
- the cost of the DCO Scheme;
  - the cost of acquiring the land identified in the Order; and
  - the cost of compensation otherwise payable in accordance with the Order.
- 6.4 The financial resources that already can be accessed by the Applicant are substantial. The Applicant is therefore able to provide the required funding in respect of all likely compensation liabilities resulting from the exercise of compulsory acquisition powers for the DCO Scheme.

## 7. Delivery Phase of the DCO Scheme

- 7.1 Figure 2 sets out the structure of formal remit letters and agreements required between the DfT, NR, WECA and the Applicant. The letters and agreements are being progressed in accordance with the MetroWest Phase 1 project timescales.

**Figure.2: Suite of Formal Remit letters and Agreements**



## 8. Post Construction

- 8.1 MetroWest Phase 1 railway assets will become NR assets and these assets would be owned, operated and maintained by NR as part of the national rail network.
- 8.2 The following non-railway assets will remain with the Applicant, or become the Applicant's assets:
- the station car parks;
  - the re-aligned Quays Avenue;
  - three existing road over bridges on the dis-used line; and
  - some of the DCO Scheme environmental mitigation.
- 8.3 The train service for the Portishead branch line (DCO Scheme plus the minor permitted development works to the main line) requires only one train set to operate an hourly all-day service. The train service is forecast to produce an operating surplus from the beginning of the fourth year of operation, which is forecast to

increase year on year. This will result in a revenue yield for UK taxpayers into the long term.

- 8.4 The DfT have awarded a new National Rail Contract (NRC) to Great Western Railway (GWR) on 14<sup>th</sup> June 2022. The arrangements for operation of the Portishead branch line do not need to be finalised until 2024. Any contractual commitment made between the DfT and GWR for the Portishead branch line train service during the current NRC would automatically be rolled into the following NRC or equivalent contractual mechanism. These arrangements are in line with rail industry transition expectations in preparation for the establishment of Great British Railways in 2023. Engagement with GWR continues to be very positive.

## 9. Summary of MetroWest Phase 1 Project Quantified Benefits

- 9.1 A summary of the MetroWest Phase 1 project quantified benefits is shown in Table 4. In addition to these benefits are wide ranging unquantified social wellbeing benefits, across the local demographic. As shown in the table, the DCO Scheme will yield substantial added value to the local economy in terms of Gross Value Added (**GVA**) and job creation. It will support growth of the Temple Quarter Enterprise Zone and the Enterprise Areas across the sub-region, increasing the size of the skilled workforce within a 30 minute commute of major employers.
- 9.2 The MetroWest Phase 1 project forms the foundations for developing the local rail network, as set out in the the West of England Joint Local Transport Plan 4. In December 2017 the MetroWest Phase 1 project completed its Outline Business Case (Document 8.4) and technical scrutiny with the DfT.
- 9.3 As a key part of the overall MetroWest Phase 1 project, the DCO Scheme is essential to the success of that project and the benefits it delivers.
- 9.4 Table 4 below sets out a summary of the quantified benefits.

**Table 4: Summary of Quantified Benefits**

| Description   | Whole of MetroWest Phase 1<br>Severn Beach Line, Bath Spa Line &<br>Portishead Line from the Outline<br>Business Case                        | Portishead Line<br>(DCO Scheme) from the Outline<br>Business Case  |
|---|--|--|
| Modal Shift   | Reduction of 580 car trips per day in the opening year, increasing to 890 fewer car trips per day by 2036.                                   | Reduction of 294 car trips per day in the opening year, increasing to 415 less car trips per day by 2036.                                    |
| Job Creation  | 514 net new direct permanent jobs + temporary jobs during construction.  | 207 net new direct permanent jobs + temporary jobs during construction.  |
| Gross Value Added (GVA) to the economy                | £31.87M per annum in the opening year, totalling £271M discounted GVA during the first 10 years. Plus a further £59.27M during construction. | £12.95M per annum in the opening year, totalling £139M discounted GVA during the first 10 years. Plus a further £54.78M during construction. |
| Forecast Rail Passenger demand & number of train sets | 2021: 958,980 passenger trips<br>2036: 1,295,103 passenger trips   | 2021: 377,021 passenger trips<br>2036: 509,167 passenger trips<br>1 train set.   |

|                       |   |   |
|-----------------------|---|---|
|                       | 6 train sets (including 2 existing train sets on the Severn Beach Line).  |   |
| Population benefiting | Will upgrade the existing train service at 16 existing stations across three rail corridors, directly benefiting 180,000 people within a 1km catchment and bring an additional 50,000 people within the catchment of the 2 new stations. The total population benefiting from the project is 230,000. | Will bring an additional 50,000 people within the immediate catchment of the 2 new stations at Portishead and Pill. |

## 10. Conclusions

- 10.1 Funding for the MetroWest Phase 1 project has been allocated, in accordance with an updated assessment of costs as set out in the report to the Applicants Council meeting of 12<sup>th</sup> July 2022 (Appendix 2) and the report to the WECA committee of 27<sup>th</sup> July 2022 (Appendix 3). Additional funding commitments have been given by the DfT (Appendix 4), the Applicants s151 officer (Appendix 5), and WECA's s73 officer (Appendix 6).
- 10.2 Appropriate funding will be available in respect of liabilities for compensation arising from the acquisition of land and rights and the creation of new rights, where compensation is appropriately and reasonably claimed. The Applicant is able to cover liability for statutory blight prior to powers being granted and implemented.
- 10.3 The Applicant is confident it will be able to draw down the funds both for compensation to landowners and for the construction of the DCO Scheme.
- 10.4 The Secretary of State can therefore be satisfied both that funding is likely to be available for claims for compensation by landowners and also that the DCO Scheme is soundly backed in terms of overall funding.
- 10.5 There is no reason to believe that, if the Order is made, the DCO Scheme will not proceed due to there being insufficient funding.

**Appendix 1 – Letter from the Department for Transport Head of the Transport and Works Act Orders Unit of 19<sup>th</sup> April 2022**



# Department for Transport

Head of the Transport and Works Act Orders Unit  
Department for Transport  
c/o Great Minster House  
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19 April 2022

Dear Sirs,

## **PLANNING ACT 2008 APPLICATION FOR THE PROPOSED PORTISHEAD BRANCH LINE – METROWEST PHASE 1B DEVELOPMENT CONSENT ORDER**

### **MINDED TO AGREE**

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to say that consideration has been given to:
  - the Report dated 19 July 2021 of the Examining Authority (“ExA”), Jo Dowling BA (Hons) MPhil MRTPI and Susan Hunt BA (Hons) MA MRTPI who conducted an Examination into the application made by North Somerset District Council (“the Applicant”) for the Portishead Branch Line – MetroWest Phase 1B Development Consent Order (“the DCO”) under section 37 of the Planning Act 2008 as amended (“the 2008 Act”);
  - post examination correspondence received by the Secretary of State following the close of the Examination; and
  - the responses to the further consultation undertaken by the Secretary of State in respect of the application.
2. The application was accepted for Examination on 12 December 2019. Due to the COVID-19 pandemic the start of the Examination was delayed and began on 19 October 2020 and was completed on 19 April 2021. The Examination was conducted on the basis of written and oral submissions submitted to the ExA and by a series of hearings held virtually due to the ongoing pandemic. The ExA also undertook a number of unaccompanied site inspections. The ExA would normally have also held an accompanied site inspection but due to Covid travel



restrictions decided not to hold such an inspection having considered responses from the Applicant, Interested and Affected Parties [ER 1.4.10 and 1.4.11].

3. The DCO as applied for would grant development consent for the construction of a new railway on the trackbed of the former branch line from Bristol to Portishead (“the Proposed Development”). This would follow the existing railway corridor, comprising the disused railway section between Portishead and Pill, and then with associated works along the operational railway line from Pill to the existing Ashton Junction before joining the Bristol to Exeter main line at Parson Street Junction [ER 2.1.4].
4. The Proposed Development would extend over a 13.7 km section of railway, between Portishead and Ashton Junction in Bristol [ER 2.1.5].
5. Published alongside this letter on the Planning Inspectorate’s website is a copy of the ExA’s Report of Findings, Conclusions and Recommendation to the Secretary of State (“the ExA’s Report”). The main features of the proposal and the site are set out in Chapter 2, the ExA’s findings and conclusions are set out in Chapters 5 to 9, and the ExA’s summary of its findings, conclusions and recommendation are in section 10. All “ER” references are to the specified paragraph in the Report and references to “Requirements” are to those in Schedule 2 to the DCO as recommended by the ExA at Appendix C to the ExA’s Report.

### **Summary of the ExA’s Recommendations**

6. The main issues considered during the Examination on which the ExA reached conclusions on the case for development consent were:
  - a. Legal and policy context;
  - b. Principle need for the Proposed Development including alternatives;
  - c. Biodiversity, ecology and the natural environment;
  - d. Flood risk, water quality and resources;
  - e. Traffic and transport;
  - f. Air quality, carbon emissions and climate change adaptation;
  - g. Construction impacts;
  - h. Design and landscape and visual;
  - i. Land use, including PRow;
  - j. Socio-economic;
  - k. Historic environment; and
  - l. Other policy and factual issues.

For the reasons set out in the ExA’s Report, the ExA recommended that the Secretary of State should make the DCO in the form recommended at Appendix C of the ExA’s Report (ER 10.2).

### **Summary of Secretary of State’s views**

7. For the reasons explained at paragraphs 139 to 141 in this letter, the Secretary of State considers that he is not yet in a position to decide whether to accept the ExA’s recommendation. He is, nevertheless, minded to agree with the ExA that he

should make an Order granting development consent for the scheme, subject to receiving satisfactory evidence of the following:

- an updated Funding Statement with information confirming the amount of the increased costs of the scheme;
  - Information setting out the way in which the amount of the increased costs has been assessed so that he can be assured of the amount of these costs and their assessment;
  - information confirming how these costs will be met so that he can be satisfied that adequate funding will be available to meet these costs;
  - further information to enable him to confirm the updated costs of the scheme and to be satisfied that adequate funding will be available to meet these costs.
8. The process by which the Applicant is invited to respond, and by which the response will be made available to interested parties for comment, is set out in paragraphs 151 to 153 below.
9. The Secretary of State's consideration of the ExA's Report, post examination correspondence, responses to his consultation letters of 26 July 2021, 13 August 2021, 21 September 2021, 9 November 2021, 24 November 2021, 30 November 2021 and 28 January 2022 and all other material considerations are set out in the following paragraphs. The Secretary of State's initial considerations of these matters is set out in the following paragraphs. All paragraph references, unless otherwise stated, are to the ExA's report. Where not stated, the Secretary of State can be taken to agree with the ExA's findings, conclusions and recommendations as set out in the ExA's Report and the reasons given for the Secretary of State's decision are those given by the ExA in support of the conclusions and recommendations.

## **Legal and Policy Context**

10. The ExA noted that the Proposed Development qualifies as a National Significant Infrastructure Project ("NSIP") because it falls to be designated under section 25(1) of the 2008 Act as railway related development. The elements of the Proposed Development which are not encompassed within the NSIP are characterised as Associated Development as provided for by section 115(2) of the 2008 Act [ER 3.2.2].
11. The Secretary of State agrees with the ExA that a decision on the application is to be determined under section 104 of the 2008 Act [ER 7.2.1]. The ExA noted that the NPSNN forms the primary policy context for the Examination and sets out the need for, and the Government's policies to deliver, development of NSIPs on the national road and rail networks in England. No other National Policy Statements are directly applicable to the Proposed Development [ER 3.2.3].
12. In a Ministerial Statement issued on 22 July 2021 the Secretary of State for Transport advised that a review of the National Policy Statement for National

Networks (“NPSNN”) would begin in 2021, to be completed no later than Spring 2023. While the review is undertaken, the existing NPS remains relevant government policy and has effect for the purposes of the 2008 Act. The existing NPS will, therefore, continue to provide a proper basis on which the Planning Inspectorate can examine, and the Secretary of State can make decisions on, applications for development consent.

13. The ExA note that section 104(2) of the 2008 Act sets out the matters to which the Secretary of State must have regard in deciding an application. In summary these are any relevant NPS, Local Impact Reports, matters prescribed in relation to development of the description to which the application relates and any other matters which the Secretary of State thinks are both important and relevant to the decision [ER 3.2.5].
14. The Secretary of State notes that the Proposed Development is development under Schedule 2 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (“the 2017 Regulations”) and that the Applicant has provided an environmental statement (“ES”) as part of the submitted application. As set out in paragraph 1.5.6 of the ExA Report, parts of the ES have been updated during the Examination [ER 3.4.4] and further updates have been made and submitted to the Secretary of State during the determination period.
15. The Secretary of State notes that the ExA has considered all the environmental information, as defined in the 2017 Regulations and which the Secretary of State must consider in deciding whether or not to grant development consent as set out in regulation 4 of the 2017 Regulations [ER 3.4.5].
16. It is the view of the Secretary of State that the ES has fully met the requirements of the 2017 Regulations. The Secretary of State is satisfied that the Proposed Development complies with all legislation and policy relevant to the Proposed Development that is noted in Chapter 3 of the ExA Report.

### **The Principle and Need for the Proposed Development**

17. The ExA has noted that Chapter 4 of the Applicant’s Planning Statement [REP6-134] and Appendix 1 of the Statement of Reasons [REP7-011] set out the need for the Proposed Development. The Secretary of State notes that the Planning Statement has highlighted that rail travel across the West of England has doubled in the last ten years and while this area benefits from good long-distance rail routes, the local network is relatively underdeveloped [ER 5.2.7]. The ExA notes that the Proposed Development forms part of a wider MetroWest programme. The objectives are to support economic growth, improve transport network resilience, improve accessibility to the rail network, and to make a positive contribution to social well-being. Further supporting objectives are noted as to contribute to reducing traffic congestion, enhancing the capacity of the local rail network and to contribute to reducing the overall environmental impact of the transport network [ER 5.2.8].

18. The ExA notes that to encourage a modal shift away from road travel there is a national need to provide new rail infrastructure. The Secretary of State agrees with the ExA that providing a rail link between Portishead and Bristol would help deliver this modal shift, and therefore agrees that the broad principles and strategic aims set out within the NPSNN would be satisfied [ER 5.2.19]. The Secretary of State notes the ExA are satisfied that there is no viable alternative route for the Proposed Development and that the alternative of a busway, at this time is not feasible due to the significant technical and safety impediments that would prevent the authorisation of the operation of buses on an operational railway [ER 5.2.20]. The ExA are satisfied that the Proposed Development would contribute to the established need for alternative modes of travel and would help provide a viable alternative to travelling by car to the residents of Portishead and Pill [ER 5.2.21].
19. In view of the above, the Secretary of State agrees with the ExA that the transport-related benefits of the Proposed Development and its resultant conformity with the NPSNN weighs heavily in favour of the Proposed Development. Therefore, the Secretary of State also agrees that the principle of and need for the Proposed Development weighs positively in the planning balance [ER 5.2.21].

### **Air Quality**

20. The Secretary of State notes that the analysis undertaken by the Applicant indicates that in the opening year, there would be an adverse impact on regional CO<sub>2</sub>, NO<sub>x</sub> and PM<sub>10</sub> emissions as a result of the Proposed Development. Further refinement of the regional emissions calculations showed that adverse impacts on emissions would be lessened when focused on changes in rail and road emissions from just the Proposed Development. The Applicant set out that the modernisation of the railway fleet would result in further reductions of adverse impacts on NO<sub>x</sub> and CO<sub>2</sub> emissions and a net benefit in terms of PM<sub>10</sub> emissions. North Somerset District Council ("NSDC") noted that in the operational phase the diesel trains would emit NO<sub>x</sub> and PM<sub>10</sub> and the combustion of diesel would also generate CO<sub>2</sub>. However, it considered that due to its scale rail travel is expected to give rise to less pollution per passenger kilometre travelled than road transport and at the close of the Examination the signed SoCG with NSDC showed no outstanding issues in relation to air quality, climate change or greenhouse gases. The Secretary of State notes the overall conclusion of the Environmental Statement is that the Proposed Development's effects on the local air quality would not be significant in terms of the EIA regulations [ER 5.6.23].
21. In regard to air quality during construction, the Secretary of State notes that the ExA recognise that the Proposed Development would have detrimental effects on air quality and present a temporary and short term impact that would reduce to an acceptable level through embedded design and good practice measures secured through the recommended DCO [ER 5.6.43]. The ExA noted that it did not receive any substantive concerns from relevant pollution control authorities about the ability to regulate potential releases under the pollution control framework and were therefore satisfied that paragraph 4.55 of the NPSNN would be met [ER 5.6.45]. The Secretary of State agrees with this conclusion.

22. The impacts on air quality during operation are considered further below but in considering the Proposed Development's effects on air quality, the Secretary of State notes that the ExA has had regard to policies set out in the NPSNN, relevant sections of the Air Quality Directive, the Air Quality Strategy, the Clean Air Strategy and the relevant development plan [ER 5.6.44]. The Secretary of State agrees with the ExA that the Proposed Development would attract neutral weight in respect of air quality in the planning balance [ER 7.2.21].

### **Carbon emissions and climate change adaptation**

23. Section 104(3) of the 2008 Act requires the Secretary of State to decide an application for a national network NSIP in accordance with the NPSNN except to the extent that one or more of subsections 104(4) to (8) of the 2008 Act apply. These include not only where the Secretary of State is satisfied that the adverse impact of the proposed development would outweigh its benefits, but where the Secretary of State is satisfied that deciding the application in accordance with the NPSNN would: lead to the UK being in breach of any of its international obligations; lead to him being in breach of any duty imposed on him by or under any enactment; be unlawful by virtue of any enactment. The UK's international obligations include the Paris Agreement, which was ratified by the UK Government in 2016, after the NPSNN was designated in 2014 [ER 5.6.13]. This has been implemented in the UK by way of amendments to the Climate Change Act 2008.
24. In June 2019 the Government announced a new carbon reduction 'net zero target' for 2050 which was given effect by the Climate Change Act 2008 (2050 Target Amendment) Order 2019. This is a legally binding target for the Government to cut carbon emissions to net zero, against the 1990 baseline, by 2050. The Climate Change Act requires five yearly carbon budgets to be set 12 years in advance so as to meet the 2050 target. Carbon budgets restrict the total amount of greenhouse gases that the UK can emit over five-year periods to ensure continued progress towards the climate target. Six carbon budgets have been adopted. The fourth, fifth and sixth cover 2023-2027, 2028-2032 and 2033 to 2037 respectively. Achieving net zero will require future greenhouse gas ("GHG") emissions to be aligned with these and any future new or revised carbon budgets that may be set out by Government to achieve the target of net zero carbon by 2050.
25. The sixth carbon budget was confirmed by the Carbon Budget Order 2021 made on 23 June 2021 and came into force the following day. As this came into force after the close of Examination, the Secretary of State invited the Applicant in his letter of 13 August 2021 to provide additional information on the Proposed Development's compliance with the sixth carbon budget including an assessment of whether the Proposed Development would adversely impact the Government meeting the targets set.
26. The Secretary of State notes that the Applicant provided an addendum to Chapter 7 of their ES which includes an assessment against the sixth carbon budget. The

Secretary of State notes that the addendum reports the worst-case assumption of the Proposed Development making <0.001% contribution to the sixth carbon budget.

27. The Secretary of State in his letter dated 9 November 2021 requested that the Applicant also provide an assessment against the third, fourth and fifth carbon budgets. In their response of 23 November 2021, the Applicant stated that due to delays to the programme, the third Carbon Budget is no longer relevant and the fourth Carbon Budget is assessed for the combined two year construction period. The Secretary of State notes the Applicant's assessment of the impact of the Proposed Development against the fourth and fifth Carbon Budgets and that the carbon impact will be slightly higher during the fourth Carbon Budget period, which includes when the Proposed Development will be constructed, but that it will contribute <0.01% to that carbon budget.
28. The Secretary of State notes that the addendum to the Environmental Statement included in the applicant's response of 26 August 2021 sets out that this calculation accounts for projected reductions in road transport emissions that are predicted to arise as a result of the Proposed Development being in place, but not the plan published by the Department for Transport after the close of Examination on 14 July 2021 titled "Decarbonising Transport: A Better, Greener Britain" ("the Transport Decarbonisation Plan"). The Applicant set out that the Transport Decarbonisation Plan provides a path to achieving a net-zero emissions rail network by 2050. The Applicant notes that included in this is the aim to remove all diesel-only trains (passenger and freight) from the network by 2040.
29. It is noted that a number of Interested Parties raised concerns during the Examination about the use of diesel trains in relation to GHG emissions and questioned the use of Diesel Multiple Units (diesel trains) ("DMUs") and advocated that a busway, amongst other things, would be less polluting [ER 5.6.35]. These concerns were reflected in the comments received from Interested Parties on the Applicant's reply to the Secretary of State's consultation letters where matters raised included views that the increase in carbon would be a breach of the Paris Agreement as well as local and national policy and would outweigh savings from reduced car use and that the impact of Covid and home working had not been assessed.
30. The Secretary of State notes that due to the initial use of DMUs, carbon emissions in the opening year of the Proposed Development would increase despite the predicted modal shift from car to rail [ER 5.6.46]. The Secretary of State notes that there is no set significance threshold for carbon. The IEMA guidance "Assessing Greenhouse Gas Emissions and Evaluating their Significance" ("the IEMA Guidance") sets out in section 6.1 that: GHG emissions from all projects will contribute to climate change; the consequences of changing climate have the potential to lead to significant environmental effects on all EIA topics; and that GHG emissions have a combined environmental effect that is approaching a scientifically



defined environmental limit and as such any GHG emission or reductions from a project might be considered significant. The IEMA guidance (section 6.3) also states that a project that is compatible with the budgeted trajectory (in terms of rate of emissions reduction) and which complies with up-to-date policy and 'good practice' reduction measures to achieve that has a minor adverse effect that is not significant. It further elaborates that such a project would be doing enough to keep the UK on track towards net zero by 2050 with at least a 78% reduction by 2035.

31. The Secretary of State notes the ExA agrees with the Applicant that significant weight should be given to Network Rail's ("NR") 'Transport Decarbonisation Network Strategy' and particularly, as highlighted above, the Government's Transport Decarbonisation Plan, which stipulates the ambition that all DMUs are to be removed from the network by 2040, with the rail network achieving net zero by 2050. Furthermore, the ExA were satisfied that it was more than likely that in the medium to long term, NR would introduce bi-modal trains and/or electrify the line as part of the wider NR strategy which would not only reduce CO<sub>2</sub> emissions but NO<sub>x</sub> and PM<sub>10</sub> emissions too [ER 5.6.47, 7.2.20].
32. The Secretary of State does not consider that net zero means consent cannot be granted for development that will increase carbon emissions. Instead the Secretary of State continues to consider that, as set out in paragraph 5.18 of the NPSNN, it is necessary to evaluate whether (amongst other things) the increase in carbon emissions resulting from the Proposed Development would have a material impact on the ability of the Government to meet its carbon reduction targets. The Secretary of State considers this aligns with the approach in the most recent IEMA Guidance which sets out that '*The crux of significance therefore is not whether a project emits GHG emissions, nor even the magnitude of GHG emissions alone, but whether it contributes to reducing GHG emissions relative to a comparable baseline consistent with a trajectory towards net zero by 2050*' (section 6.2) . The Secretary of State considers that the approach set out in the NPSNN continues to be relevant in light of international obligations and domestic obligations related to reducing carbon emissions that have come into force since the NPSNN was designated.
33. The Secretary of State acknowledges the importance of climate change at the local, national and international level and the contribution GHGs make to this. Section 6.2 of the IEMA guidance sets out (amongst other things) that "*The 2050 target (and interim budgets set to date) are, according to the CCC [the Climate Change Committee], compatible with the required magnitude and rate of GHG emissions reductions required in the UK to meet the goals of the Paris Agreement, thereby limiting severe adverse effects*". This guidance also sets out that, "*Carbon budgets allow for continuing economic activity, including projects in the built environment, in a controlled manner*". The Secretary of State considers that the carbon budgets set the pathways for Government to meet net zero meaning a proposal which is compatible with the 2050 target and interim carbon budgets is consistent with the approach to addressing the severe adverse effects of climate change.

34. The Secretary of State is satisfied that the scheme is compatible with the Transport Decarbonisation Plan which sets out a policy for the rail network to meet net zero by 2050 and that this is one of a number of policies that will ensure that government meets its carbon targets which are legally binding.
35. At a local level, the Secretary of State notes that NSDC has declared a climate emergency and that the Applicant highlighted that there is an action plan to accompany this declaration which aims to encourage a shift from the private car use, develop policies that deliver connections to public transport and to encourage the use of public transport [ER 5.6.41]. The Secretary of State is content that the Proposed Development is aligned with these local policies and notes that at the close of the Examination, the signed SoCG with NSDC showed that there were no outstanding issues with NSDC in relation to climate change [ER 5.6.28].
36. With regard to a busway potentially being less polluting, for the reasons set out above at paragraph 18 it has been concluded that this is not a viable alternative to the scheme due to technical and safety impediments that would prevent the authorisation of the operation of buses on an operational railway [ER 5.6.42]. In relation to the impact of Covid, the Secretary of State notes that restrictions in England have only recently been relaxed. The Secretary of State therefore does not consider that any meaningful update from the Applicant on the impacts of Covid (if any) is necessary in this case, or is required in order to decide this application in all the circumstances. Taking this into consideration, the Secretary of State is content that the assessment undertaken by the Applicant is reasonable and considers that it contains sufficient information to make a decision about the Proposed Development.
37. The Secretary of State acknowledges that due to the initial use of DMUs (initial because as set out in the Transport Decarbonisation Plan these should be removed from the Network by 2040) this will result in an initial increase in carbon emissions but that the Proposed Development supports a shift away from the use of the private car.
38. The ExA considered that the magnitude of the increase in carbon emissions when compared to the carbon budgets (which are economy wide and not just in relation to transport) is negligible [ER 5.6.39]. However, the Secretary of State considers that taking account of the IEMA guidance, the Proposed Development's effect on climate change would be minor adverse and not significant. This is because whilst the Proposed Development will result in an increase in carbon emissions, given the measures in place at a national level to reduce climate change, such as the Transport Decarbonisation Plan, the Secretary of State agrees with the ExA that increases in GHG resulting from the Proposed Development will not be so significant as to have a material impact on the ability of the Government to meet the carbon reduction targets in the Climate Change Act 2008 and the Carbon Budget Orders. The Secretary of State is content that the Proposed Development



is consistent with existing and emerging policy requirements to achieve the UK's trajectory towards net zero and that it aligns with the NPSNN (paragraph 5.18).

39. With regard to the Paris Agreement, the UK announced its Nationally Determined Contribution ("NDC") in December 2020. NDCs are commitments made by the Parties (including the UK) under the Paris Agreement. Each Party's NDC shows how it intends to reduce its greenhouse gas emissions to meet the temperature goal of the Paris Agreement. The UK's NDC commits it to reduce net GHG emissions by at least 68% by 2030 compared to 1990. This represents an increase of ambition on the fifth carbon budget, which covers the period 2028-2032. The Net Zero Strategy: Build Back Greener, published by Government in October 2021, sets out how the UK will therefore need to overachieve on the fifth carbon budget to meet its international climate targets and stay on track for the sixth carbon budget. This strategy sets out the action Government will take to keep the UK on track for meeting the UK's carbon budgets and 2030 NDC and establishes the UK's longer-term pathway towards net zero by 2050. The Secretary of State is content that consenting the Proposed Development will not impact on the delivery of this strategy and will not lead to a breach of the UK's international obligations in relation to the Paris Agreement or any domestic enactments or duties.
40. With regard to compliance with the EIA Regulations, as part of his consultation of 13 August 2021 the Secretary of State asked the Applicant to provide more information on the direct, indirect and cumulative likely significant effects of the Proposed Development with other existing and/or approved projects on climate, including greenhouse gas emissions and climate change adaptation. The Secretary of State notes the Applicant's response of 26 August 2021 and whilst he does not consider that reference to R (Transport Action Network) v Secretary of State for Transport and Highways England (2021) EWHC 2095 is relevant to this application (given this judgment was in relation to the Road Investment Strategy 2 and was not in relation to an assessment undertaken for planning purposes), the Secretary of State is otherwise satisfied with the explanation and considers that an adequate assessment of the likely significant effects of the Proposed Development on climate and its cumulative impacts on climate as required by the 2017 Regulations has been undertaken and that this has been taken into consideration by the Secretary of State when assessing whether development consent should be granted. The Secretary of State also notes that no concerns were raised by Interested Parties with regard to the Applicant's response on this matter or the assessment that was undertaken by the Applicant.
41. The Secretary of State is content that the Proposed Development aligns with the NPSNN which identifies that rail transport has a crucial role in delivering significant reductions in pollution and congestion (paragraph 2.35 of the NPSNN). Paragraph 2.41 of the NPSNN sets out that the environmental performance of the railway will be improved by continuing to roll out a programme of rail electrification. Paragraph 3.6 of the NPSNN further notes that transport will play an important part in meeting the Government's legally binding carbon targets and other environmental targets

through, amongst other things, promoting lower carbon transport choices [ER 5.6.2]. Furthermore, the Secretary of State notes that the ExA was satisfied that mitigation is adequately provided for and secured in the DCO [ER 5.6.48] and has no reason to disagree with this.

42. Due to the initial use of DMU's, the Secretary of State agrees with the ExA that the Proposed Development attracts a negative weight in the planning balance in respect of carbon emissions but that significant weight can be given to the likelihood that DMUs would be, in the long term, removed from the network. Even if DMUs were not removed from the network in the way anticipated in the long term, the Secretary of State considers that the negative weight attributed to them in the planning balance in respect of carbon emissions is balanced out by the benefits of shifting travel from road to rail. The Secretary of State agrees with the ExA that the Proposed Development would enable a shift from road to rail advocated by the NPSNN (paragraph 2.40 of the NPSNN) and that in relation to climate change adaption it therefore attracts positive weight in the planning balance [ER 7.2.21].

### **Flood risk, water quality and resources**

43. The projected increase of flood risk due to climate change and sea-level rise is acknowledged in the ES. The Secretary of State notes that the ES highlights that the biggest risk to the Proposed Development would be tidal flood risk resulting from increased sea levels which would also increase the risk of tide locking of inland watercourses [ER 5.4.20].
44. The Secretary of State notes that a Water Framework Directive ("WFD") compliance screening assessment was undertaken regarding three surface water bodies: Portbury Ditch, the Bristol Avon and the downstream Severn Lower transitional waterbody, and there are three groundwater bodies within the study area [ER 5.4.33]. The Secretary of State notes that the assessment concluded that no deterioration to the identified waterbodies would occur as a result of the Proposed Development, which would comply with the WFD, and no further assessment would be required [ER 5.4.33].
45. The ExA noted that at the end of Examination, the Environment Agency ("EA") had outstanding concerns regarding the ground level of the permanent compound at Clanage Road (Work No.26) and its belief that a Flood Risk Assessment ("FRA") would be required for Work No.3 [ER 5.4.88].

#### Work number 26

46. The Secretary of State notes the EA has concerns regarding various aspects of the flood risk management that were compounded by the FRA, which it viewed as deficient [ER 5.4.68]. At deadline 7 the Secretary of State notes that the signed Statement of Common Ground ("SoCG") between the EA and the Applicant showed that the issue of whether the Clanage Road compound would be situated within or outside of the functional flood plain remained outstanding, but due to the mitigation proposed by requirement 31 this only remained an issue in respect to the ground level of the compound [ER 5.4.80].

47. The Secretary of State notes that the Applicant proposed that the ground level of the compound be 7.4m Above Ordnance Datum ("AOD") [ER 5.4.81] but agrees with the ExA that a precautionary approach should be adopted, and that the compound should have a ground level of 7.3m AOD as advised by the EA. The Secretary of State notes the ExA considers that this would ensure that the site would be able to accommodate both the flooding predicted by the FRA and any excess water [5.4.90]. Moreover, requirement 31 would require the submission and approval of a flood plan to the works at Clanage Road, including the emergency and evacuation procedures for both the temporary and permanent compound. The Secretary of State is satisfied that requirement 31(3) has been amended to ensure these measures are secured in the DCO, and therefore agrees with the ExA that the Proposed Development would comply with paragraphs 5.99 and 5.109 of the NPSNN [ER 5.4.90].
48. The Secretary of State notes the agreement in the SoCG between the EA and the Applicant that the Sequential Test has been satisfied. With regard to the Exception Test, the Secretary of State notes that although the Applicant considers the test to be satisfied for the Clanage Road compound, this remained an outstanding matter with the EA [ER 5.4.82]. The Secretary of State notes that a precautionary approach would be adopted on the ground level of the Clanage Road compound and the measures that would be secured in the DCO and therefore agrees with the ExA that the Sequential and Exception Tests are satisfied as required in NPSNN [ER 5.4.95].

#### Work No. 3

49. The Secretary of State notes from the SoCG between the Applicant and the EA that the matter of whether a FRA is required for Work No. 3 (Portbury Ditch) remained outstanding [ER 5.4.84]. The works would consist of a footpath and cycle path of 63 metres in length together with associated works [ER 5.4.93]. The Secretary of State notes that the EA advise that as the site falls within fluvial FZ3a a FRA would be required to assess the potential impact on the floodplain and how the works would remain safe [ER 5.4.84]. The Secretary of State notes that the ExA agrees with the Applicant that it would be unlikely that the new foot and cycle path would flood due to the topography and Work No. 3 being elevated above Portbury Ditch, so that the flood levels in the ditch would be unlikely to reach the level of the works [ER 5.4.84]. Furthermore, if flooding did occur, the Secretary of State notes that the ExA considers it unlikely to result in floodwater displacement and pose a flood risk to neighbouring third parties and therefore concluded that a full FRA for this element of the Proposed Development would not be needed [ER 5.4.93].
50. Whilst the Secretary of State notes this conclusion, to ensure that the Secretary of State is aware of the risks posed by this element of the Proposed Development and can be satisfied of the matters set out in paragraphs 5.98 and 5.109 of the NPSNN, the Applicant was asked to liaise with the EA and provide a FRA for Work No. 3 in the Secretary of State's letter dated 13 August 2021. The Secretary of State notes from the Applicant's response dated 26 August that it has not been possible to complete an agreed FRA, and it is agreed with the EA that the appropriate remedy is a variation to requirement 27 of the DCO, stipulating that before the commencement of Work No. 3, a full FRA must be submitted and

approved by the relevant planning authority in consultation with the EA. As such, the Secretary of State accepts this and is satisfied that the flooding risk posed by this element of the Proposed Development would be appropriately mitigated.

51. The Secretary of State is content that in terms of water quality and resources, the ExA was satisfied that the Proposed Development would be compliant with the WFD and would have no unmanaged adverse effects [ER 7.2.8]. Overall, the Secretary of State agrees with the ExA that the Proposed Development would have no significant effects on water and flooding and that these would be of neutral weight in the planning balance [ER 5.4.97, 7.2.11].

## **Traffic and Transport**

52. Paragraphs 2.28 and 2.29 of the NPSNN refer to the importance of railway to the country's transport infrastructure and in offering a safe and reliable route to work, connecting communities and transporting freight to and from ports [ER 5.5.6].
53. The ExA stated that several representations were received from Interested Parties relating to traffic and transport issues and that these could be broken down into concerns related to traffic and the local highway network, the strategic rail network, parking around the rail stations at Portishead and Pill, the effect on Ashton Road industrial estate with regard to the existing level crossing, access for rail freight and access to permanent compounds at Portbury Hundred, Ham Green and Clanage Road [ER 5.5.19].
54. The Secretary of State notes that the ExA considers that significant benefits would arise from the operation of the Proposed Development in terms of a faster and viable alternative to travelling by car between Portishead, Pill and Bristol and for providing connections into the national rail network, enabling a modal shift to rail. The Secretary of State also notes that the ExA considers that the Proposed Development would assist in reducing road traffic congestion between the settlements and associated emissions [ER 5.5.110]. The Secretary of State, like the ExA, is assured by the SoCG with Highways England (now National Highways) which states that there would be no impact on the strategic road network from the operational development [ER 5.5.111].
55. With regards to the level of parking proposed for the Portishead and Pill stations, the ExA was satisfied with this and that any issues relating to on-street parking in the vicinity could be dealt with by NSDC, as the local highway authority, if the need arose in the future [ER 5.5.112]. The Secretary of State notes the concerns about the use of the freight line for passenger services but notes the ExA is satisfied that both freight trains and passenger trains would be able to run on the single track with appropriate controls laid down in other existing legislation [ER 5.5.113]. The Secretary of State has no reason to disagree with this.
56. The Secretary of State notes the discussion around new or improved access at the Portbury Hundred, Ham Green and Clanage Road compounds [IR 5.5.97-109] but that operational traffic movement to these permanent compounds would be negligible and that the consequent impact on non motorised users would be low. The Secretary of State agrees with this and is content that agreement on the full

details of the permanent access are to be agreed with the relevant planning authorities which is secured through requirements 9 and 36 in the DCO [ER 7.2.15].

57. The Secretary of State notes that Manheim Auctions Ltd and ETM Contractors Ltd (“Manheim and ETM”) raised concerns about a range of traffic and transport matters affecting the industrial area in a number of submissions [ER 5.5.45] summarised in the ExA Report at paragraph 5.5.46. The Secretary of State notes that the Applicant responded to the concerns from Manheim and ETM throughout the Examination [ER 5.5.49].
58. The concerns from Manheim and ETM regarding the modelling and effects on Ashton Vale Road from increased down-time of the level crossing remained outstanding at the close of the Examination. The Secretary of State notes that the ExA has considered the evidence provided by the Applicant and is satisfied that the modelling and data set out in the Transport Assessment is fit for purpose [ER 5.5.116]. The Secretary of State notes the concerns raised by Manheim and ETM on the age of the traffic survey data, the robustness of the surveys in terms of the closure in May 2017 of the northbound left turn lane from Winterstoke Road into Ashton Vale Road together with others questions relating to the enumerators [ER 5.5.53-54]. However, the Secretary of State notes the ExA’s consideration on the matter and is satisfied the May 2017 traffic count used in the modelling is representative of traffic volumes around Ashton Vale industrial area and does not consider it necessary for the Applicant to collect new data and re-run the model. The Secretary of State notes that the ExA agrees with the Applicant that the criticisms raised have not been backed up with counter-evidence and like the ExA has given the matter very limited weight as a result [ER 5.5.117].
59. The Secretary of State notes that the ExA is satisfied that the Proposed Development would have no more material impact on the Ashton Vale Road industrial area than what could be expected by permitted use of the existing level crossing, which has been in place for a significant period of time. The Secretary of State is satisfied that the proposed mitigation provided by Work No. 28 and secured by requirement 18 would provide a general betterment to the Winterstoke Road and Ashton Vale Road junction. Bristol City Council (“BCC”) as the local highway authority did not raise concerns either with the modelling or the proposed mitigation at Winterstoke Road and Ashton Vale Road. The Secretary of State agrees with the ExA and gives significant weight to BCC’s view on this matter. The Secretary of State notes that a draft section 278 agreement was in progress but no further update has been provided to the Secretary of State on this [ER 5.5.118]. The Secretary of State is however content that this does not impact his consideration of this mater.
60. The Secretary of State notes that the relevant local authorities are satisfied with all operational traffic and transport aspects of the Proposed Development, subject to the submission of acceptable design and technical details in accordance with the DCO requirements 4, 9, 18, 30 and 36 [ER 7.2.17]. Overall, the Secretary of State agrees with the ExA that traffic and transport impacts have been robustly dealt with and would accord with paragraphs 5.201 to 5.217 of the NPSNN [ER 7.2.17]. The Secretary of State agrees with the ExA that the overall effects relating to vehicle

traffic and parking issues attract neutral weight in the planning balance but that the long term benefits of the provision of train services as a viable alternative to the car weighs heavily in favour of the Proposed Development in accordance with paragraphs 2.2, 2.28 and 2.29 of the NPSNN [ER 7.2.17].

## **Construction Impacts**

61. The ExA note that there will be a range of adverse effects arising during the construction of the Proposed Development that would be mostly felt in and around the village of Pill [ER 5.7.93]. The Secretary of State notes the impact of construction traffic associated with the movements to and from the Lodway Compound as well as at the railway station and car park were raised in a number of representations [ER 5.7.23]. The Secretary of State notes that in response the Applicant clarified that the main HGV access route would avoid Pill by coming from junction 19 of the M5 onto Royal Portbury Dock Road and Marsh Lane, via the existing cycle and pedestrian route (NCN 26) which runs along the southern edge of Royal Portbury Dock ("RPD") from Marsh Lane perimeter track [ER 5.7.25].
62. The Secretary of State notes the ExA were satisfied that the use of a haul road on the Marsh Lane perimeter track at RPD would significantly reduce the necessity for construction vehicles to use the street network in this area and that such effects would be temporary and issues of noise, disturbance and dust and any potential effects on living conditions could be adequately controlled through the CEMP to be secured by requirement 5 [ER 7.2.22 to 7.2.23].
63. The Secretary of State notes that parts of the NCN 26 and 41 cycle routes, including several Public Rights of Way ("PRoW") and permissive paths would be temporarily closed and diverted to enable the construction of the Proposed Development [ER 5.7.47]. Whilst there is no specific mention of PRoW and NCN diversions in NSDC's statement of common ground, the Secretary of State notes that the local highway authority were satisfied that it could install safety measures, such as warning signage and markings if deemed necessary and consequently this would not require specific inclusion in the DCO [ER 5.7.56]. The Secretary of State notes that the ExA were satisfied with the proposed diversions of PRoWs and permissive paths to be reasonable alternative routes during construction [ER 7.2.26].
64. The Secretary of State notes that the Woodland Trust raised concerns regarding the impact of dust on the woodland around the Avon Gorge [ER 5.7.69]. The Secretary of State notes that Natural England ("NE") were satisfied that there would be no significant effects on designated sites from dust [ER 5.7.100]. The Secretary of State like the ExA is satisfied that the measures in the Code of Construction Practice and schedule of mitigation would ensure that any dust generated which might affect trees would be minimised and managed and that this is secured through requirement 5 [ER 7.2.27].
65. The Secretary of State notes the ExA considers that the impact of construction attracts a negative weight in the planning balance but that the effects would be for a temporary period and in most locations would be short-term in length. Therefore, the Secretary of State agrees with the ExA that limited weight should be attributed

to such effects and is satisfied that the Proposed Development accords with the NPSNN with respect to construction management and mitigation [ER 5.7.29].

## **Biodiversity, ecology and the natural environment**

66. The ExA noted that NE highlighted in their relevant representations the potential effects on the North Somerset and Mendip Bats SAC which could arise from vegetation clearance and increased lighting along the new section of line between Pill and Portishead, including at Pill Station. The Secretary of State notes that NE stated that without mitigation, this could cause habitat fragmentation and severance affecting foraging and commuting habitats as well as direct disturbance to lesser horseshoe bat roosts [ER 5.3.21].
67. The Secretary of State notes the mitigation measures proposed at Pill Station would include a permanent screen along the length of the disused northern platform to shield bats from lighting and louvres to lights, including the retention of and additional planting around RPD to maintain a dark corridor at this location and limits to lighting levels at Pill Station, secured as part of the landscape plans [ER 5.3.31]. The Secretary of State notes the ExA were satisfied from the updated bat surveys and proposed mitigation measures that there would be no likely significant effects on the integrity of the North Somerset and Mendip Bats SAC populations [ER 7.2.4]. The Secretary of State further notes that NE confirmed that a letter of no impediment for bats had been issued [ER 5.3.33].
68. The Secretary of State notes that one measure amongst others noted at paragraph 5.3.51 to minimise risks to Great Crested Newts ('GCN') during construction is a District Level Licence ('DLL') [ER 5.3.51]. The Secretary of State notes that NE confirmed that the DLL gives the same level of certainty as the previous proposal for an EPS licence, if not more, at the DCO stage [ER 5.3.52]. The Secretary of State further notes that ExA were satisfied that the effects on GCN would be appropriately managed by the use of DLL and mitigation measures set out in the Master CEMP [ER 7.2.4.] The Secretary of State notes that the ExA considers that tree losses (outside the Avon Gorge Woodlands SAC) would be appropriately offset by new tree planting in a number of locations, together with a financial contribution via a mechanism which has been agreed by BCC [ER 7.2.5].
69. The Secretary of State notes the Applicant's quantification of habitat loss effects including semi-natural ancient woodland associated with the Proposed Development during construction at paragraph 6.11.24 of the ExA Report. Paragraph 5.32 of the NPSNN notes that development consent should not be granted for any development that would result in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the national need for and benefits of the development, in that location, clearly outweigh the loss. The Secretary of State is satisfied that the loss associated with habitats, including ancient woodland, is outweighed by the need and benefits of the Proposed Development.
70. The likely effects on European Sites are considered below at paragraph 99, for all other aspects, the Secretary of State notes that the ExA is satisfied that in terms of biodiversity and the natural environment the Proposed Development would not

give rise to any unacceptable effects and all relevant matters have been addressed during the Examination. The Secretary of State also notes that the SoCGs with NE and the EA as well as NSDC and BCC confirmed that the parties were in agreement on these matters [ER 7.2.6]. The Secretary of State is satisfied that the Proposed Development would accord with the NPSNN with respect to biodiversity and the natural environment and agrees that the overall effect attributes a neutral weight in the planning balance [ER 5.3.87].

## **Design and landscape and visual**

71. The Secretary of State notes that the ExA were satisfied that the Applicant had applied adequate good design principles to Portishead and Pill railway stations, which would form the most publicly visible parts of the Proposed Development. The Secretary of State notes that the visual impacts would be localised to a small area of each settlement with limited harm to the wider landscape [ER 7.2.30]. The ExA noted that the context of both stations' surroundings, together with operational and other relevant constraints, has been satisfactorily considered and applied to the proposals. The Secretary of State notes that full regard has been had to the Equality Act 2010 in the station design, and they would both meet the Public Sector Equality Duty. The Secretary of State agrees with the ExA that the proposed stations' visual effects would attract neutral weight in the planning balance [ER 5.8.65]
72. The Secretary of State notes the various issues raised during the examination regarding fencing for the Proposed Development in paragraphs 5.8.55 to 5.8.64 of the ExA's Report. Although the ExA considered that the appearance of the proposed fencing would be functional in terms of security and safety in some locations, the Secretary of State notes the ExA were satisfied that the visual effects would diminish over time with vegetation growth [ER 7.2.31]. The Secretary of State notes that the impact would also be minimised by requirements 14 and 25 in the DCO which requires fencing details to be agreed in advance by the relevant planning authority, including the colour [ER 5.8.66]. The Secretary of State agrees with the ExA that the visual effects of the fencing attract neutral weight in the planning balance [ER 5.8.66].

### Trinity footbridge

73. Trinity Footbridge would be located between the proposed Portishead railway station and Trinity Anglican Methodist Primary School. The Secretary of State notes that it would replace an existing permissive path which crosses over the disused railway which links the housing estates and open spaces at Tansy Lane to the north and Galingale Way to the south [ER 5.8.26]. The Secretary of State notes that residents that would be directly affected by the proposed Trinity Footbridge raised concerns that are summarised at paragraph 5.8.27 of the ExA's Report [ER 5.8.27]
74. The Secretary of State notes that alternatives of an underpass, a footbridge with circular ramps, an alternative location for the footbridge or do nothing were considered by the Applicant during the early stages of the scheme design but were all later discounted [ER 5.8.31]. The Secretary of State notes that the inconvenience of the alternative route around Portishead Station via the new



footpaths and the risk of trespass by people who may become frustrated with having to walk around were put forward as further justification for the footbridge by the Applicant [ER 5.8.35].

75. The Secretary of State notes that NSDC concluded that the public benefits including safety, direct routeing and prevention of severance arising from provision of a bridge were clear, but that the intrusion to public and private views of the bridge made its benefits more marginal. NSDC therefore considered that the disadvantages of omitting the bridge from the DCO appeared to be relatively minor and capable of being addressed [ER 5.8.42].
76. The Secretary of State agrees with the ExA that Trinity Footbridge does not meet the criteria for good design as set out in the NPSNN, and they are not satisfied that it could be effectively mitigated by the proposed green coloured finish, application of perforated screens and planting/re-location of trees. The Secretary of State notes that the ExA consider that visual effects on sensitive receptors, most significantly to adjoining occupiers of dwellings and their living conditions, would not be outweighed by the benefits of the footbridge in avoiding severance and connecting the housing areas.
77. The Secretary of State therefore agrees with the ExA that the proposed Trinity Footbridge, which forms part of work number 7, should be deleted from the Proposed Development [5.8.73]. The Secretary of State notes that the alternative route would be marginally longer but is satisfied that being at surface level would meet the needs of all Non Motorised Users including persons with protected characteristics [ER 7.3.5]. The Secretary of State has therefore removed these works from the DCO and following his letter dated 13 August 2021, the Applicant provided updated plans to reflect the removal of work number 7 from the Proposed Development.
78. Overall, the Secretary of State agrees with the ExA that the design, landscape, and visual impact of the Proposed Development would attract a neutral weight in the planning balance.

## **Land Use**

79. The Secretary of State notes that the Proposed Development would affect several agricultural holdings due to temporary possession for construction compounds and haulage roads and permanent acquisition for access and maintenance compounds resulting in the loss of informal crossings and subsequent effects from construction activities such as dust, noise and lighting and operational noise [ER 5.9.7]. The Secretary of State notes that the ExA is content that the effects on agriculture would be short-term and temporary and there would be no long-term damage [ER 7.2.37]
80. The Secretary of State notes that the ExA accepted that the main effects on land use to residential and commercial property as well as safeguarded land or land set aside for development would be mainly limited and restricted to temporary or short term construction activities [ER5.9.84]. The ExA concluded that the Proposed Development would not cause significant harm to residential, commercial and community land. The Secretary of State agrees with the ExA that the Master

CEMP, secured by Requirement 5, would ensure that the adequate management and mitigation measures are in place to minimise harm [ER 7.2.37].

81. The Secretary of State notes that much of the countryside between Portishead, Pill and Bristol lies in the Green Belt ("GB") [ER 5.9.28]. The use of land for temporary compounds and haul roads would be for a temporary period and the Secretary of State notes that compound areas would be returned to their former state on completion of the Proposed Development, except where part of the site would become a permanent maintenance and emergency access compound [ER 5.9.29]. The Secretary of State notes the ExA considers that the Proposed Development would amount to local transport infrastructure which can demonstrate a requirement for a Green Belt location and that, with the exception of the temporary and permanent compounds and works, the Proposed Development would not adversely affect the openness of the GB or conflict with the purposes of including land within it [ER 7.2.38].
82. The Secretary of State notes that the effect of the compounds on the Green Belt was the subject of numerous written questions that were examined by the ExA. The Secretary of State also notes that the ExA visited the sites of the proposed compounds at Ham Green and Clanage Road [ER 5.9.68]. The Applicant advised that the bulk of the structures within the Order limits and within the GB already exist and that the additional construction works in the GB would be the new embankment to support the permanent compound at Ham Green and the permanent ramp at Clanage Road. The Applicant considers that these works are a necessary part of a local transport scheme and would be suitably landscaped and therefore not impact on the openness of the GB and would not be inappropriate development [ER 5.9.69].
83. The Secretary of State notes that the ExA considered that the temporary construction and compounds and other temporary works would not fall within the exceptions for new buildings as prescribed by paragraph 145 of the NPPF and that due to their nature and size, openness would be harmed and as such, they would be deemed to be inappropriate development [ER 5.9.87]. However, the Secretary of State agrees with the ExA that given their modest scale and the temporary nature of the works, together with the measures secured in the recommended DCO there would be no permanent damage or harm. Therefore, the Secretary of State agrees with the ExA that Very Special Circumstances would exist that would outweigh the harm that would result from these elements of the Proposed Development [ER 7.2.39].
84. The Secretary of State notes that concerning the permanent works (Work Nos 24, 26 and 26B), the ExA considers that the openness of the GB would not be preserved. However, the Secretary of State notes that the ExA is satisfied that it has been demonstrated that the works have been designed to minimise their impact on openness and would be necessary to support the Proposed Development and could not be located elsewhere. Therefore in relation to the GB, the Secretary of State agrees with the ExA that Very Special Circumstances would exist that would outweigh the harm that would result from these permanent works [ER 7.2.40].

85. With regard to works requiring the permanent diversion of PRow, the Secretary of State notes that the ExA were satisfied that works would be relatively minor and necessary for reasons of safety. The Secretary of State agrees with the ExA that the proposed bridleway extension in relation to Work number 18 would provide an alternative route under the M5 so that horse riders and other non-motorised users do not need to travel in close proximity to trains under the existing road bridge forming part of National Cycle Network 26 [ER 5.9.88].
86. The Secretary of State agrees with the ExA that the Proposed Development would accord with the NPSNN in relation to land use, including GB [ER 5.9.89]. The ExA conclude that due to the opportunities and benefits that the Proposed Development would deliver the weight in the planning balance would be positive [ER 7.2.42]. This conclusion was drawn despite the harm to the openness of the GB from construction and maintenance compounds given that the ExA were satisfied that the Applicant had demonstrated that Very Special Circumstances would exist that would outweigh any harm to the GB. The Secretary of State finds no reason to disagree.

### **Socio-Economic**

87. In regard to socio-economic benefits, the Secretary of State notes that the Proposed Development has a large amount of support from all local authorities. The Secretary of State notes that NSDC highlighted the economic value and positive benefits of the Proposed Development through increased capacity, improved connectivity and journey resilience for Bristol, North Somerset and the wider South West [ER 5.10.17]. The Secretary of State also notes that BCC in its Local Impact Report supported the principle of the development, and its role in enhancing rail capacity for the local rail network, providing a reliable and frequent public transport service linking Bristol to Portishead and Pill [ER 5.10.18]. The Secretary of State notes that Somerset County Council stated that positive socio-economic and environmental effects are expected to arise both for Somerset and the wider Peninsula area, and Portishead Town Council also noted their support for the reopening of the railway to improve the connectivity of the town [ER 5.10.17 to 5.10.21].
88. The Secretary of State notes the ExA considers that the benefits arising from the operational use of the railway, particularly in reducing journey times into and out of Bristol to Portishead and Pill and providing a choice of transport modes, should be attributed significant weight. The Secretary of State notes and agrees with the ExA that the resultant effects in improving air quality and reducing traffic congestion from the predicted reduction in car journeys would also prove a positive weight in the planning balance [ER 5.10.34].
89. The Secretary of State notes that the Proposed Development would deliver 1,441 temporary jobs during construction and 514 permanent jobs (47 directly employed) post the scheme opening. The Secretary of State agrees with the ExA and considers the economic benefits in terms of employment provision both during construction and operation would also have positive benefits, and therefore weigh in favour of the Proposed Development [ER 5.10.35].

90. The Secretary of State notes that there was concern about negative impacts on existing businesses from increased down time of the level crossing at Ashton Vale Road [ER 5.10.22]. The Secretary of State's consideration of this is set out above and the Secretary of State agrees with the ExA that this matter is neutral in the planning balance [ER 7.2.44].
91. The Secretary of State notes that the ExA were satisfied that any effects during the construction period on local events such as the balloon festival would be minimised by measures in the CEMP to be secured by Requirement 5. The Secretary of State notes that matters relating to loss of some areas of open space and recreation have some negative weight but due to the largely temporary effects the ExA considers them to be neutral in the planning balance [7.2.46].
92. The Secretary of State agrees with the ExA and is satisfied that the Proposed Development would have no likely significant effects on socio-economic matters and would accord with the NPSNN. The Secretary of State notes the ExA considers that necessary mitigation is adequately provided for and secured in the recommended DCO and agrees with the ExA that in socio-economic terms there would be positive weight in the planning balance [7.2.48].

## **Historic Environment**

93. The Secretary of State notes that BCC confirmed in its local impact report that a number of designated heritage assets are within proximity of the project [ER 5.11.21]. The Secretary of State notes that NSDC advised that overall, despite the scale of the project, there would be relatively little impact either directly or on the setting of the registered and unregistered heritage assets within 500m of the Proposed Development [5.11.23].
94. The Secretary of State notes the ES concluded that no likely significant effects are predicted during construction, subject to the potential discovery of archaeological finds during earthworks in relation to the proposed compounds. However, the Secretary of State is satisfied that should archaeological finds be discovered they would be protected, recorded or preserved as secured by Requirement 10 of the DCO [ER 5.11.32].
95. The Secretary of State notes that the ExA consider that all impacts have been addressed in a manner that complies with the historic environment elements of the NPSNN [ER 5.11.36]. The ExA concluded that there would be no substantial harm from the construction or operation of the Proposed Development, either physically or on the setting of any archaeological remains, historic buildings or structures, Conservation Area or the Historic Landscape Character in the surrounding area or any total loss of any heritage assets as a result of the Proposed Development [ER 5.11.36]. The Secretary of State therefore agrees with the ExA that the Proposed Development would have no likely significant effects on the historic environment and that mitigation is adequately secured through the DCO. Overall, the Secretary of State agrees with the ExA and attributes a neutral weight to this matter in the planning balance [ER 5.11.37].

## **Other policy and factual issues**

96. The Secretary of State notes that regarding land stability and contaminated land, the ExA is satisfied that the Applicant's assessment was robust and that the Master CEMP would appropriately secure the Applicant's approach to construction and investigations. The Secretary of State also notes that the relevant planning authorities are satisfied with these matters [ER 5.12.24].
97. The Secretary of State notes the EA considered that the proposed wording in Requirement 17 concerning unidentified contamination was insufficient and requested that current operational railway land be removed as this could have the capacity to mobilise any contaminants present and pollute the water environment [ER 9.3.8]. The Secretary of State notes that the Applicant advised that NR routinely carry out maintenance and other works to their operational railway land under permitted development rights and that existing processes and safeguards apply, including pre-work trials to identify any contaminants, and the results are used to determine how matters are managed. The Secretary of State notes that these processes and safeguards would apply to all works on operational land carried out in connection with the Proposed Development. As such, the Applicant advocates that it would not be appropriate or necessary to apply different requirements merely because works are being carried out in connection with the Proposed Development [ER 9.3.9]. The Secretary of State notes that whilst the EA have not confirmed satisfaction with the amendment to Requirement 17 the ExA is satisfied with the Applicant's explanation as to why operational land should be excluded. The Secretary of State notes that the ExA concludes that the risks posed by the Proposed Development with respect to land instability and contaminated land would be minor at worst and attract neutral weight in the planning balance.
98. The Secretary of State notes that the ExA are satisfied that an assessment of decommissioning is unnecessary given the nature of the Proposed Development and its expected lifespan. The Secretary of State finds no reason to disagree [ER 5.12.27].

## **Findings and Conclusions in Relation to Habitats Regulations Assessment**

99. The Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations") apply as far as the 12 nautical mile limit of territorial waters. These regulations originally transposed the Habitats and Birds Directives into national law. Following the UK's departure from the European Union, the regulations continue to apply, subject to the amendments in the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.
100. The regulations deal with 'European sites'. This term covers Special Areas of Conservation ("SACs") and Special Protection Areas ("SPAs"). These sites form the national site network which includes all SACs and SPAs currently designated and new SACs and SPAs designated under the Habitats Regulations (as defined in regulation 8).
101. Regulation 63 of the Habitats Regulations provides that: *"....before deciding to undertake, or give any consent, permission or other authorisation for, a plan or*

*project which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, [the competent authority] must make an appropriate assessment of the implications...for that site in view of that site's conservation objectives." And that: "In the light of the conclusions of the assessment, and subject to regulation 64, the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be)."*

102. Where adverse effects on the integrity of a European site cannot be excluded, under regulations 64 and 68, consent can only be given if:

- There are no feasible alternative solutions to the plan or project which would be less damaging.
- There are imperative reasons of overriding public interest (IROPI) for the plan or project to proceed.
- Compensatory measures are secured to ensure that the overall coherence of the national site network is maintained.

103. Where the qualifying features of a European site include priority habitats or species (as defined in Article 1 of Council Directive 92/43/EEC), the IROPI reasons must be either:

- reasons relating to human health, public safety or beneficial consequences of primary importance to the environment; or
- any other reasons which the competent authority, having due regard to the opinion of the appropriate authority, considers to be imperative reasons of overriding public interest.

104. In giving its opinion as to whether the reasons for proceeding with the plan or project constitute IROPI, the appropriate authority must provide its opinion to the competent authority, having regard to the national interest. In this instance the appropriate authority is the Department of Environment, Food and Rural Affairs ("Defra"). Before giving its opinion the appropriate authority must consult, and have regard to the opinions of, the Joint Nature Conservation Committee (JNCC), the devolved administrations and any other person the appropriate authority considers appropriate.

#### Secretary of State's conclusions on the effects of the Proposed Development on European sites

105. The process of assessing the effects from a plan or project on European sites is commonly referred to as Habitats Regulations Assessment ("HRA"). The Secretary of State has completed an HRA for the Portishead Branch Line which sets out their appropriate assessment for the purposes of the Habitats Regulations and is summarised in the following paragraphs. These should be read in conjunction with the HRA which is published alongside this decision.

106. In undertaking the HRA, the Secretary of State has carefully considered all of the information presented before, during and after the examination, including the Report on the Implications for European Sites, the Report to Inform Habitats Regulations Assessment (Version 3), the Environmental Statement and the ExA's recommendation report. The ExA's consideration of HRA is set out in Chapter 6 of the recommendation report. The Secretary of State agrees with the conclusions of the ExA except to the extent set out below.

107. The Secretary of State considers that the Proposed Development has the potential to have a Likely Significant Effect on two European sites when considered alone or in combination with other plans or projects:

- Avon Gorge Woodlands SAC; and
- North Somerset and Mendip Bats SAC.

The Secretary of State has assessed effects on these sites using all the information available to him, including the advice from the Appropriate Nature Conservation Body Natural England, the recommendations of the ExA and the views of Interested Parties including the Applicant. Having considered the information and the mitigation measures secured through the DCO, the Secretary of State has concluded that the Proposed Development will not have an adverse effect on the integrity of the North Somerset and Mendip Bats SAC either alone or in combination with other plans or projects.

108. In respect of the Avon Gorge Woodlands SAC, the Secretary of State considers that adverse effects on the integrity of the site cannot be excluded. The habitats which are the qualifying features of the SAC are *Tilio-Acerion* forests of slopes, screes and ravines and semi-natural dry grasslands and scrubland facies on calcareous substrate (*Festuco-Brometalia*). The *Tilio-Acerion* qualifying feature is a priority habitat. One of its characteristics is the presence of whitebeam species, several of which are endemic to the SAC. There are also a number of rare plant species associated with the *Festuco-Brometalia* grassland feature, including the Bristol rock-cress (*Arabis scabra*). Small areas of both qualifying features would be directly lost. A number of the whitebeam trees would be felled or coppiced. There would be a small loss of individuals of one of these species, Bristol rock-cress (*Arabis scabra*). Even when the mitigation secured through the DCO is taken into account, the extent and distribution of the qualifying natural features would not therefore be maintained. The Proposed Development would undermine the relevant conservation objectives for the SAC.

109. The Secretary of State concludes that the Proposed Development could adversely affect the integrity of the SAC and that the further tests set out in the Habitats Regulations must be applied. The Secretary of State has therefore reviewed the Proposed Development in the context of regulations 64 and 68 of the Habitats Regulations.

### Consideration of further tests under the Habitats Regulations

110. In accordance with the Habitats Regulations and the guidance on the application of HRA (“the 2021 HRA guidance”) published by Defra, the Welsh Government, Natural England and Natural Resources Wales, the Secretary of State reviewed the Proposed Development following a sequential process, giving consideration to:


- alternative solutions to the Proposed Development;
- whether there are any IROPI for the Proposed Development to proceed; and
- the adequacy of compensation measures proposed by the Applicant for ensuring that the overall coherence of the national site network is protected.

### *Alternative solutions*

111. The 2021 HRA guidance explains that alternatives need to meet the original objectives of the proposal under consideration. An alternative solution will be acceptable if it achieves the same overall objective as the original proposal; is financially, legally and technically feasible; and is less damaging to the European site and does not have an adverse effect on the integrity of this or any other European site.


112. The objectives which the Proposed Development are intended to achieve are as follows:

#### Main objectives:

- To support economic growth, through enhancing the transport links to the Temple Quarter Enterprise Zone and into and across Bristol City Centre, from the Portishead, Bath and Avonmouth/Severn Beach arterial corridors.
- To deliver a more resilient transport offer, providing more attractive and guaranteed (future proofed) journey times for commuters, business and residents into and across Bristol, through better utilisation of strategic heavy rail corridors from Portishead, Bath and Avonmouth/Severn Beach.
- To improve accessibility to the rail network with new and re-opened rail stations and reduce the cost of travel for commuters, business and residents.
- To make a positive contribution to social well-being, life opportunities and improving quality of life, across the three arterial corridors  Portishead, Bath and Avonmouth/Severn Beach.

#### Supporting objectives:

- To contribute to reducing road based traffic congestion on the Portishead, Bath and Avonmouth/Severn Beach arterial corridors.
- To contribute to enhancing the capacity of the local rail network, in terms of seats per hour in the morning and afternoon peaks.
- To contribute to reducing the overall environmental impact of the transport network.

113. The Applicant provided evidence on alternative transport modes, railway alignments, frequency of services and a ‘do nothing scenario’ which are reviewed in the HRA. For the reasons given in the HRA,  the Secretary of State is satisfied



that no alternative solutions are available which would achieve the objectives of the Proposed Development.

*Imperative Reasons of Overriding Public Interest ("IROPI")*

114. In line with the 2021 HRA guidance the Secretary of State has considered whether the Proposed Development is imperative, in the public interest and if the public interest outweighs the harm or risk of harm to the integrity of the Avon Gorge SAC. The Secretary of State is satisfied that, for the reasons given in the HRA, there is an imperative need to provide an alternative mode of travel between Portishead and Bristol. This is required to ameliorate the problems arising from the existing severe levels of traffic congestion along the A369, to accommodate future growth in the West of England sub-region and to deliver modal shift which is a key objective of national and local transport policy. The National Networks National Policy Statement identifies the need to provide transport networks which support national and local economic growth, support and improve journey quality, reliability and safety, increase connectivity between communities and which support the delivery of environmental goals including decarbonisation. The Secretary of State considers that the Proposed Development will contribute to achieving these objectives.

115. The Proposed Development will provide public benefits by providing reliable journey times between Portishead and Bristol, reducing congestion in the West of England and Bristol areas and increasing access to health, education and leisure facilities and the wider rail network. It would make direct rail services available to 50,000 people living within the catchment of the new stations at Portishead and Pill. The Secretary of State is satisfied that the Proposed Development is in the public interest.

116. The Secretary of State has considered the adverse effects on the integrity of the Avon Gorge SAC resulting from the direct loss of small areas of the qualifying features and associated species and whether the public interest outweighs the harm to the SAC. The Applicant provided information on the benefits for public safety, human health, the environment and social and economic benefits. The Secretary of State has concluded that, for the reasons given in the HRA, only the social and economic benefits of the Proposed Development can be described as being of overriding importance. In relation to the effects on the *Festuco-Brometalia* grassland SAC feature, the Secretary of State is satisfied that the 'IROPI' test has been met, subject to the provision of appropriate compensatory measures.

117. As noted above the *Tilio-Acerion* woodland is a priority natural habitat which restricts the range of reasons which qualify as IROPI. The Secretary of State does not consider that the Proposed Development can demonstrate IROPI for these reasons. He therefore requested an opinion from Defra as to whether the social and economic benefits of the Proposed Development can be considered as of overriding importance compared with the harm to the *Tilio-Acerion* woodland feature of the SAC. Following the provision of further information, Defra has

advised that these benefits do constitute IROPI for the Proposed Development, subject to certain conditions being complied with. These measures are secured through the DCO and the Avon Gorge Vegetation Management Plan Version 3 (AGVMP V3). The delivery of this plan is secured through the requirement 14 in Schedule 2 of the DCO. The Secretary of State has had regard to the request from Defra that the Applicant should provide Defra with a copy of the prepared monitoring reports and requirement 14(7) has been amended accordingly. On the basis of Defra's advice, the Secretary of State is satisfied that the IROPI test has been met for the *Tilio-Acerion* woodland feature of the SAC, subject to the provision of appropriate compensatory measures.

#### *Compensatory measures*

118. The Applicant has proposed a set of compensatory measures which are detailed in the Avon Gorge Vegetation Management Plan Version 3 (AGVMP V3) submitted to the examination. Delivery of the AGVMP V3 is secured through requirement 14 of the DCO. It is also listed in Schedule 17 of the DCO as one of the documents to be certified. The compensatory measures can be summarised as:

- Management measures to improve the condition of 1.45ha of the existing *Tilio-Acerion* woodland including coppicing, felling of non-native trees and vegetation around whitebeam trees.
- Growing and re-planting up to 54 endemic whitebeams.
- Management measures to improve the condition of 0.15ha existing areas of *Festuco-Brometalia* grassland by controlling scrub.
- Measures to translocate Bristol rock-cress plants.

119. The whitebeam re-planting proposals would balance the losses as listed below:

- Avon whitebeam – 12 trees lost, 5 re-planted;
- Bristol whitebeam – 2 trees lost, 7 re-planted;
- Round-leaved whitebeam – 5 trees lost, 27 re-planted;
- Grey-leaved whitebeam – 1 tree lost, 1 re-planted;
- Leigh Woods whitebeam – 6 trees lost, 12 re-planted; and
- Wilmott's whitebeam – 1 lost, 2 re-planted.

120. The re-planting would replace the overall losses at a ratio of 2:1 (27 trees lost versus 54 re-planted). In response to a request for further information from the Secretary of State, the Applicant stated that the number of round-leaved whitebeam to be lost had now been reduced to four. The Applicant has already cultivated a number of whitebeam saplings from seed collected within the SAC and has undertaken further seed collection to ensure that any failed plantings could be replaced during the ten year post-construction monitoring period. However, the Applicant has been unable to cultivate sufficient Avon whitebeam and grey-leaved whitebeam to replace losses of these species on a 2:1 basis overall. The advice from NE provided to the examination was that the Applicant had made every effort to maximise the number of these species that could be re-planted and the compensation package has been optimised as far as possible [ER 6.14.33]. The

Secretary of State has considered the views of NE and the ExA's recommendation and concludes that the measures proposed by the Applicant are adequate to meet the requirements of the Habitats Regulations.

121. The AVGMP V3 contains two alternative sets of management measures for the *Tilio-Acerion* woodland feature (including the re-planting of the whitebeams); the principal difference is the location of the management measures within the SAC and woodland around it. This was to address the concerns raised by NE about the difficulty of distinguishing between the management required as compensation for the SAC and the management required to achieve favourable conservation status for the SAC. As described in the HRA, the Secretary of State agrees with the ExA's recommendation that the measures identified in Annex H Package 2 and Annex M of the AGVMP V3 are appropriate to compensate for the effects on the *Tilio-Acerion* woodland feature.

122. The Secretary of State is confident that the compensatory measures are adequate to maintain the coherence of the national site network. The delivery of the measures has been secured by requirements in the DCO. The Secretary of State is satisfied that the extent of adverse effects on the integrity of the Avon Gorge SAC has been correctly identified, there are no alternative solutions which could achieve the objectives of the Proposed Development, there are IROPI for carrying out the Proposed Development and adequate compensatory measures have been secured. These conclusions are supported by the HRA which accompanies this letter.

### **Conclusion on the case for Development Consent**

123. The Secretary of State notes that in examining this application, the ExA has had regard to the NPSNN as the applicable NPS, the NPPF, the LIRs and all other relevant matters [ER 7.3.1].

124. In regard to the balance of benefits and adverse impacts required to be considered by s104(7) of the 2008 Act, the Secretary of State agrees with the ExA that the Proposed Development meets the need as established in the NPSNN. The Secretary of State notes that there would be significant benefits arising from the operational use of the railway, particularly in reducing journey times into and out of Bristol to Portishead and Pill and providing a credible alternative transport mode [ER 7.3.3].

125. With regard to adverse impacts, the Secretary of State notes that the ExA identified that harm would occur from the construction of the Proposed Development as a result of potential flooding from Work No 26, an increase in CO<sub>2</sub> emissions from the use of DMUs, and loss of a number of rare whitebeam trees [ER 7.3.4]. The Secretary of State notes that in applying the overall planning balance, the ExA consider that the adverse impacts of the Proposed Development would not outweigh the numerous benefits which the Proposed Development would deliver, including the substantial need for the Proposed Development in accordance with the NPSNN. Accordingly, the Secretary of State agrees with the

ExA that s104(7) does not apply [ER 7.3.8]. The Secretary of State therefore agrees with the ExA that development consent should be granted [ER 7.3.9].

## **Compulsory Acquisition and Related Matters**

126. The Secretary of State has considered the compulsory acquisition (“CA”) powers sought by the Applicant in accordance with s122 and 123 of the 2008 Act, the 2013 Guidance and the Human Rights Act 1998 and other relevant guidance [ER 8.6.1]. The Secretary of State notes that there remained outstanding objections from Statutory Undertakers (“SU”) at the close of the Examination and as a consequence s127 and s138 of the 2008 Act are engaged [ER 8.6.2].

127. The Secretary of State notes the ExA’s consideration of CA and temporary (“TP”) related matters at chapter 8 of the ExA’s Report, and at the close of the Examination discussions were ongoing with numerous affected parties. The Secretary of State notes the update provided in the Applicant’s letter dated 20 September 2021 that the CA Schedule has been amended as a result of the removal of the footbridge from the DCO and the final agreements with landowners which have been settled.

128. The Secretary of State notes that there were no objections to the CA of Crown land and by the end of the Examination all the relevant Crown Authorities had provided their written consent for the use of their land [ER 8.6.23.]

### **Special Category Land**

129. The Secretary of State also notes that in each case where the Applicant is seeking to CA open space land it would be less than 200sqm and that once the Proposed Development is constructed, the land would be available again to use as before. The ExA were satisfied that the exemptions at sections 131(5) and 132(3) of the 2008 Act would apply and that the Special Parliamentary Procedure should not apply to this land [ER 8.9.166-167]. The Secretary of State agrees with this.

130. The Secretary of State notes that the National Trust have an interest in 14 plots of land for which the Applicant is seeking TP. The Secretary of State notes that there was an outstanding objection from the National Trust at the end of the Examination [ER 8.9.168-172] but that the Applicant’s letter of 20 September 2021 set out that an agreement had been reached with the National Trust on 17 September and all matters set out in the SoCG are settled. The Secretary of State notes confirmation of the agreement from the National Trust’s letter dated 1 October 2021 and that their objection is now withdrawn. The Secretary of State agrees with the ExA that section 130(3) does not apply and that Special Parliamentary Procedure is not required [ER 8.13.10].

### **Section 127 and 138 - Statutory Undertakers**

#### **Bristol Port Company (“BPC”)**

131. It is noted that the BPC objected to the CA and TP of all but 20 of the 57 plots where a combination of these powers were being sought [ER 8.9.97-98]. The Secretary of State notes from the Applicant’s letter dated 20 September 2021 that

an agreement has been reached with the BPC and that the protective provisions submitted with the draft DCO represent the agreed protective provisions between the Applicant and BPC. The Secretary of State further notes that the Applicant expects the BPC to withdraw its remaining objection except for one element between the parties in relation to Court House Farm, summarised in enclosure 6 to the Applicant's letter dated 21 July 2021. The Secretary of State notes confirmation from BPC's letter dated 20 September 2021 of the agreement reached between the Applicant and BPC on the condition of the inclusion in the Order of the revised version of Part 5 of Schedule 16 in the form attached to the letter dated 20 September 2021. The Secretary of State notes from the Applicant's schedule of changes dated 20 September 2021 that the parties are agreed on the form of the protective provisions and which have been included in Part 5 of Schedule 16. The Secretary of State notes the ExA were satisfied that the Protective Provisions would provide an appropriate form of protection for BPC and that the land and the rights sought could be acquired without serious detriment to the carrying out of the undertaking [ER 8.9.136]

#### National Grid Electricity Transmission

132. The Secretary of State notes from Applicant's letter dated 20 September 2021 that the Applicant and NR have continued discussions with National Grid Electricity ("NGET") and Western Power Distribution ("WPD") regarding the inter-relationship between the Hinkley Point C Connection DCO and the Proposed Development. The Secretary of State notes from the Applicant's letter and NGET letter both dated 11 April 2022 that Version 12 of the revised Order includes the protective provisions as agreed between NGET and the Applicant and that NGET's objection is now withdrawn.

#### Western Power Distribution

133. The Secretary of State notes the update in the Applicant's letter of 20 September that in addition to discussions regarding Hinkley Point C Connection DCO a separate agreement on WPD's protective provisions has been engrossed but that is not yet complete. The Secretary of State notes from the Applicant's letter and WPD's letter both dated 11 April 2022 that Version 12 of the revised Order includes the protective provisions as agreed between NGET and the Applicant and that WPD's objection has now withdrawn.

#### Exolum Pipeline System Limited

134. The Secretary of State notes from the Applicant's letter of 20 September 2021 that the Applicant confirmed a final agreement between North Somerset District Council, Network Rail and Exolum Pipeline System Limited ("Exolum") had been completed and that Exolum set out that position in a letter dated 1 October 2021 and that their objection is now withdrawn.

#### Freightliner Limited

135. The Secretary of State notes from the Applicant's letter of 20 September 2021 that the Applicant and Freightliner Limited have reached an agreement. The Secretary of State notes confirmation from Freightliner Limited in their email dated 24 September 2021 that an agreement has been reached and their objection to the Order is withdrawn.

136. Overall, the Secretary of State agrees with the ExA and is satisfied that the provisions contained within Schedule 16 of the Recommended DCO would ensure that an appropriate degree of protection would be given to the affected undertakers, such that there would be no serious detriment to the carrying out of those organisations' undertakings. The Secretary of State also agrees with the ExA that the interference with apparatus and extinguishment of rights would be necessary for the purposes of carrying out the development [ER 8.9.164]. Therefore, the Secretary of State like the ExA is satisfied that the tests in section 127(5) and section 138(4) of the 2008 Act would be met [ER 8.13.9].

### Conclusion

137. Compulsory acquisition powers over land can be granted only if the Secretary of State is satisfied that certain conditions set out in the Act are met:

- the condition in section 122(2) is that the land is required for the development for which the development consent relates or is required to facilitate or is incidental to the development; and
- the condition in section 122(3) is that there must be a compelling case in the public interest for the land to be acquired compulsorily.

138. The Secretary of State notes that the ExA is satisfied that the land for which CA powers are being sought is no more than would be reasonably required to enable the construction, operation and maintenance of the Proposed Development, so where required accept there would be no alternative to the use of CA powers [ER 8.6.9]. The Secretary of State notes that at the time of writing the report, the ExA was satisfied that the Applicant is of sound financial standing and that the necessary funds would be available to finance the Proposed Development, including CA and potential liabilities arising from acquisition of land and rights and compensation claims [ER 8.6.11].

139. Following a letter from North Somerset Council and West of England Combined Authority of 12 November 2021, published alongside this letter, the Secretary of State is aware that the cost of this scheme has increased from that set out in the Funding Statement submitted by the Applicant as part of their Application and considered by the ExA. In early 2022 the Applicant submitted a draft of the Full Business Case to the Department which showed that the Anticipated Final Cost for the scheme had significantly increased from £116m at Outline Business Case, and that a substantial funding gap existed. A request to increase the DfT's funding contribution above the already committed £31.9m to help close the funding gap was made by the Applicant. Following careful consideration of this request, the DfT confirmed that any additional funding would need to be secured from alternative sources. The decision on funding arrangements is quite separate to the decision on the DCO and such matters on funding arrangements are considered under a separate process. The DCO decision making is only concerned that there is adequate funding for the Proposed Development.

140. The Secretary of State notes that the Department for Communities and Local Government's (now the Department for Levelling up, Housing and Communities)

“Planning Act 2008 Guidance related to procedures for the compulsory acquisition of land” (“the CLG Guidance”) states that for the Secretary of State to be satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily, the Secretary of State will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired.

141. The CLG Guidance also states that the Secretary of State must ultimately be persuaded that the purposes for which the DCO authorises compulsory acquisition are legitimate and sufficient to justify interfering with the human rights of those with an interest in the land affected. On the basis of the examination, the ExA recommended that both CA and TP powers relating to land and rights should be granted [ER 8.14.1]. However, in light of the post-examination events concerning funding, the Secretary of State considers that the compulsory acquisition powers cannot be granted. This is because of the requirement in the CLG Guidance to demonstrate that there is a reasonable prospect of the funds is not currently met. The Secretary of State considers that whilst the current funding profile may be sufficient to cover the liabilities relating to the grant of CA and TP powers, the gap in funding presents an impediment to the delivery of the Proposed Development which means it may not be delivered and that there would be no compelling case in the public interest for the land to be acquired compulsorily. The Test at section 122(3) of the 2008 Act would therefore not be met. The Secretary of State considers that the grant, in such circumstances, of powers of CA may be unlawful under the Human Rights Act 1998. Consequently, the Secretary of State has therefore decided that consent cannot yet be granted unless and until he has been provided with the further information set out above at paragraph 7 to enable him to confirm the updated costs of the scheme and to be satisfied that adequate funding will be available to meet these costs.

### **Late Representations (outside formal consultation)**

142. Since the close of the Examination the Secretary of State has received a number of late representations, all of which are published on the Planning Inspectorate’s website.
143. The Secretary of State does not consider that anything in the correspondence constitutes new evidence, or raises a new issue, which needs to be referred to interested parties before he proceeds to a decision. It does not cause him to take a different view on the matters before him than he would otherwise have taken based on the ExA’s report.

### **General Considerations**

#### Equality Act 2010

144. The Secretary of State has had regard to the public sector equality duty set out in section 149(1) of the Equality Act 2010 and the need to eliminate discrimination,

advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not share it.

145. The Secretary of State has concluded in light of the ExA's findings and conclusions that the Proposed Development is not likely to result in any significant differential impacts on any of the protected characteristics referred to in section 149(7). On that basis there is no breach of the public sector equality duty.

#### Natural Environment and Rural Communities Act 2006

146. The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006, has to have regard to the purpose of conserving biodiversity, and in particular to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when granting development consent.

147. The Secretary of State is of the view that the ExA's Report, together with the environmental impact assessment, contains sufficient information regarding the impacts of the Proposed Development on biodiversity to inform him in this respect. In reaching the views set out in this letter, the Secretary of State has had due regard to conserving biodiversity.

#### **Secretary of State's overall views on the Panel's conclusions**

148. For the reasons given in this letter, the Secretary of State is minded to agree with the ExA that the Order granting development consent for the project should be made. In particular, he considers that the Proposed Development will support a shift from road to rail helping to reduce pollution and congestion and that the Proposed Development is in conformity to the NPSNN and the transport related benefits that will result from it will be of public benefit. He nevertheless recognises that the project does not yet have full funding confirmed and that there is a potential impediment to its delivery.

149. The Secretary of State considers that he needs the information set out in paragraph 7 above.

#### Draft Order

150. The Secretary of State agrees with the ExA's conclusions on the text of the Order, subject to the proposed qualifications and further changes detailed below which would be necessary if the Secretary of State decides to make the Order.

- article 2 (interpretation) – the definition of the '2009 Regulations' has been removed as it is not a term used in the Order;
- article 2 (interpretation) – the definition of 'compulsory acquisition notice' has been removed as the term is not used in the Order;
- article 2 (interpretation) – the term 'electronic transmission' has been amended to reflect the position of the Secretary of State;
- article 2 (interpretation) – the definition of 'limits of land to be acquired or used' is not required due to the way the definition of 'Order land' has been drafted, which is the only place in which this term is used;



- article 14 (permanent stopping up of streets) – new paragraph (5) has been added to reflect a provision that is usually included. There was no explanation in the explanatory memorandum for its omission
- article 27 (compulsory acquisition of rights or imposition of covenants) the Secretary of State notes that paragraphs (6) to (8) would appear to have the effect of duplicating the transfer of benefit provisions that are contained in article 10 but has the effect of circumventing the requirement for Secretary of State consent to the transfer. The Secretary of State has amended paragraph (6) so that it includes the need to obtain consent;
- article 33 (temporary use of land for carrying out the authorised development) the Secretary of State notes that paragraph (8) would have the effect of allowing the Applicant to create undefined new rights over land that has been identified for temporary possession in Schedule 12. The Secretary of State cannot be certain that affected landowners will have been made aware of this position so paragraph (8) has been amended to remove the provision contained in sub-paragraph (a).

### **Next Steps**

151. The applicant is invited to respond to the Secretary of State by 30 November 2022 to inform him whether or not it has been possible to address the issues referred to at paragraph 7 above. If it is not possible for the applicant to address those issues within that time, the applicant should explain the reasons for this.
152. The applicant's response will then be published on the Planning Inspectorate's website and comments will be invited from interested parties within a further 14 - days on those matters only. The Secretary of State will consider the applicant's response and any related comments in reaching his decision.
153. In order to allow time for these steps to be taken, the Secretary of State is setting a new deadline for his decision on this application of 19 February 2023 and will make a statement to the House of Commons in accordance with section 107(7) of the 2008 Act.

### **Distribution**

154. This letter is being published on the Planning Inspectorate's website and all interested parties are being notified of this so that they are aware of the information that is being requested and the extended timescale for reaching a decision on the Application.

Yours faithfully

**Natasha Kopala**

**Appendix 2 - Report and minutes of North Somerset District Council Meeting of  
12<sup>th</sup> July 2022**

# **North Somerset Council**

## **Report to the Council**

**Date of Meeting: 12<sup>th</sup> July 2022**

**Subject of Report: MetroWest Phase 1 – Update**

**Town or Parish: All**

**Officer/Member presenting: Cllr Steve Bridger, Leader of the Council and Executive Member for Major Infrastructure Projects**

**Key Decision: No**

### **Reason:**

Not an Executive Decision

### **Recommendations**

The Council is asked to:

1. Note the project update and that the project is currently paused, and will remain paused, while formal confirmations are awaited from the Department for Transport and the West of England Combined Authority regarding additional funding required to take the project forward, as set out in recommendations 2 and 3,
2. Agree that, subject to:
  - a. approval of the final business case (anticipated autumn 2023),
  - b. confirmation from the West of England Combined Authority of increased capital funding of £10m
  - c. confirmation of increased contribution to capital funding by Department for Transport of £15.58m, and
  - d. confirmation by the Department for Transport that it will take the delivery risk for all the railway works,the North Somerset Council capital funding contribution to MetroWest will be increased by £10m, to be funded from borrowing, and
3. That the capital budget be amended to increase the budget by £35.58m to £152.01m to be funded by the additional £10m as per recommendation 2, a further £15.58m by the Department for Transport and a further £10m by the West of England Combined Authority (subject to formal confirmation by the Department for Transport and the West of England Combined Authority).

## **1. Summary of Report**

- 1.1. MetroWest Phase 1 (the Project) proposes to upgrade the existing local train service for the Severn Beach Line and the Bath Spa to Bristol Line (Phase 1A) and re-open the Portishead rail line with stations at Portishead and Pill (Phase 1B). The Project is being promoted by North Somerset Council and the West of England Combined Authority (WECA) on behalf of the authorities across the West of England including; Bath & North East Somerset, Bristol City and South Gloucestershire Councils. The Project forms part of a wider MetroWest programme to deliver strategic enhancements to the local rail network over the medium term.
- 1.2. This report provides an update on progress since the last report to Council on 19<sup>th</sup> July 2021, noting that the project is currently on hold awaiting resolution of the funding gap and granting of the Development Consent Order. It summarises the position of the DfT on allocating additional funding for the project following detailed negotiations and seeks authorisation for the allocation of additional NSC funding required to proceed with delivery of the project

## **2. Policy**

- 2.1. The project is identified in the Joint Local Transport Plan 4, and North Somerset's Core Strategy as a priority for early delivery. Re-opening the Portishead line was also included in the 2007 Replacement Local Plan and successive Local Plans over a number of decades. MetroWest contributes to the package of infrastructure to support the delivery of housing land in North Somerset through urban intensification, job creation and sustainable growth. As part of a wider package of public transport advancements across North Somerset and the region, the project will promote alternatives to car use and improve the resilience of the existing and future highway network.
- 2.2. The delivery of the project aligns with the vision and priorities set out in the North Somerset Council Corporate Plan 2020 – 2024. The project underpins 'An open, fair and green North Somerset Council', through the delivery of a mode of transport that will be accessible to all including young and elderly people (many of whom have limited access to transport), with step free access to station platforms enhancing transport equality. This is reflected in the Councils priorities to achieve:
  - A thriving and sustainable place
  - A council which empowers and cares about people
  - An open and enabling organisation

## **3. Background**

- 3.1. The key driver for the re-opening of the Portishead Line is to transform rail access and connectivity for Portishead and the surrounding area, whilst resolving the current highway congestion on the A369 highway. The A369 is the only transport corridor between Portishead and Bristol. The A369 has major bottlenecks at both ends of the corridor because of the one of the busiest sections of the M5 dissecting the corridor at the Junction 19, east of Portishead and at the other end of the corridor there is systemic congestion into and through Bristol City Centre. These bottlenecks cause major disruption to the local community and business through

poor highway journey times, poor journey time reliability and severe lack of highway network resilience.

3.2. The following are the primary benefits of the scheme:

- Significantly reduced travel time into Bristol from Portishead to 23mins compared to bus (60min+) & car (50min) significantly improving people's access to employment and services.
- Over 50,000 people brought within direct catchment of a rail station (Portishead & Pill) for the first time in over 60 years,
- 1.2m additional rail journeys and £7m revenue within 15 years of opening.
- Benefits to the regional economy in Gross Value Added (GVA) of £43m per annum
- Delivers the removal of 13 million car-km annually by 2041.

3.3. The primary objectives and phases of MetroWest 1 are the following:

- MW1a: Severn Beach Line infrastructure and service enhancements, including two services per hour to Avonmouth, with one continuing to/from Severn Beach.
- MW1a: Additional trains and necessary upgrades to existing infrastructure to create an overall half-hourly service calling at all stations between Bristol Temple Meads and Westbury.
- MW1b: New hourly service between Portishead and Bristol Temple Meads, consisting of existing 9km freight-only and re-opening 5km of disused railway with two new stations at Portishead and Pill.

3.4. The infrastructure enhancement works associated with MetroWest 1a have been completed. The services between Bristol Temple Meads and Severn Beach have been operational since December 2021. The current plan is to implement the enhanced service to Westbury from May 2023.

### **Progress since the last update to Full Council in July 2021**

3.5. As set out in the last report to Full Council in July 2021. The infrastructure required to support the re-opening of the Portishead line (Phase 1b) is to be delivered via Network Rail (NR). Network Rail started procurement for its Main Works Contractor (design and build contract) in spring 2021, with contract award for detailed design planned to commence in early 2022. NR is currently undergoing a live procurement exercise with their supply chain and obtained market prices for the infrastructure works in December 2021. The returned market prices were significantly higher than forecasted in 2017, when the scheme funding was secured in line with the Outline Business Case (£116.42m).

3.6. The anticipated final cost (AFC) of MetroWest 1 scheme is now estimated at £163.26m, resulting in a funding gap of £46.82m, when compared to the funding secured through the Outline Business Case (£116.42) in 2017. The £163.26m AFC comprises an estimated £152.01m capital expenditure (CAPEX) and up to £11.24m operational expenditure (OPEX), as set out in the following table.

|                        | Estimated Capital Cost (Capex) | Estimated Operational Cost (Opex) | Anticipated Final Cost (AFC) |
|------------------------|--------------------------------|-----------------------------------|------------------------------|
| Revised estimated cost | £152.01m                       | Up to £11.24m                     | £163.26m                     |
| Less current budget    | £116.43m                       | £0                                | £116.43m                     |
| <b>Funding gap</b>     | <b>£35.58m</b>                 | <b>£11.24m</b>                    | <b>£46.82m</b>               |

- 3.7. There have been a variety of different factors that have caused an increase in the estimated overall scheme cost. The main reasons for these increases are linked to the following:
- In 2017, the operating expense costs (OPEX) (of up to £11.24m) were not included within the original funding requirement as these were still under negotiation with GWR. It was expected at the time that any potential funding support between service cost and proposed revenue would be negligible, but this was prior to the impact of COVID-19 on expected revenue.
  - Major delays to the Development Consent Order (DCO) process, due to more onerous demands than anticipated to prepare and submit compliant Development Consent Order (DCO) application.
  - Changes in project scope resulting in delay and re-design,
  - Market prices were greater than those previously estimated, which were caused by, but not limited to, the following:
    - Uncertainty caused by Covid 19 [significant impact on the OPEX costs]
    - Increasing underlying inflation and material costs increases reflecting national and international inflationary increases.
- 3.8. There has been significant effort with all parties (NSC, CA, NR, DfT & GWR) to collaboratively reduce the anticipated final cost of the project to ensure a Minimum Viable Product is being delivered. This included several rounds of scope reduction workshops, value engineering assessments and scope challenge meetings. This process has delivered considerable savings, reducing the funding gap which initially reached £93.2m to the current funding gap of £46.82m.
- 3.9. As part of this exercise, the following scope changes have been made:
- Reduction of scope to bring the existing freight line up to passenger train line standards
  - Reduction of Portishead and Pill platform lengths from 5-Car to 3-Car
  - Removal of Portishead Station building
  - Reduction in selected highway scope (car parks, footpaths, bridge works)
  - Change in governance model, with DfT taking on the client role.
- 3.10. The economic appraisal of the scheme forecasts a Benefit-Cost Ratio (BCR) of 1.5:1, including wider economic benefits. A BCR of greater than 1.5 represents medium value for money.

- 3.11. On the 19<sup>th</sup> April 2022, the DfT announced the Secretary of State for Transport is 'minded to consent' the Development Consent Order (DCO), subject to the positive resolution of the current funding gap. The decision date for the DCO was deferred to February 2023 but representatives of the DfT have advised that this date can be brought forward if additional funding contributions from NSC and WECA can be agreed to bridge the existing funding gap.

#### 4. Consultation

- 4.1. Extensive public consultation has been undertaken over several years on the project proposals. The response to the consultations was very high with almost 2,000 separate responses received over both stages and the level of support for the scheme is also very high with 95% of community respondents fully or mainly in support of the proposals. Further information on the project consultation is set out in the DCO Consultation Report which is a DCO application document and is available from: <https://infrastructure.planninginspectorate.gov.uk/projects/south-west/portishead-branch-line-metrowest-phase-1/?ipcsection=docs>
- 4.2. A members briefing was given to Group Leaders and the chairperson of PCOM Scrutiny panel on 5<sup>th</sup> May 2022 and a briefing for the Place / PCOM Scrutiny Panel/s is being arranged for w/c 27<sup>th</sup> June 22.
- 4.3. This paper has been developed by North Somerset Council in liaison with WECA and Network Rail. No further consultation is required on the content of this paper.

#### 5. Financial Implications

- 5.1. The outline business case included funding as follows:

| Funding source                                    | Available Funding (in £m) |
|---|---------------------------|
| Local Growth Fund                                 | £18.87                    |
| Economic Development Fund                         | £49.53                    |
| Contributions to date by West of England councils | £4.41                     |
| NSC additional contribution                       | £5.86                     |
| CA Investment Fund                                | £5.86                     |
| DfT RYR contribution                              | £31.90                    |
| <b>Total</b>                                      | <b>£116.43</b>            |

- 5.2. As outlined in paragraphs 3.6-3.11, the revised capital cost (CAPEX) of MetroWest 1 scheme is now estimated at £152.01m, resulting in a funding gap of £35.58m. The proposals to close the capital funding gap, subject to ministerial decision and local agreements, are outlined in the table below.

| Funding source  | Available Funding (in £m) |
|---|---------------------------|
| <b>Total outline business case funding</b>                                    | <b>£116.43</b>            |
| NSC additional contribution 2022 - 50/50 agreement*                           | £10.00                    |
| WECA additional contribution 2022 - 50/50 agreement*                          | £10.00                    |
| DfT additional capital contribution   | £15.58                    |
| <b>Capital funding requirement - subject to confirmation from all parties</b> | <b>£152.01m</b>           |

\* There is agreement in place between WECA and NSC that the project will be jointly funded 50/50 up to delivery phase, therefore any additional contributions will need to be matched.

- 5.3. While the train services are forecast to breakeven and start to yield a revenue surplus, further work is needed on the detailed costs and forecast fare revenues in relation to assumptions on the pace that rail passenger demand recovers from covid 19. There are a number of variables that effect how quickly the services reach breakeven point and the arrangements for the train services require further discussion and negotiation with the DfT. This work will be undertaken in parallel with the detailed design (GRIP 5) over the next 18 months. The aim of this work is to mitigate the additional forecast OPEX costs.
- 5.4. The final CAPEX cost of the project will be confirmed following the outcome of the Network Rail procurement, the appointment of the design and build main works contractor and the completion of the detailed design (GRIP5). The final cost will be reported via the Full Business Case to all funders (NSC, WECA & DfT), in autumn 2023.
- 5.5. Recognising there was insufficient funding in place to complete the project, the MetroWest governance group took the decision to pause the project and minimise additional expenditure during the negotiations with the DfT on the funding gap.
- 5.6. The negotiations have progressed positively and a formal letter from the DfT is awaited, confirming the DfT will increase its capital funding contribution by £15.58m and will take the delivery risk for all the railway works. The railway works account for almost 90% of the estimated £152.01m capital cost, with the NSC / WECA scope of works accounting for just over 10% of the capital cost. The NSC /WECA scope of works includes, ecology enabling works, land assembly, minor highway works and various project integration and mitigation activities.
- 5.7. The total project capital spend to date is £31.042m up to April 2022. There is agreement in place between WECA and NSC that the project will be jointly funded 50/50, therefore NSC are currently carrying risk exposure of approximately £15m.
- 5.8. The forecast capital spend for the NSC/WECA scope for 2022-23 is estimated at £2,325,985, which can be met from the agreed project budget. The project will remain paused and no substantive further spend will be incurred by the project until the formal letter has been received from the DfT confirming the additional DfT funding and acceptance by DfT of the delivery risk for all the railway works.
- 5.9. The additional funding by NSC, WECA and the DfT needs to be allocated and agreed by each party now so that the project can proceed with the Network Rail live procurement and the DCO decision can be made. The NR live procurement process expires in late July 2022. If the additional funding is not agreed by this timescale the procurement will have to be abandoned and a new procurement would need to be started, adding approximately 9-12 months to the overall programme and the associated consequential additional inflationary costs which could amount to up to £150k per week. The impact of this delay and on the anticipated final project cost could mean that the DfT may not be willing to approve the Full Business Case in autumn 2023 if the project costs have increased further. The prompt release of funding is also critical because the project team need to progress critical ecology works in autumn 2022, on the 5km of dis-used railway. This will ensure that NSC / WECA are in a position to hand over the various works sites



to the primary deliverer Network Rail, without causing further programme delay. Should a funding decision be delayed beyond July 2022, the ecology works would need to be delayed by 12 months, to winter 2023/24 and this would directly impact the critical path of the programme.

5.10. It is therefore recommended that:

- subject to approval of the final business case and confirmation of increased capital contribution by Department for Transport of £15.58m, the North Somerset Council capital funding contribution to MetroWest will be increased by £10m, to be funded from borrowing, and
- that the capital budget be amended to increase the budget by £35.58m to £152.01m to be funded by the additional £10m as per recommendation 2, a further £15.58m by the Department for Transport and a further £10m by the West of England Combined Authority (subject to formal authorisation).

5.11. Should the council undertake additional borrowing of £10m, then this will need to be repaid through a charge to the annual revenue budget. Calculations indicate that the principal repayments would equate to £0.25m p.a. and costs may increase further if an external loan facility is drawn down. This cost is not reflected within the medium-term financial plan and so this expenditure would need to be considered alongside the council's other capital spending plans to ensure it is both affordable and sustainable across the longer-term.

## **6. Legal Powers and Implications**

6.1. The Development Consent Order has a range of legal implications which are set out in the report to Council at its meeting of 25<sup>th</sup> June 2019.

<https://apps.n-somerset.gov.uk/Meetings/document/report/NSCPM-38-603>

## **7. Climate Change and Environmental Implications**

7.1. MetroWest Phase 1 requires an Environmental Statement to support the Development Consent Order (DCO) application. Climate change and environmental implications have been assessed in the Environmental Statement. The Environmental Statement is a key DCO application document and is available from:

[REDACTED]

## **8. Risk Management**

8.1. A full risk register is in place for this project and is reported regularly to the MetroWest Phase 1 Board. Project risks are under continual review by the project team, sponsors and the S151 officers.

### **Key Risks**

8.2. As outlined throughout this report, since July 2021 considerable risk materialised and cost increases and delays outside of the control of NSC, which resulted in a funding gap emerging. Extensive efforts at officer level and by key decision makers by both NSC and WECA with the DfT have mitigated the impact of these risks resulting in an affordable project proposal, which entails all three organisations increasing their funding contributions.

- 8.3. Discussions are taking place with the DfT on the arrangements for the apportionment of funding for 2022-23 financial year and up to the completion of the Full Business Case in autumn 2023. By taking the delivery risk for all the railway works, the DfT become the project client for the railway works and will directly enter into a funding agreement with Network Rail, initially for work up to the completion of the Full Business Case. The DfT will also directly fund the non-railway scope led by NSC / WECA including ecology enabling works, minor highways / utilities works, land assembly, some legal interfaces and project management resources, up to the completion of the Full Business Case. This means the revenue reversion risk to NSC of £15m set out in para 5.7 will not increase as the project is taken forward up to completion of the Full Business Case.
- 8.4. If the project continues, the impact on and affordability of the Council's existing Capital Programme and / or future Capital Strategy will need to be considered, given the need for NSC to commit an additional £10m of capital funding as there are no resources set aside within the revenue budget or medium-term financial plan.
- 8.5. If the project continues the OPEX risk will remain and this will need to be resolved leading up to the completion of the Full Business Case. As set out in paragraph 5.3 there are various variables at play which need to be worked through with WECA, DfT and Great Western Railway, over the next 18 months. A further report will be brought back to Full Council setting out further information about the operational costs ahead of the completion of the Full Business Case in autumn 2023.
- 8.6. If the project is cancelled the total amount that will have been spent to date on the capital project will be £31.042m. A further £0.3m of spend would be required to close the project. The total committed spend by partners is £38.04m, taking account of wider project commitments.
- If the project is cancelled the Council would therefore be exposed to up to £15m of revenue reversion (as certain elements of project cost cannot be capitalised if there is no asset to attach to the expenditure), being 50% of the capital project costs
  - If the project is deferred for an extended period (beyond 2-years) or cancelled the only valuable deliverable / asset resulting from the spend to date – and therefore available to reduce revenue reversion - would be the land purchases local to Station Road, Pill Station Car Parks & Quays Avenue (west).
  - This would be subject to further discussion with DfT given the root causes of the funding gap.
- 8.7. There is ongoing risk to delivery of the project including further budget pressures. If the DfT accepts taking on the delivery risk for the railway works aspects of the project, this would significantly reduce the risk profile of the scheme for NSC / WECA.

#### **Risk mitigations identified and implemented**

- 8.8. Subject to NSC and WECA committing extra funding, the DfT will take the future 'cost risk' on the railway works aspects of the project by taking delivery lead.

- 8.9. The DfT acceptance of taking the railway works delivery risk for the project, significantly reduces the risk profile of the scheme for NSC / WECA.
- 8.10. Request for DfT to fund an additional £15.58m of Capital and further work to be undertaken jointly DfT, WECA and GWR to work through the Operational Expenditure proposals and risk required in order to deliver the project and report back to Full Council before the completion of the Full Business Case as set out in para 8.5.
- 8.11. 50/50 funding agreement in place between NSC and WECA
- 8.12. Recognising there was insufficient funding in place to complete the project, the MetroWest governance group took the decision to pause the project in April 2022 and seek to cease expenditure, therefore spend since April has been minimal during the negotiations with the DfT on the funding gap.
- 8.13. The project will remain paused and no substantive further spend will be incurred by the project until the formal letter has been received from the DfT confirming the additional DfT funding and acceptance by DfT of the delivery risk for all the railway works.
- 8.14. Since November 2021, decisions on expenditure have been made in consultation with the Director of Place and s151 officer to reduce the likelihood of spend at risk
- 8.15. Achieving a successful DCO decision by the Secretary of State for Transport will reduce the wider risk exposure and will provide greater certainty that the project will be delivered. Furthermore, the completion of the detailed design (GRIP5) and the Full Business Case in autumn 2023 will enable a decision to be made to construct the scheme.
- 8.16. Whilst the project has been paused, NSC project staff have been reassigned to other major projects within the capital programme and their costs will be recharged accordingly. Staff are being supported through regular senior stakeholder catch ups

## **9. Equality Implications**

- 9.1. An Equality Impact Assessment has been undertaken and was attached to the report to Full Council of 10<sup>th</sup> November 2020.

## **10. Corporate Implications**

- 10.1. The improvement of the transport network is a key priority in the Corporate Plan. The project will play a significant role in Supporting Economic Prosperity (Aim 5) and Protecting and Improving the Environment (Aim 3). There are no specific cross-service implications.

## **11. Options Considered**

- 11.1. The WoE Joint Transport Board (superseded by the WoE Joint Committee) considered three main options at its meeting on 17<sup>th</sup> March 2017 and determined to

take a staged approach to the delivery of the scheme. Chapter 3 Scheme Development and Alternatives Considered of the Environmental Statement which is a DCO application documents sets out the options considered in detail. The document is available from:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-west/portishead-branch-line-metrowest-phase-1/?ipcsection=docs>

- 11.2. The wider context for the project option selection is as follows; the local rail network across the West of England is under-developed in comparison with similar sized city regions, the local highway network is congested at key locations on arterial corridors and the overall demand for transport continues to increase. The focus of the project option selection was to address the project objectives by making effective use of dis-used / under-used strategic rail corridors in parallel with enhancements to existing local rail lines.
- 11.3. Several other options have been considered in relation to the project funding gap and discounted at this stage:
- DfT to fund the full funding gap – This option was discounted by DfT who have advised that contributions from both the NSC and WECA will be required if the project is to proceed.
  - Reduce the project anticipated final cost further – All available options to reduce the anticipated project cost at this stage have been realised.
  - Consider other funding options – the option of submitting a Levelling Up 2 bid to DfT has been considered however it is a speculative bidding process with no certainty of success. Furthermore, the timescales for this funding do not align with the project, as the timescale for the funding decision would cause further delays and would lead to further inflation costs.
  - Delay the project – Delaying a decision on allocating additional NSC funding beyond July would make the live procurement exercise underpinning the current project estimate void. Restarting this procurement will delay the project by 12-18 months and increase the anticipated project cost by circa. £14m. Extra costs will erode the business case therefore delaying the project has been discounted unless funding cannot be secured.
  - Cancel the project - If the project is cancelled the total amount that will have been spent to date on the project will be £31.042m with the total committed spend on the project is £38.04m. NSC have exposure of to up to £15m of revenue reversion, subject to further discussion with DfT.

#### **Author**

James Willcock, MetroWest Phase 1 Programme Manager

#### **Appendices**

None

#### **Background Papers**

Report to Council 19<sup>th</sup> July 2021 MetroWest Phase 1 Delivery Update

<https://n-somerset.moderngov.co.uk/ieListDocuments.aspx?CId=169&MId=678&Ver=4>

Report to Council 23<sup>rd</sup> February 2021 MetroWest Phase 1 - 2021/22 Budget

<https://n-somerset.moderngov.co.uk/ieListDocuments.aspx?CId=169&MId=718&Ver=4>

Report to Council 10<sup>th</sup> November 2020 MetroWest Phase 1 Update - Programme and

Procurement - <https://apps.n-somerset.gov.uk/Meetings/document/report/NSCPM-38-603>

# Minutes

of the Meeting of

## The Council

**Tuesday, 12 July 2022**

New Council Chamber

Meeting Commenced: 6.00 pm

Meeting Concluded: 7.42 pm

### Councillors:

Karin Haverson (Chairman)

Wendy Griggs (Vice-Chairman)

Mark Aplin

Mike Bell

Mike Bird

Mark Canniford

Ashley Cartman

Caritas Charles

James Clayton

Andy Cole

John Crockford-Hawley

Donald Davies

Catherine Gibbons

Hugh Gregor

Sandra Hearne

David Hitchins

Steve Hogg

Ruth Jacobs

Huw James

Patrick Keating

John Ley-Morgan

Phil Neve

Robert Payne

Marcia Pepperall

Bridget Petty

Geoffrey Richardson

Timothy Snaden

Mike Solomon

James Tonkin

Richard Tucker

**Apologies:** Councillors: Steve Bridger, Gill Bute, John Cato, Peter Crew, Ciaran Cronnelly, Mark Crosby, Caroline Goddard, Ann Harley, Nicola Holland, Lisa Pilgrim, Richard Westwood, and Roz Willis.

**Absent:** Councillor: David Shopland.

**Officers in attendance:** Jo Walker (Chief Executive), Amy Webb (Director of Corporate Services), Sheila Smith (Director of Children's Services), Matt Lenny (Director of Public Health), Alex Hearn (Assistant Director (Placemaking & Growth)), Aaron Horner (Special Projects Officer) and James Willcock (MetroWest Phase1 Project Manager).

**Partaking via Microsoft Teams:** Councillors: Nigel Ashton, Peter Bryant, Caroline Cherry, Sarah Codling, Stuart McQuillan, Ian Parker, Terry Porter

**Officers:** Nicholas Brain (Assistant Director Legal and Governance), Alex Fear (Head of Major Infrastructure Projects), Hayley Verrico (Director of Adult Services), Alex Hearn (Assistant Director Placemaking and Growth), Hazel Brinton (Committee Services Manager), Maduabuchi Ani (Senior Project Manager)

**COU 33 Chairperson's Welcome**

The Chairperson welcomed everyone to the face-to-face meeting and noted that those councillors attending via Teams would not be in attendance formally or able to vote.

**COU 34 Public Participation, petitions, and deputations (Standing Orders 2 (vi) and 17)**

None received.

**COU 35 Declaration of Disclosable Pecuniary Interest (Standing Order 37)**

None declared.

**COU 36 Minutes**

**Resolved:** that the minutes of the meeting of 10 May 2022 be approved as a correct record.

**COU 37 Approval of the making of Compulsory Purchase Order(s) (and related Side Roads Orders and Traffic Regulation Orders) for the Banwell Bypass and Highways Improvements scheme**

Councillor Hogg presented the report. He informed members that officers had been engaging with landowners since 2020 and were now negotiating Heads of Terms with many of them. There was a proposal to enter into agreements with all landowners, but it was a condition of funding from Homes England that a Compulsory Purchase Order (CPO) was delivered to offset the risk of the non-delivery of land required for the project.

He noted that the project had been 18 months in its design with the input from non-statutory public consultations along the way. Wider mitigation works were not included in the CPO as these would be delivered under highways legislation. He added that negotiation and agreement with landowners was the preferred method of land assembly, but a CPO process needed to be run in parallel to be able to draw down Stage 2 funding from Homes England. Most of the land affected was

agricultural land with a small number of commercial and residential properties also involved. Further proposals would be coming to the Executive ahead of the construction contract and the CPO could be aborted if the scheme did not progress.

**Motion:** moved by Councillor Hogg and seconded by Councillor Solomon it was

**Resolved:** that the Council

- (a) approved the area to be the subject of a compulsory purchase order (**"CPO"**) or supplemental CPO as shown edged red on the plans published in the supplementary papers of 11 July 2022 which identifies the outline area of the land and rights to be acquired for the Scheme (**"the CPO Land"**) by voluntary acquisition or compulsory purchase;
- (b) authorised the making of CPO(s) by the Council under sections 239, 240, 246 and 250 of the Highways Act 1980 in respect of all or part of the CPO Land (including any additional land which may be required to deliver the Scheme as a result of the requirements of the Scheme planning permission), which includes any land or rights that may be required for environmental enhancement and mitigation, flood compensation, replacement land provision or otherwise needed for the Scheme;
- (c) authorised the making by the Council of Side Roads Orders (**"SRO"**) under the Highways Act 1980 as may be required for the Scheme;
- (d) authorised the making by the Council of Traffic Regulation Orders (**"TRO"**) under the Highways Act 1980 as may be required for the Scheme;
- (e) authorised the making by the Council of an application to the Secretary of State for Transport (**"the Secretary of State"**) for the grant of a certificate under section 19 of the Acquisition of Land Act 1981 (**"section 19 certificate"**) in respect of any special category land that may be required for the Scheme;
- (f) authorised all necessary steps to be taken to secure the making, confirmation and implementation of each CPO, SRO and any TRO (together **"the Orders"**) and section 19 certificate, including the publication and service of all notices, requisitions for information, statement of reasons and the preparation and presentation of the Council's case at any public inquiry required to secure confirmation of the Orders and section 19 certificate by the Secretary of State;
- (g) noted, and give due regard in determining whether or not to authorise the making of the Orders, the public sector equality duty contained in section 149 of the Equality Act 2010 and the requirements of the Human Rights Act 1998, as detailed further in sections 3 and 9 of the report;
- (h) authorised agreements to be entered into with landowners to secure the withdrawal of objections to any of the Orders and/or a section 19 certificate and to authorise the Director of Place and the Director of Corporate Services to take all necessary steps to acquire by agreement land and/ or rights over the CPO Land, subject to any consideration payable being within the Scheme budget as set out in section 5 of the report;



- (i) delegated to the Executive Member for Major Infrastructure Projects the authority to make and submit the CPO, SRO and section 19 certificate to the relevant Secretary of State for confirmation and to take all necessary steps to secure the making, confirmation and implementation of the CPO and SRO, including the preparation and presentation of the Council's case at any public inquiry;
- (j) subject to confirmation of the CPO and SRO, delegated the authority to the Director of Place, and the Assistant Director Legal & Governance and Monitoring Officer to acquire all the land and rights over the CPO land, including service of a general vesting declaration, notice to treat or notice of entry, subject to any compensation to be paid being within the Scheme budget as set out in section 5 of the report;
- (k) delegated to the Executive Member for Major Infrastructure Projects, in consultation with the Director of Place, the authority to make any necessary amendments to the Orders;
- (l) delegated to the Director of Place and the Assistant Director Legal & Governance and Monitoring Officer (or the Executive Member for payments of over £500,000) the authority to negotiate and settle all necessary compensation and professional fees (including interim payments) either as agreed with landowners or as determined by the Lands Chamber of the Upper Tribunal in relation to the acquisition of land or rights forming part of the CPO Land in accordance with the Land Compensation Act 1961, the Compulsory Purchase Act 1965 and the Land Compensation Act 1973 provisions in force at the relevant time and the body of case law relevant to the assessment of compensation, where any compensation to be paid is within the Scheme budget as set out in section 5 of the report;
- (m) authorised the instruction of the Scheme Project Team's legal advisers, Burges Salmon LLP, to prepare and serve such documentation as may be required for the Orders and section 19 certificate.

## **COU MetroWest Phase 1 Update**

### **38**

Councillor Cartman presented the report noting that it was coming to Council because costs had increased and an additional £10m capital funding commitment was being sought. He added that the cost of not proceeding with the project would be £15m with the total cost to North Somerset taxpayers of £20m if it went ahead. Councillor Cartman informed members that it was expected the government would underwrite any additional cost increases that resulted from inflation. The additional funding required for the project was being met by the council, the West of England Combined Authority (WECA), and the Department for Transport (DfT) but that the council's decision to inject more funds was contingent on decisions of other bodies to also increase their funding and that the council would not bear future overrun costs.

In debating the report, members noted that the project was long overdue but welcomed the council's continuous commitment to the project which had been driven forwards by both previous and current administrations. They noted the

government was de-risking the project in underwriting future cost increases and asked the further public engagement with Portishead residents and the town council take place to consider other solutions to the ongoing traffic problems in the town.

Members queried the risk in operational costs and noted an £11m shortfall over the first 4 to 5 years. Officers responded that further work was taking place with WECA and the DfT but that the £11m covered the entire suite of the MetroWest project not just the Portishead rail line. Members also noted their concern with the reduction of the length of the platform and queried whether a longer platform and station would be required in the future as demand grew. It was suggested that Portishead would also gain from the forthcoming Bus Service Improvement Plan and new placemaking strategies to support transport problems within the town.

**Motion:** moved by Councillor Cartman and seconded by Councillor James it was

**Resolved:** that the Council

1. Noted the project update and that the project was currently paused, and will remain paused, while formal confirmations were awaited from the Department for Transport and the West of England Combined Authority regarding additional funding required to take the project forward, as set out in recommendations 2 and 3 of the report;
2. Agreed that, subject to:
  - a. approval of the final business case (anticipated autumn 2023),
  - b. confirmation from the West of England Combined Authority of increased capital funding of £10m
  - c. confirmation of increased contribution to capital funding by Department for Transport of £15.58m, and
  - d. confirmation by the Department for Transport that it will take the delivery risk for all the railway works,that the North Somerset Council capital funding contribution to MetroWest be increased by £10m, to be funded from borrowing, and
3. That the capital budget be amended to increase the budget by £35.58m to £152.01m to be funded by the additional £10m as per recommendation 2, a further £15.58m by the Department for Transport and a further £10m by the West of England Combined Authority (subject to formal confirmation by the Department for Transport and the West of England Combined Authority).

## **COU 39 Reports and matters referred from the Executive - dated 22 June 2022**

### **Executive 22 June 2022**

#### **EXE 8 – Bus Service Improvement Plan Enhanced Partnership**

Councillor Hogg introduced the item and outlined the recommendation from the Executive to the Council in respect of increased capital and revenue funding for the Bus Service Improvement Plan (BSIP) as per the report to the Executive on 22

June.

He summarised the presentation he had made to members of the Executive noting that the funding was the most significant seen in recent times for improvements to local bus services and would support the council in its decarbonisation journey. He added that the capital funding would be used for interventions on the road network to provide the infrastructure to facilitate the bus services. The revenue funding would be used to support eye catching and appealing fares packages.

Councillor Hogg noted that subsequent to the Executive meeting in June, the spend profile of the revenue funding had been adjusted in agreement with WECA to allocate more to the fares packages. Expansion of current and creation of new services would happen once the patronage and driver recruitment for bus services had been stabilised. He added that a condition of the funding was the creation of a delivery mechanism to ensure success – the “Enhanced Partnership”. Officers had also been developing a commissioning plan. He welcomed scrutiny of the BSIP process either via the formal scrutiny process or working groups as he wanted the Council to be fully engaged in shaping the plan.

In debating the report, members believed it was critical to encourage bus operators to carry out better engagement with communities as a mix of solutions was needed given that not all services would be commercially viable. Additionally, it was noted that mixed messaging regarding fares from bus operators was being put out and that the success of the improvement plan would rest on partnership working. The partnership could not just rely on subsidies from the public sector to the private sector; private sector investment was also required.

Members noted that the additional funding was as a result of officers across the west of England working in partnership to deliver a strong bid for the available funds. They further noted that a good, cheap, reliable bus service and an improved image of public transport would be needed to increase patronage. Members highlighted the personal effects of the limits of the bus service had on residents and the need for buses to be accessible to residents with mobility and health issues.

**Motion:** Moved by Councillors Hogg and seconded by Councillor James it was

**Resolved:** that the Council

1. approved the commissioning plan required to deliver the BSIP and
2. approved the following:
  - An increase to the Capital Programme of £47,983,473 from 2022 in recognition of the outline DfT funding award.
  - Delegation to the Director of Corporate Services/ s151 officer to increase the 2022-23 Revenue Budget by up to £12m to be funded from BSIP grant allocation

**COU    Petitions to be presented by Members (Standing Order No. 16)**

**40**

None received.

**COU 41 Motions by Members (Standing Order No. 14)**

**Motion:** moved by Councillor Gibbons, seconded by Councillor Petty

“That this Council notes:

- The UK general election of 2019 resulted in 44% of voters electing 56% of MPs who hold 100% of the power.
- Greater Somerset returns 8 MPs to Westminster, they are all Conservative and were elected with 56% of the vote.
- In the 2019 general election 886,400 people voted for the Green Party with only 1 MP returned to Parliament. On average it took 25,900 votes to elect each SNP MP. Over 600,000 voted for the Brexit Party without a single Brexit Party MP being elected.
- Proportional Representation (PR) is already used to elect the parliaments and assemblies of Scotland, Wales and Northern Ireland.
- The Elections Act 2022 replaces the Supplementary Vote system with First Past the Post (FPTP) for mayoral and Police and Crime Commissioner elections.

This Council believes that:

- FPTP is an outdated and unfair electoral system that suppresses political diversity and disenfranchises millions.
- All votes should count equally. FPTP results simultaneously in safe seats with little democratic accountability, and a small number of marginal constituencies where the votes of a few thousand people determine the result.
- For local and national elections in the UK FPTP should be replaced with PR to ensure that all votes count and seats won better reflect the diversity of political opinion.

This Council resolves to:

- Write to H.M. Government calling for a change in our outdated electoral laws to enable Proportional Representation to be used for UK general elections and local elections in England.”

Seven members signified their support for a debate on the Motion.

Councillor Gibbons spoke in support of the motion and explained that it came about as a result of a campaign by the group Make Votes Matter which supports proportional representation. The motion was the work of several cross-party members, and it was felt that proportional representation would lead to better engagement in the election process by young people and the wider electorate. She highlighted the perceived disadvantages with the current First Past the Post system and the perceived advantages with proportional representation.

In discussing the motion, members expressed support for the proposal and the view that proportional representation would allow broad coalitions to form natural groupings for those who were not politically aligned. It was noted that proportional representation would not necessarily overcome increasing polarisation currently

seen and that it may lead to more coalitions.

Following discussion, it was

**Resolved:** that the Motion as set out in full above be approved and adopted.

**COU Question Time (Standing Order No.18)**

**42**

Oral questions were directed to the members concerned and the summary notes and topics involved are contained in Appendix 1.

**COU Matters referred from previous meeting**

**43**

There were none.

**COU Chairperson's announcements**

**44**

The Chairperson announced that reluctantly she had decided to cancel the social gathering after the meeting with which the council's public health team had agreed but would look to reinstate these at some point if possible after consulting with the public health team.

She also noted the imminent arrival of SeeMonster in Weston-s-Mare.

**COU Leader's announcements**

**45**

Councillor Bridger had sent his apologies.

**COU Chief Executive's announcements**

**46**

None.

**COU Forward Plan dated 1 July 2022**

**47**

In the absence of the Leader, the Deputy Leader presented the forward plan.

**Resolved:** that the Forward Plan be noted

**COU Policy and Scrutiny Panel Report**

**48**

Councillor Griggs spoke on the Children's and Young People's Policy and Scrutiny Panel's report to members. She highlighted a number of positive actions that were currently taking place including the expansion of Baytree School and the imminent planning application for a new Social and Emotional Well-Being school which together would facilitate many more places for North Somerset children with Special Educational Needs to be educated near to their families. She noted that North Somerset Council was the only south west council to be investing in the Mockingbird project to support foster carers and that the authority had revitalised its "front door" processes for children's services so that there was now just one coherent process instead of several. She believed that these actions would support the council to having a "good" if not "outstanding" rating when next visited by Ofsted.

**Resolved:** that the Council noted the report

**COU  
49 Corporate Parenting Report**

Whilst there was no written report, Councillor Gibbons drew members' attention to the Pledge cards in the Chamber which she invited all members and other Corporate Parents to sign. The pledge cards would be a visible piece of evidence to show the council's commitment to supporting young people and the commitment made by elected members to adhere to the corporate parenting principle enshrined in law when joining the council.

Councillor Gibbons asked that members particularly reached out to local businesses to offer work experience or internships to young people.

Additionally, she reminded members that in September there would be a "Big Thank You" for foster carers.

**COU  
50 Reports and matters referred from the Policy/Overview and Scrutiny Panels other than those dealt with elsewhere on this agenda**

None.

**COU  
51 Reports and matters referred from the other Committees other than those dealt with elsewhere on this agenda**

None.

**COU  
52 Reports on joint arrangements and external organisations and questions relating thereto**

Councillor Westwood had sent apologies and was not available to present the report on the Avon and Somerset Police and Crime Panel work.

**Resolved:** that the Council noted the report.

**COU  
53 Urgent business permitted by the Local Government Act 1972 (if any)**

None.

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Chairman

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**North Somerset Council  
Council Meeting, 12 July 2022  
Question Time (Agenda Item 10)**

**Question 1**

**From Councillor Ashton**

**To Councillor Hogg, Executive Member for Transport and Highways**

**Size, volume, and speed of traffic in Portbury**

Councillor Ashton asked the following question of Councillor Hogg:

“At the end of June there was a public demonstration in Portbury, concerned at size, volume and speed of the traffic going through the village. This is a common complaint from many of our rural communities.

In Portbury, the size of some of the lorries coming off the motorway has resulted in the wing mirrors hitting the windows of one of the houses. The volume and speed of traffic is a very real danger to pedestrians, especially children on their way to catching the school bus.

Roads are deteriorating, roadside hedges and footpaths are overgrown and in places impassable. This is not re-wilding, this is just dangerous, these are not minor roads to be ignored, they are the only connection, vital to rural communities. To say that there is not enough funding is not good enough, the safety of residents of all ages has to be a priority on anyone's list. Will the Executive member agree to come with me to see the gravity of the situation?”

Councillor Hogg thanked Councillor Ashton for his question and responded that he would be pleased to meet with Councillor Ashton to see the issues but expressed the view that diverting the traffic would not fix the problem as it could not be diverted via Tickenham. He stated that the accident statistics for the road were good but acknowledged that this did not address the amenity value for local residents. He noted that 5 complaints had been received about overgrown vegetation of which 4 had been addressed. He asked that residents use the online portal to report issues and that a second cut of rural verges was imminent but that hedges were the responsibility of landowners. He added that there was an agreed programme of road maintenance.

**Question 2**

**From Councillor Payne**

**To Councillor Hogg, Executive Member for Transport and Highways**

**St James Street, Weston-s-Mare**

Councillor Payne asked the Executive Member the following question:

“The northern end of St. James Street in Weston-super-Mare has become closed to traffic as a result of changes to the roads around the new bus interchange. However there have been no works done nor physical measures introduced to pedestrianise it properly, and there are currently no plans to do so. As a result, the street looks neglected and unwelcoming, and to visitors who might not be familiar with the town, it can appear fully closed off. The resultant loss of footfall is having a significant negative effect on some of the businesses in the street.

Would the executive member with relevant officers agree to meet with me and a few of the traders to seek to develop a plan for improvements to this street?”

Councillor Hogg thanked Councillor Payne for his question and agreed to look at the problem with him. He noted that there was insufficient budget to resurface St James Street after the recent changes, but he would pick the issue up as part of the town centre regeneration project.

### **Question 3**

**From Councillor Payne**

**To Councillor Hogg, Executive Member for Transport and Highways**

#### **Clevedon Road Railway Bridge**

Councillor Payne asked the Executive Member the following question:

“The Clevedon Road railway bridge in Weston-super-Mare is a busy thoroughfare for traffic to and from the seafront. It is also an important walk-to-school route. However, the pavements over the bridge are 70cms wide on one side and 80cms wide on the other, making it feel very unsafe for pedestrians, particularly those using wheelchairs or pushchairs, with the railway barrier on one side of them and heavy traffic on the other. Would the executive member look to develop a scheme to improve pedestrian facilities over this bridge, in the interests of both road safety and the promotion of active travel?”

Councillor Hogg thanked Councillor Payne for his question but added that whilst he was aware of the difficulties, the bridge was owned and maintained by Network Rail. Whilst the council could ask Network Rail to look at the issue, it could only be widened by a signalling or reducing the flow which would lead to a pinch point along the busy route.

### **Question 4**

**From Councillor Charles**

**To Councillor Hogg, Executive Member for Transport and Highways**

#### **Portishead East Parking**

**Councillor Charles asked the Executive member the following question:**

“One of the results of the pandemic has been the huge increase of tourists into the marina and village quarter areas of Portishead East. Coupled with existing parking issues that are causing chaos with missed bin collections and fears for emergency service access. Will the executive member meet urgently with me to discuss urgent measures to rectify this problem?”



Councillor Hogg thanked Councillor Charles for his question and added that he would be happy to meet him. He noted that there was no easy solution to the issue even though double yellow lines had been put down in places as there were unadopted streets as part of the development. More parking restrictions could be implemented but this may lead to greater speed on the roads.

As Executive Member for Neighbourhoods and Community Services, Councillor Solomon added that the council was short of officers to enforce parking restrictions, but recruitment was underway. He offered to speak to the enforcement team to see what could be arranged regarding ticketing cars.

#### **Question 5**

**From Councillor Charles**

**To Councillor Solomon, Executive Member for Neighbourhoods and Community Service**

#### **Use of glyphosate pesticide**

Councillor Charles queried the use of glyphosate pesticides by the council and its contractors as he had been made aware that members of Portishead Town Council have approached a council contractor who informed them that they had been asked to use the product by North Somerset Council. Councillor Charles and Portishead Town Council understood that North Somerset Council had introduced a moratorium on the use of the pesticide until it could be investigated.

Councillor Solomon thanked Councillor Charles for his question and agreed that the moratorium on its use was his understanding also but offered to investigate the matter further.

#### **Question 6**

**From Councillor Aplin**

**To Councillor Solomon, Executive Member for Neighbourhoods and Community Service**

#### **Overgrown weeds – Coulson Drive, Worle**

Councillor Aplin asked if the Executive Member would accompany him and other members to visit residents of Coulson Drive, Worle to consider what could be done regarding overgrown weeds, not re-wilding, near to Priory School and the River Banwell that were leading to a loss of light, views, and a safety issue.

The Executive Member agreed to meet Councillor Aplin and other members to discuss the matter.

## **Question 7**

**From Councillor Richard Tucker**

**To Councillor Hogg, Executive Member for Transport and Highways**

### **20mph zone in Hughenden Road, Weston-s-Mare**

Councillor Tucker asked if the Executive Member would meet him to discuss the matter of installing a 20mph zone in Hughenden Road, Weston-s-Mar.

The Executive Member agreed to meet with Councillor Tucker to discuss the difficulties faced by residents and noted that officers had introduced a new “front door” scheme to introduce some governance around highways schemes. He suggested that consideration to other solutions to the matter of speeding along the road may be more appropriate but could be decided upon after discussion.

**Appendix 3 - Report and Decision Notice of West of England Combined Authority  
committee of 27<sup>th</sup> July 2022**

**REPORT TO: WEST OF ENGLAND COMBINED AUTHORITY  
COMMITTEE**

**DATE: 29<sup>th</sup> July 2022**

**REPORT TITLE: METROWEST 1 (PORTISHEAD LINE)**

**DIRECTOR: ALISTAIR KIRK**

**AUTHOR: DAVID JARMAN**

#### **Purpose of Report**

To secure approval from Committee on key decisions and associated funding (where applicable) related to the following project within the Combined Authority's Rail programme.

1. MetroWest 1 - Re-opening of Portishead Line [Recommendation 1]

#### **Recommendations**

**Recommendation 1** – To approve the allocation of a further £10m of funding for MetroWest 1 (Portishead Line) from the Investment and Transforming Cities Funds.

#### **Voting arrangements**

- Decision requires majority agreement of Committee Members in attendance, or their substitutes (one vote representing each Authority) and including the West of England Combined Authority Mayor.

#### **Climate Change Implications**

The Combined Authority is committed to taking climate change considerations fully into account as an integral part of its governance and decision-making process. These schemes within the Rail Programme are important interventions as we move towards a decarbonised transport system and providing a viable alternative to the private car, and specifically:

- Maximising the opportunities to enhance service in a joined-up way that enables integration of transport services, and, a shift to more sustainable forms of transport.
- Maximising the opportunities to minimise the carbon footprint of any construction project, through the whole life of the infrastructure.

#### **1. Recommendation 1 – MetroWest 1 - Background / Issues for Consideration**

##### **Background / Context**

- 1.1 The MetroWest 1 scheme, which includes re-opening of the Portishead Line, is a jointly promoted by North Somerset Council (NSC) and the Combined Authority (CA) with a funding contribution from the Department for Transport (DfT).

- 1.2 The key outputs MetroWest 1 will deliver are as follows:
- Severn Beach Line infrastructure and service enhancements, including two services per hour to Avonmouth, with one continuing to/from Severn Beach.
  - Additional trains and necessary upgrades to existing infrastructure to create an overall half-hourly service calling at all stations between Bristol Temple Meads and Westbury.
  - New hourly service between Portishead and Bristol Temple Meads, consisting of existing 9km freight-only and re-opening 5km of disused railway with two new stations at Portishead and Pill.
- 1.3 The infrastructure enhancement works required to operate the Severn Beach and Wesbury service enhancements have been delivered. The services between Bristol Temple Meads and Severn Beach have been operational since December 2021. The current plan is to implement the enhanced service to Westbury from May 2023.
- 1.4 The key driver for MetroWest, the re-opening of the Portishead Line, is to transform rail access and connectivity for Portishead and the surrounding area, whilst resolving the current highway congestion on the A369 highway.
- 1.5 The following are the primary benefits of the scheme:
- Significantly reduced travel time into Bristol from Portishead
  - Over 50,000 people brought within direct catchment of a rail station
  - 1.2m additional rail journeys and £7m revenue within 15 years of opening
  - Delivers the removal of 13 million car-km annually by 2041
  - Benefits to the regional economy in Gross Value Added (GVA) of £43m per annum.
- 1.6 The delivery of the infrastructure required to support the re-opening of the Portishead line will be primarily delivered by Network Rail (NR) with minor scope, including vegetation clearance, ecological enabling works and highways works, to be delivered by NSC and the CA.
- 1.7 The anticipated final cost (AFC) of MetroWest 1 project was estimated in March 2022 at £163.26m. This represents a funding gap of £46.82m when compared to the funding secured in at Outline Business Case (£116.42m) stage in 2017. The funding gap comprises of £35.58m capital costs and £11.24m operational costs.
- 1.8 The main reasons for the AFC increase are associated with, but not limited to, the following factors:
- Market prices are greater than those previously estimated, which have been caused by, but not limited to, the following:
    - Uncertainty caused by Covid 19 [significant impact on the OPEX costs]
    - Increasing underlying inflation and material costs increases.
  - Extensive programme delays (detailed in section 1.9) associated with DfT's Development Consent Order (DCO)/PINS process.
  - More onerous demands than anticipated to prepare and submit a compliant DCO application.
  - In 2017, the OPEX costs (£11.24m) were not included within the original funding requirement as these were still under negotiation with Great Western Railways (GWR). It was expected at the time that any potential funding support between service cost and proposed revenue would be negligible, but this was prior to the impact of COVID-19 on expected revenue.

- 1.9 In last report to Joint Committee, in June 2020, the key programme milestones were as follows. These has been impacted significantly by the full implications of the DCO process and Covid-19.
- Development Consent Order received – June 2021
  - Full Business Case approval – February 2022
  - Start of main construction works – April 2022
  - Line opening and commencement of train services – March 2024
- 1.10 The full implications of programme delays, associated with the DCO process and COVID-19, are to still to be assessed and an updated project timeline has not been finalised, including input from rail industry partners. However, it is expected that the line opening, and commencement of train services will not be delivered until 2026 at the earliest.
- 1.11 There has been significant effort with all parties (NSC, CA, NR, DfT & GWR) to collaboratively reduce the AFC of the project, which included several rounds of scope reduction workshops, value engineering assessments and scope challenge meetings. This process has delivered considerable savings, reducing the funding gap which initially reached £93.2m, to the current funding gap of £46.82m.
- 1.12 As part of this collaborative exercise, the following scope changes have been made:
- Reduction of scope to bring the existing freight line up to passenger train line standards
  - Reduction of Portishead and Pill platform lengths from 5-Car to 3-Car
  - Removal of Portishead Station building
  - Reduction in selected highway scope (car parks, bridge works)
  - Change in governance model, with DfT taking on the client role.
- 1.13 On the 19th of April 2022, the DfT announced the Secretary of State for Transport is 'minded to consent' the Development Consent Order (DCO), subject to the positive resolution of the current funding gap.

Finance Implications, including economic impact assessment where appropriate:

- 1.14 The existing project funding allocation approved in 2017 (At Outline Business Case stage) is £116m. The funding was to be provided through the following funding sources:
- Local growth Fund - £18.868m
  - Economic Development Fund - £49.531m
  - Local Authority Contributions - £4.413m
  - NSC Contributions (2019) - £5.860m
  - Investment Fund (Combined Authority) - £5.860m
  - DfT RNEP contribution (2019) - £31.9m
- 1.15 To bridge the current capital funding gap the total recommended additional CA contribution is £10.00m. The additional funding is proposed to be drawn from the following funding sources:
- £2m - Investment Fund
  - £8m – Transforming Cities Fund (to be underwritten by Investment fund – see section 1.16)
- 1.16 Current restrictions on Transforming Cities Funding dictate that any funding needs to be spent by the end of March 2023. DfT are considering extending this deadline specifically for MetroWest 1 (Portishead Line) to enable £8m to be spent after the

deadline. DfT's agreement to this proposal is subject to further discussions on profiling of the respective DfT, CA and NSC funding commitments. DfT's main concern is that because they will be funding the next phase of development, any forecast Transforming Cities Fund spend will be pushed into 2024/25 at the earliest. This means that their spending deadline for the fund would need to be extended by over 12 months. Unless the Transforming Cities funding is confirmed by DfT it is assumed that this funding is underwritten by Investment Fund. This means that the Investment Fund contribution could increase to £10m.

- 1.17 The proposed CA funding will be drawn from existing headroom in both the Investment Fund and Transforming Cities Fund.
- 1.18 The proposed £10m funding contributions from NSC and the CA resulted from extensive and delicate negotiations with DfT over the past 7 months regarding the respective contributions to be made to bridge the funding gap.
- 1.19 The CA's contribution is subject to additional funding commitments from NSC (£10m) and DfT (£15.58m), which have now been confirmed. NSC's additional £10m capital funding contribution was approved at their Full Council meeting on the 12th July 2022. DfT's additional £15.58m capital funding contribution was confirmed in a letter from the Minister of State for Transport, dated 19th July 2022.
- 1.20 Under the proposed governance approach, the DfT will take on the future capital 'cost risk' on the project, which is currently being held by NSC and CA. Beyond the additional £10m contributions each, the NSC and CA capital funding contributions will be fixed.
- 1.21 Due to DfT concerns about potential cost escalation during detailed design phase, the intent is for DfT to provide an initial £13.8m of funding to support the detailed design process and to enable NSC/ CA and NWR to undertake activities to de-risk the programme and to increase cost certainty. At the end of the detailed design stage market prices will be secured for the construction phase. These market prices will be used to support the Full Business Case submission and approval by DfT. Approval of the FBC by DfT will release the remaining £33.68m of DfT funding. NSC and the CA will be allocated £3.5m of the £13.8m to conduct (in part) the following activities/roles:
  - Ecology Enabling Works
  - Highways and utilities design and development
  - Site and Ground Investigations
  - Business Case Modelling and Appraisal
  - Development Consent Order – Planning and Legal Support
  - Land Agent Services
  - NSC & CA Project Management
  - Estimation, Procurement and Commercial Support
  - Local Planning Authority Payments

Given that DfT are funding the next development stage, the authority to spend this £3.5m will be approved via the DfT, rather than via NSC and/or the CA.

- 1.22 Unless otherwise approved, no further Combined Authority and NSC capital funding will be committed, beyond that which has been invested to date, between now and Full Business Case approval.
- 1.23 Whilst DfT are committing to increase their funding contribution to bridge the capital funding gap (subject to Full Business Case approval), they are not committing at

this stage to funding the operational costs associated with the project, which are estimated to be £11.24m. The operational costs include a revenue subsidy to be paid to GWR covering the assumed difference between the cost of mobilising the three enhanced MetroWest 1 services for the first 3 years – Portishead Line, Bristol Temple Meads to Severn Beach and Bristol Temple Meads to Westbury. The Combined Authority is in a contract with GWR to deliver the Enhanced Services to Severn Beach and Westbury – the value of this contract specific to MetroWest 1 is £7.8m. No agreement is yet in place with GWR to operate the new services on the Portishead line. So far, only the enhanced Severn Beach services are in operation and our committed operational spend to date (to June 2022) is c.£1.311m. DfT have committed in their funding letter to continuing a dialogue with the Combined Authority about how the operational costs may be reduced and whether they may fund this in the future.

- 1.24 The economic appraisal of the scheme forecasts a Benefit-Cost Ratio (BCR) of greater than 1.5:1 (with wider benefits). A BCR of greater than 1.5 represents medium value for money. The Full Business Case for MetroWest 1 will be reviewed and signed off by the DfT at the conclusion of the detailed design stage. Given the DfT's role in assuring the Full Business Case, formal local assurance of the Full Business Case by the Combined Authority will not be required.

### Consultation

- 1.25 This paper has been developed by the West of England Combined Authority in conjunction with North Somerset Council and Network Rail. Other key stakeholders have been engaged through the West of England Strategic Rail Steering Board and the regions Planning, Housing and Transport Board.
- 1.26 The Combined Authority, and specially the West of England Metro Mayor, have actively engaged with government departments in support of securing support and funding for the project.

### Other Options Considered

- 1.27 Several other options of have been considered and discounted at this stage:
- DfT to fund to the full funding gap – This option was discounted by DfT who have advised that contributions from both the Combined Authority and North Somerset Council will be required if the project is to proceed.
  - Reduce the project anticipated final cost further – All available options to reduce the anticipated project cost at this stage have been realised. Further design work is required before any further savings can be identified.
  - Delay the project – The DfT funding letter sets out strict budgetary and programme conditions on both the next phase of development and the future delivery phase. Any delay will expose the project to inflationary and market pressures which will erode our ability to meet these conditions which need to be met if the project is to proceed into delivery. Mobilisation of ecological enabling works is also predicated on a funding decision and release of the DfT's Development Consent Order (assumed to be 3 months later). These ecological works are a critical enabler to the main works programme which is due to start from 2024 onwards. Any delay to the funding decision beyond the end of July reduces the window to complete these ecological works in winter 2022/23. This removes programme flexibility and significantly increases the risk on the cost and programme to deliver the new railway line and stations.



- Cancel the project - If the project is cancelled, the total amount that will have been spent to date on the project will be £31.042m (up to March 31<sup>st</sup> 2022). The total committed spend on the project is £38.04m (up to March 31<sup>st</sup> 2022), including operational costs. The CA will have exposure of up to £12m of revenue reversion, subject to further discussion with DfT.

#### Risk Management/Assessment

- 1.28 If the project is cancelled, approximately £300,000 of further spend would be required to bring the project to a controlled stop. The Combined Authority are contractually committed to spending a further £6.7m of revenue subsidies agreed with GWR to support enhanced services being delivered under MetroWest 1a to Westbury and Severn Beach.
- 1.29 A full risk register is in place for this project. Subject to the Combined Authority committing extra funding, the DfT will take the future 'cost risk' on the project.

#### Legal Implications

- 1.30 Legal support would be requested should the project be stopped to support understanding the Combined Authority and North Somerset Council's respective liabilities for costs incurred and committed.
- 1.31 The transfer of DfT funding to NSC and the CA will through a funding agreement with Network Rail. The terms of this funding agreement remain to be reviewed and approved.

#### Land/property Implications

- 1.32 If the project was deferred for an extended period (beyond 2-years) or cancelled the only valuable deliverable / asset resulting from the spend to date would be the land purchases local to Station Road, Pill Station Car Parks & Quays Avenue (west), with an approximate land value of £1.0m.
- 1.33 If the project does not proceed, agreement will need to be reached with NSC on how this land asset is maintained and/or managed moving forward.

#### Human Resources Implications

- 1.34 Not applicable.

#### **Background papers:**

Not applicable.

#### **Appendices:**

Not applicable.

#### **West of England Combined Authority Contact:**

Any person seeking background information relating to this item should seek the assistance of the contact officer for the meeting who is Ian Hird on 07436 600313; or by writing to West of England Combined Authority, 3 Rivergate, Temple Quay, Bristol BS1 6EW; email: [democratic.services@westofengland-ca.gov.uk](mailto:democratic.services@westofengland-ca.gov.uk)

DECISIONS OF THIS COMMITTEE

## Decisions of Extraordinary meeting of the West of England Combined Authority Committee on 29 July 2022

| NUMBER | AGENDA ITEM                   | DECISIONS  |
|--------|-------------------------------|--|
| 8.     | Metrowest 1 (Portishead Line) | <p>The Combined Authority Committee <b>RESOLVED</b> to:</p> <p>To approve the allocation of a further £10m of funding for MetroWest 1 (Portishead Line) from the Investment and Transforming Cities Funds.</p> |

**Appendix 4 - Letter from the to the Right Honourable Wendy Norton MP to North Somerset District Council and the West of England Combined Authority of 19<sup>th</sup> July 2022**



Department  
for Transport

From the Minister of State  
**Wendy Morton MP**

Great Minster House  
33 Horseferry Road  
London  
SW1P 4DR

Dan Norris  
Mayor of the West of England

Councillor Steve Bridger  
Leader of North Somerset Council

Our Ref: MC/401307

19 July 2022

Thank you for your letter of 24 May regarding the funding of the MetroWest Phase 1b (Portishead line) scheme.

You will be aware that following my letter of 14 April 2022, I asked my officials to work with the West of England Combined Authority and North Somerset Council to explore alternative sources of funding to close the reported funding gap for capital costs that you have reported in respect of the MetroWest 1b scheme to reopen railway services between Bristol and Portishead. I understand that you have identified sources to fund an additional £10 million each, subject to formal approval by your authorities.

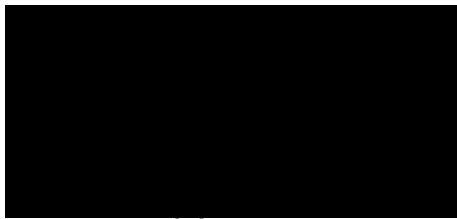
I recognise that the Portishead scheme has the ability to bring the communities of Bristol and Portishead closer together and address some of the Government's key priorities in levelling up the economy, supporting jobs and growth and decarbonisation. On the condition that formal commitments are entered into by your authorities to increase funding for the Portishead scheme by £10 million each, I am willing to commit to meeting your request for additional funding of £15.58 million to come from the Restoring Your Railway Fund. This will increase the Department for Transport's total contribution towards the Portishead scheme to £47.48 million.

The capital cost funding gap position you reported in May relates to a proposal to deliver the project for a capital cost of £152 million which is predicated on the Department for Transport assuming the sponsor role for the project and with Network Rail taking on the delivery role. I confirm that my Department will assume the sponsor role and that the project will be delivered in accordance with the Rail Network Enhancements Pipeline (RNEP) process. On confirmation that the aforementioned funding commitments have been entered into by your authorities, my officials will provide a funding agreement and terms for the future governance of the Portishead scheme.

In entering into the funding agreement and governance arrangements, the Department for Transport will commit to fund £13.8 million towards the development of a Full Business Case for the scheme, based on a detailed design, to be submitted in Autumn 2023 for approval in accordance with the RNEP process. The remainder of the Department for Transport funding commitment towards the Portishead scheme will be contingent on approval of the Full Business Case.

I am aware that the early years of passenger services will require an operational subsidy to be paid to the rail operator until such time as the services generate net revenues. I recognise that more work needs to be undertaken to understand the likely requirement for such subsidy in relation to the MetroWest 1b (Portishead) scheme. It is essential that our organisations work together alongside GWR to reduce the requirement for such operating subsidy and my officials will work closely with yours to this end to ascertain future pressure on your budgets.

My Department will continue to work closely with officials from your respective organisations, as well as Network Rail, to support the delivery of the scheme.



**WENDY MORTON MP**

**MINISTER OF STATE FOR TRANSPORT**

**Appendix 5 - Letter from North Somerset District Council Director of Corporate Services (s151 officer) of 8<sup>th</sup> August 2022**

Date: 08 August 2022  
My Ref: AW/LT  
Your Ref:



Amy Webb  
Director, Corporate  
Services (S151)  
North Somerset Council Town  
Hall  
Weston-super-Mare BS23  
1UJ

[www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)

Dear Sir/Madam,

### **MetroWest Phase 1 Funding Strategy**

I write to provide confirmation of North Somerset Councils funding commitments towards MetroWest Rail Phase 1.

Please see the summary below of North Somerset Councils financial commitments as extracted from the funding summary provided to Council on 12<sup>th</sup> July 2022.

North Somerset Council have committed direct financial resources totaling £20.27m towards MetroWest Rail Phase 1. With an initial £4.41m in combined contributions from the four ex- Avon unitary authorities [3], a contribution of £5.86m to match a commitment from the West of England Combined Authority (WECA) [4] and a further £10m commitment from future borrowing [7]. These funding commitments have been approved by members as the project has progressed to support both the development phase and the future cost of construction.

| <b>Funding source</b>                                | <b>Available Funding<br/>(in £m)</b> |
|--|--------------------------------------|
| 3. West of England councils' contributions           | £4.41                                |
| 4. NSC additional contribution                       | £5.86                                |
| 7. NSC additional contribution (allocated July 2022) | £10.00                               |
| <b>Total</b>   | <b>£20.27</b>                        |

I can also confirm that the revenue impacts associated with the Economic Development Fund have been included in our Medium-Term Financial Plan and that the potential borrowing impact for the further £10m of funding [7] has been highlighted to the Council and will be included in our Medium-Term Financial Plan in future years (as there will be no revenue impact in 2023/24).

Please accept this letter as assurance that funding is in place to support the delivery of the project.

Yours faithfully



**Amy Webb**  
**Director, Corporate Services (S151)**  
**North Somerset Council**



**Appendix 6 - Letter from the West of England Combined Authority Director of Investment and Corporate Services (s73 officer) of 11<sup>th</sup> August 2022**

To: James Willcock  
North Somerset Council  
Town Hall,  
Walliscote Grove Road,  
Weston-super-Mare,  
BS23 1UJ.

11<sup>th</sup> of August 2022

Dear James,

**MetroWest (Phase 1) Funding**

I write to provide confirmation of the commitments towards MetroWest Rail Phase 1 from the funds for which the West of England Combined Authority is the accountable body, which total £84.26m.

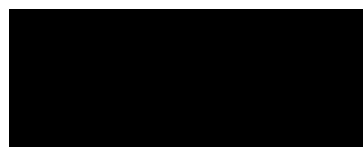
These funding commitments, as shown below, have been approved by the Combined Authority or Joint Committee as the project has progressed to support both the development phase and the future cost of construction.

| Funding Source  | Available Funding (in £m) |
|---|---------------------------|
| Local Growth Fund   | £18.87                    |
| West of England Combined Authority Investment Fund (and Transforming Cities Fund) | £15.86                    |
| Economic Development Fund (EDF)*  | £49.53                    |
| <b>Sub-Total - West of England Combined Authority Commitment</b>                  | <b>£84.26</b>             |

*\*Note: Whilst the Combined Authority is the accountable body for the Economic Development Fund, the EDF funding is predicated on North Somerset Council providing the upfront funding which is repaid to them through the EDF over future years.*

Please accept this letter as assurance that this funding is approved and in place.

Yours sincerely



Richard Ennis [Interim S73 Officer]  
Interim Director of Investment & Corporate Services  
West of England Combined Authority



The West of England Combined Authority (WECA) covers Bath & North East Somerset, Bristol and South Gloucestershire. WECA also supports the Local Enterprise Partnership and the Joint Committee, which includes North Somerset.

## **Appendix 7 - West of England Local Growth Assurance Framework**

# West of England Local Growth Assurance Framework

September 2021

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## 1. Purpose of the document

### 1.1. Context

- 1.1.1. The West of England is one of the UK's most prosperous regions with an economy worth over £33.2 billion a year. A net contributor to the national purse, with a population of over 1 million and over 43,000 businesses, the West of England competes on a global scale.
- 1.1.2. In 2016, three councils in the West of England - Bath and North East Somerset, Bristol and South Gloucestershire - signed a devolution deal. As a result, significant powers and funding have been transferred to the region through the West of England Combined Authority and West of England Mayor.

- 1.1.3. The West of England Local Enterprise Partnership (LEP) is a business led public-private partnership which develops and drives policy and strategy for economic growth and job creation in the area. The LEP spans the geography of Bath and North East Somerset, Bristol, North Somerset and South Gloucestershire. The Combined Authority provides support for the activities of West of England LEP including undertaking the role of accountable body for LEP funding.



## 1.2. Scope of the Assurance Framework

- 1.2.1. Government have set out in [The National Local Growth Assurance Framework](#) guidance the requirement for LEPs and Mayoral Combined Authorities in receipt of a Single Pot to produce their own local assurance framework. This document sets out the West of England's governance arrangements for these funds, how due transparency and accountability are

ensured and the way that schemes are appraised, monitored and evaluated to achieve value for money.

1.2.2. The ‘Single Pot’ approach to funding is a significant fiscal agreement in devolution deals which seeks to reduce ring fences and consolidate funding lines for which the Combined Authority is the accountable body. The West of England Operating Framework and Business Plan together with the Local Industrial Strategy (LIS) and other West of England plans and strategies, provide the basis for investment decisions alongside the delivery of statutory requirements, conditions of funding and other local transport objectives.

1.2.3. The funds in the scope of this assurance framework (hereafter referred to as the ‘investment programme’) are as follows:

- **West of England Investment Fund (WoEIF)** - the Combined Authority has established the WoEIF through which it will administer the additional £30m per annum allocation to the Combined Authority of grant-based investment funds (sometimes called ‘Gain Share’). These funds span a 30 year period but are subject to a five-yearly Gateway Review by Government. In line with the Devolution Deal this is in the control of the Combined Authority, working with the West of England Mayor. Aside from schemes in the scope of this framework, other exceptional costs are funded via the WoEIF related to the establishment of the Combined Authority and arising from its statutory duties, together with election costs for the Mayor as agreed by the Combined Authority Committee.
- **Transforming Cities Fund (TCF)** - the £103m of funding awarded to the Combined Authority to deliver transport improvements aimed at transforming connectivity through improved public transport and active travel infrastructure, reducing congestion and enhancing air quality.
- **City Region Sustainable Transport Settlements (CRSTS)** - the five year transport capital funding for the period to 2026/27. That part of the funding awarded to the Councils for highway maintenance will fall outside of the specific requirements of this framework, but will be subject of monitoring of spend and delivery alongside any particular conditions for the CRSTS

For ease of language, in the scope of this framework the WoEIF, TCF and CRSTS are hereafter referred to as ‘the Combined Authority funding streams’.

- **Adult Education Budget (AEB)** - from 2019/20 the Combined Authority became responsible for administering AEB within its area. Investment decisions for AEB will be made with full consideration to the statutory entitlements which are detailed in the orders laid down to devolve the functions for administering AEB to the Combined Authority.

It should be noted that owing to the nature of AEB, whilst it falls within the general principles of this framework, including transparency, accountability and formal decision making by the Combined Authority Committee, general references to project identification, appraisal, monitoring and value for money will be subject to different arrangements. Further detail on the specific arrangements for AEB are provided in Appendix 1.

- **Local Growth Fund (LGF)** - the £202m of funding covering the period 2015/16-20/21 awarded to the LEP through Growth Deals with Government.
- **Economic Development Fund (EDF)** - the City Deal signed in 2012 by the West of England Councils, the LEP and Government included a range of measures aimed at driving economic growth. Several of the Deal elements have been adopted in ongoing programmes (such as developing an integrated inward investment service) or have been completed. One ongoing element is the Growth Incentive whereby the local authorities retain 100% of business rates growth in five West of England Enterprise Areas.

£500m of the growth in these Enterprise Areas, together with the Bristol Temple Quarter Enterprise Zone, over a 25 year period is being used to create the LEP’s Economic Development Fund to deliver infrastructure to help unlock these locations.

Whilst the operation and monitoring of the Enterprise Zone and Areas is undertaken by the relevant Council, the overall growth performance is overseen by the Business Rates Pooling Board which comprises the four Council s73 Officers and the LEP. Periodic reports are presented to the

LEP Board and the West of England Joint Committee, and an annual performance report is provided to the West of England Combined Authority Overview and Scrutiny Committee.

- **Revolving Infrastructure Fund (RIF)** - this fund was formed from awards by Government through the Regional Growth Fund and Growing Places. This is a revolving fund aimed at advancing the infrastructure which enables development.
- **Get Building Fund (GBF)** - £13.7m capital funding over the period 2020/21-21/22 to help complete major projects which are planned to stimulate jobs and support the region's economic recovery.

For ease of language, in the scope of this framework the LGF, EDF, RIF and GBF are hereafter referred to as 'the LEP funding streams'.

- **South West Energy Hub** - spanning the seven LEPs in the wider south west region, this is one of five local energy hubs established across England. The Combined Authority acts as the accountable body for the South West Energy Hub. It should be noted that whilst arrangements for the Hub fall within the general principles of this framework, including transparency, accountability and formal decision making by the Joint Committee, general references to project identification, appraisal and approval will be subject to different arrangements. These are described in Appendix 2.

### 1.3. What is an Assurance Framework and who it is for?

1.3.1. This assurance framework is underpinned by the Seven Principles of Public Life (the Nolan Principles), namely:

- **Selflessness:** Holders of public office should act solely in terms of the public interest.
- **Integrity:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

- **Objectivity:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
  - **Accountability:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
  - **Openness:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
  - **Honesty:** Holders of public office should be truthful.
  - **Leadership:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.
- 1.3.2. The framework is required to show that suitable arrangements are in place to effectively manage the investment programme and that robust systems are in place to ensure resources are spent with regularity, propriety, and value for money, whilst at the same time achieving projected outcomes.
- 1.3.3. The assurance framework also outlines clear and transparent procedures for all stakeholders in the West of England area (including the constituent Local Authorities, the West of England LEP, other key partner agencies, businesses and residents) regarding the delivery and spending associated with the investment programme. The assurance framework and the investment programme will be managed in accordance with the usual local authority checks and balances, including the financial duties and rules which require local authorities to act prudently in spending.
- 1.3.4. The joint and consistent approach will also provide the opportunity to combine funding to maximise economic impacts. All projects funded through the investment programme will be subject to the agreed prioritisation, appraisal, and monitoring and evaluation framework, including value for money assessments tailored to the nature and scale of the proposed investment.

1.3.5. This assurance framework will be updated regularly and reviewed annually to ensure that it remains fit for purpose. Furthermore, other funding sources may subsequently be aligned with the investment programme, such as any funds awarded through the Housing Infrastructure Fund or Levelling Up, to ensure that an integrated, comprehensive and strategic approach to promoting growth within the West of England is adopted. Where these fall within the scope of this framework it will be updated accordingly. Where there are significant changes to the operation of the framework the Cities and Local Growth Unit will be informed, and any necessary action undertaken.

1.3.6. In performing its role, the Combined Authority will ensure that it acts in a manner that is lawful, transparent, evidence-based, consistent and proportionate. The Combined Authority s73 Officer will confirm that the financial affairs of the LEP are being properly administered and are compliant with the National Assurance Framework by the end of February each year.

1.3.7. The assurance framework sits alongside the Combined Authority's Monitoring and Evaluation Framework which sets out the Combined Authority's approach to Monitoring & Evaluation.

#### 1.4. Status and structure of the framework

1.4.1. The remainder of this document is set out in the following sections:

- **Section 2:** Describes the governance and decision-making structures and outlines the transparency that will apply to all decision making.
- **Section 3:** Sets out the procedures for prioritising projects, appraising projects and developing appropriate business case documentation to satisfy the value for money assessment.
- **Section 4:** Outlines the procedures required for monitoring and evaluating projects and the overall investment programme.

## 2. Governance and Decision-Making Structure

### 2.1. West of England Governance

- 2.1.1. The governance structure for the Combined Authority and the LEP is shown in Figure 2.2. The specific roles in this governance process are set out below.
- 2.1.2. The governance arrangements for the investment programme provide timely and binding decisions, with due clarity, transparency and accountability. These are underpinned by a consistent approach which seeks to harmonise governance processes (noting that different funds may have different ultimate decision makers), assurance and reporting arrangements. This provides the flexibility to match the most suitable funding stream to a particular scheme, and also allow overview, efficiency and rigour. The governance process is shown diagrammatically in Figure 2.1.



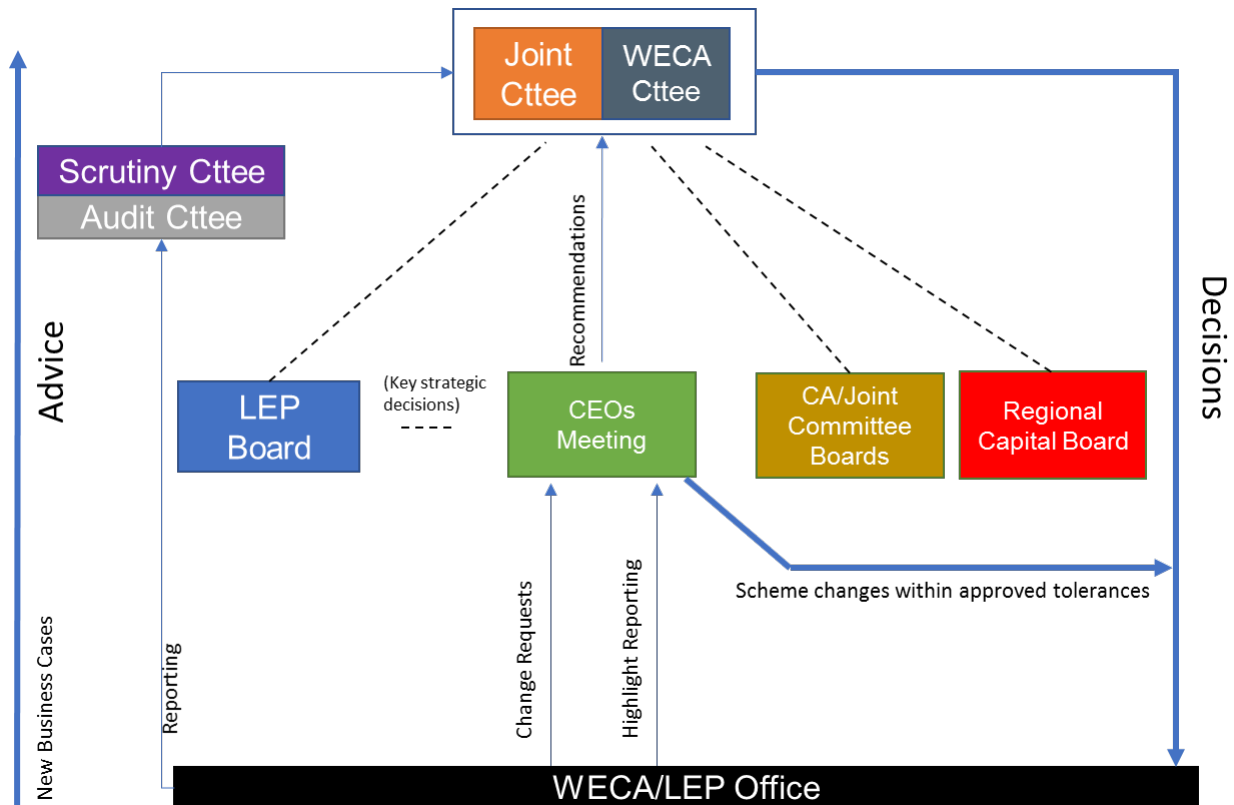


Figure 2.1 - Investment Programme Governance Process

Key:  
Advisory -----

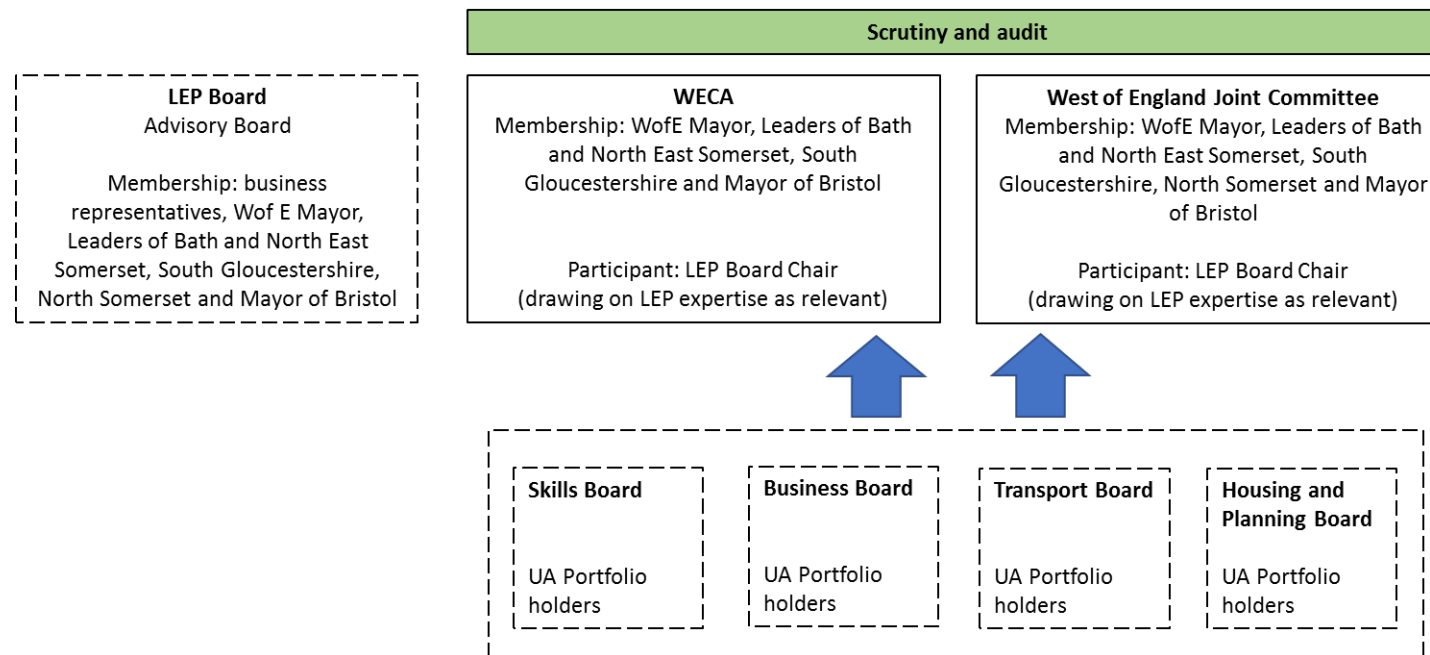


Figure 2.2 - West of England Combined Authority Governance

### **2.1.3. WECA Committee**

2.1.3.1. The Combined Authority Committee is chaired by the West of England Metro Mayor, and is made up of the council Leaders of Bath and North East Somerset and South Gloucestershire and the Bristol Mayor. The Committee meets regularly and in public and the papers for these meetings are published on the Combined Authority [website](#). The constitution of the Combined Authority is also [published](#) which includes the code of conduct for members (Part C). This Committee provides the formal and accountable decision making process related to the Combined Authority funding streams. The delegations granted by the Combined Authority Committee related to scheme changes are set out in paragraph 2.1.9.1 and Appendix 3.

### **2.1.4. West of England Joint Committee**

2.1.4.1. The West of England Joint Committee involving the West of England Metro Mayor, the Council Leaders of Bath and North East Somerset, North Somerset and South Gloucestershire and the Bristol Mayor meets formally and in public, and papers for these meetings are published on the Combined Authority [website](#). The Terms of Reference of the West of England Joint Committee can be viewed in the [constitution](#) (page A7). This Committee makes all decisions related to LEP funding streams (again aside from the delegations set out in paragraph 2.1.9.1).

2.1.4.2. It is the role of these Committees to approve and periodically review a programme of schemes through the submission of Strategic Outline or Outline Business Cases (see Appendix 7). These schemes will be awarded 'Programme Entry'. Schemes with Programme Entry will then produce Full Business Cases (see section 3.2) for approval to secure funding confirmation. Where there is urgency, the approval of specific Outline or Full Business Cases may be granted to the West of England Chief Executives by the Combined Authority or Joint Committee.

### **2.1.5. LEP Board**

2.1.5.1. The purpose of the West of England LEP Board is to secure the region's continuing and ambitious economic success and attractiveness as a place for its residents to live and thrive and for businesses and communities to grow in a sustainable way.

2.1.5.2. The LEP Board is a business led partnership between business/universities and the region's unitary and combined authorities. The LEP Board works in a collaborative and catalytic way seeking to share and test ideas informed by best practice from across the globe to ensure that actions are evidence based and draw upon the best in the world. A joint statement setting out the respective roles of the LEP and Combined Authority is shown in Appendix 4.

2.1.5.3. In terms of the LEP funding streams, the role of the LEP Board is to bring a business perspective and make recommendations to the West of England Joint Committee based upon advice from the Chief Executives (see 2.1.9.1). A programme of sequential meetings supports this process and timely decision making. The LEP Board and Chair play a key advisory role and make recommendations that are considered by the Joint Committee, who take full account of these recommendations in their decision making. The Chair of the LEP Board participates as a non-member in the meetings of the Combined Authority and Joint Committees.

2.1.5.4. The Board receives regular updates on all LEP funded projects, so they are sighted on their performance, issues, risks and relevant mitigations in place.

## **2.1.6. Combined Authority/Joint Committee Boards**

2.1.6.1. The following Boards meet six times a year and involve the West of England Metro Mayor and the relevant Cabinet lead Member(s) for the constituent Councils: -

- Skills Board
- Business Board
- Transport Board
- Housing and Planning Board

2.1.6.2. The Boards do not make decisions but provide strategic guidance and advice to the West of England Combined Authority, West of England Joint Committee and LEP on skills; business; transport; and housing and planning matters, including having oversight of projects and programmes; raising issues and giving views. The Terms of Reference can be viewed in the [constitution](#) page A7).

#### **2.1.7. West of England Combined Authority Overview and Scrutiny Committee**

2.1.7.1. The functions of the Overview and Scrutiny Committee are primarily to scrutinise the work of the Combined Authority and the Joint Committee including the prioritisation and approval of schemes, and progress with the delivery of the investment programme. The West of England Combined Authority Overview and Scrutiny Committee has the power to:

- I. Review or scrutinise decisions made, or other actions taken, in connection with the discharge of any functions which are the responsibility of the Combined Authority or Joint Committee.
- II. Make reports or recommendations to the Combined Authority or Joint Committee on matters that affect the Combined Authority area or the inhabitants of the area.
- III. Make reports or recommendations to the Combined Authority or Joint Committee with respect to the discharge of any functions which are the responsibility of these Committees.
- IV. In so far as the business of the LEP relates to the discharge of functions of Combined Authority or Joint Committee, the Overview and Scrutiny Committee shall have the power to scrutinise the LEP as set out in (1) to (3) above.

#### **2.1.8. Audit Committee**

2.1.8.1. The functions of the Audit Committee include:

- Reviewing and scrutinising the authority's financial affairs;
- Reviewing and assessing the authority's risk management, internal control and corporate governance arrangements;
- Reviewing and assessing the economy, efficiency and effectiveness with which resources have been used in discharging the authority's functions; and
- Making reports and recommendations to the Combined Authority in relation to the reviews they have conducted.
- To consider and approve the Annual Statutory Accounts
- To consider Member Code of Conduct

#### **2.1.9. West of England Chief Executives**

2.1.9.1. The governance process is underpinned by the West of England Chief Executives meeting which comprises the Chief Executive of the Combined Authority and the LEP (hereafter referred to as the Combined Authority Chief Executive) and the Chief Executives of the relevant constituent local authorities. The Chief Executives meet regularly and are aligned to meetings of the Combined Authority and Joint Committees and its role in the context of the investment programme is to:

- Act on information provided by scheme promoters and technical advice and recommend a programme (the ‘Programme Entry’ schemes) for:
  - Combined Authority funding streams - approval by the Combined Authority Committee.
  - LEP funding streams - consideration by the LEP Board and approval by the West of England Joint Committee
- Make recommendations on individual investment decisions for schemes with ‘Programme Entry’ awarded by the Combined Authority or West of England Joint Committee based upon business cases and technical advice.
- Approve specific Business Cases or Feasibility and Development Funding Applications (see 3.2.2.1) subject to delegation from the Combined Authority or Joint Committee. The decision on such Business Case or Applications is made by the Combined Authority Chief Executive, in consultation with the Council Chief Executives.
- Consider change requests for approval within the agreed tolerances. As above, the decision on such change requests is made by the Combined Authority Chief Executive in consultation with the Council Chief Executives.
- Make recommendations to the Combined Authority or Joint Committee for those changes outside of the tolerances.

- Provide overview of the investment programme.
- Managing programme level risks

#### **2.1.10. Regional Capital Board**

2.1.10.1. The Regional Capital Board provides a regular forum for public organisations responsible for the delivery of strategic infrastructure schemes in the West of England. Whilst not a decision making Board, comments from the Board may be passed on to the Combined Authority Committee and Joint Committee and members of this Board may be invited to attend the Combined Authority/Joint Committee Boards to update on specific programmes and projects.

## **2.2. Transparency**

2.2.1. The Combined Authority and the LEP are committed to being open, transparent and accountable.

#### **2.2.2. The LEP Board**

2.2.2.1. The LEP Board Chair comes from the private sector. Opportunities for membership of the LEP Board are openly advertised and widely promoted. The LEP Chair in consultation with the Business Nominations Committee (which is the only sub-Board of the LEP Board) is responsible for nominating business members including the vice chair, and the Higher Education representative, for approval by the LEP Board. The Vice Chair in consultation with the BNC is responsible for the nomination of the Chair, for approval by the LEP Board.

2.2.2.2. Selection criteria and procedures ensure that individuals are selected on the basis of their relevant merits and abilities, and that this promote diverse representation reflective of the local business community. The LEP's [Equality and Diversity Statement](#) is published on the LEP website.

2.2.2.3. The membership of the LEP Board comprises:

- Up to fourteen business members including the Chair
- One Higher Education representative

- The West of England Metro Mayor, the Mayor of Bristol City Council and the Leaders of Bath and North East Somerset Council, North Somerset and South Gloucestershire Council

2.2.2.4. In line with the commitment to secure a greater gender balance, half of the LEP Board business/Higher Education members are currently women (35% of all Board members, including elected representatives) and we will have equal gender representation across the Board by 2023.

2.2.2.5. The term of the Chair and Vice Chair is three years from date of appointment. The term of business members and university member is up to three years. Terms are staggered to ensure continuity amongst the membership and support succession planning. Members can serve a maximum of two terms, but renewal of term is not automatic. In the event of the resignation of a business member an appointment process would be undertaken in line with the process described above.

2.2.2.6. The membership of the [LEP Board](#) and the [terms of reference](#) can be viewed on the [LEP website](#). A member or members of the LEP Board, currently [Neil Douglas](#) and [Richard Bonner](#), are specifically responsible for representing and engaging with the SME business community.

2.2.2.7. An induction process is in place for new members of the LEP Board. All new Combined Authority officers follow the organisation's induction process.

### **2.2.3. Remuneration**

2.2.3.1. LEP Board members receive no remuneration or expenses. The LEP's [Gifts and Hospitality Register](#) is published on the LEP website.

### **2.2.4. Code of Conduct**

2.2.4.1. The LEP Board members are required to follow a Code of Conduct (which includes the conflicts of interest policy) which is based on the Seven Principles of Public Life. This Code of Conduct is published on the [website](#). LEP Board members are required to sign the Code of Conduct before taking up their role. Officers who support the LEP are employees of the Combined Authority and are bound by the Combined Authority's code of conduct

### **2.2.5. Registering and Managing Interests**



2.2.5.1. The LEP Board Code of Conduct includes the way that pecuniary and non-pecuniary interests are declared and managed. This policy applies to all involvement with the work of the LEP. The interests of Board members are published on their individual profile pages on the [LEP website](#). The register of interest is signed within 28 days of taking up the role on the Board and in advance of participation in the role. Board members are required to review their declared interests before each meeting. Senior staff at the Combined Authority and the LEP and those who advise on decisions are also required to complete a register of interest form. That of the Combined Authority Chief Executive is published on the LEP website.

#### **2.2.6. Publication of Meetings and Agenda Items**

2.2.6.1. The agendas, reports, minutes and forward plan for the [Combined Authority Committee](#) and West of England [Joint Committees](#) are published on the West of England Combined Authority [website](#). The Committees receive a regular report with the recommendations made by the West of England Chief Executives which is published as part of the papers.

2.2.6.2. Stakeholders are able to submit questions, petitions or statements to the Combined Authority and Joint Committee.

2.2.6.3. The agenda, reports and minutes of the LEP Board are available on the Combined Authority [website](#). The agenda and reports for the Board are published 5 clear working days in advance of the meeting. The minutes of Board meetings are published within 2 weeks of the meeting. Any recommendations made by the LEP Board relating to the LEP funding programme will be published through the notes of the meeting. The LEP Board is not a decision-making body, and aside from the Annual Meeting the Board meetings are not held in public.

#### **2.2.7. Complaints, Whistleblowing, Freedom of Information Requests and Data Protection**

2.2.7.1. Any complaints related to the arrangements, processes or decision making associated with the investment programme will follow the formal complaints process of the Combined Authority. The [procedure](#) published on the Combined Authority website and looks to manage any complaints that should arise appropriately and effectively. The

complaints process makes provision for third parties or the public to make confidential complaints.

2.2.7.2. In addition to the above, there is also a [Whistleblowing Policy](#) in place, which outlines the process to follow when reporting a perceived wrongdoing within the Combined Authority and the LEP, including something that is believed to contravene the core values and Nolan Principles of Public Life. The LEP will inform the Cities and Local Growth Unit should any concerns be raised through the whistleblowing procedure.

2.2.7.3. Procedures are in place to manage [Freedom of Information](#) requests related to the activities of the Combined Authority and the LEP, including the investment programme. Appropriate data protection arrangements are in place in line with the Data Protection Act 1998, the General Data Protection Regulations (GDPR) and the Data Protection Act 2018. The Combined Authority [Data Protection Policy](#) has been adopted by the LEP Board.

2.2.7.4. In the interests of transparency, the Combined Authority and the LEP are committed to ensuring relevant information related to the business of the LEP Board or decisions at the Joint Committee is published aside from where there are matters of commercial or other sensitivity.

## **2.2.8. Communications and Local Engagement**

2.2.8.1. The Combined Authority and the LEP are committed to ongoing engagement with public and private sector stakeholders. This includes engaging stakeholders to inform key decisions and ensuring that there is local engagement with feedback to the general public about future LEP strategy and progress. A Combined Authority Operational Framework and Business Plan has been formally approved and progress with the delivery of the Plan is reported annually. The LIS and Regional Recovery Plan has been informed by consultations with key stakeholders and partner agencies from across the West of England.

2.2.8.2. Key information related to the arrangements for, and activities of the LEP, and the LEP funding streams, are published on the [LEP website](#). This is kept up to date to ensure the information remains current, and for the [funding programme](#) it reflects the latest position regarding scheme funding and approval status. References to material and

documents published on the website are included in various places within this assurance framework, but for ease a checklist is provided in Appendix 5.

- 2.2.8.3. The LEP Annual General Meeting will be openly advertised and open to the public.
- 2.2.8.4. Information related to the operation of the Combined Authority funding streams is published on the Combined Authority [website](#). For AEB, a process of engagement with providers was undertaken in developing the application process and arrangements, and relevant documentation and guidance are published on the Combined Authority [website](#).
- 2.2.8.5. Aside from the situations where Committee approval of an OBC may not be required (as set out in paragraph 3.3.3.6), all scheme Outline and Full Business Cases are published before funding approval is given. External opinion expressed on these business cases by the public and other stakeholders will be made available to the Combined Authority or Joint Committee to inform decision making. Where a specific delegation to approve a Business Case has been granted by the Combined Authority or Joint Committee to the West of England Chief Executives, then such officer decisions will be published, and this will be reported (together with the Business Case) to the next meeting of the Committee.
- 2.2.8.6. The Combined Authority and LEP are committed to working with the LEP Network and where appropriate to engage with other LEPs and develop joint strategies and investments and share best practice.
- 2.2.8.7. The Combined Authority will comply with Government communications and branding guidelines for schemes funded through the LGF/GBF including the branding and wording used on websites, signage, social media, press notices and other marketing material. These requirements have been shared with all LGF/GBF scheme promoters and compliance is a condition set out within grant offer letters.

## 2.3. Accountable body role and financial management

### 2.3.1. Investment Decisions

2.3.1.1. All investment decisions, including ensuring the effective allocation of the investment programme in line with the Combined Authority and LEP Operating Framework and Business Plan, together with the LIS and other West of England plans and strategies, will be the responsibility of the Combined Authority or West of England Joint Committee.

### 2.3.2. The Role of the Accountable Body

2.3.2.1. The West of England Combined Authority will be the Accountable Body for all funds within the investment programme and will be responsible for the proper administration and financial probity of the funds received. The Combined Authority will ensure the effective use of public money and have responsibility for the proper administration of funding received and its expenditure.

2.3.2.2. As the Accountable Body, the Combined Authority will be responsible for overseeing policy, the prioritisation of funding, ensuring value for money, evaluating performance and managing risk. The Combined Authority will:

- Hold investment programme funds and make payments in accordance with the decisions of the Combined Authority or Joint Committee.
- Ensure that funding is approved and allocated in a manner that is lawful, transparent, evidence- based, consistent and proportionate.
- Ensure that the decisions and activities conform to the legal requirements with regard to equality and diversity, environmental regulations and other relevant legislation and guidance.
- Ensure through its Section 73 Officer that the funds are being used appropriately, prudently and are in accordance with decisions made by the Combined Authority or Joint Committee, or through delegation, together with adherence to relevant guidance/legislation for the intended purpose.

- Record and maintain the official record of proceedings relating to decisions made on all investment projects.

2.3.2.3. Should a decision related to funding not conform to this assurance framework eg not meeting legal requirements or representing inappropriate use of funds then the Combined Authority, as accountable body, will not action this decision.

### **2.3.3. Accounts and Financial Information**

2.3.3.1. The Combined Authority [Statement of Accounts](#) is published on the Financial Information section of the Combined Authority website. For [2018/19 and 2019/20](#) the LEP income and expenditure is dealt with in note 21 to the accounts (page 69 of the linked report). An Annual Report is published setting out grant payments made each year for all projects within the programme, the 2019/20 report can be viewed [here](#). Expenditure at the programme level, alongside key outputs and outcomes, across all of the LEP programmes is shown in the 2019/20 [Delivery Plan](#).

2.3.3.2. The investment funds are accounted for in such a way that they are separately identifiable, with individual cost centres. The Combined Authority will prepare quarterly financial statements for the Combined Authority or Joint Committee in relation to the overall fund, costs of the investment projects, and profiling of spend.

### **2.3.4. Managing Contracts**

2.3.4.1. All contracts awarded by the Combined Authority will follow the authorities Contract Standing Orders which include the Combined Authority's Financial Regulations and the Public Contracting Regulations 2015. Where projects are delivered by other organisations business cases will set out the procurement strategy, compliance with regulations and how value for money will be ensured. Where there are changes to scheme cost or scope which arise through the procurement process or in delivery these will be reported and considered through the agreed change management process. As set out in paragraph 2.1.5.4, the LEP Board receive regular reports on progress with schemes across the programme so they are sighted on performance and risks.

### **2.3.5. Risk Management**

2.3.5.1. A key role of the assurance framework is to ensure that risk is identified, monitored and managed appropriately, both at a corporate level for the Combined Authority and at a programme and project level. The risks associated with individual investment programme projects are discussed in Section 3.5.4 and these will require consideration as part of the business case development through into delivery. The risks associated with the overall investment programme are identified and, in conjunction with plans to mitigate these risks, managed by the Chief Executives. Significant risks will be escalated and will be added to the Combined Authority Corporate Risk Register. This Risk Register is reviewed by the Senior Management Team each month and activities are reported to Audit Committee.

2.3.5.2. For the LEP funding programme, the current and last reported risk rating for each scheme (based upon a matrix score for progress against milestones, changes in spend profile or cost and potential reputational impact) is periodically reported to the LEP Board as part of a programme dashboard. Deep dives are initiated for projects where progress is of concern.

#### **2.3.6. Internal and External Audit**

2.3.6.1. All investment programme funding from HM Government will be held and managed by the Combined Authority. In doing so the funds will be subject to financial management arrangements and subject to Internal Audit in accordance with the Accounts and Audit Regulations (2015) and in compliance with the mandatory Public Sector Internal Audit Standards. This will provide independent and objective assurance regarding the effectiveness of the Combined Authority's risk management, control and governance processes.

2.3.6.2. The Section 73 Officer will be responsible for reporting on the financial management and assurance of the investment programme to the Combined Authority Audit Committee through the delivery and outturn of the annual Internal Audit plan and published accounts.

2.3.6.3. All investment programme funding decisions taken by the Combined Authority or Joint Committee will also be subject to review through annual external audit, which undertakes a review of value for money arrangements by assessing whether the Authority has put in place proper

arrangements to secure economy, efficiency and effectiveness in its use of resource.

- 2.3.6.4. Audit reports related to the LEP produced by either internal or external audit will be shared with the LEP Board and the Cities and Local Growth Unit.

### 3. Investment Programme - Project Lifecycle

#### 3.1. Scheme Identification and Prioritisation

##### 3.1.1. Prioritisation Process - LEP Investment Programme

3.1.1.1. The LGF and GBF are fully spent or committed. Should further flexible funding be awarded to the LEP, schemes in the pipeline (who have previously submitted an Outline Business Case), and others, would be considered through an open and transparent prioritisation process including their strategic fit, impact and value for money and deliverability. Owing to the nature of the funds, the EDF (which is predicated on borrowing against future business rates growth in the Enterprise Zone and Areas) and the RIF (which requires repayment) are only available to the West of England Councils. The same OBC process still applies.

##### 3.1.2. Prioritisation Process Combined Authority Investment Programme

3.1.2.1. For the WoEIF and TCF a process of prioritisation has been undertaken based upon agreed thematic criteria to establish a joint investment programme. The detail of the thematic methodology used, including prioritisation process and metrics, was agreed in advance of its application. The prioritisation process and Combined Authority investment programme will be subject to regular, and at least annual review.

##### 3.1.3. Scheme Identification and Assessment

3.1.3.1. Candidate schemes for funding through the Combined Authority investment programme will be identified by the Combined Authority and the constituent Councils through their fit with the strategic and economic policy and plans for the area including the Combined Authority Operational Framework and Business Plan, LIS, Spatial Development Strategy, Joint Local Transport Plan, Employment and Skills Plan, Regional Recovery Plan and the West of England Green Infrastructure Strategy. This scheme identification process will be guided by a set of eligibility criteria identified in the Investment Strategy, including the scope for a funding to be repaid (in whole or part) or generate a return, in order that the investment programme has a greater impact. Where schemes are not promoted by the Combined Authority or the Constituent



Councils, then an open, transparent and evidence-based process will be used to identify projects for funding.

#### **3.1.4. Scheme Assessment**

3.1.4.1. Identified schemes will be assessed against agreed criteria, including those for individual - programmes within the overall Investment Fund, including the Land Acquisition Fund, Development Infrastructure Fund and Love Our High Streets.

3.1.4.2. Schemes will be able to seek funding through completion of a Strategic Outline Business Case/Scheme Concept and a Feasibility and Development Funding Application Form to secure formal entry into the programme.

### **3.2. Business Case Development**

#### **3.2.1. Business Case Stages and Proportionality**

3.2.1.1. The business case development and appraisal process will apply the principle of proportionality, with more detailed information being required for large, complex or contentious projects. The application and appraisal process for the investment programme will involve the following stages:

- Strategic Outline Business Case (SOBC)/Scheme Concept - this will provide the underlying justification for the project and will support the prioritisation and programme development stage. For schemes over £20m or which are innovative or likely to be contentious an SOBC will be required. Innovative or contentious schemes will include those which plan to deploy cutting edge technology, use new or complex techniques or approaches in their delivery or operation or are expected to attract significant interest from stakeholders and the public. Smaller or less complex schemes will develop a Scheme Concept, which will sit alongside any request for development funding (see paragraph 3.2.2.1). These schemes can progress direct to Outline, or where appropriate, Full Business Case.
- Outline Business Case (OBC) - this will confirm the strategic context, make a robust case for change and identify the preferred option for delivery from a shortlist of options considered based upon how well it meets scheme objectives.

- Full Business Case (FBC) - this will include a detailed business case for the project consistent with HMT's guidance on the five case business case model which is developed to a level where it is capable of being given final approval (aside from larger schemes as below), including detailed design and having secured all necessary powers, consents and land to enable the delivery of the scheme. The assessment of Value for Money (VfM) will, in particular, underpin the economic case and the decision to proceed. This will follow the latest Green Book business case guidance and take account of project specific appraisal guidance published by the relevant government department (see section 3.3 on Appraisal). The OBC and FBC template is shown in Appendix 7 and guidance on completion is shown in Appendix 8.
- 3.2.1.2. In the interests of efficiency and to avoid duplication, business cases will build upon, augment and draw upon the recommendations from the previous stages. The final content of and recommendations on the FBC will be included in the contractual agreements for funding. Where assumptions have been made, these will be clearly set out in the Business Case, with sufficient sensitivity testing carried out on these assumptions to demonstrate the robustness of the economic assessment.
- 3.2.1.3. For transport schemes, business cases should use the templates and approach provided in DfT [guidance](#). For these purposes, a transport scheme is defined as any scheme that significantly changes the transport network infrastructure, whatever its objectives. A local guidance [note](#), and [summary](#) have been produced to help promoters which sets out the Combined Authority's expectations. Cycling schemes should meet the standards set out in Local Transport Note 1/20 Cycle Infrastructure Design unless there are exceptional circumstances, the rationale for which should be clearly stated in the business case.
- 3.2.1.4. Where 50% or more of the funding for a project has been awarded by a Government department or Homes England through a specific funding application which gives final funding approval for delivery (equivalent to a Full Business Case), a separate business case may not necessarily be required to access match funding through the funds in scope of this framework. In such cases it may be assumed that the business case and value money will already have been suitably established by the external funder as part of the funding award.

- 3.2.1.5. Where this applies, funding applications will be published, and suitable Monitoring and Evaluation arrangements will be put in place to ensure the needs of both the external funder and the Combined Authority are met (see section 4 on Monitoring and Evaluation). Match funding awards for streams in the scope of this framework will be approved by the Combined Authority or Joint Committee.

### **3.2.2. Scheme Development Funding**

#### **3.2.2.1. Combined Authority Funding Streams**

Projects within the investment programme funded by the Combined Authority funding streams will be eligible to submit for scheme development support from the WoEIF. This will be based on the submission of a Scheme Feasibility and Development Funding Application Form, supported by an SOBC/Scheme Concept (see paragraph 3.2.1.5) which will identify tasks, timescales and costs for bringing forward an OBC or FBC. The template is shown in Appendix 9. Aside from where a specific delegation has been granted to the Combined Authority Chief Executive in consultation with the Chief Executives of the constituent Councils, all submissions will be appraised and approved by the Combined Authority Committee. Where such approval is via delegation these decisions will be published and reported to the following meeting of the Committee, including publication of the application.

#### **3.2.2.2. LEP Funding Streams**

Aside from the RIF, projects within the investment programme funded by LEP funding streams are expected to meet their own development costs until they secure Outline Business Case approval. Development costs incurred from Outline Business Case approval can be recovered once a scheme has secured Full Business Case approval. For the RIF, FBC development funding can be accessed at the point of OBC approval.

### **3.2.3. Due Diligence**

- 3.2.3.1. The Combined Authority is committed to undertaking due diligence activities that support effective decision-making and project appraisal. In relation to the investment programme applications, the nature and timing of due diligence will depend on the individual project or scheme, the cost of the scheme and the potential impact of the project. The Combined Authority will be responsible for determining when the due

diligence is carried out and by whom. A level of due diligence will be carried out by the Combined Authority, but external agencies may also be commissioned to support this function as appropriate.

### 3.3. Appraisal

#### 3.3.1. Appraisal Criteria

3.3.1.1. The appraisal process for the investment programme will be consistent with HM Treasury's Green Book and Business Case Appraisal process, including supplementary and departmental guidance, such as the Department for Transport's (DfT) WebTAG appraisal guidance for transport schemes and MHCLG's Appraisal Guide. This will be based on the five cases model:

- Strategic case - which provides a compelling case for change and explains how the project fits with the objectives of the organisation and wider public sector agendas.
- Economic case - which describes how the project/preferred option represents best public value.
- Commercial case - which demonstrates that the deal is attractive to the market, can be procured and is commercially viable.
- Financial case - which confirms that the proposed spend is affordable.
- Management case - which confirms that what is required from all parties is achievable.

3.3.1.2. Projects will be appraised against these criteria and should also meet minimum thresholds and requirements (for example, a Benefit Cost Ratio that is at least acceptable and meets the established guidance or recognised benchmarks for that project type).

#### 3.3.2. Assessing Value for Money

3.3.2.1. It is useful to keep in mind that good VfM, as defined by HM Treasury is the optimal use of resources to achieve the intended outcomes. 'Optimal' being 'the most desirable possible given expressed or implied

restrictions or constraints'. VfM is not just about achieving the lowest initial price, it is defined as the optimum combination of whole life costs and quality, with due regard to propriety and regularity.

3.3.2.2. The NAO uses three criteria to assess the VfM of government spending i.e. the optimal use of resources to achieve the intended outcomes:

- Economy - minimising the cost of resources used or required (inputs) - spending less.
- Efficiency - the relationship between the output from goods or services and the resources to produce them - spending well.
- Effectiveness - the relationship between the intended and actual results of public spending (outcomes) - spending wisely.

3.3.2.3. For the investment programme, the Combined Authority and the LEP will make investment decisions based on a range of evidence, such as the strategic case and other local impacts and analysis of cost effectiveness (including GVA impact at the local level), as well as the wider VfM appraisal. This evidence will be consistent with HM Treasury's Green Book and other relevant departmental appraisal guidance. These are set out in Appendix 6.

3.3.2.4. Whilst recognising the national BCR will remain the universal metric to assess VfM, the Combined Authority will take account of a range of evidence when deciding to invest in a project (such as the local impacts on the economy and investment unlocked) within the context of a wider VfM appraisal. In the event that a scheme does not offer at least 'high' VfM (ie that the national BCR is below 2 and once significant non-monetised impacts and key uncertainties have been considered), the Combined Authority may still decide, exceptionally, to invest in a project based on the strength of evidence presented within the overall business case, including the strategic case and local impacts (see 3.3.3.1 and 3.3.3.2).

3.3.2.5. Aside from the circumstances set out in paragraph 3.2.1.7, independent advice will be sought, including where required external support, for review of business cases. The assessment will be

proportionate to the relative size of the scheme being considered, but will, as a minimum, provide independent validation of the assumptions made by scheme promoters.

3.3.2.6. Further safeguards are in place to avoid any conflict of interest that may arise between consultants acting on behalf of scheme promoters and those that are being asked to provide independent assessments on behalf of the Combined Authority.

3.3.2.7. Full Business Case, including their value for money, will be signed off by the s73 Officer or Chief Finance Officer of the promoting organisation. As is the case for VfM statements, Full Business Case Assessment Summary Reports will be signed off by the Combined Authority s73 Officer and these will be included in the report to the Combined Authority or Joint Committee where the FBC is being considered. Where the Combined Authority is the scheme promoter separation of roles will be ensured and business case sign off will be provided by another member of the Combined Authority Senior Management Team or the s151 Officer from one of the constituent Councils. The appraisal reports will be presented to the Combined Authority Committee as part of the decision-making process.

### **3.3.3. Transport Projects**

3.3.3.1. For transport projects, the Combined Authority and the LEP will ensure that modelling and appraisal is sufficiently robust and fit for purpose for the scheme under consideration, and that modelling and appraisal meets the guidance set out in WebTAG. WebTAG will be used for all schemes but for schemes with low cost (below £5m) a more proportionate approach will be taken. In addition to WebTAG, other robust or evidence-based assessments or methodologies may be employed to prioritise and assess the overall business case for a scheme.

3.3.3.2. The expectation is that all schemes must achieve “high” VfM (where benefits are at least double costs as set out within DfT’s guidance) at all stages of the approval process. VfM for these schemes will be independently scrutinised on behalf of the Combined Authority as part of the assessment process. This will be via a commission to a specialist transport consultant, fully independent from the scheme promoter and with no involvement in the development of the scheme being appraised. The independent assessment will be published and made available to the

Combined Authority or Joint Committee as part of the decision making process.

3.3.3.3. Notwithstanding the above principles on VfM, the Combined Authority and the LEP will be able to approve transport schemes with lower VfM, having regard to specific circumstances including:

- Evidenced and compelling wider economic, social and environmental benefits
- The ability of the scheme to address multiple Combined Authority and the LEP policy objectives.
- Significant levels of match funding being provided by the scheme promoter.

3.3.3.4. Examples of such exceptional circumstances could include where a transport scheme:

- Unlocks a major development site.
- Can be directly attributed to job creation and/or GVA growth.
- Stimulates significant land value uplift which can subsequently be captured.
- Has a low BCR but is part of a programme that can evidence a 'high' BCR as a minimum.

3.3.3.5. The justification will be clearly set out in the report before the Combined Authority or Joint Committee at the point of decision making.

3.3.3.6. Such projects must have been subject to earlier rigour to assess options for de-scoping, or to explore higher VfM alternatives, and these considerations will be tested as part of the independent review of the business case and reported as part of decision making to the Combined Authority or Joint Committee. This will include considering the robustness of the evidential basis to enable the Combined Authority and the LEP to determine the relative weights to be afforded to the different aspects of the case.



- 3.3.3.7. The recommendations to the Combined Authority or Joint Committee will clearly explain the rationale for approving a scheme with medium or worse VfM and the implications of the recommendation.

### 3.4. Approval process

#### 3.4.1. Approval process and timeline

- 3.4.1.1. To ensure the investment programme is managed strategically the Combined Authority s73 officer, supported by officers in the Investment and Corporate Services Directorate, will be responsible for the overall management of the programme and that linkages are made within the portfolio of projects seeking investment. The time taken to assess projects will depend on the nature and complexity of the proposal, but typically business case submissions will be around 2 months prior to decision making at the Combined Authority or Joint Committee. For schemes costing under £20m which are not innovative or contentious, formal Committee approval of an OBC may not be required providing scheme scope or cost has not changed since the Scheme Concept and Feasibility and Development Funding Application stage. In this instance the OBC will still be submitted, reviewed, signed off by the Combined Authority S73 officer and published at the next Committee meeting.
- 3.4.1.2. The outcome of the independent assessments of investment programme schemes will be reported to the Combined Authority or Joint Committee as part of the recommendations made on the merits of individual applications. An Assessment Summary Table will form an appendix to these reports and will be part of the Combined Authority or Joint Committee's public agenda pack that is available to view on the Combined Authority website.
- 3.4.1.3. Aside from where the Combined Authority is the scheme promoter, the Combined Authority will prepare a Grant Offer Letter for agreement by the applicant. The offer letter will, in particular, set out the following which will be monitored by the Combined Authority:

- A financial profile including quarterly expenditure.



- A profile of outputs and outcomes to be achieved with key milestones for delivery.
- Projected impacts and a timetable for their achievement.

3.4.1.4. The Combined Authority have appropriate processes in place to recover non-compliant funding. Should a decision be made not to recover funding, a strong and compelling justification will be required which will be formally documented.

### 3.5. West of England Investment Programme Management

3.5.1. A performance management system is used to collate, record and report on the progress of individual projects and the investment programme overall. Where projects do not achieve their milestones for delivery, projects will need to provide evidence to demonstrate that they will be able to get back on track or seek approval for change. Projects that consistently fail to meet projected performance (financial and outputs) may have funding withdrawn. Projects 'at risk' will be reviewed, and the outcomes of this process will be referred back to the Combined Authority of Joint Committee, prior to any withdrawal of funding and decision on expenditure incurred. For the LEP funding programme the LEP Board will also be regularly advised on progress, issues and risks.

3.5.2. There are a number of mechanisms that will ensure effective management of the investment programme to maximise the economic impact within the area. These include:

- Designation of the Combined Authority s73 officer as having overall responsibility for management and reporting on the performance of the investment programme to the Departmental Accounting Officer within MHCLG.
- Ensuring suitable mechanisms and resources are in place to effectively monitor, evaluate and review the performance of projects in the investment programme in respect of delivery, expenditure and outputs/outcomes.

3.5.3. A monitoring system is in place for the investment programme to record financial expenditure and claims and the achievement of outputs and outcomes. Quarterly Highlight Reports are submitted to the Combined

Authority providing progress against key milestones and actual and forecast spend. In addition, the achievement of key performance metrics - capturing outputs and outcomes achieved in support of the Combined Authority and LEP Operating Framework, Business Plan and overall growth and wider objectives will be periodically reported linked to scheme Monitoring and Evaluation Plans. The template Highlight Report for approved schemes is shown in Appendix 10.

#### **3.5.4. Risk Management**

3.5.4.1. A programme risk register for the overall investment programme is maintained and regularly reported to the Combined Authority Senior Management Team. As set out in section 2.3.5, key risks added to the Corporate risk register will be monitored (alongside the performance monitoring procedures) by Internal Audit and reported to the Audit Committee. The Combined Authority Chief Executive will be responsible for the identification and management of risk for the investment programme.

3.5.4.2. A risk management strategy and risk register forms part of the management case of each scheme OBC or FBC. Risks will be managed through appropriate mitigation measures agreed with the project applicant prior to approval of the scheme. Key and current risks will form part of the regular scheme highlight reporting.

3.5.4.3. Overall risk management for the investment programme will have regard to the ongoing monitoring of achieved investment performance against that projected. Appropriate measures will be adopted to ensure that the monitoring of investments provides an informed basis for future investment decisions.

#### **3.5.5. Project Closure**

3.5.5.1. All projects are required to produce an End of Project Delivery Report at the end of the project (within 3 months of completion), which demonstrates that:

- All activities have been delivered in accordance with the offer letter.

- All funding has been spent appropriately in line with the projected financial profile for the project. In addition, final grant claims are accompanied by an audit report.
- There are no outstanding risks or actions that need to be taken to sign the project off by the Combined Authority.
- All relevant outputs and key milestones have been achieved.
- The key successes and lessons learnt from the project.
- Confirmation of the evaluation activities to be subsequently undertaken, when these will take place and the lead contact who is responsible for ensuring this occurs.

3.5.5.2. A summary of these reports is published on the website.

## 4. Monitoring and Evaluation

### 4.1. Overview

4.1.1. The Combined Authority's overall approach to Monitoring and Evaluation is underpinned by the following key principles:

- Reporting requirements are locally defined and support delivery of local strategies
- Evaluation is meaningful and proportionate
- Data is collected once and used many times
- Baseline information is consistent across key initiatives
- Monitoring and evaluation is a core part of all activities
- Lessons learned are used to inform future policy development

4.1.2. This will enable the Combined Authority to:

- Demonstrate local accountability. Show how funding is being spent and benefits achieved against local strategies and action plans, demonstrating the value and effectiveness of local decision making and shaping future priorities
- Comply with external scrutiny. Together with the Assurance Framework demonstrate progress and delivery to the constituent council members, senior government officials and Ministers
- Understanding what works. Provide a feedback loop and enables the lessons learnt to be fed back into policy making and communicated to stakeholders, as well as supporting the case for further devolution and investment in the area.
- Developing an evidence base. Provide a mechanism for collecting, collating and analysing data which can be used across the organisation

and by others, following the principle of collecting data once and using many times.

- Ensure quality assurance. For interventions funded through investment programme, Monitoring & Evaluation plans form part of business case submissions and these are independently reviewed and published to support business case approval decisions by the Combined Authority or Joint Committee.

#### 4.2. Performance Monitoring

- 4.2.1. All projects funded through the investment programme, regardless of the size, will have an effective monitoring and evaluation plan in place which will form a key part of the business case. This will enable assessment of the effectiveness and impact of investing public funds, and the identification of best practice and lessons learnt that can inform decisions about future delivery. The monitoring plan will guide the collection of data from individual projects and will be designed to ensure that it captures information required by the Combined Authority and government.
- 4.2.2. Individual monitoring and evaluation plans will be proportionate, correspond with procedures for appraisal, and be in line with the latest government department guidance where relevant. These plans will identify the resources required to deliver the proposed monitoring and evaluation activities. All transport schemes will follow Monitoring and Evaluation Guidance for Local Authority Major Schemes.
- 4.2.3. All monitoring and evaluation plans (which will form part of FBCs) and interim and final monitoring and evaluation reports will be published on the Combined Authority website.
- 4.2.4. The offer letter will set out the key milestones for the delivery of the scheme together with the outputs and outcomes detailed in the business case and embodied in the monitoring and evaluation plan. Quarterly monitoring returns will be used to capture progress against these agreed milestones and metrics and will include information related to:
  - Delivery
  - Expenditure
  - Outputs and outcomes

4.2.5. The individual project monitoring information will feed into an overall monitoring plan for the investment programme, which will be published and periodically reported to the Combined Authority Committee, including the extent to which projects are contributing to the overall objectives of the Combined Authority.

4.2.6. For the WoEIF, the evaluation component of individual projects' monitoring and evaluation plans will complement the five-year Gateway Review. This government evaluation will focus on identifying the impact of investments made using this funding.

#### 4.3. Evaluation and Benefits Realisation

4.3.1. Monitoring and Evaluation Plans, which form part of business cases, should identify the outcomes (benefits) planned to be delivered, how outcomes will be measured, a baseline assessment, and how it is intended to implement, monitor and assess the project to identify whether the benefits have been realised in line with the approach and timescales set out in the Plan. As set out in section 3.5.5, the End of Project Delivery Report will confirm the monitoring activities set out in the Monitoring and Evaluation Plan. This report will also identify lessons learnt to inform the future delivery of projects through the Combined Authority and LEP investment programme and more widely.

## 5. Appendix 1

### Adult Education Budget

The Adult Education Functions Order 2018 details the adult education functions in the Apprenticeships, Skills, Children and Learning Act 2009 being transferred from the Secretary of State for Education to the West of England Combined Authority. Through this transfer of functions, the Combined Authority took responsibility for AEB in the Combined Authority area from 1 August 2019 to make sure eligible learners, aged 19 and over, have appropriate education and training.

The budget covers a number of elements including:

- Statutory Entitlements
- Other AEB (Formula Funded)
- Non-Formula Funded Community Learning
- Learner and Learning Support

### First academic year of funding 2019/20

The grant allocation approach for 2019/20 was developed based on the following key principles:

- To maintain funding stability for providers
- To align allocations with 2017/18 actual performance /earnt levels
- Continue to support statutory entitlements
- To ensure the process is fair, efficient and transparent

Following a consultation to ensure that providers were aware of the 2019/20 devolved AEB funding process, including access routes to grant funding and timelines for applications. The Combined Authority allocated funding of [£14.2m to 30 providers](#) through Combined Authority Committee on the 14<sup>th</sup> of June 2019. The approach and processes closely aligned with those used by the Education and Skills Funding Agency (ESFA). [The information and documents for strategic partners and providers for 2019-2020](#) sets out how the funding was paid, the funding rules and the performance management framework.

## The 2020/21 academic year

On the 20th March 2020 the Combined Authority Committee approved a series of [draft AEB provider allocations for the 2020/21 academic year](#). The individual allocation amounts were based on the provider's 2019/20 academic year allocations with some system changes.

In order to confirm their allocations, the providers were required to develop and agree with WECA a Curriculum and Delivery Plan (C&DP) for 2020/21. The CDP's are required so that the Combined Authority can start to affect a transition to a planned and collaborative approach to the delivery of Adult Education, where providers are demonstrably planning their provision against the agreed regional priorities as opposed to reacting to demand as it presents itself.

Due diligence, was conducted in line with the Combined Authority's published [Due Diligence Approach and Funding Higher-Risk Organisations 2020/21](#). Monitoring of financial status will be ongoing with a focus on any provider that has a financial or quality risk alert identified by the Combined Authority or through joint discussions with the ESFA.

The funding terms and conditions have been set out in a Grant Funding Agreement, this will form the basis of the contractual relationship between the Combined Authority and the provider, alongside the following published AEB Policies which are updated annually:

- [Funding and Performance Management Rules 2020/21 \(PDF 140kb\)](#)
- [Funding Rates and Formula 2020-21 \(PDF 121kb\)](#)
- [Provider Performance Management Framework 2020/2021 \(PDF 137kb\)](#)

## The 2021/22 academic year and the future

On the 13th May 2020 the Combined Authority Chief Executive, in conjunction with the Chief Executives of the constituent Councils, approved the Combined Authority Adult Education Strategy for the 2021/22 academic year. The AEB Strategy sets out how the Combined Authority intends to utilise the adult education provision that we fund to implement the [Local Industrial Strategy](#) and [Employment and Skills Plan](#). This



is a further step towards our vision of an integrated and cohesive education, employment and skills system for the West of England.

All providers funded to deliver adult education on behalf of the Combined Authority were asked to set out how they propose to deliver this strategy through their Curriculum and Delivery Plans (C&DPs). Ten Roll-forward providers were awarded £14.9m of the AEB Budget in July, under the delegated authority provided by the Combined Authority Committee. The Adult Education policies were refreshed and published on the Combined Authority website - [Information and documents for strategic partners and providers](#).

The Open Application Process will launch in September 2021 to award additional funding to AEB providers who are able to support a specific set of commissioning priorities as set out in the strategy that are not sufficiently realised through the analysis of existing C&DPs amongst the roll-forward providers currently funded by the Local Authority.

## **Governance**

Decisions for awarding grant are made by the Combined Authority Committee, they resolved to delegate authority during the academic year to the West of England Combined Authority Chief Executive Officer, in combination with constituent councils' Chief Executive Officers to:

- a. Confirm final provider allocations once agreed provider curriculum delivery plans are in place.
- b. Make in-year exceptions funding decisions.
- c. Make in-year growth funding decisions.
- d. Make decisions on provider re-allocations at mid-year and end-of-year points.
- e. Make decisions relating to distribution of funding for continuing learners.
- f. Make decisions relating to procurement of the Combined Authority's devolved provision.

The Combined Authority Regional Skills Board provides strategic guidance and advice to the Combined Authority Committee on Employment and Skills matters and the Combined Authority Programme Board makes high level operational decisions, recommendations to the Chief Executives and Combined Authority Committee, and reviews the risk register for Adult Education Funding on a monthly basis.

## **Audit and Assurance**

The Combined Authority have established a joint working arrangement with the ESFA in respect of AEB, the service level agreement covers the following:

- Audit and Assurance
- Fraud and Investigations
- Financial Health

Annual assurance statements will be shared between the ESFA and Combined Authority on an April to March financial year basis. The annual assurance statement will be supported by a code of practice detailing the approach taken by the organisation to obtain assurance over the provision funded.

For 2020/21 the Combined Authority has procured an accredited external auditor who is carrying-out standard assurance reviews on our AEB Grant Recipients to provide the Combined Authority with assurance that funding disbursed to providers is being used appropriately and that providers have met contractual requirements. The assurance reviews will also test the accuracy of data submissions, learner records and review the internal controls providers have in place.

Results of audit activity and financial health assessments will be shared with MCAs/GLA via the data sharing agreement, which ensures the data being shared is consistent, safe and secure.

If the ESFA or the Combined Authority suspect fraud or financial irregularity or receive information and/or allegations in relation to a provider, including a subcontractor (that is funded by both ESFA and WECA) an approach has been agreed and adopted by both organisations.

## **Risk Management**

Risk management is integral to the structuring and presentation of AEB provision and risk mitigation measures have been agreed with providers prior to approval of GFA's where appropriate. During delivery, the AEB Team maintain a risk log which is regularly reviewed and reported on. Significant risks will be escalated and will be added to the Combined Authority Corporate risk register. This is reviewed by the AEB Programme Board regularly and activities are reported to the Audit Committee.

## **Stakeholder Engagement**

The Combined Authority is actively working with a range of stakeholders to support the development of the AEB system which delivers provision to Combined Authority residents. These stakeholders include: providers, provider representative bodies, key local stakeholders (e.g. Local Authorities, DWP, VCSE infrastructure organisations, DfE/ESFA etc.). This work is conducted both through formal engagement routes (pre-arranged group meetings) and informal meetings (group & 1-2-1).

The Combined Authority uses its website to engage with the wider community and it will be use it as a platform for transparent sharing of the AEB commissioning processes and objectives.

## **Monitoring and Evaluation**

The Combined Authority's approach to monitoring and managing AEB performance is outlined in the Funding and Performance Management rules document. Following the issuing of a Grant Funding Agreement, the responsibility for overseeing the successful implementation and delivery of projects will rest with the AEB team, comprising of the AEB Programme Manager, Senior Relationship Manager, Senior Funding & Assurance Officer, the Adult Education Data Analyst, Information Officer and Project Coordinator.

There is a legal requirement on providers to submit data to the Secretary of State for all provision funded by DfE. Learner data will continue to be gathered from providers in a national Individual Learner Record data system, via the Individualised Learner Record (ILR) that the ESFA will use to share data to support the Combined Authority in the development and maintenance of the AEB functions devolved.

The DfE has set out Monitoring and Evaluation guidelines for AEB, which include:

- Consideration for the statutory entitlements detailed in the Orders;
- The need to consider how funding of the AEB will align to Strategic Skills Plans and support the delivery of local economic objectives;
- Arrangements for enabling effective and meaningful engagement of local (and national) partners in proposed use and evaluation of the AEB; and
- Robust monitoring and evaluation plans going forward, to help identify and measure the impact of AEB spending in their area.

All monitoring and evaluation reports will be published on the Combined Authority website. The Combined Authority will report on the previous academic year findings to date, referencing the most up to date publicly available data at that point in time.

The Combined Authority is developing its own robust monitoring and evaluation plans going forward, to help identify and measure the impact of AEB spending.

## 6. Appendix 2

### South West Energy Hub

#### Rural Community Energy Fund

From 2019/20 the Combined Authority, as accountable body for the South West Energy Hub, became responsible for administering the Rural Community Energy Fund (RCEF) within the wider SW of England, including West of England, Gloucestershire (Gfirst), Dorset, Heart of Southwest, Solent, Swindon and Wiltshire and Cornwall and Isles of Scilly Local Enterprise Partnership areas. Grant funding decisions for RCEF will be made with full consideration to the terms of a Memorandum of Understanding signed with the Department for Business Energy and Industrial Strategy.

The RCEF provides grants up to £40,000 to community groups to undertake feasibility studies and up to £100,000 towards project development, such as planning and legal fees. There is a total fund of £1.8m.

The Fund's aims are to:

- Support rural communities - by helping them to maximise the income generating potential of renewable energy and put this to work locally;
- Increase the uptake of community and locally owned renewable energy, to support the Government's targets for renewable energy and carbon reduction; and
- Promote rural growth, job creation and volunteering opportunities - to enable communities to access the economic benefits associated with renewable energy schemes.

The SW Energy Hub has worked with BEIS and the 4 other energy hubs in England to develop support materials including:

- Application forms and guidance documents
- A process for assessing bids
- A scoring matrix for transparent and consistent assessment of bids

The Combined Authority is the Accountable Body for the RCEF, use of funds will be compliant with agreed WECA policy and process, ensuring transparent oversight and allocation of public funding.

The WECA Joint Committee is ultimately accountable for the RCEF, with a delegation in place to the WECA Chief Executive in consultation with the SW LEP Chief Executives. The Combined Authority Chief Executive is required to provide periodic updates to the Joint Committee.

All grant applications will be reviewed by the Energy Hub team, using a scoring matrix agreed with BEIS and the other Energy Hubs. Where additional technical support is required to assess an application the Energy Hub team will source this externally from the public or private sector.

Recommendations for grant funding will be provided to the SW Energy Hub Board in its advisory capacity, who will challenge or endorse as appropriate. The SW Energy Hub Board will then agree recommended grant decisions for the Chief Executive to consider.

Grant recommendations are only made through a majority decision by the Energy Hub Board which comprises one representative from each LEP.

The Combined Authority Chief Executive in consultation with the SW LEP Chief Executives is the decision-making body for the approval (or otherwise) of recommendations made by the Regional Energy Hub Manager and Energy Hub Board.

SW LEP Chief Executives will be able to challenge Energy Hub Board recommendations, on issues related to correct application of the scoring criteria. Any challenge to the process will trigger a review and report to the WECA Chief Executive who will make the final decision.

SW LEP Chief Executives will be asked to confirm their response to decisions within 5 working days.

SW LEP Chief Executives can confirm delegation of their role to their Energy Hub Board representative by writing the Combined Authority Chief Executive.

### **Local Capacity Support**

The South West Energy Hub also provides a support service to organisations, which is not a grant, to develop local energy projects.

## **Green Homes Grant Local Authority Delivery (GHG LAD) Phase 2**

The South West Energy Hub is delivering a £52m programme of measures to improve the energy efficiency of homes. GHG LAD will help low income households improve the energy efficiency of poor quality homes. Low income is defined as an annual household income of no more than £30,000. Eligible homes are those with Energy Performance Certificates (EPCs) rated Band D, E, F or G; with improvements bringing them up to Band C where possible. It is anticipated that the energy efficiency and clean heating measures installed will cost on average £10,000 per property. This is likely to achieve improvements to 4,400-4,840 homes in the wider region

The SW Energy Hub and the Combined Authority has procured Delivery Organisations, operating to partner LEP geographies to manage the end to end process of support to households.

Within the programme the SW Energy Hub is also providing a small grant of up to £25k to local authorities to support them to develop capacity to develop and deliver future housing retrofit schemes.

## **Public Sector Decarbonisation Skills**

The South West Energy Hub also provides a support service to organisations, which is not a grant, to reduce direct emissions from public buildings. The purpose of the support is to support organisations to identify low carbon opportunities in public buildings, develop net zero organisational plans and develop investment grade proposals to help the public sector secure funding such as the Public Sector Decarbonisation Scheme.

## **COP 26 Zero Carbon Bus Tour and Regional Green Zones Events**

The South West Energy Hub is supporting Government with the delivery of a series of events in the lead up to COP26. This includes 5 Zero Carbon Bus Tour events across the wider SW region, which showcases a zero carbon bus, and discusses opportunities for organisations to decarbonise.

There will also be a series of events during the COP 26 fortnight at the start of November. The SW Energy Hub will offer a grant to local authorities who wish to organise the events, which will align with the themes of COP 26 and be digitally linked.

There is a total budget of £205,000 for the events and project management.

The Joint Committee is accountable for the SW Energy Hub Local Capacity Support, Green Homes Grant, and COP26 programmes, with delegation to the Combined Authority Chief Executive. The Combined Authority Chief Executive is required to provide periodic updates to the Joint Committee.



## 7. Appendix 3

### Change Management Delegations for the Investment Programme

|   | Category   | Scale  | Approval  |
|---|--|--|---|
| 1 | Cost Increases                                       | Cost increases of up to 10% to a ceiling of £100k (Feasibility and Development Funding) and £3m (approved scheme funding) subject to funding being available and there being no impact on any other project on the programme | <b>Combined Authority funding streams:</b><br>Combined Authority CEO, in consultation with constituent Councils CEOs<br><br><b>LEP funding streams:</b><br>Combined Authority CEO in consultation with the West of England CEOs |
| 2 | Cost Increases                                       | Cost increases above this threshold  | Combined Authority or Joint Committee   |
| 3 | Reductions in Match Funding                          | Reduction in match funding up to 10% to a ceiling of £300k   | Combined Authority CEO in consultation with CEOs  |
| 4 | Reductions in Match Funding                          | Reduction in match funding above this level  | Combined Authority or Joint Committee   |
| 5 | Reprofiling of Spend (with no cost increase overall) | Reprofiling of up to £50k (Feasibility and Development Funding) and £100k (approved scheme funding) between financial years  | Combined Authority CEO in consultation with CEOs  |
| 6 | Reprofiling of Spend (with no cost increase overall) | Reprofiling between financial years above this level   | Combined Authority or Joint Committee   |
| 7 | Time   | Slippage of milestone(s) for approved schemes less than 3 months   | Combined Authority CEO in consultation with CEOs  |
| 8 | Time   | Slippage of milestones of 3 months or more   | Combined Authority or Joint Committee   |

|    | Category                    | Scale  | Approval   |
|----|-----------------------------|--|--|
| 9  | Scope, Benefits and Quality | Up to 10% change in value of quality as percentage of project value and/or 10% change in one or more metrics of benefits and/or minor change to the scope of the scheme      | Combined Authority CEO in consultation with CEOs |
| 10 | Scope, Benefits and Quality | Over 10% change in value of quality as percentage of project value and/or over 10% change in one or more metrics of benefits, or a fundamental change to the scope of scheme | Combined Authority or Joint Committee            |

## 8. Appendix 4

### Combined Authority and LEP Joint Statement

#### Advisory and challenge function:

The West of England LEP provides a strategic advisory role at the heart of the regional governance structures. The Chair has a seat at the table (non-member) at both the West of England Combined Authority and West of England Joint Committee ensuring that the business view is at the centre of regional decision making. Business Board members bring together the voice of large business, significant employers and the SME sector to ensure that regional plans reflect the needs of the broader regional economy.

The role of the LEP Board as defined within it's Terms of Reference is:

- Shaping a compelling and ambitious strategic vision, strategy and brand for the region.
- Promoting, developing, supporting and championing the economic success of the region.
- Supporting the attraction of new inward investment and nurturing business development, innovation and creativity.
- Defining and articulating the LEP Boards view of regional infrastructure to support and reflect the region's continuing economic success and enabling a healthy and productive population to thrive.
- Shaping regional policy to ensure that the region has the higher-level skills it needs to deliver its ambitions for a high skills economy.
- Shaping regional policy to ensure all residents can compete for jobs and can benefit from the region's success.
- Promoting the regions' interests with Government

The membership of the Board ensures there is active and constructive debate at LEP Board meetings. Well evidenced, considered reports and presentations ensure that LEP Board members have the information and advice they need to engage effectively on all matters.

The LEP Board and Chair are able to draw directly on the expertise of the staff of the integrated Combined Authority and LEP officer team to ensure appropriate support is provided.

### **Alignment of decision-making across a clear geography:**

The West of England Local Enterprise Partnership covers the unitary authority areas of Bath and North East Somerset, Bristol City Council, North Somerset and South Gloucestershire. There are no boundary overlaps with surrounding Local Enterprise Partnerships.

There is a strong history of joint working across the West of England Local Enterprise Partnership geography that includes work on Spatial Planning and Local Transport Plans. Bringing political and business leaders together enables integrated decision making and enables the longer-term strategic perspective offered by business to be front and centre of local debate. Business leaders bring a valuable perspective on decisions around skills, business support, innovation, infrastructure and more. They understand how decisions will impact on the ground, and where the gaps and challenges are.

The West of England Combined Authority was established in 2017, covering the unitary authority areas of Bath and North East Somerset, Bristol City Council and South Gloucestershire.

As part of the establishment of the West of England Combined Authority a new regional governance structure was introduced; this followed a full regional governance review. The structure aligns the Combined Authority and LEP decision-making to support close working and the delivery of economic growth projects across the West of England at a geographical scale that reflects the way local economies and businesses work. The governance structure was developed in partnership and agreed with the Local Enterprise Partnership.

This governance structure, alongside the integrated Combined Authority and LEP officer team, ensures that the relationship between the Combined Authority and Local Enterprise Partnership is strong and effective.

The LEP Board and Chair operate in an advisory capacity. All decisions related to funding are taken by the West of England Combined Authority or Joint Committee.

**Accountability:**

The accountable body for all LEP funding is the West of England Combined Authority which is responsible for the proper administration and financial probity of the funds received. The Combined Authority will ensure the effective use of public money and have responsibility for the proper administration of funding received and its expenditure.

**Efficiency and corporate identity:**

The Chief Executive of the Combined Authority is also the LEP Chief Executive. The Combined Authority and the LEP have a shared officer team which promotes effective and efficient operation.

The Combined Authority and the LEP have their own branding and identity recognising that some work of the LEP is separate from and extends beyond the Combined Authority.

**Overview and scrutiny:**

The role of the Combined Authority Overview and Scrutiny Committee is primarily to scrutinise the work and decisions made by the West of England Combined Authority or Joint Committee. In so far as the business of the LEP relates to the discharge of functions of the Combined Authority, the WECA Overview and Scrutiny Committee shall have the power to scrutinise the LEP.

## 9. Appendix 5

### LEP Publication Checklist

| Checklist  |
|--|
| The Local Growth Assurance Framework   |
| Annual Financial Statement [from 2019/20]  |
| Annual Report and <a href="#">Delivery</a> Plan 2021 2022  |
| <a href="#">Statement on the publication of LEP Board meeting papers, minutes and agenda items</a>                   |
| <a href="#">LEP Board meeting agendas, papers and minutes</a>  |
| <a href="#">LEP Board membership and Terms of Reference</a>  |
| <a href="#">Annual Assurance Statement from the leadership of the LEP</a>  |
| <a href="#">The LEP's Code of Conduct and Conflict of Interest policy</a>  |
| <a href="#">Board Members' registers of interest</a> and the register of the <a href="#">Chief Executive Officer</a> |
| <a href="#">The LEP gifts and hospitality register</a>   |
| <a href="#">Complaints policy</a>  |
| <a href="#">Whistleblowing policy</a>  |
| <a href="#">The LEP funding programme with a description of the scheme, the promoter and the funding awarded</a>     |
| <a href="#">Annual Funding Report detailing projects in receipt of funding and grant payments made [2019/20]</a>     |
| <a href="#">Strategic Economic Plan</a>  |
| <a href="#">West of England Combined Authority Operating Framework</a>   |
| <a href="#">West of England Combined Authority Business Plan</a>   |
| <a href="#">Local Industrial Strategy</a>  |

Checklist

[Combined Authority Committee Reports](#) and [Joint Committee Reports](#)

## 10. Appendix 6

### 10.1. Methodology to Assess Value for Money for Various Scheme Types

#### 10.2. Transport

10.2.1. For these purposes, a transport scheme is defined as any scheme that significantly changes the transport network infrastructure, whatever its objectives. Such schemes will be subject to the minimum requirements on VfM assessment, assurance and evaluation of transport projects set out in Annex B of the National Local Growth Assurance Framework Guidelines. The minimum requirements are set out below. These will apply to all transport schemes aside from those in the LGF programme which are below £5m and have already secured Outline Business Case approval under the requirements of the previous LEP assurance framework.

- The modelling and appraisal of schemes contained in business cases must be developed in accordance with the guidance published in WebTAG at the time the business case is submitted for approval.
- Central case assessments must be based on forecasts which are consistent with the definitive version of NTEM (DfT's planning dataset). Alternative planning assumptions may be considered as sensitivity tests the results of which may be considered in coming to a decision about whether to approve a scheme.
- The appraisal and modelling will be scrutinised to ensure it has been developed in accordance with WebTAG principles. This will be undertaken independent of the management unit or authority promoting the scheme.
- A value for money statement for each scheme in line with published [DfT WebTAG guidance](#) and [DfT advice on assessing VfM](#) will be presented for consideration at each approval stage.
- The VfM assessment must be signed off as true and accurate by the Combined Authority s73 Officer.



- Only schemes that offer at least “high” value for money, ie with a BCR above 2 and accounting for significant non-monetised impacts and key uncertainties have been considered, as assessed using DfT guidance will be approved aside from the circumstances outlined in section 3.3.3 of this framework. Schemes will be assessed against the relevant thresholds at each approval stage.
- Proposals will be assessed against achieving the specific intended strategic goal or objectives, and any appraisal should consider this in addition to value for money assessments.
- Business cases must be published (and publicised) before a decision to approve funding is made so that external comment is possible. Opinions expressed by the public and stakeholders must be available to decision makers when decisions are being taken (see section 2.2.8)
- Schemes will be monitored and evaluated in line with the latest DfT guidance on the evaluation of local major schemes.

### **10.3. Housing and Commercial Interventions**

- 10.3.1. Arrangements will be based on Homes England good practice, advice and guidance, alongside MHCLG’s appraisal guide for residential and non-residential development. For projects beyond housing and transport interventions, for example enabling works, land assembly, utilities and/or public realm projects, the HMCLG appraisal guide will be useful in helping to appraise the costs and benefits of these types of interventions.

### **10.4. Skills Capital**

- 10.4.1. ESFA Skills Funding Agency good practice, advice and guidance will provide a reference for skills capital projects. These projects will be expected to follow the same business case process and requirements as other schemes within the investment programme.

### **10.5. Growth Hubs**

- 10.5.1. The Growth Hub will comply with the ‘principles of funding’ which includes using robust monitoring and evaluation systems to exercise continuous service improvement, ensure excellence in quality delivery and deliver greater levels of impact on business.

## **11. Appendix 7**

- 11.1. [Outline and Full Business Case Template](#)

## **12. Appendix 8**

- 12.1. [Outline and Full Business Case Guidance](#)

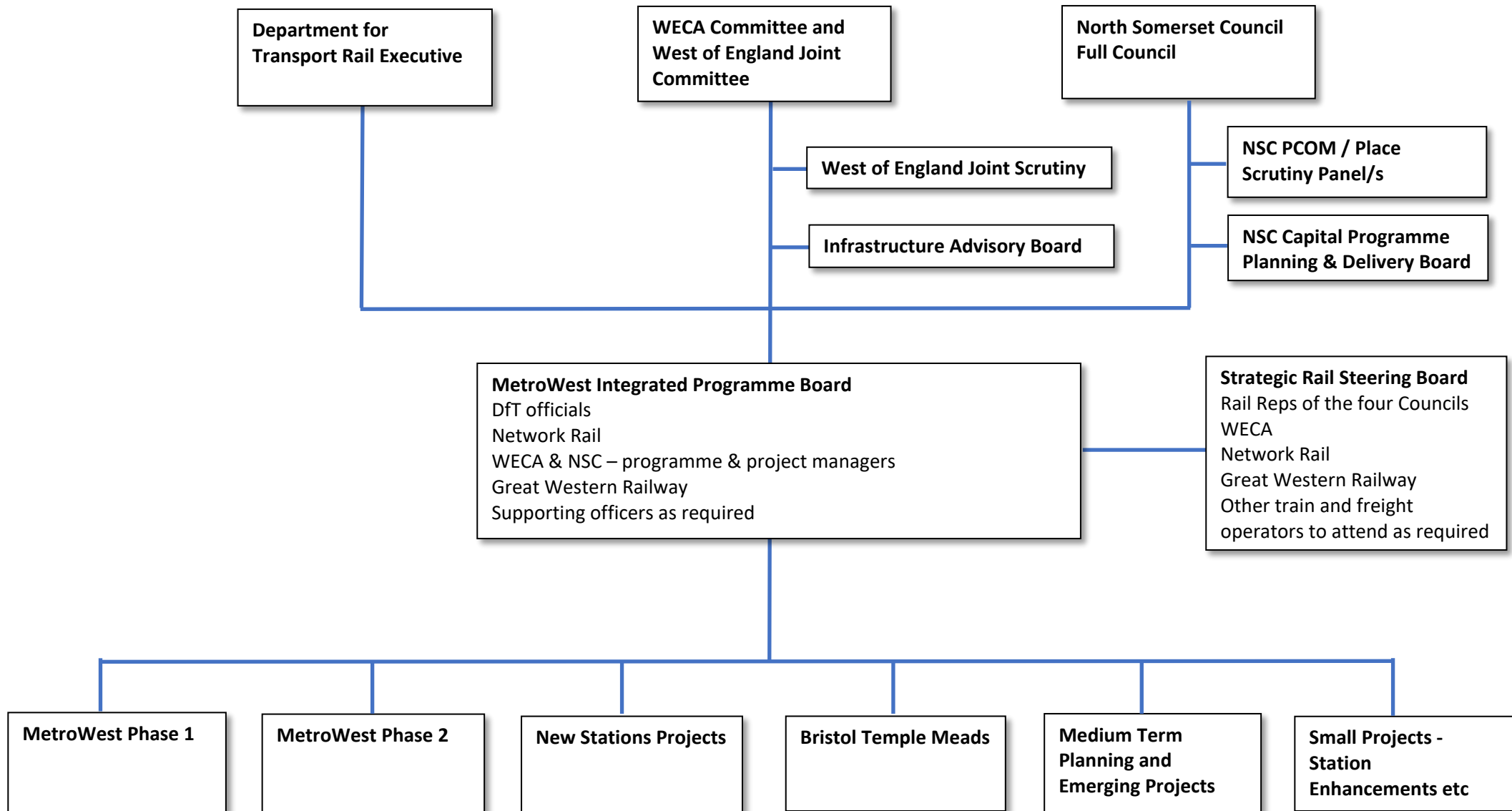
## **13. Appendix 9**

- 13.1. [Feasibility and Development Funding Application Form Template](#)

## **14. Appendix 10**

- 14.1. [Scheme Highlight Report Template](#)

## Appendix 8 - MetroWest Phase 1 Governance Chart



**Appendix 9 - Letter from Ardent confirming the total property cost estimate for the DCO Scheme of 6<sup>th</sup> July 2022**

## **Appendix 9 - Letter from Ardent confirming the total property cost estimate for the DCO Scheme**

James Willcock  
MetroWest Phase1 Project Manager  
Development & Environment  
North Somerset Council  
Town Hall  
Walliscote Grove Road  
Weston-super-Mare  
BS23 1UJ

6<sup>th</sup> July 2022

Dear James,

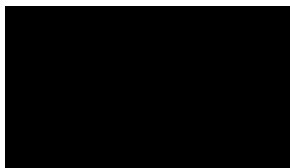
### **MetroWest Scheme – Property Cost Estimate**

I write to confirm the position on land acquisition costs relating to the MetroWest Phase 1 Development Consent Order.

Ardent undertook an exercise to produce a Property Cost Estimate in April 2022 which estimated compensation, assessed in accordance with the Compensation Code, that would payable in the event of the compulsory acquisition of land and rights required for the delivery and running of the scheme.

The total estimated cost was **£3,388,385**.

Yours sincerely,



**Nick Rushton MRICS**

**Director, Compensation**