

**Forward Plan reference number: FP/217/11/21**

<b>Report title:</b> Proposed Enhanced Partnership Plan and Scheme	
<b>Report to:</b> Cllr Lee Scott, Cabinet Member for Highways Maintenance and Sustainable Transport	
<b>Report author:</b> Andrew Cook, Director for Highways and Transportation	
<b>Date:</b> 20 December 2021	<b>For:</b> Decision
<b>Enquiries to:</b> Helen Morris, Head of Integrated Public Transport Unit, <a href="mailto:helen.morris@essex.gov.uk">helen.morris@essex.gov.uk</a>	
<b>County Divisions affected:</b> All	

## **1. Everyone's Essex**

- 1.1 Buses benefit everyone. They enable people to get to work, school and training, to the shops, healthcare and to meet friends and family. They also help reduce congestion, improve air quality and mitigate climate change. Supporting a strong bus network is a core part of Essex County Council's (ECC) climate change commitments. Using your local bus service is an investment in your community, in the environment and in your local economy.
- 1.2 ECC and bus operators are proposing to work together to deliver improvements to bus services through an Enhanced Partnership between ECC and the bus operators to work together to agree and deliver improvements to the bus network.
- 1.3 By improving access to sustainable, affordable, and accessible transport for Essex residents, the proposals will further the Everyone's Essex strategic priorities of:
  - A strong, inclusive and sustainable economy
  - Health, wellbeing, and independence for all ages
  - A good place for children and families to grow.
- 1.4 The proposals for set out in the Enhanced Partnership Plan and Scheme provide a framework for quality, lower-carbon alternatives to car travel. This will have a significant and cost-effective impact to lower carbon emission in the Essex transport sector and thereby promote the Everyone's Essex strategic priorities to enabling a high-quality environment and health, wellbeing, and independence for all ages by setting a framework that supports ECC's ambition to be net carbon neutral by 2030.

## **2. Recommendations**

- 2.1 Agree that the proposed Enhanced Partnership Plan and Scheme at Appendix A be issued to bus operators for a final statutory 28-day consultation.

2.2 Agree the proposed responses to consultation at appendix B.

### **3. Background and Proposal**

3.1 'Bus Back Better', the Government's national bus strategy, was published on 15 March 2021. It sets out a bold and ambitious vision for the UK's bus network and places significant expectations on Local Transport Authorities (LTA). These include:

- a request that by 30 June 2021 each LTA issues a statement of intent to pursue one of two statutory routes provided to enhance the delivery of local bus networks:
  - an Enhanced Partnership (EP); or
  - Network Franchising
- a request to issue a Bus Service Improvement Plan (BSIP) by 31 October 2021 setting out the Council's vision and timeframes for developing the local bus network in its area
- a request to publish an Enhanced Partnership Plan and at least one Enhanced Partnership scheme by April 2022. Even if a franchise approach is adopted, an EP is still required as a first step.

3.2 Cabinet decided on 22 June 2021 to pursue an Enhanced Partnership approach for Essex. The first expectation has therefore been met. Cabinet also agreed to the publication of Essex's Bus Service Improvement Plan on 15 October 2021, so the second expectation has also been met. This decision relates to the third expectation.

3.3 There is a prescribed process for delivery an Enhanced Partnership as follows:

- Statement of intent to pursue an Enhanced Partnership – decision made by Cabinet June 2021
- First statutory 28-day consultation with bus operators – completed 18 October 2021
- Public consultation – completed 3 December (consultation responses at appendix B)
- Second statutory 28-day consultation with bus operators – this decision
- Enhanced Partnership is made – proposed for Cabinet March 2022.

3.4 An improved bus network contributes to carbon reduction by enabling more journeys to be made by bus rather than car. Modal shift (shifting your journey from car to bus or another sustainable mode of transport) represents the quickest and most cost-effective way of reducing carbon emissions from the transport sector.

3.5 In addition, buses contribute to the following ECC priorities:

- Help people in Essex prosper by increasing their skills
- Enable Essex to attract and grow large firms in high growth industries
- Target economic development to areas of opportunity

- Help keep vulnerable children safer and enable them to fulfil their potential
  - Enable more vulnerable adults to live independent of social care
  - Improve the health of people in Essex
  - Help to secure stronger, safer and more neighbourly communities
  - Help to secure sustainable development and protect the environment
  - Facilitate growing communities and new homes.
- 3.6 The proposed Enhanced Partnership Plan reflects the recently published Bus Service Improvement Plan. This is consistent with central Government advice. Both documents set out ECC's strategy for improving the bus network.
- 3.7 The Enhanced Partnership scheme, which is the legally binding part of the Enhanced Partnership, has the following key elements:
- It exempts Transport for London commissioned services from the Enhanced Partnership scheme. This is because the wholly different model operated by Transport for London does not fit with all the obligations in the proposed scheme – for example branding. However, ECC and TfL have discussed the Enhanced Partnership proposals and further discussions will include whether a Transport for London specific scheme should be added (Enhanced Partnerships are very flexible and we expect to add to or amend or increase the number of schemes).
  - It includes recently delivered and in delivery schemes (annex A to the scheme) to ensure that investment in infrastructure forms a core part of the Enhanced Partnership. It will also allow partners to add obligations that link to the use of that infrastructure (such as vehicle standards) should partners agree that in the future.
  - It commits ECC to seek Government funding for the five Bus Back Better transformation projects set out in the Bus Service Improvement Plan.
  - It commits ECC and bus operators to work together to improve the quality and accessibility of information about bus services, which we know is one of the significant barriers to modal shift and important for existing bus passengers too.
  - It commits ECC and bus operators to work together on 12 district area network reviews to develop proposals for improving the bus network in each district. This will include everything from bus infrastructure to ticketing to service frequency to routes. The expectation is that further Enhanced Partnership schemes will be developed once these reviews have concluded.
  - It commits bus operators to bring forward early Essex wide ticketing improvements for multi-operator tickets and standardises a minimum age for child fares (with the flexibility to go above)
  - It commits operators to reinvest a proportion of efficiency gains delivered through the Enhanced Partnership back into network and service improvements.
  - It commits operators to consider the environmental standards of vehicles when investing.
  - It sets a governance process for managing the Enhanced Partnership.

3.8 Consultation has been carried out with bus operators and with the public, and with the statutory consultees. The responses to public consultation are included at appendix B alongside ECC's proposed response. Public consultation finished on 3 December. In summary:

- 75 responses were received
- Overall however there was support for the proposals
- The lowest support rating of 59% was for the obligation on ECC to pursue funding for the five transformation projects
- The highest support rating of 87% was for the ECC obligation to complete the area network reviews.

3.9 This was reflected in the open comments section where people largely commented on the improvements they wished to see to local services in their area. This means that the vast majority of consultation responses raised issues that will be addressed by the area network reviews and have therefore been fed into that process and potentially future Enhanced Partnership schemes. The area network reviews are already a commitment in the Scheme, so this required no addition to the proposal. There were a number of responses which made proposals that will be carried forward for consideration in future schemes; a number which will be kept under review; and a number that it is proposed are not taken forward at this stage for the reasons set out in appendix B(ii).

3.10 The changes made since consultation are highlighted in yellow in the proposed EP Plan and scheme. These are substantially clarifications or reflect the fact that the Bus Service Improvement Plan has now been published. The changes of substance are as follows:

- The inclusion of the competition test (see legal section below)
- The inclusion of wording on data sharing and variation as proposed by the Department for Transport
- The inclusion of a veto for both parties on the Enhanced Partnership Management Board to reflect the collaborative and consensual nature of the partnership.

## **4. Links to our Strategic Ambitions**

4.1 This report links to the following aims in the Essex Vision

- Enjoy life into old age
- Provide an equal foundation for every child
- Strengthen communities through participation
- Develop our County sustainably
- Connect us to each other and the world
- Share prosperity with everyone.

4.2 Approving the recommendations in this report will have the following impact on the Council's ambition to be net carbon neutral by 2030:

- Providing lower carbon alternatives to car travel for journeys can have the most significant and cost-effective impact on carbon for the transport sector in Essex which is one of the largest contributors to carbon emissions.

4.3 This report links to the following strategic priorities in 'Everyone's Essex':

- A strong, inclusive and sustainable economy
- A high-quality environment
- Health wellbeing and independence for all ages
- A good place for children and families to grow

## **5. Options**

### **5.1 Option 1: (recommended) issue the proposed Enhanced Partnership Plan and Scheme for the final statutory operator consultation**

The proposed Enhanced Partnership Plan and Scheme at appendix A have completed the first operator consultation and public consultation. The measures proposed represent a balance between what can be agreed at pace, given the prescribed timescales and current commercial challenges, and what will deliver real benefits for passengers and residents. The significant issues that were raised in public consultation will be addressed by the area network reviews. It has not been possible to complete these substantial pieces of work in time for this first Enhanced Partnership Scheme. However, a commitment to deliver the reviews themselves is included. The recommendation is therefore that the proposal at appendix A is issued to operators for the final 28-day statutory consultation period.

### **5.2 Option 2: delay the Enhanced Partnership Plan and Scheme to enable the area network reviews to complete and feedback on services to be reflected (not recommended)**

It is in principle possible to delay Essex's Enhanced Partnership proposals until the area network reviews have concluded. This would allow us to address many of the issues raised in public consultation. However, this would mean that we would miss the requirement to have an Enhanced Partnership in place by the end of March 2022. The Department for Transport have made clear that operators and local transport authorities that fail to meet this deadline risk losing substantial amounts of funding. Enhanced Partnerships are also sufficiently flexible for further schemes to be added later. The recommendation is therefore not to delay but to proceed now.

### **5.3 Option 3: do nothing (not recommended)**

ECC could choose not to pursue an Enhanced Partnership at all. Again, the loss of substantial levels of funding to both operators and Essex would be likely

because of the failure to meet the deadline prescribed by DfT. It would also mean that the benefits proposed for passengers and residents would not be delivered – or would be delivered more slowly or with less certainty. This option is therefore not recommended.

## **6. Issues for consideration**

### **6.1 Financial implications**

6.1.1 The Cabinet decision (reference FP/091/06/21) in adopting the Bus Service Improvement Plan details the funding that has been made available to ECC in terms of developing local bus proposals as outlined in the National Bus Strategy and how these resources are being directed. Namely:

- £100,000 initially allocated as a flat rate to all LTAs
- £776,040 for 2021/22 allocated based on LTA population and Indices of Multiple Deprivation.

6.1.2 To date £531,000 of this funding has been committed to:

- Recruitment of additional LTA staff to undertake the work required;
- Procurement of consultants to support the work required;
- Training of new and existing staff to boost their capabilities on relevant bus policy and deliver; and
- Other activities to support the development of LTA bus plans

6.1.3 The remaining £345,000 is expected to be applied to delivering the Enhanced Partnership arrangements.

6.1.2 The DfT has not yet issued further guidance in respect of future funding. Indicatively, there may be two tranches of further funding; one allocated by formula to all local authorities based on the overall quality of their BSIP, together with other relevant information and a separate tranche of funding for specific larger schemes. However, funding availability has not yet been confirmed by the DfT and further announcements are awaited.

6.1.3 The proposed Enhanced Partnership Plan and Scheme sets out discreet packages of expenditure (capital and revenue) which ECC would aim to implement subject to affordability. There is the expectation within these bids that DfT fully fund new burdens arising from development of new services or enhancement of existing services. However, this presents a risk due to the competitive nature of the funding - analysis of bids will be weighted against the ambitions of other local authorities in their BSIPS. If there is a DfT funding shortfall, transformational projects may need to be scaled back accordingly unless alternative funding is identified.

6.1.4 Dependent on the outcome of funding bids for the transformational packages of work and adequacy of central government funding, ECC's ambitions within the BSIP may be constrained. This may instigate the need to consider future

priorities and choices for funding within ECC. At this stage, it is difficult to expand on this in depth, however, for clarity, the future availability of funding for specific transformational projects that do not successfully achieve 100% DfT funding will require budgetary choices within future years MTRS.

- 6.1.5 The Cabinet decisions (reference FP/063/05/21 and FP/091/06/21) set out ECC's commitment to progress with the development of enhanced quality bus partnerships. The financial implications and associated risks for ECC of the Government's Bus Back Better strategy were set out within these decisions and remain relevant.

## **6.2 Legal implications**

- 6.2.1 Where a consultation has taken place, ECC must ensure and demonstrate that it has considered the results of that consultation. (*R (Kohler) v Mayor's Office for Policing and Crime [2018] EWHC 1881 (Admin)*). In making this decision, ECC must give full and proper regard to the consultation responses. Accordingly the Cabinet Member's attention is specifically drawn to the responses which are appended to this report.
- 6.2.2 The required competition test statement has been added to the EP Plan and Scheme. The majority of the EP Plan and Scheme will not or is unlikely to have a significantly adverse effect on competition, for the purposes of Part 1 of Schedule 10 of the Transport Act 2000.
- 6.2.3 However some portions of the EP Plan and Scheme, particularly related to standardisation, route timetabling, and ticketing, may have a significantly adverse effect on competition. It is considered that those portions of the EP Plan and Scheme(s) is are justified because:
- (a) they are made with a view to achieving one or more of the following purposes:
- securing improvements in the quality of vehicles or facilities used for or in connection with the provision of local services
  - securing other improvements in local services of benefit to users of local services; and
  - reducing or limiting traffic congestion, noise or air pollution; and
- (b) their effect on competition is or is likely to be proportionate to the achievement of that purpose or any of those purposes.
- 6.2.4 When developing proposals, consideration must be given to the tests set out in Schedule 10 to the Transport Act 2000.
- 6.2.5 The Competition and Markets Authority has also received the proposals for the purposes of consultation as required by section 138F of the Transport Act 2000. Receipt has been acknowledged but no comment has been received at this time.

- 6.2.6 Prior decisions (reference FP/063/05/21 and FP/091/06/21) set out ECC's commitment to progress with the development of enhanced quality bus partnerships. The legal implications and associated risks for ECC of the Government's Bus Back Better strategy were set out within these decisions and remain relevant.

## **7 Equality and Diversity Considerations**

- 7.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
  - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 7.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic. Buses are disproportionately used by older and younger people; those with a disability and women. Any improvements to the network will disproportionately benefit those individuals in these groups.

## **8 List of Appendices**

Proposed Enhanced Partnership Plan and Scheme – Appendix A  
Public consultation responses and ECC response – Appendix B  
EQIA – Appendix C

## **9 List of Background papers**

Essex Bus Service Improvement Plan 2021 to 2026  
Bus Back Better, the Government's national bus strategy

<b>I approve the above recommendations set out above for the reasons set out in the report.</b>	<b>Date</b>



<b>Councillor Lee Scott, Cabinet Member for Highways Maintenance and Sustainable Transport</b>	<b>20/12/2021</b>
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**In consultation with:**

<b>Role</b>	<b>Date</b>
<b>Executive Director, Corporate Services (S151 Officer)</b>	<b>20/12/2021</b>
<b>Stephanie Mitchener on behalf of Nicole Wood</b>	
<b>Director, Legal and Assurance (Monitoring Officer)</b>	<b>16/12/2021</b>
<b>Paul Turner</b>	