

CABINET
29 SEPTEMBER 2016**WEST MIDLANDS RAIL DEVOLUTION**

Relevant Cabinet Members

Dr K A Pollock and Mr A N Blagg

Relevant Officers

Director of Commercial & Change
Director of Economy & Infrastructure

Recommendation

- 1. The Cabinet Member with Responsibility for Economy, Skills & Infrastructure recommends that Cabinet:**
 - (a) notes the implications for Worcestershire County Council of West Midlands Rail entering a Partnership Agreement with the Department for Transport; and**
 - (b) agrees that West Midlands Rail should enter a Partnership Agreement with the Department for Transport and delegates to the Director of Economy & Infrastructure in consultation with the Director of Commercial & Change authority to finalise the details of the Partnership Agreement.**

Background

2 The purpose of this report is to approve the proposed governance arrangements for the development and oversight of the West Midlands Rail franchise through West Midlands Rail Limited and the appointment of directors to the Board of West Midlands Rail Limited.

3 West Midlands Rail partner authorities have been developing a proposal for increasing local involvement and influence over the local rail services for approximately two and a half years, in line with Government policy on devolution and evidenced by the benefits experienced elsewhere (e.g. Merseyside) from local control of rail services. Having a targeted, locally accountable rail services contract with proper incentives on the operator, West Midlands Rail will be able to specify and manage rail services more effectively than the current national arrangements. The benefits of this include:

- Stimulating economic growth through targeting local and national rail investment and specifying a rail service that is responsive to local needs, supporting the Council's 'Open for Business' agenda
- Creating a more efficient railway that is better value for the taxpayer, driving patronage growth and reducing the subsidy burden
- Actively managing the contract and holding the operator to account for delivery
- Seeking to operate railway stations in an innovative way.

4 West Midlands Rail has set out its goals and objectives for rail devolution – known as the "5Cs" to gain greater influence and control over the rail network. These are Capacity, Clarity, Connectivity, Cost effective, and Customer focus. West Midlands Rail is seeking to use the "5Cs" to achieve the following strategic outcomes from rail devolution for the West Midlands:

- Better for the Economy: To deliver rail services that provide the connectivity and capacity to drive economic growth following the 'Open for Business' approach, meeting current and future market needs and supporting future rail and wider investment programmes, for example High Speed Two
- Better for Passengers: To deliver an affordable and easy-to-use local rail network that delivers distinctive, high-quality rail services and stations that meet the needs of current and future passengers
- Better for Taxpayers: To use a local management focus to drive better value for money for taxpayers, with effective mechanisms in place that encourage innovation and efficiency in the delivery of services, with benefits being reinvested back into the network
- Better for the Region: To create a structure for the delivery of rail services that is truly focused on the needs of the West Midlands, promotes partnership working across all authorities with strong local accountability and allows the benefits of rail to be spread across the whole region. This supports the Midlands Connect work and strengthens links to and from both the region and Worcestershire's economy
- Better for the Environment: To ensure that rail can fully play its part in supporting low carbon and other environmental objectives within the West Midlands.

5 In the build up to the start of the new West Midlands franchise in October 2017, the County Council and West Midlands Rail are seeking an operator that is capable of delivering better services, better stations, caters for growth, is easy to use, delivers a high quality network and is well managed.

6 In November 2015 the Cabinet, (a) noted the potential advantages to Worcestershire of joining a consortium of local authorities to influence the West Midlands Rail franchise, (b) approved the proposed governance arrangements for the development and oversight of West Midlands Rail Limited, (c) approved Worcestershire County Council joining West Midlands Rail, (d) approved the appointment of the relevant Cabinet members as Directors on the board of West Midlands Rail, and (e) authorised the Head of Legal and Democratic Services to agree and enter into or execute such documents as are necessary to give effect to these decisions.

7 The Cabinet also noted at its meeting that it was intended that West Midlands Rail Limited would in due course enter into a formal partnership agreement with the Department for Transport. The Partnership Agreement will set out the rights and obligations of West Midlands Rail Limited in relation to the award of the new West Midlands Rail franchise and related matters and that Partnership Agreement will require approval by a 75% vote of West Midlands Rail Limited's members and will be the subject of a further report to the Cabinet.

8 The draft Partnership Agreement will be discussed at the next West Midlands Rail Directors meeting and is included as the Appendix to this report. It is entitled "*Collaboration Agreement relating to devolution of rail responsibilities in the West Midlands*".

9 West Midlands Rail and the Department for Transport are now in a position to enter into the Partnership Agreement and this report provides Cabinet members with the information required to allow a decision to be made on whether or not to continue to support West Midlands Rail and to authorise the Partnership Agreement. In practise the County Council's representative West Midlands Rail Director would vote in favour of this at the next meeting of the Directors of West Midlands Rail. Following the changes to the Cabinet earlier this year the representative West Midlands Rail Director is now Dr Pollock.

Summary

10 The partnership will have two distinct phases of development. Phase 1 will cover the initial period up to the commencement of the new West Midlands rail franchise in 2017, during which West Midlands Rail Limited and the Department for Transport will work together on the franchise design and procurement processes, although the Secretary of State for Transport will retain responsibility for letting the franchise.

11 Phase 2 will cover the period commencing from the first anniversary of the start date of the 2017 West Midlands Rail franchise and expiring at the end of the 2017 West Midlands Rail franchise.

12 During phase 2 West Midlands Rail is able to present a business case to the Secretary of State for further devolution of responsibility for the West Midlands passenger services and station services by no later than 1 January 2022. This opportunity has been discussed at meetings of the Directors of West Midlands Rail but no commitment has been made.

13 The purpose of the Partnership Agreement is to facilitate devolution of rail services in the West Midlands from the Department for Transport to West Midlands Rail, in order to secure services and secure environmental and economic benefits for the region. The two parties are to establish a Strategic Board featuring Directors from West Midlands Rail to collaborate with a view to increasing rail devolution within the West Midlands Rail area and to seek to achieve the joint objectives for the 2017 West Midlands Rail franchise. These objectives were set out in the public consultation document for the "West Midlands Rail Franchise" published by the two parties in December 2015 and can be read on the West Midlands Rail website. The link to the website is: <http://www.westmidlandsrail.com/>

14 If phase 2 (further devolution of rail services beyond the end of the initial rail franchise) proceeds, the Partnership Agreement provides the template for the future funding and management of rail services in the West Midlands Rail franchise. In particular, the Strategic Board will progress the devolution objectives. The Partnership Agreement also sets out how West Midlands Rail is able to implement increments to the rail network such as improved services in Worcestershire once the new franchise is in place.

15 All local authorities were encouraged to respond to the consultation, with public events held at various locations throughout the county. There have been ad-hoc meetings as required during the past two years with officers of the district councils and there has been general support voiced in favour of the desired outcomes and the direction of travel.

West Midlands Rail progress

16 Officers from the County Council have been playing a full role in the on-going development of the proposals for the West Midlands Rail franchise since the Cabinet agreed to join West Midlands Rail in November 2015.

17 Work is currently on-going with progress made on future rail specification proposals, stations work streams and branding. A promotional video is in production and it is intended to hold a stakeholder conference during the autumn of this year. A detailed public consultation was held during the winter of 2015 and the Council provided a response to the consultation document in March 2016. The results of the public consultation into the West Midlands Rail franchise were published along with the Invitation to Tender for the franchise on 30 August 2016.

18 As indicated, the Invitation to Tender was published during August. The Invitation to Tender was drawn up jointly by the Department for Transport and West Midlands Rail. There are committed improvements across the region but specifically in Worcestershire there will be an increase in capacity on trains, free wi-fi, and an increase in the frequency of services on Sundays and during evenings. The committed additional trains between Bromsgrove and Birmingham following electrification are recognised in the Invitation to Tender and bidders will receive extra credit should they propose additional trains between Worcester and Birmingham or Worcester and Gloucester. This is the first time that this region has had this level of involvement in shaping what a train company has to deliver for the passengers in the region. Details of the Invitation to Tender are available at the link in the 'Supporting Information' section of this report.

19 The bidders for the franchise have until 30 November to complete their bids. There are two bidders. These are a) Govia – the joint venture between Keolis and Go Ahead group that operates the existing London Midland rail franchise, and b) A joint venture between Abellio Transport, (the overseas arm of the Netherlands nation railways operator), East Japan Railways and Mitsui. Mitsui is a Japanese company with a number of interests including rolling stock manufacturing. A third bidder – Mass Transit Railway – was initially on the short list but has since voluntarily withdrawn from the franchise bidding competition. The reasons stated for this were due to their own resources being insufficient to proceed.

Legal, Financial and HR Implications

20 The Council joined West Midlands Rail Limited and appointed directors to its Board pursuant to Section 1 of the Localism Act 2011.

21 There are no HR implications for the Council as a result of West Midlands Rail entering into the discussed Partnership Agreement with the Department for Transport.

22 Currently the Council's financial commitment is £13,640 per year and this is the commitment for the 2016/2017 and 2017/2018 financial years. This covers the development phases of West Midlands Rail leading to the time the Partnership Agreement comes into force.

23 Under the Partnership Agreement, the Department for Transport contributes £500,000 for each franchise year and West Midlands Rail must contribute a minimum of £140,000 per year. This is split amongst the fourteen local authorities with 75% (£105,000) being provided by the seven metropolitan authorities and 25% (£35,000)

being provided by the remaining seven authorities. Once the Partnership Agreement is in place the County Council's financial commitment will therefore fall to £5,000 per year. It should be noted however that the Directors of West Midlands Rail have the ability to increase the £140,000 funding, in which case the £5,000 per year commitment would increase. The financial commitment would also change if the quantum of members of West Midlands Rail changed.

24 The Partnership Agreement reflects what is set out in the business case for rail devolution and it is considered that it does not expose the Council to unacceptable risks beyond the financial contributions mentioned above. In particular, the revenue risk of operating the rail network in the West Midlands area continues to be held by the Department for Transport. Risks that have been identified are in the areas of breach of confidentiality clauses, interfaces between different organisations, changes in political direction (e.g. following election of the Mayor for the West Midlands), reputational, resources or programme management. The risks of the venture are reviewed every quarter and reported on to the Directors meeting. As stated above, the risks are considered to be acceptable.

25 The County Council is able to resign its membership of West Midlands Rail Limited at any time. If it were to do so all financial liabilities would end.

Privacy Impact Assessment

26 There are no privacy implications arising directly from this report.

Equality and Diversity Implications

27 An Equality Relevance Screening has been completed in respect of these recommendations. The screening did not identify any potential equality considerations requiring further consideration during implementation.

Supporting Information

- Partnership Agreement relating to devolution of rail responsibilities in the West Midlands – available electronically and at County Hall Reception
- West Midlands Rail Invitation to Tender
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/549246/wmf-itt.pdf

Contact Points

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Background Papers

In the opinion of the proper officer (in this case the Director of Economy & Infrastructure) the following are the background papers relating to the subject matter of this report:

Agenda and background papers for the meeting of the Cabinet held on 19 November 2015