

CITY COUNCIL – 5 MARCH 2007

REPORT OF THE PORTFOLIO HOLDER FOR ENVIRONMENT, TRANSPORT AND STREET SERVICES

NET PHASE 2 – TRANSPORT AND WORKS ACT ORDER SUBMISSION

1 SUMMARY

- 1.1 NET Phase 2 is fundamental to the transport strategy for Greater Nottingham and a central feature of the Local Transport Plan. Building on the success of Line One, routes to Clifton via Wilford and Chilwell via the QMC and Beeston (Phase 2) have been identified which will offer a step change in the public transport provision in the congested and well populated south-west and western part of the Greater Nottingham conurbation. The alignments have been developed following extensive public consultation and technical development work carried out over a number of years.
- 1.2 Phase 2 was included in the Department for Transport (DfT) Local Authority Major Scheme Programme in October 2006. Approval for the City contribution to development costs for the project up to financial close was approved by Executive Board on 20 February 2007. Approval is now sought to submit a Transport and Works Act (TWA) Order application to the DfT which, together with some associated applications, will seek the necessary powers to acquire land, build and operate NET Phase 2 and to enable the continued operation of Line One.
- 1.3 Appendices 1 to 9 have been circulated to Members separately from this report.

2 RECOMMENDATIONS

It is RECOMMENDED that:-

- 2.1 City Council approve the joint promotion with Nottinghamshire County Council of an order made under the Transport and

Works Act 1992 (“the Order”) by the Secretary of State for Transport—

- (a) to authorise the construction and operation of two extensions to the Nottingham Express Transit System, running from the present terminus of the system at Nottingham railway station in the City of Nottingham to:-
 - (i) Clifton in the City of Nottingham; and
 - (ii) Chilwell in the Borough of Broxtowe in the County of Nottinghamshire via Beeston in that Borough (“the Extensions”);
- (b) to make provision in the City of Nottingham and in the Boroughs of Broxtowe and Rushcliffe in the County of Nottinghamshire for the stopping up or diversion of existing rights of way, traffic regulation, street works, the construction of tram stops along the route, park and ride facilities, other associated and consequential works, the compulsory purchase of land and rights in land, the use of land permanently, the temporary possession of land and other works and provisions necessary for the purposes of, or for purposes ancillary to the construction or operation of the Extensions; and
- (c) to provide for the repeal of provisions of the Greater Nottingham Light Rapid Transit Act 1994 (which authorised the construction and operation of the existing Nottingham Express Transit System), in particular so that from the day specified in the Order the operation and maintenance of the existing Nottingham Express Transit System will be governed by the Order rather than by that Act;

2.2 subject to the above, the Corporate Director of City Development, in consultation with the Portfolio Holder for Environment, Transport and Street Services, taking all such steps as may be necessary (including a joint agreement with the County Council) to carry the above Resolution into effect,

including all those steps required for the Council to apply for and thereafter to promote its application for the Order; and

- 2.3 the corporate seal of the Council being affixed to any documents required to be sealed in connection with the application for and subsequent promotion of the Order.

3 BACKGROUND

- 3.1 The DfT approved the entry of NET Phase 2 – routes to Clifton via Wilford and Chilwell via the QMC and Beeston - into the Local Authority Major Scheme Programme (known as Programme Entry) on 25 October 2006. Receipt of Programme Entry Approval is a key milestone which enables the project to move forward to a Transport and Works Act Order (TWA) application. Under Section 239 of the Local Government Act 1972, the resolution to make this application must be approved by a majority of Members of the whole Council.

4 PROJECT DEVELOPMENT

- 4.1 Following the commencement of Line One construction in April 2000, a wide ranging study into a number of potential light rail routes within the conurbation was undertaken. The study identified a number of route options which warranted more detailed assessment, and the City Council Executive Board in February 2001 resolved to pursue further studies on possible alternative route options to Beeston, Clifton and West Bridgford. This work was completed in early 2002 and reported to the Executive Board (April 2002) and the County Council (May 2002). The reports summarised the detailed investigation for each corridor, (including an assessment of local options in a number of locations) and provided feedback on public and stakeholder consultation, identifying concerns raised by the public. The Councils resolved to take forward the Clifton via Wilford and Chilwell via the QMC and Beeston routes through the Government economic appraisal process and to continue work on the preferred routes in preparation for a TWA application.

- 4.2 Reports on the proposed alignments for the two routes were taken to the City Council Executive Board and the County Council between May and June 2004. The reports summarised the main findings from the Environmental Impact Assessment and the main concerns expressed in a very comprehensive and detailed consultation and listed changes to the scheme as a result of the consultation. It was resolved by both Councils to approve the principle of the route alignments as described in the reports.

5 PROJECT PURPOSE

- 5.1 NET Line One, operating between Hucknall and Nottingham with a spur to Phoenix Park, opened to the public on 9 March 2004. 8.5 million passengers were carried in the first financial year and 9.8 million in the second. Line One has resulted in significant modal shift with around 30% of passengers estimated as having transferred from their cars or are using park and ride. The 3,000 plus park and ride spaces account for some 5,000 trips per day. Operating performance has been of a consistently high standard with reliability and punctuality figures in excess of 99%. A customer satisfaction survey indicated that 94% of passengers are satisfied with the service provided.
- 5.2 The Nottingham conurbation is a core city and regional capital, an important commercial centre, with exceptional retail and leisure sectors meaning that its influence is felt far beyond the built up area, drawing commuters, shoppers and visitors from a large catchment area. The Greater Nottingham economy is worth more than £10.7 billion per annum and there are more than 300,000 jobs based locally. With such high levels of activity, Greater Nottingham suffers from severe traffic congestion, particularly at peak periods on main routes into the city and along the ring road.
- 5.3 Provided that recent high levels of investment continue, further strong employment growth is forecast. Coupled with social and demographic changes a substantial increase in the

planned number of households is also expected. Both of these factors contribute to a significant increase in predicted future travel demand.

- 5.4 To meet current and future pressures on the local transport system, it is proposed to build on the success of Line One. Phase 2 is fundamental to the transport strategy for Greater Nottingham and a central feature of its Local Transport Plan. It will offer a major enhancement in the quality and capability of public transport provision in the well populated south-west and western parts of the conurbation, and will attract substantial numbers of former car users. Phase 2 serves a series of key attractors, including the City Centre, the district centres of Beeston and Clifton and the regionally important University of Nottingham and Queens Medical Centre (QMC). It also serves numerous local employment, commercial, residential and education sites. With substantial park and ride capacity directly connecting to the motorway network at junctions 24 and 25, and easy interchange with bus and train services, a high quality integrated public transport network will be created to meet the existing and future needs of the conurbation.
- 5.5 NET Phase 2 will also set the framework for sustainable development. The strong link between land use planning and transport in Greater Nottingham means that the identification of employment and housing development sites is being driven by locations well connected to the public transport network, ensuring sustainability and accessibility. Phase 2 supports major development in the City Centre Southside area, one of three identified regeneration zones in Nottingham. It also provides impetus to a number of significant developments, including Nottingham Station Masterplan, Broad Marsh Shopping Centre expansion, ng2 (Queens Drive), Highfields Science Park, Beeston Town Centre, and a number of other residential developments.
- 5.6 Phase 2 serves a number of deprived areas, including the Meadows area and parts of the Clifton estate, which have high rates of economic inactivity and relatively low levels of car ownership. Parts of west Chilwell are also relatively isolated.

Phase 2 will improve opportunities to access work, learning, healthcare, retail, leisure, and essential services.

- 5.7 Through encouraging increased use of public transport and corresponding reduction in private car use, Phase 2 will contribute to the achievement of national Climate Change objectives by reducing overall carbon dioxide emissions.
- 5.8 The NET Phase 2 proposals have broad policy support at the regional and local level. The scheme is supported in the Regional Spatial Strategy and within the Joint Nottinghamshire Structure Plan. The Nottingham City, Broxtowe and Rushcliffe development plans also contain policies endorsing NET Phase 2.
- 5.9 The NET extensions to Clifton and Chilwell were identified as essential components of the recommendations in the A453 and M1 multi-modal studies which received Government support in 2004. The studies have confirmed that as well as meeting local needs, the NET extensions and associated park and ride facilities have an important role in tackling congestion on the strategic road network and reducing the scale of necessary trunk road improvements. The A453 study in particular strongly endorses the NET extension proposals and advocates that they should be implemented as soon as possible. In his response to the studies, the Secretary of State accepted the recommendation that plans for a second phase of NET should be developed.
- 5.10 In the Regional Funding Allocation advice submitted to the Government in January 2006 NET Phase 2 was identified as having significant regional benefits with important links to economic development and housing objectives and thus was identified as a regional investment priority. No other local transport improvement has been identified as meeting such a broad range of policy objectives or the extent of benefits that the investment in NET Phase 2 will secure.
- 5.11 NET Phase 2 will be fully integrated with Line One, with through services on the expanded network, creating a wide

range of new journey opportunities and maximising the efficient use of the constrained road and bus network, especially in the City Centre.

- 5.12 The joint promotion by the City and County Council of NET Phase 2 is being undertaken in order to meet the aims summarised in **Appendix 1**.

6 NET PHASE 2 ROUTE ALIGNMENT

6.1 NET Phase 2 commences at the southern terminus of NET Line One, on Station Street immediately north of Nottingham Station. It passes over Nottingham Station and continues through the Southside Regeneration Zone. It then separates into two routes, to Clifton and Beeston/Chilwell.

6.2 The Clifton route serves a number of densely populated residential areas including the Meadows, Wilford/Compton Acres and the district centre of Clifton, before terminating at a park and ride site in the Borough of Rushcliffe south of Clifton serving the A453 and junction 24 of the M1.

6.3 The Chilwell route serves major trip attractors along the route, which include ng2, QMC, University of Nottingham, Nottingham Tennis Centre and Highfields Sports Club, Beeston Town Centre, Chilwell High Road shopping area, Castle College (formerly Broxtowe College) and the park and ride site close to junction 25 of the M1. The route also serves the Meadows, and further residential areas at Abbey Street/Gregory Street, Beeston and Chilwell/Inham Nook. Plans of the two routes are provided in **Appendix 2**.

6.4 Key characteristics include:-

- 17.5kms of new light rail routes fully integrated with Line 1 services;
- 28 new fully accessible and secure tram stops;
- two strategic park and ride sites with 2400 spaces in total. The NET network will provide park and ride for junctions 24 to 27 of the M1;

- approximately 60% segregation (i.e. off-road and not competing with other traffic), with the majority of the remainder on secondary or local roads. This will ensure high levels of reliability and this advantage will increase as road congestion worsens in the future;
- high frequency services, with eight trams per hour expected in each direction on each corridor for the majority of the day;
- patronage forecasts of nearly 13 million per annum on Phase 2 (first full year of operation.)

6.5 The design of a tram system is a very complex process and involves many stages from initial feasibility work through to final designs ready for implementation. The design is currently at the outline design stage, and some very specific and detailed design issues are not fully developed and can only be considered later in the design process. The Phase 2 Limits of Deviation (i.e. the limits within which it may be built and operated) established by the TWA application will reflect the need for flexibility in the future design. However, the designs have been developed to a level sufficient for a TWA application and further in some cases where this has helped to resolve specific issues of concern to the general public or other stakeholders.

6.6 Since the approval in principle of the route alignments in 2004 (see paragraph 3.2 above), there have been a number of changes to the proposals as a result of more detailed investigations, further discussions with third parties and as a result of development proposals coming forward. These include at Nottingham Station, Southside, Gresham Park, Clifton town centre, NG2, QMC, Highfields Science Park, Beeston town centre and Bramcote Avenue. The Environmental Impact Assessment has also been considerably refined, and some impacts are greater than those previously reported.

6.7 **Appendix 3** lists locations where the key changes to the alignment have taken place since the Executive Board reports in April and June 2004, and Members' approval of these

changes is requested. The proposed alignments are described in **Appendix 4** (City Centre), **Appendix 5** (Chilwell via the QMC and Beeston route) and **Appendix 6** (Clifton via Wilford route). The alignment descriptions include the:-

- location of tram stops;
- main impacts on the highway network, including junction; impacts, parking and servicing requirements;
- location and description of main structures;
- location and description of park and ride sites;
- main land acquisition requirements, including land that will be used temporarily during construction, and the main demolitions. Minor structures and buildings which also need to be demolished are not included e.g. substations and outbuildings; and
- main environmental impacts during the construction and operation of the scheme, and proposed mitigation of those impacts.

7 ENVIRONMENTAL IMPACT ASSESSMENT AND URBAN DESIGN STATEMENT

- 7.1 The TWA application rules require that an Environmental Statement (ES) is submitted as part of the application. The environmental impacts of the NET Phase 2 proposals have been independently assessed in detail as part of the Environmental Impact Assessment (EIA), including identifying positive mitigation or compensation measures where adverse impacts have been identified, and an ES has been produced. A large number of environmental surveys, including noise assessments and tree and ecology surveys have been undertaken as part of the EIA, and extensive discussions have been held with third parties. A noise and vibration policy has been developed for the scheme and this was approved in principle by the City Council Executive Board and County Council in 2004. A non technical summary of the ES forms part of the TWA application and summarises the benefits of the scheme, together with the main impacts and mitigation proposals. This is intended to form a useful document for members of the public seeking to understand the proposals.

- 7.2 As would be expected of any major development proposals for schemes of this magnitude, it is inevitable that the introduction of tram infrastructure will have a significant impact. The ES has identified some significant adverse impacts, including large scale land acquisition and demolition, noise, townscape and visual intrusion impacts and the loss of areas of open space and locally designated sites for nature conservation. In many cases it has been possible to provide mitigation of these impacts, however in some cases this will not be possible and adverse local impacts will need to be balanced against the strategic and local benefits of the scheme. It is however essential that the key characteristics that define a successful tram system, including high levels of reliability and fast journey times, are not compromised in alignment development so far as is reasonably practicable.
- 7.3 Phase 2 will have a number of potential impacts on Line One which have also been identified and assessed in the ES. These include increased maintenance and stabling facilities at the Wilkinson Street depot and the potential increase in tram frequency on Line One trams. However, environmental consultant ERM have advised that none of these is likely to be significant.
- 7.4 In developing the outline design of the scheme and in undertaking the EIA, a series of mitigation measures to minimise the impact of construction has been identified and will be set out in a Code of Construction Practice, a draft of which will be appended to the ES. Compliance with the Code will be a requirement imposed on a future contractor.
- 7.5 An Urban and Landscape Design Statement has been developed for the project and will also be appended to the ES. The Statement sets out the key principles that will be followed for positively integrating the tramway into the existing urban environment. This statement also includes information that would normally be included in a design and access statement accompanying an outline planning application.

8 PUBLIC CONSULTATION

8.1 There has been a very high level of public consultation on the proposals, with five main stages in addition to on-going dialogue with key stakeholders and affected parties, all of which has considerably assisted the development work. The five stages are summarised below. Further information, including a summary of the issues raised, and changes made to the scheme following the design consultation, is included in the draft Statement of Consultation appended to this report (**Appendix 7**).

The five main stages were as follows:-

- *A Tram Network for Nottingham (summer 2001)*. 17,000 leaflets were distributed giving initial information about creating a network of light rail routes. A follow up leaflet was produced outlining possible route options, and was distributed to residents and businesses along each of the Clifton, Chilwell and West Bridgford route corridors.
- *Have Your Say (winter 2001 – spring 2002)*. Over 70,000 brochures were delivered to households seeking views at a more detailed level on the route options in the Clifton, Chilwell and West Bridgford corridors. Consultation events were held at seven locations close to the routes. Detailed ‘your questions answered’ booklets were prepared for the Clifton and Chilwell corridors which addressed the main public concerns identified through this consultation;
- Leaflets introducing the Clifton and Chilwell route options chosen for further development work were distributed in September 2002 to all residents and businesses along the route corridors;
- *Network updates (January/February 2003)* gave an update on the work being undertaken to develop the chosen routes and answered some of the more frequently asked questions. The leaflet was distributed along both route corridors;
- *Design consultation (Autumn 2003 – spring 2004)*, sought views on the detail of the proposed routes from

local residents and other affected parties. In the region of 15,000 booklets were distributed to residents and businesses close to the routes and an exhibition was held in Beeston Town Centre in January 2004. A number of key changes were made to the scheme as a result, and a number of issues were identified to be taken forward to the detailed design stage.

- 8.2 Since 2004, further more specific consultations have been undertaken on a number of local issues, including the proposed financial assistance package on Chilwell High Road (autumn 2004), Emmanuel School proposals (autumn 2004) and the alignment through open space in Chilwell (January 2007). This latest consultation has arisen due to some very recent information that has come to light following discussions with Severn Trent Water concerning a high pressure water main. This has led to a proposed 5 metre realignment of the route. A newsletter entitled 'Express Magazine' has also been created to keep the general public informed about developments surrounding Phase 2. Approximately 800 letters were sent out to various parties informing them of the award of Programme Entry Approval by Government in October 2006.
- 8.3 Extensive consultation with third party stakeholders has taken place at each stage of the process. This has included local interest and environmental groups and affected parties, and major third party and statutory consultees. Examples include Broxtowe and Rushcliffe Borough Councils, the Department for Transport, the Highways Agency, the Environment Agency, English Nature (now Natural England), English Heritage, Network Rail and Train Operating Companies, Pedals, Nottinghamshire Wildlife Trust, local bus operators and affected landowners including Housing 21 (owners of Neville Sadler Court) and the Highfields Sports Club. It is anticipated that discussions with these groups will continue through the subsequent TWA stages and beyond.
- 8.4 A number of public concerns have been identified and some strong opposition in certain locations has led to local groups in Compton Acres/Wilford and Beeston/Chilwell being set up to

campaign against the proposals. A number of petitions have also been received. All the concerns expressed have been taken very seriously and the development work has concentrated on minimising impacts, with many changes being made to the scheme proposals following comments received.

8.5 There has also been much support for the proposals. Pro-tram groups have been set up in Wilford and Beeston and many messages of support have been received from the public. In summer 2002, an independent (NOP) opinion poll was commissioned from a sample of 1,000 people along each line. Three people to one approved of the Clifton via Wilford route and nearly two people to one approved of the Chilwell via Beeston and QMC route.

8.6 Strong support has also been received from:-

- key stakeholders along the route including QMC, University of Nottingham, Nottingham Trent University, Castle (formerly Broxtowe) College and local schools;
- business organisations including through the Greater Nottingham Transport Partnership;
- Nottingham Development Enterprise and major employers.

8.7 Plans for future communications strategies are being developed and an emphasis will continue to be placed on high levels of communication through the TWA and subsequent stages to keep all stakeholders, residents and businesses aware of and involved in developments. In addition, the TWA application rules require a significant amount of publicity to be given to any application for a TWA Order, including newspaper notices and notification of affected property owners and occupiers.

9 COST – BENEFIT ANALYSIS

9.1 Based on guidance issued by the Department for Transport, the project has a benefit to cost ratio in excess of 2.5. In terms

of the DfT assessment of schemes, this places NET Phase 2 well into the high value for money category.

10 PROPERTY/BLIGHT ISSUES

10.1 NET Phase 2 requires a significant amount of land acquisition. There are a limited number of residential properties where it is anticipated that as a result of statutory blight claims the Councils will be required to purchase the affected land early, prior to the scheme receiving full approval by the DfT. Where this is anticipated to be the case it is proposed that proactive discussions are held with claimants soon after the approval of the TWA submission by both Councils with the aim of settling blight claims in a short to medium timescale and minimising the uncertainty felt by those affected.

11 TRANSPORT AND WORKS ACT ORDER APPLICATION

11.1 The TWA and associated applications will seek the necessary powers, consents, permissions and licenses that are necessary to construct, build and operate NET Phase 2 and to enable the continued operation of Line One. The formal TWA application will consist of the draft Order itself, together with a series of plans, the Environmental Statement, a request for planning direction, and information about the ownership of affected land and other prescribed information. Concurrently, it will also be necessary to submit a request for a direction deeming full planning permission to have been granted for the development authorised by the Order and three listed building and six conservation area consents applications. An exchange land certificate will also be required and a consent will be required for a change of use of certain allotments.

11.2 Further details of the TWA documentation and additional submissions are provided in **Appendix 8**.

11.3 Subject to approval from the City and County Councils, it is expected that the TWA application will be deposited with the Secretary of State for Transport during April/May 2007. Following submission, this approval to submit the TWA has to

be confirmed at a second meeting of each Council, and it is anticipated that these meetings will take place in May or June 2007.

- 11.4 The procedure surrounding the TWA application is set down in the Transport and Works Act (Applications and Objections Procedure)(England and Wales) Rules 2006. Notices will be served on all affected parties and the TWA application and all of the documents listed in Appendix 8 will be available for public inspection and scrutiny once the application has been made, and details of the locations where the documents are lodged will be widely advertised. The documents must also be made available for sale on request. Following the submission, there will be a period of six weeks in which objections and representations about the applications can be made by any interested party.
- 11.5 The Secretary of State for Transport can be expected to call a public inquiry to assist him in deciding the TWA application. This is likely to begin approximately seven months after the application, around November/December 2007.

12 APPROPRIATION OF CITY AND COUNTY COUNCIL LAND

- 12.1 The proposals will include impacts on City and County Council owned land. Where land is not classified as public highway and the proposals will require a change in its purpose, the land will be subject to the normal procedures for appropriation under the Local Government Act 1972. This will take place at a later stage in the Project development. The main locations where land will need to be appropriated are summarised in **Appendix 9**.

13 THE BOROUGH COUNCILS

- 13.1 Broxtowe and Rushcliffe Borough Councils both remain supportive in principle of the scheme, although discussions are continuing on the details of the scheme.
- 13.2 The TWA application will be accompanied by a request for a direction from the Secretary of State for Transport deeming full planning permission to have been granted for the development authorised by the Order. Whilst Broxtowe and Rushcliffe are the local planning authorities outside the City, their role at this stage will be confined to participating in the TWA process, although extensive discussions have been undertaken with the Borough Councils in preparing the draft documentation for the TWA and associated applications. When the Order has been made and the direction as to deemed planning permission given by the Secretary of State, the Borough Councils role will be to decide applications for the discharge of the various conditions to which the planning direction will be subject. These conditions will reserve for the local planning authorities' subsequent approval considerably fewer matters than is usually the case on the grant of an outline planning permission.

14 REPEAL OF THE GREATER NOTTINGHAM LIGHT RAPID TRANSIT ACT 1994

- 14.1 The draft Order will also propose the repeal of many of the provisions of the 1994 Act that authorised NET Line One. Some of the works powers and other provisions of that Act are spent, and so can be repealed without replacement. Ongoing provisions, such as the operation and maintenance powers, will be replaced by the equivalent provisions in the draft Order, so that the whole NET network will be operated under the same legal regime. Live provisions in the Act that affect the rights of third parties will generally remain in force. Formal notices of the proposed repeals will be served on those affected by the repeals, as required by the TWA application rules.

15 PROJECT FUNDING

- 15.1 The DfT have approved the entry of NET Phase 2 into the Local Authority Major Schemes Programme (Programme Entry) with an intended funding contribution of up to £341m (2005 present value prices) which is equivalent to a £437 million PFI credit.
- 15.2 The funding contribution is based on the DfT providing 75% of the current £400m (2005 present value prices) scheme cost estimate (with the balance of £100 million to be funded locally) and 50% of any additional costs up to a scheme cost ceiling of £482m (2005 present value prices) with the remainder also to be funded locally (£41m). Above this, DfT expect all additional costs to be met locally.
- 15.3 Financial consultants Price Waterhouse Coopers (PWC) have derived financial models for NET Phase 2. Outputs of these models were provided to the DfT to enable the budget associated with Programme Entry Approval to be set. The financial modelling is based on a number of the assumptions:-
- (a) The NET Line One concession is terminated and replaced with a new concession (on broadly similar contractual terms to NET Line One) to deliver NET Phase 2 and operate Line One and Phase 2 in a fully integrated manner. Termination costs would be dealt with as follows:-
- the termination costs would be paid to the current concessionaire (Arrow) in accordance with the contractual agreement, as a lump sum;
 - this sum would be raised from unsupported borrowing by the City and County Councils;
 - the costs of the above borrowing (interest and principal) would be met in full from part of the ongoing Line One PFI grant income, with the debt being repaid in full, when the Line One PFI grant income ceases, in 2030;

- the remaining element of the PFI grant would then be available for application against the costs of Phase 2.
- (b) The 75% base contribution provided by the DfT remains via a Private Finance Initiative (PFI) route, similar to Line One. The contracted private sector body (the concessionaire) assumes responsibility for the design, construction and financing of Phase 2 and the operation of the expanded system. In return, they receive a series of availability payments throughout a fixed contract period, with the level of payments linked to performance, via a new concession agreement. Central Government funding comes from annual quarterly paid PFI grant receipts, which fund the availability payments made by the City and County Councils to the concessionaire.
- (c) The remaining 25% base contribution will need to be met jointly by the City and County Councils, as will any additional costs as mentioned in paragraph 15.2 above. Any development costs previously incurred, and from now to contract close, together with local authority land provision, will form the first element of this contribution, with the balance divided between the two authorities.

15.4 It is proposed to develop the financial model further to enable close monitoring of project costs as additional design and the TWA process moves forward. It is also necessary to further develop the proposed procurement strategy.

16 25% LOCAL FUNDING CONTRIBUTION

As mentioned above it is necessary to identify the source of the balance of the 25% local funding contribution and further work is proposed to more clearly identify the make up of this. The local funding requirement will be split between the City and County Councils. The majority of the local contribution is likely to come from a workplace parking levy but other sources will be investigated, such as Section 106 contributions, prudential borrowing, land/asset sales and maximising the

return from the increase in land values arising from the introduction of the tram network. As part of this, the proposed workplace parking levy will need to be taken to the next stage of development in preparation for a public consultation later in 2007.

17 DEVELOPMENT FUNDING

17.1 To progress the various work streams and to meet the likely requirement for early land purchase arising from successful blight claims, initial consideration has been given to the cost of scheme development to financial close. This is set out below:-

2006/07	2007/08	2008/09	2009/10	2010/11
£2.505 m	£11.855 m	£5.075 m	£3.125 m	£0.877 m

17.2 Discussions are taking place with DfT, GOEM, EMRA and EMDA for contributions to development costs. DfT guidance states that it will not fund more than 50% of eligible costs and this excludes land acquisition.

18 PROJECT GOVERNANCE

The joint promotion of the TWA Order and Phase 2 generally will be governed by a formal legal agreement between the City and County Councils. Officers from both the City and the County, in consultation with a lead member from each Council, are proposed to have the authority to sign off the necessary documentation to submit the TWA and associated applications, carry them forward to an inquiry, and reach agreements with objectors, including agreements that require changes to be made to the TWA Order or undertakings to be given about the way in which the TWA Order will be implemented.

19 PROJECT PROGRAMME

The current headline NET Phase 2 project milestones are as follows:-

- TWA application – April/ early May 2007;
- Full Council meetings to ratify application – June 2007;
- TWA public inquiry – November 2007;
- TWA Order made and DfT conditional funding approval – November 2008;
- Commence procurement of new concession – November 2008;
- DfT full approval and concession award – Spring 2010;
- Phase 2 opens – 2013.

20 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

20.1 In accordance with Government transport appraisal requirements consideration has been given to alternatives to light rail expansion, including enhancing the existing bus network and facilities or the introduction of guided or similar 'state of the art' buses. These alternative proposals have been identified as providing a level of economic benefit commensurate with their scheme cost, but at a much lower level than the NET Phase 2 proposals. These alternatives to NET are unable to meet either national or local objectives as effectively as NET Phase 2. This has been recognised by the Department for Transport in awarding the scheme Programme Entry Approval.

20.2 In order to maximise the positive contribution of public transport and to ensure full integration between trams and buses, the complementary bus network and facilities in the Clifton and QMC/Beeston corridors will be developed. Bus information displays, and integrated ticketing will be explored through discussion with bus operators.

21 FINANCIAL IMPLICATIONS

21.1 As detailed above, Phase 2 development costs are estimated to be £23.437m and are likely to be split between the City and County Councils on the basis of the route length i.e. 65:35. These costs are funded at risk by the two authorities. If the scheme is realised, all development costs are, however, reflected in the total scheme cost approved by the DfT.

21.2 On the basis of the 65:35 split, after taking account of existing resources, the City Council is required to finance the following costs, which include TWAO, advanced design and property costs during the development period:-

	£M
2006/07	0.453
2007/08	7.706
2008/09	3.299
2009/10	2.031
2010/11	0.570
	<hr/> 14.059 <hr/>

21.3 As Members are aware the City Council has NET funds which resulted from excess grant in the first year of NET and annual revenue contributions built into the base budget. There are still some outstanding capital issues for Line 1, but it is anticipated that due to the fact that the PFI grant is now being paid on a different basis, the development costs of £14 million may be financed from existing NET funds with no adverse impact on the City Council's revenue budget position.

21.4 It is not possible to update the projected financial position in respect of the contract itself during the period of operation, at this time. Changes to the figures will occur as the existing estimates were at 2005 prices and the early design process will enable more robust figures to be prepared for submission to H M Treasury's Project Review Group post TWA. Price WaterhouseCoopers are assisting with modelling and a report will be brought back with the latest figures to a future meeting. This will include the balance of the required 25% local

contribution as referred to in paragraph 14.2 which it is proposed will be met on the basis of an 80:20 split between City and County Councils.

- 21.5 Approval for the City contribution to development costs for the project up to financial close was approved by Executive Board on 20 February 2007.

22 VALUE FOR MONEY

Based on Government guidance it is possible to provide an assessment of the overall value for money of the NET Phase 2 proposals. NET Phase 2 has a monetised cost benefit ratio in excess of 2.5 and as such places it in the High Value for Money category. In addition the real additional benefits of the proposals for which monetised values have not been included in the cost benefit analysis, including wider economic development and regeneration impacts and the value of improved reliability and integration with other transport modes, confirm the value for money of NET Phase 2.

23 LEGAL IMPLICATIONS

- 23.1 NET Line One was provided under legal powers contained in a Local Act, the Greater Nottingham Light Rapid Transit Act 1994. These powers are specific to Line One and are not available for NET Phase 2. Powers to build and operate light rail schemes are now derived from Transport and Works Act Orders and the recommendations in this report will enable the joint promotion of an Order. If approved, the Order will authorise the procurement and operation of Line One as part of a network, and will also grant a wide range of regulatory approvals for the scheme and grant compulsory purchase powers.
- 23.2 Property/blight issues: The potential for blight claims on a project of this size must be recognised. Experience gained from NET Line One will be applied in managing any claims arising in Phase 2.

23.3 25% Local funding contribution: The use of Section 106 funds will depend upon the particular purpose for which such funds were required from developers. Pursuit of workplace parking levy will require, in due course, the Council to make an Order which will need to be confirmed by the Secretary of State, and a public consultation exercise will be carried out before any Order is made.

23.4 Detailed legal and procedural issues are addressed in the body of the report.

24 RISK MANAGEMENT ISSUES

NET Phase 2 is being developed utilising a comprehensive risk management strategy. A full risk register is in place and is actively managed and monitored in line with the NET Phase 2 Project Management Plan.

25 HUMAN RIGHTS ACT IMPLICATIONS

25.1 The proposals have been considered in accordance with the European Convention on Human Rights. Rights under Articles 6, 8 and Article 1 of the first protocol may be affected.

25.2 Article 6 provides that where a public authority is determining people's civil rights then they have a right to a fair and public hearing within a reasonable time. The TWA application procedure includes the ability for those affected to make objections and thereafter for a public inquiry to be held by an independent inspector to hear those objections. The decision whether to make the TWA Order, which lies with the Secretary of State for Transport, would be subject to the supervisory jurisdiction of the High Court.

25.3 If the TWA Order is made, those directly affected by the acquisition of land or the construction of works will have the right to claim compensation, which may ultimately be determined by an independent body – the Lands Tribunal – in accordance with established law.

- 25.4 The draft TWA Order would also create a few criminal offences, including for obstructing the construction of the Phase 2 works, misuse of the Phase 2 apparatus, trespass on the tramroads, breach of byelaws, and failure to pay a penalty fare. None of these attracts a penalty higher than level 3 on the standard scale, and all are subject to the jurisdiction of the criminal courts.
- 25.5 In light of this it is considered that the provisions of Article 6 are being complied with.
- 25.6 Article 8 provides that everyone has the right to respect for his/her private and family life, home and correspondence. Rights under Article 8 may not be interfered with except where it is in accordance with the law, there is a legitimate aim and it is necessary in a democratic society in the interests (amongst other things) of public safety, protection of health and the economic well-being of the country.
- 25.7 The environmental impact of the construction of Phase 2 would potentially affect the family life and homes of those who live in close proximity to the works. This report has outlined the potential environmental impacts of the scheme and has also identified how these impacts will be addressed through mitigation measures. Any residual impacts should be balanced against the wider ranging benefits which Phase 2 is intended to bring such as reducing traffic congestion, assisting economic regeneration and contributing to climate change targets. These benefits make a contribution to both public health in and the economic well-being of the Greater Nottingham area. It is therefore considered that the environmental impacts of NET Phase 2 are in the general public interest and that the potential interference with these rights is proportionate to the wider benefits and is compatible with Article 8.
- 25.8 Article 1 of the First Protocol provides that every natural or legal person is entitled to the peaceful enjoyment of their property. This right may not be interfered with except in the public interest and in accordance with the law.

25.9 The TWA Order will provide for the extinguishment and temporary interference with rights of way, for the temporary possession and use of land in connection with carrying out the Phase 2 works, for the compulsory acquisition of certain land, and for rights of entry or to attach equipment to other land. The exercise of any of these powers would potentially interfere with the peaceful enjoyment of property, and therefore engage Article 1 of the First Protocol.

25.10 Under Article 1 of the First Protocol, interference with private property rights may be justified if it can be shown that the public interest in the construction and operation of Phase 2 outweighs the interference with those rights. This test is mirrored by the test that will be applied by the inspector and the Department for Transport, when they consider the case for the compulsory powers set out in the TWA Order: compulsory powers will therefore only be granted if the public benefits of NET Phase 2 outweigh the impact on private proprietary rights. Further, compulsory acquisition or temporary use under the TWA Order will trigger a right to claim compensation. In these circumstances, and having regard to the substantial public benefit of NET Phase 2, it is considered that the proposed interference with private property rights is proportionate and therefore justified under Article 1 of the First Protocol.

25.11 Members should carefully consider these competing interests, weigh the proportionality of the steps proposed against the identified impacts and potential interference with Convention rights, and resolve accordingly.

26 CRIME AND DISORDER IMPLICATIONS

NET is a reliable and safe form of transport.

27 EQUALITY AND DIVERSITY IMPLICATIONS

NET is fully compliant with the requirements of Disability Discrimination legislation and offers an accessible form of transport for those with mobility difficulties.

28 APPENDICES TO THIS REPORT

- (1) NET Phase 2 Project Aims;
- (2) Route plans;
- (3) Summary of major changes to the alignment since 2004 approval in principle of alignments;
- (4) Nottingham City Centre alignment development;
- (5) Chilwell via the QMC and Beeston alignment development;
- (6) Clifton via Wilford alignment development;
- (7) NET Phase 2 Statement on Consultation;
- (8) Transport and Works Act Order application and accompanying submissions;
- (9) Nottingham City and Nottinghamshire County Council land appropriations.

29 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

- Nottingham Express Transit: Phase 2. Major Scheme Appraisal.

30 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

- Nottingham Express Transit – Phase 2. Programme Entry Approval letter from the DfT. October 2006.
- Nottingham Express Transit – Network Extension Feasibility Study. Executive Board 6 February 2001.
- Nottingham Express Transit Network Development. Executive Board 24 April 2002, 22 June 2004.

- NET Phase 2. Clifton via Wilford route public consultation and design development. Executive Board 20 April 2004.
- Nottingham Express Transit – Phase 2 Beeston and Chilwell via QMC, public consultation and design development.
- Local Transport Plan for Greater Nottingham 2006/7 to 2010/11.
- Nottinghamshire and Nottingham Joint Structure Plan. Adopted February 2006.
- Nottingham Local Plan. Adopted November 2005.
- Broxtowe Local Plan. Adopted September 2004.
- Rushcliffe Borough Non-Statutory Replacement Local Plan. Approved December 2006.
- Multi-modal study, A453 Nottingham to M1 Junction 24, Final Report, Pell Frischmann, July 2002.
- Multi-modal Study, North/South movements on the M1 corridor in the East Midlands, WS Atkins, April 2002.
- East Midlands Regional Funding Allocation Advice. EMDA/EMRA January 2006.
- Draft East Midlands Regional Plan (Review) of the Regional Spatial Strategy for the East Midlands) – issued for public consultation September 2006 by EMDA.
- NET Customer Satisfaction Survey 2006.
- Transport and Works Act (Applications and Objections Procedure) (England and Wales) Rules 2006.
- Greater Nottingham Light Rapid Transit Act 1994.
- Draft Meadows and Southside Area Action Plan (AAP) November 2006.
- Inspectors Report on the Rushcliffe Borough Replacement Local Plan. February 2006.

**COUNCILLOR BRIAN GROCOCK
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 STREET SERVICES**