

# Chapter 6 – Commercial Dimension



## A38 Bromsgrove Route Enhancement Programme

March 2023

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## 6. Commercial Dimension

### 6.1 Purpose

The purpose of the Commercial Dimension is to assess the commercial viability and attractiveness of the preferred option for implementation. It takes into account the resources available to Worcestershire County Council (WCC) and the risks associated with the project. It also assesses the procurement routes to deliver the project in the most efficient way possible.

### 6.2 Background

The A38 in Bromsgrove is an important corridor on the Major Road Network (MRN). It acts as a key strategic link, providing access to the Strategic Road Network (SRN), as well as offering an important local function as an eastern bypass to Bromsgrove and providing access to housing, services and employment frontages.

WCC is delivering a major upgrade of the A38 corridor between M5 Junction 4 to the north and the junction of A38 with B4094 Worcester Road to the south, which is approximately 7.5 miles (12 km) long. This Full Business Case (FBC) seeks funding to deliver Phase 3 of the major upgrade of the A38 corridor between M42 Junction 1 to the north and the junction of A38 with B4094 Worcester Road to the south, which is approximately 3.8 miles (6.1 km) long. This corridor forms part of the strategic north south spine through Worcestershire, connecting Worcester, Droitwich, Bromsgrove to Birmingham to the North and Gloucester and Bristol to the south as an alternative to the M5 route. The study area is shown in Figure 6.1.

The A38 corridor is a multi-functional route serving a range of users which contributes to the problems and issues. The key characteristics are:

- The route performs a range of different functions, acting as a link to the SRN, as a bypass to Bromsgrove town centre, a distributor road for journeys that have an origin and/or destination in Bromsgrove and a local access route for residents and businesses that have direct frontages on to the corridor.
- The corridor comprises sections with differing speed limits, levels of frontage and access points in addition to varying levels of pedestrian and cyclist provision. In addition, the driving experience along the route varies due to the differing land uses along sections of the A38 from residential, open field to employment and retail.
- The two features of the A38 corridor outlined above, combined with high levels of car dependency across Bromsgrove, result in substantial congestion.

The A38 Bromsgrove Route Enhancement Programme (A38 BREP) comprises a package of schemes delivering targeted improvements to junctions and significant enhancement of facilities for active modes.

Figure 6.1 – Scheme location



This situation is projected to worsen in the future as new housing and employment planned for the local area are delivered. The planned growth in housing will increase the demand for travel. The following points summarise the planned developments in the area:

- The Bromsgrove District Plan (adopted in 2017) includes major residential development sites around the edge of Bromsgrove, with Perryfields Road and Whitford Road being particularly relevant to the A38. Smaller residential allocations are also found in surrounding areas. In total the District Plan identifies a need for 7,000 dwellings and 28 Hectares of employment land in the period 2011-2030. However, the adopted Local Plan only allocated land for 4,700 dwellings to 2023, noting that allocating land for the remaining 2,300 homes would be subject to a Green Belt review as part of a Local Plan Review. Subject to the ongoing Local Plan review, the scheme may further support delivery of additional homes and employment land.
- The Local Plan review will also identify development allocations for growth beyond 2030 and in its Issues and Options consultation put forward various scenarios. The consultation documents published in September 2019 proposed that the new Plan will have a likely start date of 2023 and an end date of 2040. Over this period the Plan will be required to provide for at least 6,443 dwellings and up to 90 Hectares of employment land.
- Within close proximity of the A38 corridor area there are significant cross-boundary allocations within the adopted Local Plan for Redditch. This includes an additional 3,400 dwellings (and 5.5 hectares of employment land) on the border with Redditch but located within Bromsgrove District, to meet Redditch's housing need, as identified in their own Local Plan. The allocation at Foxlydiate is particularly relevant to the A38.

- In addition, there are further allocations within the Redditch Local Plan (and sited within Redditch itself). Around 3,000 dwellings and 27.5 hectares of employment land are to be accommodated within Redditch Borough.

Table 3.34 of the Strategic Dimension shows key development sites in the vicinity of the A38 identified within the adopted 2017 plans. The quantum of proposed development (housing and employment) within the adopted Local Plans requires enhancements to transport infrastructure, including the A38. Whilst no individual development site currently has obligations that restrict development in advance of delivery of the A38 schemes, there are planning linkages between the A38 BREP and the delivery of allocations identified in adopted Local Plans and this is reflected in the requirement for S106 contributions to the BREP scheme. The A38 in its current form is a key constraint to additional future development allocations through the Local Plan review process. Therefore, in summary, the A38 BREP supports the delivery of 5,310 homes and 13.45 Hectares of employment land based on the current plan. Subject to the ongoing Local Plan review, the scheme may further support delivery of additional homes.

To effectively support the future development of Bromsgrove and to deliver economic growth, significant improvements are required to the corridor itself, supported by targeted improvements for other modes.

The scheme for which funding is sought through this MRN bid is an important part of the overall approach to transport in Bromsgrove. It will support ongoing work that is aiming to enhance both the major and local road network, as well as encouraging walking, cycling and the use of public transport.

### 6.3 Introduction

The wider A38 BREP corridor enhancement is being delivered in four phases, these phases are presented in Figure 6.1 and described below:

- Phase 1 (funded by Worcestershire Local Enterprise Partnership (WLEP), Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) and National Highways' Growth and Housing Fund (GHF)), provided for capacity upgrades at M5 Junction 4, M42 Junction 1 (completed in 2020/21) and the Barley Mow Lane junction with the A38 (completed in 2019). The works are included in the Do Minimum scenario for the A38 BREP Phase 3, as these have now been completed on site.
- Phase 2 comprised of the early delivery elements (also referred to as Schemes 2a, 2b and 4) of the BREP package presented at both the Strategic Outline Case (SOC) and Outline Business Case (OBC) stages. The early delivery schemes have been delivered early using WLEP local contribution funding to take advantage of the local funding availability. These works are an important part of the overall BREP scheme, contributing to the improvement of active mode facilities on the corridor.
  - Scheme 2a: An active travel corridor on the A38 between Charford Road and Harvington Road that includes a 3m wide cycleway and 2m wide segregated pedestrian / cycle facility provision of connection to Harvington Road.
  - Scheme 2b: An active travel corridor providing connection between the A38 and Scheme 2A to South Bromsgrove High School, it includes the provision of a 3m wide shared cycle path and footpath.
  - Scheme 4 is a signal toucan crossing of A448 to east of Fordhouse Road, to provide connectivity between Blackwood Road (Heart of Worcestershire College) and Regents Park Road and Fordhouse Road, and tie into Scheme E, Schemes 3 and 9.

Phase 2 schemes have been developed as part of the overall strategic active modes upgrade as part of the A38 BREP package. The FBC will continue adopting the same approach presented in the OBC submission in relation to these schemes: they form part of Phase 3 Do Minimum scenario, and their economic and financial impacts are reported as a sensitivity test in the Economic Dimension. It should be noted that the Phase 2 package offered a High Value for Money to taxpayers.

- Phase 3 includes three active mode, two local public transport and six hybrid highway capacity and active travel improvement schemes which were included in the OBC submission:
  - Three active mode improvement schemes, namely Schemes 3, 6 and 9.
  - Two local public transport improvement schemes which have not changed compared to the OBC stage. Local public transport improvements, notated as Scheme 7 (provision of upgrades to 9 bus stops including provision of physical infrastructure/shelters and wind turbines/solar panels powered Real Time Information (RTI) screens; and Scheme 8 which includes the provision of select vehicle detection at New Road and Charford Road junctions to support buses in crossing the A38 corridor, on the primary routes between the Town Centre and Bromsgrove Rail Station (Scheme 8 will be delivered at the same time as Schemes C and D).
  - Six hybrid schemes containing highways capacity and active travel improvements which were included in the OBC submission. These are Schemes: C to F and parts of Schemes A and B (only limited elements of the latter two schemes have been moved to Phase 4).
- Phase 4 includes schemes that were originally included in the OBC stage but have now been moved to Phase 4. This was due to higher inflation experienced in 2022, resulting in increased scheme costs. Phase 4 includes the following schemes:
  - Three highways improvement schemes: Scheme G and the complementary remaining parts of Schemes A and B that have been removed from OBC stage.
  - Two active mode improvement schemes, namely Schemes 1 and 5.

Phase 4 schemes (See Figure 6.2) have been removed from all aspects of this bid and will be progressed once alternative funding sources are secured hence will be subject to a separate business case.

Figure 6.2 presents the phasing of the A38 corridor improvements, while Figure 6.3 provides an overview of the highway and sustainable elements of the A38 scheme, and Figure 6.4 presents the locations of the new Shelters and RTI interventions included in Scheme 7.



Figure 6.2 – A38 corridor improvement phasing

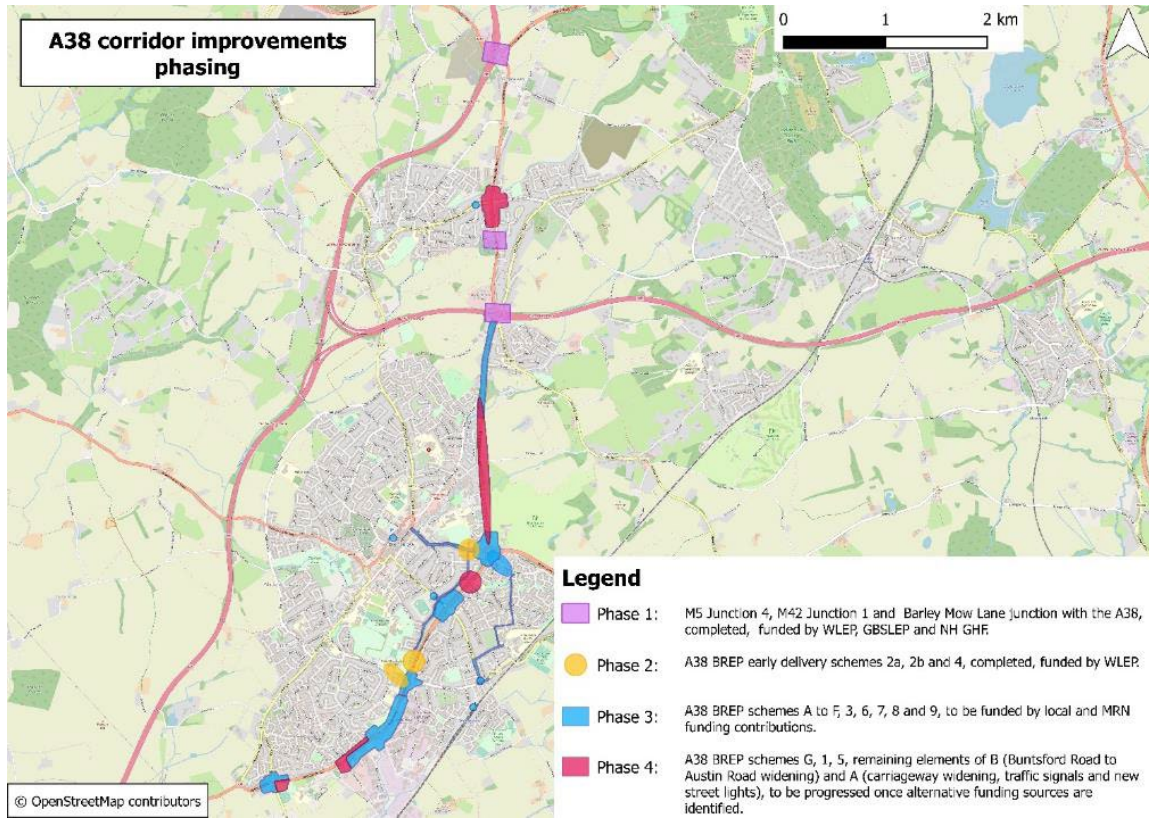


Figure 6.3 – Highway, sustainable transport and public transport schemes included in the FBC stage – (Phases 2 and 3)

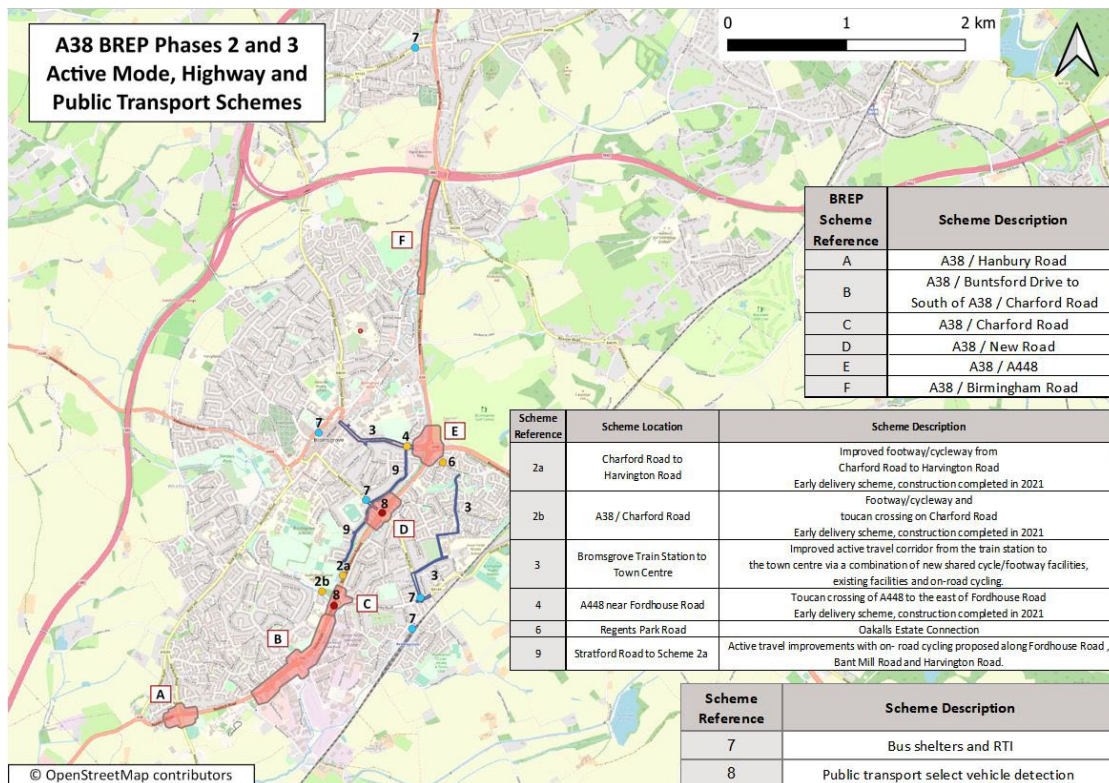
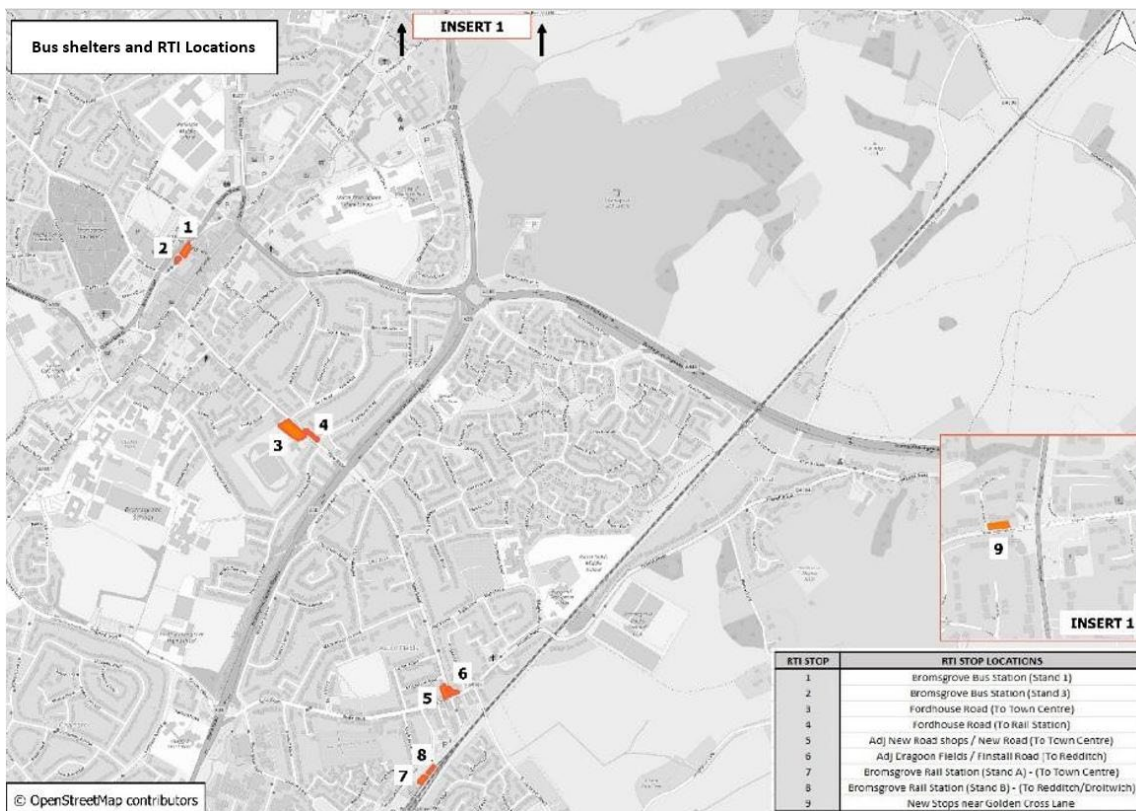




Figure 6.4 – Scheme 7/ Shelters and RTI stop locations



## 6.4 Output Specification

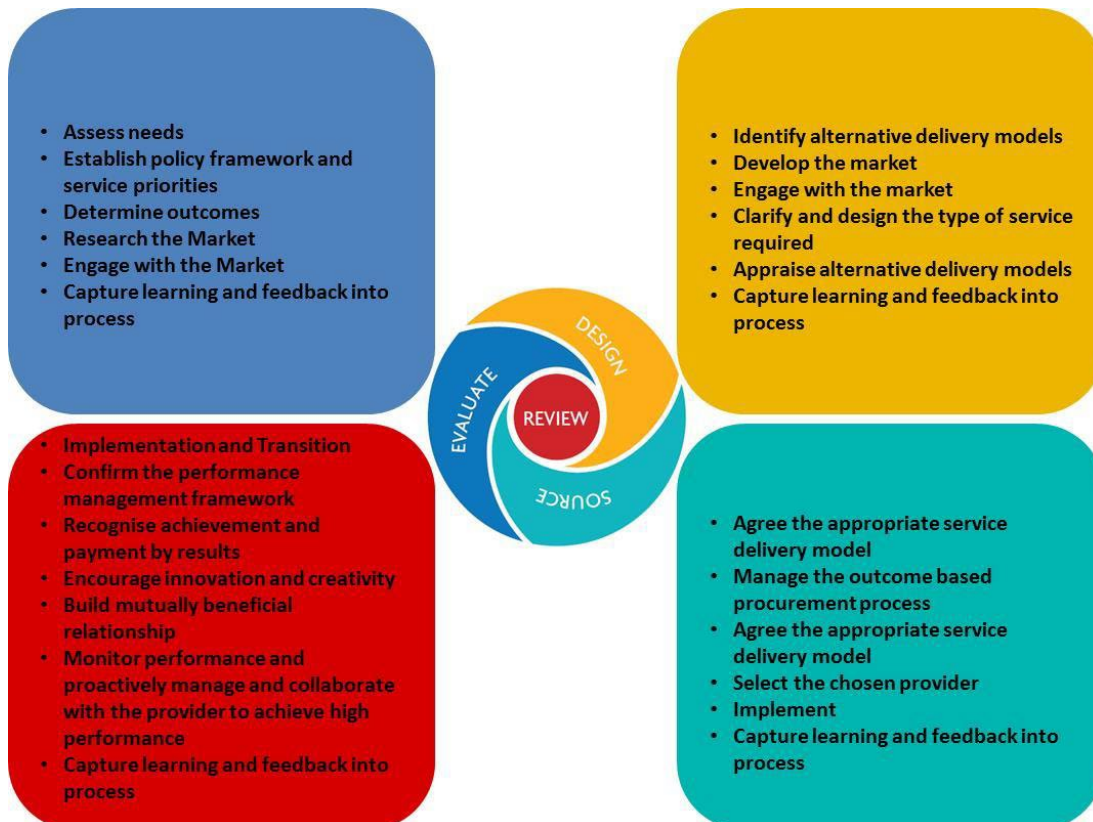
The Commercial Dimension is based on a number of key objectives and outcomes, against which alternative procurement options are assessed. These include:

- Achieving 'cost confidence' that the project can be delivered within the available funding constraints.
- Delivering the project to support the MRN programme, Midlands Connect Strategy, GBSLEP and WLEP Strategy Economic Plans, Bromsgrove District Plan and Redditch Local Plan and WCC plans and polices as referenced in WCC's Corporate Plan 2022-2027.
- Meeting the programmed construction completion date.
- Minimising further preparation costs.
- Including contractor input into the project design and construction to encourage innovation and reduce capital costs.
- Including contractor input to the risk management strategy and appraisal process to reduce risk.
- Minimising future maintenance costs.
- Safety.

## 6.5 Procurement Strategy

WCC has extensive in-house strategic and technical procurement expertise and a wealth of knowledge and experience, with a proven track record of delivery, with different types of contracts. Figure 6.5 describes WCC approach to commissioning and procurement and has influenced the choice of the strategic procurement approach for the project. This demonstrates linkage of the project's output specification to the desired outcomes.

Figure 6.5 – WCC approach to procurement



Having previously appointed contractors to deliver several strategic infrastructure projects, including Worcestershire Parkway Rail Station, Kidderminster Rail Station and the Design Development and Construction stages of the Worcester Southern Link Road Phase 4, WCC has recent and relevant market intelligence and commercial data to inform its decision-making and procurement plan. This is complemented by technical expertise from our term professional services supplier providing the breadth of both commercial and technical expertise required to prepare for and deliver the right contractual arrangements for the project. Market engagement specifically focused on this project has been included in the procurement process.

The procurement options considered, and recommended procurement strategy are detailed under paragraphs 6.6.1 and 6.6.2 below. The outcome of the procurement and evaluation is detailed at paragraph 6.6.3 below. The pricing framework is detailed at paragraph 6.7.

WCC Councillors approved the overall concept of the (previously developed) scheme for the A38 in July 2018 at a meeting of the full Cabinet and supported implementation of Phase 1. WCC Councillors have been further involved in the development of the scheme during the OBC stage, via meetings and briefing sessions. The scheme which broadly forms the basis of the OBC submission was presented to Cabinet on 22nd October 2020 and received endorsement.

Due to higher inflation experienced in 2022, resulting in increased scheme cost, the scheme has been phased into Phase 3 and Phase 4. This approach has been endorsed by the Project Board and then the Cabinet on the 8<sup>th</sup> December 2022. It was also communicated with DfT in November 2022. The submission of the FBC was also approved by WCC Cabinet on 8<sup>th</sup> December 2022.

## 6.6 Sourcing Options

A number of procurement and purchasing options are available to WCC to procure the project. In deciding the preferred option there are a number of key considerations, these being:

- **Price Certainty** - ensuring WCC secures best value throughout the project and not just at tender award.
- **Whole Life Cost** - balancing investment cost with future maintenance costs to achieve best value over the life of the project.
- **Innovation** - improving value and reducing overall cost.
- **Incentives** - encouraging the supply chain to seek continuous improvement and cost down initiatives throughout delivery of the project.
- **Supply Chain Integration** - reducing potential for project delays with all suppliers working to one plan.
- **On Time Delivery** - ensuring that disruption to road users and local communities is kept to a minimum.
- **Lean Contract Management** - minimising project resource requirements through effective and efficient contract management with single points of contact.
- **Risk Sharing** - ensuring the ownership of risk is apportioned in line with securing best value.
- **Social Value** - optimising content against WCC's corporate priorities.

Given these considerations, the procurement options that have been taken into account to deliver the services necessary to develop and realise the design and undertake construction of this type of project are:

- Traditional Approach - Client undertakes or commissions design and appoints contractor.
- Traditional Approach Plus - Client undertakes / commissions design and appoints contractor with Early Contractor Involvement (ECI).
- Design and Build Single stage - Single Award to Single Supplier for detailed design and construction post planning and development.
- Design and Build Two stage - Two stage award to Single Supplier for project development (Inc. ECI) and then detailed design and construction.
- Use of the Midlands Highway Alliance Framework.
- Use of WCC's existing Infrastructure Engineering Term Contract (IETC) which provides services for highway improvements and structures projects.

### 6.6.1 Procurement Options Analysis

Having considered the approach to procurement, a more detailed consideration of the ability to deliver the commercial objectives was undertaken through options to outcomes analysis; the results of this are contained at Appendix C.1 and captures the various procurement routes.

The options to outcomes analysis undertaken at this stage in the scheme development was based upon the following considerations:

- The total investment cost of Phase 3 schemes is [REDACTED].
- The overall scheme would be to deliver a series of link, junction, active mode and public transport improvements as defined in this FBC. Implementation and delivery phasing are negotiated and agreed by WCC and the selected contractors, with the view to minimise cost and impact of the works and maximise benefits to the traveling public.
- Funding sources for the scheme are:
  - The DfT.
  - Local contributions are based on S106 contributions of [REDACTED] with a further local contribution of [REDACTED] from WLEP. In addition, WCC have also committed [REDACTED] for Part 1 Claims and Monitoring and Evaluation, and a further [REDACTED] of WLEP funding for Phase 2 early delivery schemes (Schemes 2a, 2b and 4).
- Use of WCC's IETC is not feasible to deliver all the works because the full works cost would exceed the remaining headroom on this contract. However, there is sufficient headroom to deliver elements of the works.
- Use of the Midlands Highway Alliance Framework was considered. For this scheme the main advantage of this procurement route is the ability to procure a supplier quickly. With a 2023 proposed construction start this option does not provide an advantage in terms of speed of procurement; in addition, it is unlikely to secure best value for money and is therefore discounted.
- The use of main works open tender to secure best value for money based on Traditional Approach where WCC undertakes or commissions design and appoints contractor.

### 6.6.2 Recommended Procurement Strategy

The conclusion of the procurement options analysis results in the following recommended procurement strategy:

- Schemes 3 and 9 to be procured via design and build through WCC's IETC contract. The use of WCC's IETC is not feasible to deliver all the works because the full works cost would exceed the headroom still available on this contract. However, there is sufficient headroom to deliver part of the works as detailed. Active travel improvements Schemes 3 and 9 are similar to other works procured via the IETC and are suitable for delivery via this contract, in addition their anticipated cost fit within the headroom available.
- The remaining highway and active mode improvements (Schemes A to F, 6 and 8) to be procured through main works open tender with Early Contractor Involvement (ECI). The highway works will involve significant traffic management and programming to ensure the least negative impact on road users; ECI will maximise the contractor's expertise within the planning stages. In addition, the main works open tender process enables the works to be procured and delivered achieving a combination of best value coupled with quality of constructed outcome.
- Scheme 7 will be implemented by WCC Public Transport Department's well established supply chain.

### 6.6.3 Outcome of Procurement

Table 6.1, Table 6.2 and Table 6.3 summarise the outcome of the three procurement approaches.

The OBC recommended a procurement strategy under which:

- Schemes 3 and 5 cycle bridges would be procured via WCC's IETC.
- The remaining highways works would be procured through open tender with ECI.

The main changes in relation to procurement from the OBC stage are:

- The removal of the OBC cycle bridges Schemes 3 and 5 and the introduction of the new active mode corridor improvements Schemes 3 and 9, for which procurement via IETC remains the preferred route. This is because the works for these two schemes fall under the completed design and build work; and the IETC contractor has been doing the technical work and assessment for these two new schemes since the OBC stage. In addition, a quick construction start is required for Scheme 9.
- Procurement of the on-street displays and associated infrastructure through WCC's Public Transport Department supply chain. The procurement route has not changed; evaluation criteria have been developed as detailed in Table 6.1.
- The removal of schemes which are now part of Phase 4 (as detailed out in section 6.3).

Table 6.1- Schemes 3 and 9 procured via IETC

<b>Procurement processes</b>	
Summary of process	WCC's IETC. This contractor is already identified and involved. Appointment of the engineering term contractor was in accordance with WCC's Procurement Code.
Dates	When the FBC is approved by the DfT and funding is secured, a task order will be issued in time to deliver Schemes 3 and 9, delivery to fit in with scheme phasing presented in the Management Dimension.
<b>Assessment of returns</b>	
Process/criteria	For each of the schemes a task order will be developed as a collaborative process between the WCC Commissioner and the IETC Project Manager. The task order will include details of the scope, programme, cost, constraints etc. of each scheme.  Assurance of the works is by WCC appointed NEC Project Manager. A monthly cycle of Key Performance Indicator and financial reporting is in place for final approval by WCC.
Initiatives to ensure value for money	The Contract is a NEC4 Engineering and Construction Contract Option C target contract. This allows for the sharing of risk and reward between the Client and the Contractor and incentivises both parties to minimise cost without compromising quality.



<b>Next steps</b>	
	Issue of task order once the FBC is approved by DfT.

Table 6.2. Schemes A to F, 6 and 8 procured via main works open tender

<b>Procurement processes</b>	
Summary of process	Main works open tender with Early Contractor Involvement (ECI)
Stages and dates	<p>Stage 1 – Standard Selection Questionnaire (SSQ): 1/4/2022 to 13/5/2022.</p> <p>The SSQ stage enabled WCC to reduce the number of suitable suppliers to a small number who progressed to the Invitation to Tender (ITT) stage.</p> <p>Invitation to Tender (ITT): 10/6/2022 to 9/9/2022.</p> <p>Preferred Bidder identified: 17 February 2023.</p> <p>Contract award: After the FBC is approved by DfT, expected second quarter of 2023.</p>
Materials provided to bidders	<p>A full set of tender documents for both SSQ and ITT stages including:</p> <ul style="list-style-type: none"> <li>▪ conditions of tendering.</li> <li>▪ quality questions.</li> <li>▪ financial submission.</li> <li>▪ forms for completion.</li> <li>▪ contract data.</li> <li>▪ scope of contract.</li> <li>▪ site information.</li> </ul>
Assurance processes	<p>Assurance processes are defined in WCC's Procurement Code 2022-2023. The Procurement Code provides the clear rules that need to be adhered to, based on the Council's Contract Standing Orders and Financial Regulations, as well as guidance on how to procure in the most effective way.</p> <p>The contract includes clauses covering liabilities and insurance; defects correction; resolving and avoiding disputes; performance bond; retention; and fair payment.</p>

<b>Assessment of returns</b>	
Process/criteria	<p>As fully described in conditions of tendering evaluation methodology.</p> <p>Evaluation is in stages: Stages Q1 to Q2 and F1 to F2 are operated concurrently by discrete groups of evaluators:</p> <ul style="list-style-type: none"> <li>F1 Financial compliance gateway</li> <li>Q1 Quality compliance gateway</li> <li>Q2 Quality Evaluation</li> <li>F2 Financial Evaluation</li> </ul> <p>Amplification (this is an opportunity for WCC to ask tenderers to explain in more detail anything in their tender which is unclear).</p>
Initiatives to ensure Value for Money (VfM)	<p>WCC's culture is described more fully in the tender documents. WCC has engendered a common culture within the entire organisation to drive cost from aspects of its operations. This not only applies to its directly attributable costs but also to the costs generated by its suppliers.</p> <p>Following the LEANing of the Highways related areas of the Directorate and in addition to some very successful contracting arrangements, WCC embarked on a wider BOLD (Better Outcomes Lean Delivery) campaign that emphasised that by using LEAN and other similar techniques, cost could be driven out rather than a service provision cut.</p> <p>Specific examples of ensuring VfM through the highways works contact include:</p> <ul style="list-style-type: none"> <li>▪ Carbon management plan to reduce carbon footprint.</li> <li>▪ Minimising energy and fuel consumption &amp; CO2 emissions in the provision of the contract.</li> <li>▪ Creating jobs through the growth of business and investment in the local area.</li> </ul>
The Contract	<p>The Contract is a single supplier contract, under NEC4 Engineering and Construction Contract Option C target contract.</p> <p>Option C: Target contract with price list, using Defined Cost and Contractor's share allows for the sharing of risk and reward between the Client and the Contractor and incentivises both Parties to minimise cost without compromising quality.</p> <p>This specific contract creates an environment where the Contractor has the opportunity to be flexible in their approach yet still deliver the required outcomes, has clarity of the required outcomes and can be confident that the conditions of contract provide a platform for effective management.</p>

	<p>Further details relating to the contract are contained in the Scope and Works Information contained in Appendix C2.</p>
<p><b>Results and preferred contractors</b></p>	
	<p>Nine suppliers submitted returns at the SSQ stage.</p> <p>The 5 suppliers with the highest scores at SSQ stage progressed to the ITT stage which closed on 9 September 2022. The 5 suppliers were:</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>Of these:</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>WCC moved to a negotiated procedure, and they were both invited to submit revised tenders.</p> <p>Tenders were evaluated as per the evaluation methodology (see Appendix C3 for details): [REDACTED]</p> <p>[REDACTED] did not progress to any further stages of the evaluation.</p> <p>[REDACTED]</p>

	<p>[REDACTED]</p> <p>they are the preferred bidder.</p> <p>Preferred Bidder identified: 17 February 2023.</p>
	<b>Next steps</b>
	Contract award: After the FBC is approved by DfT, expected May/June 2023.

Table 6.3. Scheme 7 to be implemented by WCC Public Transport Department supply chain

<b>Procurement processes</b>	
Summary of process	WCC has a framework in place with a number of suppliers for the procurement of on-street displays and associated infrastructure.
Dates	When the FBC is approved by the DfT and funding is secured, a task order will be issued in time to deliver Scheme 7, delivery to fit in with scheme phasing presented in the Management Dimension.
Materials provided to bidders	Details of Scheme 7.
Assurance processes	Assurance processes are defined in WCC's Procurement Code 2022-2023. The Procurement Code provides the clear rules that need to be adhered to, based on the Council's Contract Standing Orders and Financial Regulations, as well as guidance on how to procure in the most effective way.
<b>Assessment of returns</b>	
Process/criteria	Check of quotation against WCC scheme requirements.
Initiatives to ensure Value for Money (VfM)	If framework does not have all the required infrastructure elements the Council has recent and relevant market intelligence and commercial data to inform its decision-making and procurement plan.
<b>Result and Next Step</b>	<p>[REDACTED]</p> <p>Issue of task order once the FBC is approved by DfT.</p>

## 6.7 Pricing Framework and Charging Mechanisms

The pricing framework and proposed charging mechanisms for the two contracts (IETC and main works open tender) are summarised in the following 2 sections. Delay is managed through the contract which includes clauses relating to early warning to be given, revising the programme and financial damages. Performance targets are managed through agreed Key Performance Indicators which are reported to WCC on a monthly basis.

### 6.7.1 Schemes 3 and 9 Procured via IETC

The IETC contract is an NEC4 Engineering and Construction Contract Option C target contract. This allows for the sharing of risk and reward between the Client and the Contractor and incentivises both parties to minimise cost without compromising quality.

A method of payment allowing for monthly assessments of the costs accrued will be adopted as this allows for optimal cash flow for the supplier, the supply chain and WCC. Similarly, quality and standard of final construction will be managed through retention clauses and performance management.

### 6.7.2 Schemes A to F, 6 and 8 Procured via Main Works Open Tender

The Contract is a single supplier contract, under NEC4 Engineering and Construction Contract Option C target contract. Option C: Target contract with price list, using Defined Cost and Contractor's share allows for the sharing of risk and reward between the Client and the Contractor and incentivises both Parties to minimise cost without compromising quality.

This selected contract is required to create an environment where the Contractor has the opportunity to be flexible in their approach yet still deliver the required outcomes to programme and budget, has clarity of the required outcomes and can be confident that the conditions of contract provide a platform for effective management.

A method of payment allowing for monthly assessments of the costs accrued will be adopted as this allows for optimal cash flow for the supplier, the supply chain and WCC. Similarly, quality and standard of final construction will be managed through retention clauses and performance management.

Clauses requiring fair payment terms throughout the supply chain along with measures to audit this in contract form an integral part of the terms and conditions.

### 6.7.3 Scheme 7 Implemented by WCC's Public Transport Department' supply Chain

The works will be procured via a WCC Task Order in accordance with WCC's Procurement Code.

## 6.8 Risk Allocation and Transfer

For both the IETC and main works contracts, an assessment has been undertaken on how the types of risk might be apportioned or shared, with risks allocated to the party best placed to manage them, subject to achieving VfM. Each contract includes clauses to facilitate the transfer of appropriate risks from WCC to the contractor, most construction risks have been transferred to the contractors. Both contracts include development of a risk register which is updated at regular intervals over the duration of the contract.

The following points illustrate how the risk of costs being higher than originally predicted is dealt with:

- Cost increases due to inflation before the start of construction of individual schemes are estimated in the Finance Dimension/costing using the latest industry inflation rates and are borne by WCC.



- Cost increases (including inflation) after the start of construction of individual schemes are transferred to the contractors as contractors allowed for these risks in the tender returns.
- The scheme risk pot allows for WCC generic risks including inflation on top of latest industry inflation rates.

For each contract the allocation of risks resulting from the contractual and procurement arrangements is summarised in Table 6.4, Table 6.5 and Table 6.6 below. Ticks have been provided to indicate where each risk type rests or whether these risks are shared between the two.

Table 6.4- Risk allocation of the IETC contract (Schemes 3 and 9)

Risk Category	WCC	Supplier	Shared
Design		✓	
Design approvals	✓		
Public engagement/liaison	✓		
Sequencing	✓		
Traffic management		✓	
Construction		✓	
Implementation			✓
Operations	✓		
Termination			✓
Financing	✓		
Legislative			✓

Table 6.5- Risk allocation of the main works open tender contract (Schemes A to F, 6 and 8)

Risk Category	WCC	Supplier	Shared
Public engagement/liaison			✓
Sequencing		✓	
Traffic management		✓	
Sequencing and traffic management approvals	✓		
Construction		✓	
Implementation			✓
Operations	✓		
Termination			✓
Financing	✓		
Legislative			✓

Table 6.6 - Risk allocation of WCC' Public Transport Department Scheme 7

Risk Category	WCC	Supplier	Shared
Public engagement/liaison			✓
Sequencing and traffic management approvals	✓		
Construction		✓	
Implementation			✓
Operations	✓		
Termination			✓
Financing	✓		
Legislative			✓

## 6.9 Human Resource issues including TUPE

No relevant personnel/people management/trade union implications, including Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE) regulations have been identified for this project.

## 6.10 Implementation (Contract) Timescales

The procurement programme for procurement approaches adopted is presented in Table 6.7.

Table 6.7- Procurement timescale

	<b>Main works tender</b>	<b>IETC</b>	<b>WCC Public Transport Depart.</b>
	<b>(Schemes A to F, 6 &amp; 8)</b>	<b>(Schemes 3 &amp; 9)</b>	<b>(Scheme 7)</b>
Standard Selection Questionnaire (SSQ)	1/4/2022 to 13/5/2022	Not applicable, contractor identified and involved	Not applicable, supplier identified and involved
Invitation to Tender (ITT)	10/6/2022 to 9/9/2022		
Tender period	13 <sup>th</sup> June to 9 <sup>th</sup> September 2022		
Tender evaluation	12 <sup>th</sup> September to 7 <sup>th</sup> October 2022		
Clarification with bidders	10 <sup>th</sup> to 14 <sup>th</sup> October 2022		
2 <sup>nd</sup> iteration ITT	2 <sup>nd</sup> December 2022		
2 <sup>nd</sup> tender period	5 <sup>th</sup> December 2022 to 13 <sup>th</sup> February 2023		
2 <sup>nd</sup> tender evaluation	14 <sup>th</sup> February to 17 February 2023		
Clarification with bidders	7 <sup>th</sup> to the 17 February 2023		
Preferred Bidder identified	17 <sup>th</sup> February 2023		
Submission of FBC	March 2023		
DfT Approval	May 2023		
Contract award	May/June 2023		
Contract details:	Duration: To be agreed with contractors. Main terms: NEC4 Engineering and Construction Contract Option C target contract. Tender validity period for main works contract is 120 days.		
Construction completion	Construction programme has been agreed with appointed contractors.		

Apart from identifying several priority schemes, the construction programmes have been provided by the preferred bidders based on negotiation with WCC. Contractors will be obliged to apply for WCC approval (as the Highways Authority) of their traffic management plans prior to the start of construction.

## 6.11 Service Support

No additional support and/or maintenance is required.

## 6.12 Contract Management Approach

Essential to the successful running of the contract are high-quality project management skills, complemented by specialist cost control expertise and sufficient support resources. These are required from the outset of project development right through to post-completion. WCC as the Client has appointed a Project Manager (Lucy Cooper) in accordance with the NEC Conditions of Contract. This will be supplemented by a project governance structure more fully described in the Management Dimension.

The NEC4 Engineering and Construction Contract applies to both procurement approaches, this allows for individual projects/schemes to be defined via task orders. For each of the schemes a task order will be developed as a collaborative process between the WCC Commissioner and the IETC Project Manager. The task order will include details of the scope, programme, cost, constraints etc of each scheme.

Project reporting is defined in the tender documents and will be via the WCC appointed Client Project Manager to the WCC Project Board which will meet on a regular basis. The Management Dimension includes more details on the governance structure and reporting.

Scheme 7 will be delivered by WCC's Public Transport Department's supply chain, and the works will be procured via a WCC Task Order in accordance with WCC's Procurement Code.

## 6.13 Best Value

WCC have employed a similar competitive tender approach which has successfully delivered best value on the following strategic infrastructure projects:

- A38 Phase 1 Works to junctions of the A38 with M5 J4, M42 J1 (completed on site in early 2021) and Barley Mow Lane (completed in 2019).
- National Productivity Investment Fund (NPIF) – works to enhance nine walking and cycling routes across Bromsgrove (works recently completed on site).
- WLEP funded Phase 2 early delivery elements of A38 BREP – three walking and cycling enhancements from the overall A38 BREP package (namely Schemes 2a, 2b and 4) have been taken forward for early delivery funded by WLEP. Works began on site in early 2021, following a business case process endorsed by WLEP in late 2020. These schemes have been completed in autumn 2021.
- Bromsgrove Rail Station – the relocated and upgraded rail station for Bromsgrove opened in 2016. Since then, a key aspiration for WCC has been to improve walking and cycling routes to the station. The A38 BREP walking and cycling schemes, together with the NPIF improvements, help to enhance routes to the rail station.
- Design development and construction stages of the Worcester Southern Link Road Phase 4. Construction of the final stages of this project are currently being completed within agreed timescales and costs. The contract was under NEC3 conditions of contract as follows:
  - Stage 1a - outline design, production of draft Orders and Environmental Statement under PSC option C.
  - Stage 1b – preparation and participation in Public Inquiry and other statutory processes including planning under PSC option E.

- Stage 2 – detailed design, construction and aftercare using ECC Option C target cost arrangements.
- Worcestershire Parkway Rail Station:  
This high-profile project delivered the county's first new rail station for over 100 years and opened in February 2020. The project has won several awards for civil engineering including West Midlands top civil engineering project for 2020.
- Kidderminster Rail Station.  
Refurbishment works were successfully completed in June 2020 within agreed timescales and cost. Station refurbishment elements were procured via the following contract forms:
  - design development and detailed design – HCA national framework contract.
  - build contract – NEC4 Engineering and Construction Contract Option A (fixed price).
- The Hoobrook Link Road (Phase 2) in the South Kidderminster Enterprise Park. The £16m scheme included completing a link road to the south of the town centre, with a new bridge over the Staffordshire and Worcestershire Canal and River Stour. The scheme was completed in summer of 2016.
- The Worcester Transport Strategy (Phase 1) (WTS) Major Scheme. This scheme comprised of a series of improvements to the network (walking, cycling, public transport and vehicular improvements) in and around the city of Worcester, including improvements to key corridors into Worcester city centre. The £19.65m package of work were successfully delivered in a timely manner and to budget.
- Multi-Modal Corridor Enhancement Schemes, along two key radial corridors in Worcester (both implemented in 2010/11):
  - Newtown Road Corridor funded through LTP2 & Section 106 contributions.
  - Bromyard Road Corridor funded through Communities Infrastructure Funding Round 2 (CIF2).

## 6.14 Conclusion

The A38 BREP Phase 3 has sound commercial footing considering the tender returns received and the identification of preferred contractors. The Commercial Dimension has been subjected to comprehensive updates to reflect the details of the procurement processes that took place during 2022 and the start of 2023. It also illustrates identification of preferred contractors and risk sharing strategies.

██████████ has been identified as the preferred main works contractor for Schemes A to F and Schemes 6 and 8 based on a tender process carried out by WCC. Schemes 3 and 9 will be built by ██████████ using the existing IETC, while for Scheme 7, WCC Public Transport Department requested quotes from its supply chain and identified ██████████ as the preferred contractor.

The Commercial Dimension also demonstrates that the scheme is deliverable within the timelines, and that WCC and the selected contractors are ready to start the construction activities once the FBC is approved by DfT.