

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report to: Cabinet

Date: 05/07/2021

Subject: Restoration of Hammersmith Bridge

Report of: Councillor Stephen Cowan, Leader of the Council

Report author: Bram Kainth, Chief Officer for Public Realm

Responsible Director: Sharon Lea, Strategic Director for the Environment

SUMMARY

Hammersmith Bridge has been closed to all traffic, cyclists and pedestrians since 13 August 2020. Due to its design features and materials used, it is one of the capital's weakest bridges with significant weight restrictions applied during its later years of operation.

Owing to its closure and its state of repair, the Council must address the delivery of a repair and restoration project for Hammersmith Bridge ("**Project**"). This report sets out emerging possibilities for delivery entities and funding options available to the council with a preference identified. Hammersmith Bridge will continue to require long term on-going monitoring and maintenance. Any preferred option should satisfy this requirement.

On 1 June the government announced, via its Transport for London Settlement Letter it expected to draw up a memorandum of understanding (MoU) between the government, TfL and the Council to fund the reopening of the bridge conditional on:

- all parties agreeing the cost of the project
- each party to pay a share with the government not contributing more than a third
- that the independent Board responsible for the Case for Continued Safe Operation, reporting to the Council, will conduct a new assessment for controlled and limited reopening of the bridge to pedestrians, cyclists and river traffic.

RECOMMENDATIONS

1. That Appendices 1 and 2 to this report are not for publication on the basis that they contain information relating to the financial or business affairs of any particular person (including the authority holding that information) and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings as set out in paragraphs 3 and 5 of Schedule 12A of the Local Government Act 1972 (as amended).

2. That the Council further develops proposals for delivery model options as recommended in the report included at Appendix 2.
3. That the Council continues to explore the possibility of the establishment of a charitable trust and the potential for its involvement in delivery of the Project alongside other entities and funding options.
4. That the Cabinet agree that the recommended preferred option for the Project (subject to additional work required in respect of recommendations 2 and 3) at this stage is a long-term contract with a private sector counterparty for the design, restoration, operation and maintenance of Hammersmith Bridge.
5. That Cabinet agrees that a toll or road charging scheme should be developed in order to finance the Council's contribution to the restoration and future maintenance and notes that the approval of the Secretary of State is required for a toll and the approval of the Mayor of London for a road charging scheme.
6. That the Council enters into a Memorandum of Understanding (MoU) with TfL and the Department for Transport
7. That Cabinet delegates authority to the Strategic Director for the Environment in consultation with the Director of Finance to take all the necessary steps to pursue the options in 1-6.

Wards Affected: All

Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	Where achieved, establishing a long-term contract could potentially remove disproportionate direct financial liability from the residents of Hammersmith & Fulham.
Creating a compassionate council	The Council proposes to seek exemptions for its residents, disabled road users, emergency vehicles and other specified road users from paying a road user charge or toll.
Doing things with local residents, not to them	The Council will undertake a series of consultations with residents and all stakeholders regarding the use of a road charging or tolling funding proposal and the delivery of the Project in that context.
Being ruthlessly financially efficient	The approach proposed will be subject to rigorous analysis in line with HM

	Treasure “Green Book” appraisal. The Council will seek to ensure the optimum commercial arrangements for delivery of the Project and, as far as is possible, seek to transfer financial risk as from the Council and its residents to a third party.
Taking pride in H&F	Reopening the bridge, will restore an iconic, nationally significant heritage asset which is within the borough.
Rising to the challenge of the climate and ecological emergency	The proposed road charge/toll would encourage active, efficient and sustainable travel modes and reduce dependency on cars. Depending on the approach to tolling/charging, it will be necessary to demonstrate alignment with sustainable transport policies in the Mayor’s Transport Strategy.

Financial Impact

The restoration of the bridge is expected to require a total investment of more than £100m (based on the latest available information but will be dependent on the preferred design that is selected in due course and the procurement and funding of that solution). In relation to its share of the costs of the project, the Council has proposed a road charge or toll to avoid the significant costs of restoration and ongoing maintenance of the bridge falling to local taxpayers and instead funded by those who benefit directly from its use.

There are different options for delivering the restoration project and the ongoing management and maintenance of the Bridge. Under any preferred option, the Council’s intention is that the restoration and future maintenance costs should be the responsibility of a body other than the Council, as far as it is possible to achieve this.

The Council considers that the Council’s costs of delivering the Project and the long-term maintenance of the Bridge could be met by the revenues raised by a road charge or toll. Initial modelling of viability of this funding approach has been undertaken as part of an Outline Financial Plan, which has been shared with the DfT. This is being further developed and work is being progressed with the DfT to develop the outline business case in line with the Green Book appraisal methodology. This will take into account the government’s latest funding proposals, the preferred engineering and design solution and respective costs.

As further detailed work on traffic modelling is completed and the legal mechanism for a toll or road charging is agreed and developed, the Council can undertake market engagement on financing options available to update the initial modelling and establish market appetite for the delivery arrangements that it proposes.

The Council will incur significant costs in developing the outline business case and in establishing the structures necessary for delivery of the Project. The Council is therefore seeking agreement with the DfT on funding upfront costs. Should DfT not agree to the funding of, or underwriting of these costs, in the event that a road charge/ toll does not have DfT support, then future decision reports will include the financial impact of the Council commissioning/ undertaking any further work, in line with the requirements of the Council's constitution.

Legal Implications

It is anticipated that the procurement of a solution for the delivery of the refurbishment and/or ongoing management and maintenance is subject to the Public Contract Regulations 2015 as amended by the Public Contract (Amendment etc.)(EU Exit) Regulations 2020 (PCR). Alternatively, the Concession Contract Regulations 2016 (CCR) may apply in terms of the long-term solution to toll or apply a road charge on the bridge. It is expected that this will entail the operation of one or more competitive procurements.

Additional consultancy and design work will also be subject to the PCR as the work packages are likely to be above the relevant thresholds. It is likely that this work can be procured without the need for a full competition either by appointment as sub-contractors under an existing Council contract or by way of appointment under a framework. This would comply with the PCR and Contract Standing Orders.

The procurement of the long-term solution will be a public works contract under the PCR and substantially above the relevant threshold. If the strengthening and refurbishment works can be procured on their own then it is likely that this can be done by way of an appointment under a framework, which could be the Crown Commercial Services framework for construction services which includes a lot for works valued above £80 million. This would comply with the PCR and Contract Standing Orders and would represent a considerable saving in time and cost.

A contract which includes ongoing management and maintenance (including with a toll or road charge) is likely to need to be subject to a full procurement process under the PCR or CCR depending on the final delivery model. There is a choice of procurement procedures under the current rules; the competitive procedure with negotiation allows for negotiation of the submitted tenders and is likely to be the most suitable option in terms of the refurbishment works. In the context of the implementation of the final delivery model, further consideration is required.

If the works were procured by an independent body that was not "a body governed by public law" (essentially meaning a body financed or controlled by another public sector body) for the purposes of the PCR then it would not be bound to follow the procurement rules in these regulations.

The powers under consideration for the imposition of a toll or charge for the use of the Bridge include:

- The imposition of a road user charge pursuant to Section 295 and Schedule 23 to the Greater London Authority Act 1999, which would be made by the Council and confirmed by the Mayor of London;

- The imposition of a toll pursuant to a toll order and a special road scheme made under Section 6 of the New Roads and Street Works Act 1991 and section 16 Highways Act 1980 respectively, which would be made by the Council and confirmed by the Secretary of State for Transport; or
- A development consent order made under the Planning Act 2008, which would be the subject of a submission seeking a direction designating the proposals as a nationally significant infrastructure project and an application to the Secretary of State for Transport for such an order.

The analysis leading to the imposition of a toll or charge is contained in the exempt **Appendix 1**.

Regardless of the procedure adopted, the Council intends to undertake consultation with residents, users of Hammersmith Bridge and other stakeholders prior to or as part of the procedures applicable to each process.

Contact Officers:

Name: Bram Kainth
Position: Chief Officer Public Realm
Email: bram.kainth@lbhf.gov.uk

Name: Sukvinder Kalsi
Position: Head of Finance Environment
Email: sukvinder.kalsi@lbhf.gov.uk
Verified by Emily Hill, Director of Finance

Name: Asad Khair
Position: Infrastructure Advisory Director (KPMG)
Email: Asad.Khair@KPMG.co.uk
Verified by Emily Hill, Director of Finance

Name: Howard Bassford (DLA Piper)
Position: Partner
Email: howard.bassford@dlapiper.com
Verified by Adesuwa Omoregie

Name: John Sharland (Procurement legal comments)
Position: Senior Solicitor (Contracts and Procurement)
Email: john.sharland@lbhf.gov.uk

Background Papers Used in Preparing This Report - none

DETAILED ANALYSIS

Recent Developments and Announcements from Her Majesty's Government

1. On 1 June the government announced, via its Transport for London Settlement Letter it expected to draw up a memorandum of understanding (MoU) between the government, TfL and the Council to fund the reopening of the bridge conditional on:
 - all parties agreeing the cost of the project
 - each party to pay a share with the government not contributing more than a third
 - that the independent Board responsible for the Case for Continued Safe Operation, reporting to the Council, will conduct a new assessment for controlled and limited reopening of the bridge to pedestrians, cyclists and river traffic.
2. The original suggestion of the Council, TFL and the DfT each paying one-third of the total repair costs for Hammersmith Bridge was first raised by the Deputy Mayor of London at the Government Taskforce meeting in October 2020, without any consultation or agreement with the Council. This unprecedented figure is significantly greater than the 15 per cent financial contribution that any London borough usually pays towards the repair costs of bridges which they own. The remaining repair costs of the bridges have been funded by the DfT and TFL. A contribution by the Council of one-third of the total repair costs could place an unprecedented financial burden on approximately 90,000 households in the borough.
3. Before the announcement the Council and TfL were proposing a joint bid for government grant funding through the Levelling Up Fund, which will no longer be pursued.

Proposals and Analysis of Options

4. There are several potential delivery models ("Delivery Model Options") for the restoration of Hammersmith Bridge. These are described in the exempt paper prepared by KPMG which is at **Appendix 2**. These Delivery Model Options have been initially considered with regard to a number of factors, derived from objectives which have been developed in discussion between officers and external advisers (Critical Success Factors or CSFs). These are:

HMT Green Book 'basic CSFs'	Hammersmith Bridge CSFs / sub-criteria	Description / assessment criteria
Potential Achievability	Financial viability	Ensuring the project is capable of being structured in a manner that is financially viable in the long-term and is supported by sufficient funding and/or able to generate sufficient cash flows to cover the running costs and repay any financing used.
	Legal powers	Ensuring the project is capable of being structured in a manner that is legally deliverable under existing powers including any powers that can be obtained in the appropriate timescale e.g. through a DCO.
	Market appetite	Ensuring the project is capable of attracting sufficient market appetite for private sector input required (construction, maintenance, debt financing, equity investment as relevant) to ensure deliverability and drive competitive pricing.
Strategic fit and meets business needs	Minimising delivery time	The ability of the Project to beat required delivery timeframes, reduce risk of delays in delivery and in any event, be deliverable within the programmed timescales.
	Optimal long term governance	The future governance arrangements for the Project should support efficient and sustainable long-term operation and stewardship of the bridge for the benefit of local residents and wider users including arrangements for establishing and governing any user charging.
	Maintaining future operational flexibility	Allowing the Project to provide greater flexibility to implement changes to the assets or service requirements in line with future LBHF, TfL or DfT policy requirements in a straightforward and cost effective manner.
Potential Value for Money	On budget delivery	The ability of the Project to be delivered within, or as close as possible to, the budgeted cost at business case stage i.e. in a manner that removes or minimises the risk of cost overruns.
	Optimising risk transfer	The Project should support the optimal management of risks associated with the bridge restoration and future maintenance and operation and where appropriate should support the transfer of risks away from the public sector (and in particular LBHF as asset owner) subject to demonstration of deliverability and value for money.
	Minimising revenue risk and maximising asset availability	The ability of the Project to improve the resilience of the bridge, ensuring a standard of maintenance and operational reliability that minimises the periods of unavailability, particularly during periods of peak usage. Minimising disruption for residents and users and the loss of user charging revenue associated with unavailability.
	Optimising whole life cost and value of the asset	Designing, constructing and maintaining the asset to a consistently high standard in an efficient manner which minimises whole life cost and maximises the whole life value of the asset.
Potential Affordability	Affordability	Minimises funding or undertaking support required from the public sector and LBHF and LBHF residents in particular, during restoration and future operations.
	Minimising impact on delivery resources required	Minimising the impact on the existing public sector management and project delivery resources required to deliver the project and reducing the need for additional resources to be brought in.

5. It is important that the Delivery Model Options for the Project are fully evaluated and this analysis is to be found in **Appendix 2**.

Recommendation on delivery models

6. Subject to further analysis to demonstrate financial and legal deliverability (detailed further below), the assessment of the Delivery Model Options detailed in Appendix 2 suggests that entering into a long-term contract with a private sector counterparty for the design, restoration, operation and maintenance of Hammersmith Bridge, either under a **Concession** or a **Design Build Finance Maintain (DBFM)** structure appears to demonstrate the best potential out of the models considered to deliver against the Council's objectives.
7. The key factors driving the assessment in favour of the Concession and the DBFM models include:
- Significant transfer of design, refurbishment, operation and maintenance risks over an extended period of time (30-50+) years away from the Council to a private sector counterparty that is qualified to effectively manage these;
 - Greater confidence of meeting or beating programme timescales for delivery and delivering within budget as result of strong financial incentives on the private sector counterparty to manage risk i.e. no revenue until reopening to traffic;
 - Optimising the whole life cost and value of the Bridge through appointing a private party that will have incentives to better integrate design and refurbishment works with future operations and maintenance;
 - Minimising the budgetary impact on the Council and the wider public sector by supporting the raising of third-party finance, potentially in a manner that is off-balance sheet for the Council; and

- Minimising the impact on public sector resources needed for the managing of refurbishment works contracts and oversight of future operations and maintenance of the Bridge as a result of passing long term responsibility for these activities to the private sector.
8. There are also some drawbacks to these options compared to the other Delivery Model Options considered including:
- Concession and DBFM models will require additional due diligence, contractual structuring, market testing and potentially require a longer procurement timetable than traditional procurement. However, some of the additional time taken due could potentially be clawed back due to the additional incentives to complete quicker.
 - The Concession model requires passing at least some traffic and revenue risk to the market and this will require additional due diligence by potential bidders which may increase the risk of procurement failure in the event that the market cannot get comfortable with the revenue risk. This can to an extent be mitigated through market testing and more detailed traffic and revenue analysis commissioned by the Council.
9. The above conclusions are preliminary and remain subject to ongoing work, particular around legal and financial deliverability, which may lead to certain options being ruled out or other changes to the analysis. Key ongoing and planned work that may impact the conclusions over time include:
- Development of advice on available **legal options for tolling** and how these relate to a Concession or DBFM approach (see above and Annex 1, noting that either should be capable of being made to work in all tolling/charging scenarios, subject to retained risk for the Council)
 - Development of **traffic and revenue analysis** has been commissioned by the Council in consultation with DfT and TfL (noting this will be required to understand the potential revenue risk and to support analysis of compliance with the Mayor's Transportation Strategy)
 - Development of a **shadow financial model** to assess the financial viability of the options analysis
 - **Market testing** to gauge appetite for Concession and DBFM approaches in order to provide confidence on their deliverability.
10. The paper attached as Appendix 2 recommends that a Concession and a DBFM approach are taken forward as the preliminary preferred approaches for further development and in particular to form the basis for the development of an Outline Commercial Strategy (OCS) and an Outline Procurement Strategy (OPS). Both the OCS and OPS should be subject to revision and refinement in light of the important ongoing work described above. It is intended the OCS and OPS will form the basis for the Outline Business Case Commercial Case.
11. This report also recommends that work to develop the OCS should explore further the viability and desirability of transferring any future concession or DBFM contract to a charitable trust dedicated to the future repair and maintenance of the Bridge to reflect and safeguard its unique structure and heritage status.

Recommendations on engineering strategy

12. There are a number of engineering solutions for stabilisation and strengthening works which are subject to detailed analysis to ensure the most appropriate option is taken. The outcome of the optioneering will form the basis of the financial “ask” in the business case and the capital requirement to be funded through toll/charge revenues.

Recommended next steps

13. Following discussions between Council officers and DfT officials, it has been agreed that the approach to developing the Project should be documented in an Outline Business Case (OBC) under the Treasury’s five case business model as set out in the “Green Book”.
14. The proposed key workstreams, steps and decision points in developing the OBC are summarised below.
 - Strategic Case
 - Prepare the **Case for Change** based on the existing TfL Business Plan
 - Economic Case
 - Develop **Technical Solution Optioneering** providing a comprehensive technical, cost and benefits appraisal of the stabilisation and strengthening options considered leading to the selection of a preferred option. Stabilisation and strengthening options may be considered in separate reports
 - Develop **Traffic and Revenue** forecasts for a Base Case and a range of scenarios.
 - Commercial Case
 - Develop **Tolling Options Report** considering the legal and commercial implications of different approach to securing powers for user charging leading to a recommended approach
 - Develop an **Outline Commercial Strategy (OCS)** detailing the commercial model and risk matrix for the preferred delivery model(s) and reflecting legal advice on tolling, planning and required consents
 - Develop an **Outline Procurement Strategy (OPS)** detailed the proposed approach and timelines for procurement of necessary contracts reflecting applicable procurement legislation and regulations
 - Conduct **Market Engagement** to validate, evidence and refine the approaches and assumptions set out in the OCS and OPS
 - Financial Case
 - Develop **Shadow Financial Model** to assess the cashflow and affordability impact on all parties of the Project
 - Develop **Funding and Financing Plan** setting out the proposal for funding and financing costs and risks
 - Develop the **Accounting and Budgetary Impacts** for the Council (and if required, DfT)

- Management Case
 - Develop **Project Management and Governance Structure** including **RACI matrix**
 - Develop **Project Delivery Plan** and **Risk Register**

Stabilisation works – early implementation

15. It is expected that the powers under consideration for the imposition of a toll or charge for the use of the Bridge will require 12-18 months to promote (in the case of Section 295 and Schedule 23 to the Greater London Authority Act 1999 and Section 6 of the New Roads and Street Works Act 1991 and section 16 Highways Act 1980 respectively) or 27 months (in the case of a development consent order made under the Planning Act 2008). Therefore, upfront funding will be required for the stabilisation works.
16. In carrying out the next steps set out above, it will also be necessary to consider whether to present shorter term stabilisation works as part of the main Project or separately as a discrete sub-project subject to its own OBC. This will depend upon the approach to funding that has to be applied.
17. If capital funding can be obtained for the stabilisation works (for example from DfT or TfL), then this may enable them to be justified and funded separately and early. However, if the stabilisation works rely upon funding by the proposed toll/road user charge then they will need to await the completion of the OBC for the entire project and the relevant legal mechanism in place. In the event that funding for stabilisation is not provided and early procurement is undertaken by the Council, any Council borrowing, could only be committed to with the comfort that a charge or toll could be imposed, or an indemnity required from the DfT or TfL in the event that revenues to meet borrowing costs cannot be raised by the charge or toll.

Reasons for Decision

18. Hammersmith Bridge is a unique, Grade 2* listed suspension structure which opened on 11 June 1887 and is classified by Historic England as being of “more than special interest”. The Bridge and the highway which passes over it was transferred to the London Borough of Hammersmith & Fulham as part of the reorganisation of London local authorities pursuant to the Local Government Act 1985.
19. A comprehensive structural integrity review of Hammersmith Bridge discovered unidentified corrosion and dangerous micro-fractures in the critical structural elements of the bridge, causing the Bridge to be at risk of catastrophic collapse.
20. On 10 April 2019, following the advice of the Board for the Case for the Continued Safe Operation of Hammersmith Bridge, the Bridge was immediately closed to all motor vehicle traffic on public safety grounds. On 19 August 2020, the Bridge was also closed to all pedestrians and cycles.

21. In the absence of funding of the restoration of the bridge by the Government, the preference from officers to the cabinet is for the refurbishment and future maintenance of the Bridge to be funded by a road charge or toll. Officers have worked with advisers to identify objectives that should form the basis for assessment of the means for delivery of the Project.
22. Officers have submitted the Outline Financial Plan to the Secretary of State. The Council is working with DfT officials to discuss commercial and tolling options which are being incorporated into an outline business case which will build upon the Outline Financial Plan. Comments are awaited from the Secretary of State on how road charging or tolling options can appropriately proceed. Further work will be required to develop the business case, which will include work on traffic modelling.
23. Emerging thinking on this is contained in **Appendix 1**.
24. The Council will commence wider market engagement on funding and governance options when this consideration has advanced further, taking account of the advice contained in **Appendix 2**.
25. The Council's preferred option of imposing tolls or charges would improve affordability of the Project by charging those that benefit from the use the Bridge rather than having to fund costs through local taxation.

Equality Implications

26. As the proposal develops a full Equality Impact Assessment will be undertaken and updated throughout the project to include consideration of feedback from consultations.

Risk Management Implications

27. Complex restoration schemes require rigorous planning and preparation and, should be delivered and documented an Outline Business Case (OBC) using the HM Treasury's five case business model as set out in the "Green Book". This is to ensure identification, allocation, assessment and ongoing review of key risks is undertaken in support of the concession and Design Build Finance Maintain (DBFM) models proposed in this report.

Implications completed by Michael Sloniowski, Risk Manager Tel 020 8753 2587

Climate and Ecological Emergency Implications

28. Hammersmith Bridge is a key transport artery for the borough, carrying public transport and it is important that we reinstate this, and this objective is aligned with the terms of reference of the DfT Taskforce. The traffic that once used Hammersmith Bridge has moved to nearby bridges which were already at capacity before the Bridge closed, especially notable that pedestrian and cyclists that now have to travel by car over alternate bridges further worsening

the traffic. Air Quality issues have been displaced to the nearby bridges such as Putney and Wandsworth as these Bridges are seeing between 4,000 to 6,000 daily vehicle increases on post Hammersmith Bridge closure vehicle numbers.

Implications verified by: Hinesh Mehta, Strategic Lead – Climate Emergency

List of Appendices

Exempt Appendix 1 – Tolling/Road User Charging paper (DLA Piper)

Exempt Appendix 2 – Delivery Models paper (KPMG)