

Report to: Cabinet

Date of meeting: 16 July 2019

By: Director of Communities, Economy and Transport

Title: Transport for the South East's draft proposal to Government – formal consultation

Purpose: To advise Cabinet of the proposed County Council's response, as a constituent authority, to Transport for the South East's formal consultation on their draft proposal to Government.

RECOMMENDATIONS: Cabinet is recommended to agree the County Council's response on the Transport for the South East's formal consultation on their draft proposal to Government as set out in paragraphs 2.7 to 2.13 below.

1 Background Information

1.1 Under legislation contained in the Cities and Local Government Devolution Act 2016, a sub national transport body (STB) is a body corporate, which may only be established by the Secretary of State if it is considered that:

- its establishment would facilitate the development and implementation of transport strategies for the area; and
- the objective of economic growth in the area would be furthered by the development and implementation of such strategies.

1.2 Since 2016, sixteen upper tier authorities in the South East have been working together to develop a proposal for a Sub-National Transport Body (STB), Transport for the South East (TfSE), for their geography as shown at Appendix 1. This covers Brighton and Hove, East Sussex, Hampshire, Isle of Wight, Kent, Medway, Portsmouth, Southampton, Surrey and West Sussex and the six unitary authorities of Berkshire.

1.3 In addition, the five Local Enterprise Partnerships - Coast to Capital, Enterprise M3, Solent, South East and Thames Valley Berkshire as well as two National Park Authorities (South Downs and New Forest); 44 Boroughs and Districts across the geography; the transport industry and end user voice are represented in TfSE's governance which currently comprises a shadow Partnership Board, Transport Forum and Senior Officer Group.

1.4 To achieve statutory status, TfSE is required to develop a Proposal to Government which will need to demonstrate the strategic case for the creation of a sub-national transport body and set out how TfSE will fulfil the statutory requirements for such a body as outlined in the enabling legislation. The draft Proposal also needs to identify the types of powers and responsibilities that the STB will be seeking, as well as identifying the proposed governance structures.

1.5 The legislation also requires that a new sub-national transport body will be promoted by, and have the consent of, its constituent authorities, and that the proposal has been the subject of consultation within the area and with neighbouring authorities.

1.6 TfSE's draft proposal to Government was published for a full twelve week public consultation between 3 May and 31 July 2019. This has been made available on the TfSE website and has been circulated to relevant stakeholders for their views. All constituent authorities are expected to provide a formal response to the consultation.

1.7 Following the consultation, the Shadow Partnership Board will consider next steps at their September meeting. If the board wish to submit the proposal to Government formal consent will be required from all constituent authorities to signal their support for the creation of TfSE as a statutory body. In the meantime, the Secretary of State has written to all STBs stating he will consider the views of STBs in development of national transport policy and investment decisions. He has also indicated that STBs should work with the department to ensure a more stable financial footing through the spending review process. He has also indicated that whilst he does not rule out formal statutory status his preference is to continue with the informal partnership for the time being. The TfSE Board will consider their approach to this following the consultation at their September Board meeting. The Board have agreed that work on the proposal should continue.

1.7 If the Board consider there is a compelling argument for a more formal status they will need to agree to submit a proposal. Once the Government has received the proposal from TfSE, it is expected that there will be a period of three to six months while the Secretary of State considers the request. The Secretary of State will then formally respond to the TfSE proposal setting out the powers and responsibilities that have been granted. Work will then begin on drafting the Statutory Instrument which will be laid before Parliament which is expected to come forward in 2020. All constituent authorities will be required at that point to give their consent to the creation of the statutory body following the formal response from the Secretary of State.

2 Supporting Information

The Draft Proposal to Government

2.1 TfSE's draft Proposal to Government is attached at Appendix 2. The draft proposal sets out the ambition for TfSE, the strategic and economic case for its establishment; its proposed constitutional arrangements; and its proposed functions in terms of the powers and responsibilities it is seeking.

Constitutional arrangements

2.2 The draft proposal identifies that each constituent authority will appoint one of their elected members or their elected mayor as a member of TfSE on the Partnership Board. It is proposed that the regulations should provide for the appointment of persons who are not elected members of the constituent authorities to be co-opted members of the TfSE Partnership Board. Currently two representatives for the five LEPs, a representative from the Boroughs and Districts, the Chair of the TfSE Transport Forum and a representative from the protected landscapes in the TfSE area have been co-opted onto the Shadow Partnership Board. The arrangements also include the establishment of a Scrutiny Committee alongside the existing Transport Forum and Senior Officer Group.

2.3 In terms of decisions, the starting point will be consensus. However if that can't be achieved then decisions will require a simple majority of those Constituent Bodies who are present and voting. Where consensus cannot be achieved on the following matters, it will require enhanced voting arrangements:

- the approval and revision of the Transport Strategy;
- the approval of TfSE annual budget; and
- changes to the TfSE constitution.

2.4 Decisions on these issues will require both a super-majority, consisting of three quarters of the weighted vote in favour of the decision, with the number of votes based for each constituent authority being based on their per capita population, and a simple majority of the constituent authorities. The details of the proposed weighting voting system are set out in Section 5 of the draft Proposal at Appendix 2.

Functions

2.5 The specific functions that TfSE is seeking as part of its Proposal to Government are set out in Section 6 at Appendix 2. In summary, these include the following:

- General STB functions relating to the preparation of a Transport Strategy, advising the Secretary of State and co-ordinating transport functions across the TfSE area (with the consent of the constituent authorities);
- Being consulted on rail franchising and setting the overall objectives for the rail network in the TfSE areas;
- Jointly setting the Road Investment Strategy (RIS) for the TfSE area;
- Obtaining certain highways powers which would operate concurrently and with the consent of the current highways authority to enable regionally significant highways schemes to be expedited;
- Securing the provision of bus services, entering into quality bus partnership and bus franchising arrangements;
- Introducing integrated ticketing schemes;
- Establishing Clean air zones with the power to charge high polluting vehicles for using the highway;
- Power to promote or oppose Bills in Parliament; and
- Incidental powers to enable TfSE to act as a type of local authority.

2.6 The proposed powers would operate concurrently and with the consent of the constituent authorities.

Response to draft proposal

2.7 Overall we are supportive of TfSE's draft Proposal to Government, with the County Council being heavily involved in its development and acting as accountable body since its inception.

2.8 In relation to the constitutional arrangements, we support the proposed structure of the Partnership Board including the co-opting representatives from the Local Enterprise Partnerships, the Transport Forum and the two National Parks which has worked effectively in its shadow format. With its move to a formal status it is welcomed that, as proposed, a Scrutiny Committee is established to review the Board's decisions or actions in relation to the discharge of its functions, powers and responsibilities.

2.9 In relation to the voting arrangements, we welcome the approach of, first and foremost, seeking decisions by consensus, but recognise that in some instances this may not be achievable. Therefore, the majority approach as put forward in the draft Proposal is supported. We also support the super majority approach for particular decisions that cannot be agreed by consensus. We have experience of how this works in practice through our representation on the South East Local Enterprise Partnership, where similar arrangements exist in relation to the number of votes/representatives being proportionate to the constituent authority's per capita population. In this case, East Sussex would have 4 votes on the Board.

2.9 Overall we are supportive of the powers and responsibilities being sought by TfSE. We agree that TfSE should not seek the powers and responsibilities as set out in section 5.6 of the draft proposal and also support TfSE in them not acting as a co-signatory to rail franchises or being responsible for rail franchising. However, there are a number of comments which we would wish to highlight.

2.10 It is recognised that there may be some of the powers and responsibilities being sought by TfSE which other STBs who have been given statutory status – Transport for the North – have not been granted by the Secretary of State. This particularly relates to setting the High Level Output Specification (HLOS) for rail and the Roads Investment Strategy (RIS) for the Strategic Road Network (SRN), both of which are set nationally by the Department for Transport. In the

event that neither of these powers and responsibilities are given by the Secretary of State to TfSE, as an alternative TfSE should seek a more formal and strengthened role in influencing Government's decisions on the HLOS and RIS, thereby providing a single voice on the regional priorities across their geography.

2.11 In relation to the proposed power and responsibility to 'enter into agreements to undertake certain works on Strategic Road Network, Major Road Network or local roads', it would be helpful for further clarity to be provided in the rationale on why and where TfSE would envisage using this power relating to constructing, reconstructing, altering, improving or maintaining roads.

2.12 Regarding the 'Right to be consulted about new rail franchises', this is supported. As part of the development of the South Eastern franchise during 2017/18, the County Council along with Kent County Council were actively engaged from the outset by the Department for Transport on the franchise specification. We would expect that for future franchising arrangements, and subject to the outcomes of the Williams Rail Review, that a similar approach would be in place with TfSE and that the respective local authorities would be engaged throughout in shaping the franchise specification. This could be made more explicit in the rationale.

2.13 In relation to bus franchising, whilst it is unlikely that such a power would be implemented in East Sussex, it is recognised that some other parts of the TfSE geography would wish to use this. The responsibility for introducing integrated ticketing schemes is also supported. The powers to introduce an integrated ticketing scheme at a sub-national level, concurrent with those available to local transport authorities, would be significantly beneficial for encouraging more seamless cross-TfSE journeys by public transport.

3 Conclusion and Reasons for Recommendations

3.1 The establishment of TfSE provides an opportunity to support and grow the economy through the delivery of their transport strategy – a programme of integrated transport projects and programmes to unlock growth, boost connectivity and speed up journeys whilst improving access to opportunities for all and protecting and enhancing our region's unique environment.

3.2 Through the proposed range of powers and responsibilities being sought, TfSE will enable the Council to more directly influence how and where money is invested by strategic transport providers, and help drive improvements for the travelling public and for businesses in the County, so helping to secure delivery of longstanding transport infrastructure ambitions. In doing so, TfSE will provide a more co-ordinated strategic role that speaks with one voice for the region to Government.

3.3 TfSE has set out their draft proposal to Government for how they would achieve their ambition which is currently out to consultation. Overall the County Council is supportive of TfSE's draft proposal, and has a number of detailed comments as set out in sections 2.7 to 2.13 of this report which would form the basis of the County Council's formal response. Cabinet is recommended to consider our support for TfSE's draft proposal as well as the detailed comments on their proposal and offer their views.

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LOCAL MEMBERS

All

BACKGROUND DOCUMENTS

Transport for the South East – Draft Proposal to Government, May 2019

Appendix 1 – Transport for the South East Geography

