

Report to: Cabinet

Date of meeting: 3 March 2020

By: Director of Communities, Economy and Transport

Title: Transport for the South East's proposal to Government

Purpose: To advise Cabinet of Transport for the South East's (TfSE) draft proposal to Government to create a Sub-national Transport Body and request Cabinet give consent, on behalf of East Sussex County Council, for TfSE to submit their proposal to the Government.

RECOMMENDATIONS: Cabinet is recommended to agree:

- 1. the submission to Government of the draft proposal set out in Appendix 3 for Transport for the South East to become a Sub-national Transport Body; and**
 - 2. to delegate authority to the Director of Communities Economy and Transport in consultation with the Lead Member for Transport and Environment to finalise our agreement to the proposal prior to TfSE's submission to Government and to take any actions necessary to give effect to recommendation 1.**
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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 STB, Transport for the South East (TfSE). 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 (the constituent authorities). A map showing TfSE's geography is shown at Appendix 1.

1.3 In addition, the five Local Enterprise Partnerships (LEPs) - 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 demonstrates the strategic case for the creation of a STB and sets 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 STB 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.

2 Supporting Information

TfSE Draft Proposal consultation

2.1 TfSE undertook a twelve week public consultation on their draft proposal to Government between 3 May and 31 July 2019. The draft proposal set out TfSE's ambition, 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.

2.2 As a constituent authority, the County Council's formal response to the consultation was approved by Cabinet on 16 July 2019. A copy of the July Cabinet report, including our response to the formal consultation on the draft proposal, is at Appendix 2.

TfSE's Revised Proposal

2.3 Following the consultation, TfSE have revised their draft proposal which was approved by their Shadow Partnership Board at its meeting on 19 September 2019. The revised draft Proposal to Government is at Appendix 3 and incorporates a number of changes, which can be summarised as:

- Strengthening the opening narrative and strategic case to ensure that social and environmental impacts, including reducing emissions, are clearly recognised as a priority for TfSE. This will reflect the recent work on the development of the Transport Strategy, including the revised vision, goals and objectives.
- The proposal highlights that the current governance arrangements for co-opted members are considered to work well and would strongly recommend that the Statutory Body would continue with them.
- Clarification is provided around the principle of consent and the concurrent nature of the powers. Additionally, the principle of subsidiarity will be incorporated into the document to demonstrate that any decisions relating to the powers is made at the most relevant level and that, where possible, future aspirations will focus on drawing down powers from central government.
- The bus franchising power was removed from the proposal, with the emphasis placed on building stronger relationships with the bus operators and work with local authorities to ensure that services are operating in a way that supports the delivery of the Transport Strategy, e.g. smart and integrated ticketing at a regional (or wider) level.
- The powers relating to rail have remained unchanged. However, TfSE is closely monitoring the outcomes of the William's Rail Review and will consider whether it should include provision to assume a role in contracting for rail services as it matures as an organisation.

2.4 Reflecting the outcomes of the consultation, the powers and responsibilities now being sought by TfSE are:

- 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 and entering into quality bus partnerships;
- 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.

2.5 The proposed powers would operate concurrently to those of the constituent authorities and where exercised by TfSE would need the consent of the constituent authority or authorities.

Constitutional Arrangements

2.6 Following the consultation, the constitutional arrangements for TfSE remain the same. 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 proposes 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. At present, two representatives for the five LEPs, a representative from the Boroughs and Districts, the Chair of the TfSE Transport Forum, a representative from the protected landscapes in the TfSE area and latterly representatives from Network Rail, Highways England and Transport for London (TfL) have been co-opted onto the Shadow Partnership Board. Following the outcomes from the consultation, it is proposed to continue this arrangement of co-opting members when the statutory Partnership Board comes into effect.

2.7 The arrangements also include the establishment of a Scrutiny Committee alongside the existing Transport Forum and Senior Officer Group.

2.8 In terms of decisions, the starting point would be seeking consensus. However, if that could not be achieved then decisions would require a simple majority of those Constituent Authorities 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.

2.9 Finally, decisions on these issues would 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.

Funding Arrangements

2.10 In terms of funding, TfSE has raised local contributions from the constituent authorities and has secured grant funding from the Department for Transport (DfT) to support the development of the Transport Strategy. Contributions will continue to be provided by the constituent authorities towards the running costs of TfSE whilst further long term funding is being sought from DfT to enable TfSE to fulfil its powers and responsibilities as a statutory STB.

Support for TfSE's proposal and consent to submit to Government

2.11 At its meeting on 11 December 2019, the Shadow Partnership Board resolved that the draft proposals should be finalised for submission to Government in April 2020. It also resolved that constituent authorities be asked to provide their formal consent to the proposal to create a STB and its proposed powers and responsibilities in advance of the April 2020 meeting of the Shadow Partnership Board.

2.12 Overall, we are supportive of TfSE's revised draft Proposal to Government, with the County Council being heavily involved in its development and acting as accountable body since its inception. The revised draft proposal has reflected a number of the comments made by the County Council in its consultation response reported to Cabinet on 16 July 2019.

2.13 In relation to the constitutional arrangements, we continue to support the proposed structure of the Partnership Board including the co-opting representatives from the LEPs, the Transport Forum and the two National Parks which has worked effectively in its shadow format which has been acknowledged in the revised draft proposal. We also continue to welcome the establishment of a Scrutiny Committee to review the Partnership Board's decisions or actions in relation to the discharge of its functions, powers and responsibilities.

2.14 In addition, we welcome the approach of, first and foremost, seeking decisions by consensus. Whilst recognising that in some instances this may not be achievable, we continue to support the majority approach and super majority approach referred to in the revised draft proposal, where East Sussex would proportionately have four votes on the Partnership Board, for particular decisions that cannot be agreed by consensus.

2.15 Furthermore, we continue to be supportive of the powers and responsibilities being sought by TfSE. Reflecting the outcomes of the consultation and our comments, we welcome that TfSE are not seeking to change the proposed powers and responsibilities relating to rail at this juncture. However, we fully recognise TfSE's position in relation to considering whether to include provision to assume a role contracting rail services in the future in light of any recommendations arising from the forthcoming Williams Rail Review. We also welcome the removal of the bus franchising power from the revised draft proposal and that greater emphasis will be placed on stronger partnership working with the bus industry and local transport authorities.

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 focussed on unlocking growth, boosting connectivity, and speeding 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. It will also 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 Following consultation, TfSE have revised their draft proposal to Government on how they would achieve their ambition and are seeking the constituent authorities consent to support their proposal to Government in April 2020. Overall the County Council is supportive of TfSE's revised draft proposal to create a STB, with its proposed powers and responsibilities, and consents to TfSE submitting their proposal to Government. Cabinet is recommended to consider our support and consent for TfSE to submit their revised draft proposal to Government and offer their views.

RUPERT CLUBB

Director of Communities, Economy and Transport

Contact Officer: Jon Wheeler

Tel. No. 01273 482212

Email: jon.wheeler@eastsussex.gov.uk

LOCAL MEMBERS

All

BACKGROUND DOCUMENTS

None

Appendix 1 – Transport for the South East Geography

