

<b>Subject:</b>	<b>Transport for the South East (TfSE) Sub-national Transport Body – Formal Consultation on Draft Proposal To Government.</b>		
<b>Date of Meeting:</b>	<b>11<sup>th</sup> July 2019</b>		
<b>Report of:</b>	<b>Executive Director, Economy, Environment &amp; Culture</b>		
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<b>Ward(s) affected:</b>	<b>All Wards</b>		

**FOR GENERAL RELEASE.****1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 On 18th March 2019 the Transport for the South East (TfSE) Shadow Partnership Board [SPB] approved a draft Proposal to Government for formal consultation, which is attached at Appendix 1 to this report.
- 1.2 The formal consultation period will close on 31 July 2019, and a final proposal will be recommended to the Shadow Partnership Board meeting on 19 September 2019.
- 1.3 The draft Proposal to Government is requesting statutory status for TfSE, which will require approval by Parliament. Transport for the North was the first Sub-national Transport Body (STB) to achieve statutory status in April 2018.
- 1.4 The statutory basis for an STB is set out in Part 5A of the Local Transport Act 2008 as amended by the Cities and Local Government Devolution Act 2016, which says that “the Secretary of State may by regulations establish a sub-national transport body for any area in England outside Greater London” (s102E(1)) and it goes on to set the conditions and limits for such arrangements.
- 1.5 The twin purposes for creating an STB are to facilitate the development of transport strategies and so promote economic growth for the area.
- 1.6 The legislation requires a new STB to be promoted by, and have the consent of, its constituent authorities, and that its Proposal to Government has been the subject of consultation within the area and with neighbouring authorities. TfSE has planned the formal consultation to take place between 3 May until 31 July 2019 and it is being carried out in a way that will meet this condition.

## **2. RECOMMENDATIONS:**

- 2.1 That the Committee is recommended to welcome the draft proposal to establish a Sub-national Transport Body for the South East, to be known as Transport for the South East (TfSE);
- 2.2 That the Committee is recommended to agree that the detailed points set out in paragraph 6 of this report form the basis of the council's response to the Transport for the South East (TfSE) consultation document, and authorise the Chief Executive to submit the response on behalf of the council.

## **3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 An STB is a corporate body, which may only be established by the Government's Secretary of State for Transport 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.
- 3.2 Sixteen upper tier local authorities in the South East have been working together since 2016 to develop a proposal for an STB. They are:

Bracknell Forest; Brighton & Hove; East Sussex; Hampshire; Isle of Wight; Kent; Medway; Portsmouth; Reading; Slough; Southampton; Surrey; West Berkshire; West Sussex; Windsor and Maidenhead; and Wokingham.
- 3.3 The existing Shadow Partnership Board also includes arrangements for involving the five Local Enterprise Partnerships [LEPs] (Coast to Capital, Enterprise M3, Solent, South East, Thames Valley Berkshire); two National Park Authorities (South Downs and New Forest); 44 Boroughs and Districts in East Sussex, Hampshire, Kent, Surrey and West Sussex; and the transport industry and end user voice in its governance.
- 3.4 These efforts have been acknowledged by the Government's Department for Transport [DfT], and a grant of £1 million was awarded to TfSE to fund the development of the emerging Transport Strategy for the area.
- 3.5 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 an STB and set out how TfSE will fulfil the statutory requirements for such a body as outlined in the enabling legislation.
- 3.6 The draft Proposal will also need to identify the types of powers and responsibilities that the STB will be seeking, as well as identifying the proposed governance structures.

## **The Draft Proposal to Government**

- 3.7 The draft Proposal to Government for formal consultation is attached at Appendix 1.
- 3.8 The draft proposal has the following headings:
- Executive Summary
  - Transport for The South East
  - The Ambition
  - Strategic and Economic Case
  - Constitutional Arrangements
  - Functions

### Constitutional Arrangements

- 3.9 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 intended 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 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.
- 3.10 A number of voting options were considered to find a preferred option that represents a straightforward mechanism, the characteristics of the partnership, and which does not provide any single authority with an effective veto. The starting point for decisions will be consensus, and 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 the following matters will require enhanced voting arrangements:
- The approval and revision of TfSE's Transport Strategy;
  - The approval of TfSE's annual budget;
  - Changes to the TfSE constitution

The details of the voting arrangements are set out in full in Section 4 of Appendix 1 to this report.

### Functions

- 3.11 The specific functions that TfSE is seeking as part of its Proposal to Government are set out in Section 6 of Appendix 1 to this report. The proposed powers will operate concurrently and with the consent of the constituent authorities. In outline 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 Highways England's Road Investment Strategy (RIS) (for Trunk Roads and Motorways) for the TfSE area

- Obtaining certain highways powers which would operate concurrently and with the consent of the current highway authorities to enable regionally significant highway and sustainable transport schemes to be expedited
  - Securing the provision of bus services, entering into quality bus partnership and bus franchising arrangements
  - Introducing integrated ticketing schemes
  - Establish Clean Air Zones with the power to charge high polluting vehicles using the highway
  - Power to promote or oppose Bills in Parliament
  - Incidental powers to enable TfSE to act as a type of local authority.
- 3.12 The council has actively and constructively contributed to the development of TfSE through political support and membership of its SPB and Member Proposal Development Sub-Group. The representation has been at Chair of ETS Committee and Deputy Leader level and at senior officer level on TfSE Officer Group structures including its main Senior Officer Group, Transport Strategy Development Group, and Governance/Legal and Communications Groups. Brighton & Hove has also agreed annual contributions of £30,000 per annum alongside other unitary councils.
- 3.13 A Brighton & Hove officer has also recently been recruited to TfSE on full time secondment from the City Transport Division to lead on the development of TfSE's Transport Strategy.

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 The council has been an active participant and member of the SPB since its inception and helped steer progression of a range of regional activities including development of its Transport Strategy, funding bids and prioritisation opportunities, the development of an Economic Connectivity Review (which is the first major component of the TfSE Transport Strategy), various responses to Government consultations and, importantly for the city and wider Greater Brighton City Region, securing the inclusion of key strategic, local transport links including the A259, A270 and A23 as part of the recently designated Major Road Network (MRN), and procuring the expert consultancy advice required to develop specific elements of the Transport Strategy.
- 4.2 Options relating to specific powers being sought contained within the draft Proposal to Government have been reviewed and recommended to the SPB by an elected Member sub-group that included Councillor Gill Mitchell, former Deputy Leader and ETS Committee Chair.
- 4.3 Not agreeing the recommendations within this report would likely reduce influence and the council's role in developing TfSE's Transport Strategy, minimise its voice over national issues with the Government, especially the Department for Transport and its agencies including Highways England and Network Rail, and jeopardise access to, or the success of, specific funding bid applications such as the current work to develop a Business Case for future MRN funding to secure over £20 million for the continuing renewal programme for the A259 Seafront Highway Structures ('Arches').

## **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 TfSE's consultation is a full 12 week public consultation, which has been made available on the TfSE website and circulated to relevant stakeholders and independent Transport Forum. Constituent authorities and other TfSE partner organisations are encouraged to circulate the consultation document to their own stakeholders.
- 5.2 Prior to the formal consultation which started in May, informal meetings outlining the Draft Proposal and powers being sought were held individually with the council's Leadership Group and Executive Leadership Team conducted by Councillor Keith Glazier, Leader of ESCC and senior officers from TfSE. These meetings were hosted by the Chair of ETS Committee who was also on the Member Board that agreed the proposed powers and Proposal document.
- 5.3 The consultation period will close on 31 July 2019. During this time there will be ongoing dialogue with key partners and stakeholders about the content of the proposal. All constituent authorities will be expected to provide a formal response to the consultation.
- 5.4 A final proposal will be recommended to the SPB meeting in September 2019 and will be submitted to Government in November 2019. At this point formal consent will be required from all constituent authorities to signal their support for the creation of TfSE as a statutory body. This will require a further report to Full Council.
- 5.5 Once the Government has received the proposal from TfSE, 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 to TfSE. Work will then begin on drafting the Statutory Instrument which will be laid before Parliament. It is anticipated that this will happen in late 2020. All constituent authorities will be required to give their consent to the creation of the statutory body following the formal response from the Secretary of State. Again, this will require a further report to this committee and Full Council.

## **6. CONCLUSION**

- 6.1 TfSE provides an opportunity to support and deliver growth plans across the region through the development of a long-term strategy and a programme of transport measures to facilitate economic growth in a sustainable way, which will make the South East more competitive within national and international markets, and improve people's overall quality of life by accommodating housing and increasing job opportunities. By agreeing the recommendations to this report and supporting the Draft Proposal and the establishment of TfSE as a Statutory Body, the council and Greater Brighton City Region will benefit from the opportunities and potential funding that will be forthcoming, enabling them to further support joint ambitions with the LEPs and support delivery of Local Plans.

- 6.2 It would also enable the council to influence the prioritisation of investment by the major, national transport agencies such as Highways England and Network Rail in a way that has not been possible in the past.
- 6.3 TfSE will address some of the barriers to economic growth within the South East that have been held back by transport infrastructure shortcomings, most notably within the strategic infrastructure that is the responsibility of Network Rail and Highways England, but also in strategic, local infrastructure such as public transport, the cycle network and the electric vehicle charging point network as well as sustainable transport, improvements in air quality and carbon reduction fulfilling its social and environmental objectives. The STB would enable the council to more directly influence the priorities and programmes of the national agencies, so helping to secure delivery of longstanding transport infrastructure ambitions such as the essential improvements to the Brighton Main Line [BML].

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 7.1 TfSE has established an annual subscription of £58,000 per county and £30,000 per unitary authority. The council's annual contribution of £30,000 is, and will continue to be, funded from existing revenue resources within the City Transport service. The DfT has recently provided TfSE with a one-off grant of £1,000,000 towards the cost of the development of the Transport Strategy. There is a reasonable expectation that DfT will allocate some further core funding to TfSE once it has achieved statutory status, on the basis that constituent authorities will continue to make contributions. TfSE will also seek further capital funding from the DfT to take forward its technical work programme. It is anticipated that the TfSE would increase the likelihood of its members gaining access to external funding opportunities.

*Finance Officer Consulted: Steven Bedford*

*Date: 22/05/19*

### Legal Implications:

- 7.2 The Cities and Local Government Devolution Act 2016 allows the Secretary of State to make Regulations to establish an STB as a corporate body for any area in England outside Greater London. Regulations can only be made if the Secretary of State considers that establishing an STB would facilitate the development and implementation of transport strategies for the area and that the effect of these strategies would be to promote economic growth in that area.
- 7.3 Before making a proposal to Government, the constituent authorities must undertake consultation, which is the subject of this report. Following the consultation, formal approval will be sought from Full Council to submit the final proposal in November 2019.

*Lawyer Consulted: Elizabeth Culbert*

*Date: 22/05/19*

### Equalities Implications:

- 7.4 Consideration has been given to the potential for any adverse equalities impacts arising from the recommendations of this report. It is the view of officers that the recommendations included in this report do not have an adverse impact on any of the protected characteristics of people/communities identified in the Equalities Act 2010.

### Sustainability Implications:

- 7.5 The TfSE Vision specifically refers to environmental protection and seeks to deliver on mitigating the impacts of Climate Change and reducing Carbon emissions. TfSE's governance arrangements include Board Membership on behalf of protected landscape areas, including the South Downs National Park Authority.
- 7.6 In terms of seeking improvements to Air Quality across the region, two of the specific functions sought by TfSE's Proposal to Government include creation of Clean Air Zones and the power to charge in connection with these zones. This is in recognition of the potential need to coordinate air quality improvement across local authority boundaries.

### Any Other Significant Implications:

- 7.7 There are no additional significant implications associated with this report. Those associated with Public Health and Corporate/Citywide Implications are addressed within the main body of this report.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. TfSE Proposal to Government – Draft for Consultation.

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### **Documents in Members' Rooms**

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1. None.

### **Background Documents**

1. Minutes of TfSE SPB meetings
2. TfSE Economic Connectivity Review (2018)

