

Title of meeting: Cabinet Member for Traffic and Transportation Decision Meeting

Date of meeting: 2 April 2020

Subject: Transport for the South East (TfSE) - Formal Consent for Proposal to Government

Report by: Tristan Samuels, Director of Regeneration

Wards affected: All

Key decision: No

Full Council decision: No

1. Purpose of report

- 1.1 To inform members of the Transport for South East (TfSE) proposal to Government to become a statutory body and seek formal approval from members for submission of this proposal to Government.

2. Recommendations

It is recommended that the Cabinet Member for Traffic and Transportation:

- 2.1 Provides formal consent for the submission of the Proposal to Government, which forms the basis of Transport for the South East becoming a statutory Sub-national Transport Body.**

3. Background

- 3.1 On 19 September 2019, the Transport for the South East Shadow Board (TfSE) approved a Proposal to Government, (attached at Appendix 1 to this report), following a period of formal consultation.
- 3.2 The formal consultation period ran from 7 May 2019 to 31 July 2019, with almost 100 responses received from a range of stakeholders.
- 3.3 The Proposal to Government will form the basis of a request for 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.

- 3.4 The statutory basis for STBs is set out in Part 5A of the Local Transport Act 2008¹ as amended by the Cities and Local Government Devolution Act 2016, which states that “the Secretary of State may by regulations establish a sub-national transport body for any area in England outside Greater London” (s102E(1)). It goes on to set the conditions and limits for such arrangements.
- 3.5 The twin purpose for creating an STB are to facilitate the development of transport strategies and so promote economic growth for the area.
- 3.6 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 completed the formal consultation and is now seeking the formal consent of its constituent authorities prior to submitting the Proposal to Government.

4. Transport for the South East - Background

- 4.1 An 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.
- 4.2 Sixteen upper tier authorities in the South East have been working together since 2016 to develop a proposal for an STB. They are:
- Bracknell Forest; Brighton and Hove; East Sussex; Hampshire; Isle of Wight; Kent; Medway; Portsmouth; Reading; Slough; Southampton; Surrey; West Berkshire; West Sussex; Windsor and Maidenhead; and Wokingham.
- 4.3 The existing Shadow Partnership Board also includes arrangements for involving the five Local Enterprise Partnerships (Coast to Capital, Enterprise M3, Solent, South East, and Thames Valley Berkshire); two National Park Authorities (South Downs and New Forest); 46 Boroughs and Districts in East Sussex, Hampshire, Kent, Surrey and West Sussex; and the transport industry and end user voice in its governance.
- 4.4 These efforts have been acknowledged by the Department for Transport with £1.6m awarded to TfSE in grant funding over the last two financial years to fund the development of the emerging Transport Strategy for the South East.
- 4.5 To achieve statutory status, TfSE is required to develop a Proposal to Government, which needs to demonstrate the strategic case for the creation of a

¹ <http://www.legislation.gov.uk/ukpga/2008/26/part/5A>

sub-national transport body and set out how TfSE will fulfil the statutory requirements for such a body as outlined in the enabling legislation.

- 4.6 The Proposal should also identify the types of powers and responsibilities that the STB will be seeking, as well as identifying the proposed governance structures.
- 4.7 The legislation 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.

5. Consultation and the Revised Proposal

- 5.1 The Proposal to Government incorporates comments received from partner and stakeholder organisations, following a 12-week consultation period. The consultation document was made available on the TfSE website and was promoted in the regular e-newsletter. A simple consultation questionnaire was shared with all consultees, along with an offer for the TfSE secretariat to attend appropriate meetings.
- 5.2 The consultation resulted in 96 responses from a wide range of stakeholders, including a number of local interest groups and member of the public. Seventy respondents completed the questionnaire template provided by TfSE, with a further 26 submitting letters or emails.
- 5.3 The overall findings of the consultation exercise are positive, with 92 respondents offering support for the principle of establishing a sub-national transport body for the south east. There were many, varied reasons for this support including:
 - 5.3.1 Opportunity for TfSE to speak with ‘one-voice’ to identify regional priorities and influence the investment decisions of central government and national agencies;
 - 5.3.2 Greater focus on integrated transport solutions, developing multi-modal solutions that improve the end user experience;
 - 5.3.3 Offering a greater level of democratic accountability; and
 - 5.3.4 The ability to accelerate delivery of long-term, strategic infrastructure schemes.
- 5.4 The following provides a summary of the changes to the proposal following the public consultation:
 - 5.4.1 The proposal has been strengthened to ensure that social inclusion and environmental protection, 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. Further information has been included in the proposal on issues such as future transport technology, mobility as a service and smart and integrated ticketing, all of which will help to demonstrate that TfSE is not pursuing economic growth at the expense of the environment.

- 5.4.2 The proposed powers and functions remain broadly unchanged (with the exception of bus franchising) although there will be some points of clarification around the principle of consent and the concurrent nature of the powers.
- 5.4.3 The principle of subsidiarity has been incorporated into the document to demonstrate that any decisions relating to the powers are made at the most relevant level and that, where possible, future aspirations will focus on drawing down powers from central government.
- 5.4.4 Representations were made that the co-opted members of the Board should retain their voting rights as part of the constitutional arrangements and weighted voting system. The legislation is clear that the relevant authorities, i.e. the local transport authorities, have to form the basis for the sub-national transport body. As such, the constitutional arrangements for the statutory body are based solely on the constituent bodies. However, the proposal document now refers to the current arrangements and highlight that they are considered to work well, and would strongly recommend that the Statutory Body would continue with them.
- 5.4.5 The bus franchising power is not sought as a power at this time. TfSE will aim to build 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. It is proposed that the duty to secure the provision of bus services is replaced by the power to perform this function. The function for quality bus partnerships will remain unchanged from the draft proposal.
- 5.4.6 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.
- 5.5 At its meeting on 19 September 2019, the TfSE Shadow Partnership Board approved the Proposal to Government (attached at Appendix 1).
- 5.6 In response to the consultation, Portsmouth City Council supported the overarching goal of developing a unified voice with other South Eastern authorities. Officers stressed the importance of utilising the statutory powers of the transport body to address region wide connectivity issues that negatively impact upon air quality and economic growth, whilst recommended leaving specific local issues to individual authorities who are better placed to address them. It was agreed that - in line with Portsmouth's emerging Local Transport Plan 4 - the vision should be ambitious and transformative, though this ambition should be met with a clear policy of stakeholder 'sign-up' as to make these ambitions deliverable.

6. Submission to Government

- 6.1 The Shadow Partnership Board has considered the timing of the submission to Government and has agreed that it is appropriate to wait until the Transport

Strategy is finalised before submitting the Proposal to Government. However, in preparation for this, it has been agreed that formal consent for the proposal will be sought from all constituent authorities.

- 6.2 Part 5A of the Local Transport Act 2008 as amended by the Cities and Local Government Devolution Act 2016 includes the following requirement at section 102(F)(3),

“an STB for an area may be made only if—

“(a) the constituent authorities have together made a proposal to the Secretary of State for there to be an STB for the area, and

“(b) those authorities consent to the making of the regulations.”

- 6.3 Although other partners, such as LEPs, district and boroughs and national parks will not be required to offer formal consent for the creation of a statutory body, they may wish to submit letters of support for TfSE.

- 6.4 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 from TfSE. 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. 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.

- 6.5 The cabinet member for Traffic and Transportation at Portsmouth City Council will be requested to give Portsmouth City Council's consent to the creation of this statutory body at a future Traffic and Transportation decision meeting.

7. Implications

- 7.1 The potential implications for the following council priorities and policy areas have been considered. Where the impact is potentially significant, a summary of the issues is set out in detail below.

Area assessed:	Direct Implications:
Corporate Parenting/Looked After Children	No significant implications arising from this report
Safeguarding responsibilities for vulnerable children and adults	No significant implications arising from this report
Public Health	See comments about air quality under carbon emissions below

Climate change	<p>The TfSE vision specifically refers to becoming a net-zero carbon region by 2050:</p> <p><i>“By 2050, the South East of England will be a leading global region for net-zero carbon, sustainable economic growth where integrated transport, digital and energy networks have delivered a stepchange in connectivity and environmental quality.</i></p> <p><i>A high-quality, reliable, safe and accessible transport network will offer seamless door-to-door journeys enabling our businesses to compete and trade more effectively in the global marketplace and giving our residents and visitors the highest quality of life”</i></p> <p>The governance arrangements include a voice speaking on behalf of protected landscape areas.</p>
Carbon emissions	<p>The TfSE vision specifically refers to becoming a net-zero carbon region by 2050.</p> <p>Two of the specific functions sought by TfSE are creation of clean air zones and the power to charge in connection with these zones. This is recognition of the potential need to coordinate air quality improvement across local authority boundaries.</p>

- 7.2 There are few risks to the council connected with TfSE; the proposal sets out key strategy, influencing and consultative roles for the new body. None of these activities are inherently risky. There are opportunities that by joining together across the South East there are better outcomes for the council through the influence of TfSE.

8. Next steps

- 8.1 Formal consent is being sought from all 16 constituent authorities. The Shadow Partnership Board will consider the Proposal at its meeting in April 2020,

alongside the final version of the Transport Strategy. The Shadow Partnership Board will then determine the date for submission to the Government.

- 8.2 The application will then be considered by the Department for Transport and by Parliament.

9. Reasons for recommendations

- 9.1 The formation of a statutory sub-national South Eastern Transport Body would allow for authorities in the region to speak with 'one voice' on key strategic priorities.
- 9.2 By working strategically across the South East, with local authorities, local enterprise partnerships and government, the Transport Body will influence how and where money is invested in order to best deliver transport improvements for the travelling public; improving productivity, quality of life and the environment.

10. Integrated impact assessment

- 10.1 An Integrated Impact Assessment (IIA) has been completed.
- 10.2 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 identified in the Equalities Act 2010.

11. Legal implications

- 11.1 As indicated in the body of the report, the statutory framework governing the creation and the constitution of STBs is contained in Part 5A (sections 102E to 102U) of the Local Transport Act 2008.
- 11.2 An STB can only be created by the Secretary of State, and if created it would become an authority in its own right. The Secretary of State can only create an STB by responding to a Proposal put forward by the relevant constituent authorities. This report is seeking formal consent from the City Council to submit the Proposal to Government.
- 11.3 Table 1 within the final Proposal to Government sets out the specific statutory powers and responsibilities that are proposed to be vested in TfSE as an STB.

12. Director of Finance's comments

- 12.1 The S151 Officer confirms that there are no significant financial implications or business risks arising from the creation of TfSE.

- 12.2 TfSE has established an annual subscription of £58,000 per county and £30,000 per unitary. DfT has awarded grant funding of £1,600,000 over the last two financial years, which is to be used towards the cost of the development of the Transport Strategy. There is a reasonable expectation that DfT will allocate some core revenue funding for TfSE once it has achieved statutory status, on the basis that the constituent authorities will continue to make contributions. TfSE will also seek further capital funding from the DfT to take forward its technical work programme.

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Signed by:

Appendices:

- Appendix 1 - Final proposal to government - TfSE

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
¹ Local Transport Act 2008	http://www.legislation.gov.uk/ukpga/2008/26/part/5A

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: