

Subject:	Transport for The South East – Proposal To Government on Statutory Powers		
Date of Meeting:	23rd April 2020 19 th March - Policy & Resources Committee		
Report of:	Executive Director Economy, Environment & Culture		
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Ward(s) affected:	All		

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

- 1.1 The Policy, Resources & Growth Committee agreed on 11th July 2019 to support the draft Proposal to Government seeking specific powers for Transport for The South East (TfSE) to become a Statutory Body and for the Chief Executive to respond positively, as set out in the Report, to the formal consultation.
- 1.2 The Purpose of this Report is for members of the Committee to note the development of the final proposal that will, if agreed by The Secretary of State for Transport, create a new Statutory Transport Body, composed of 16 Constituent Local Authorities, including Brighton & Hove City Council, from across the South East and refer the final Proposal as attached as Appendix 1 to Full Council for agreement.

2. RECOMMENDATIONS:**Policy & Resources Committee**

- 2.1 That the development of Transport for The South East as an emerging Sub National Transport Body, including its progress in delivering a Proposal To Government to enable it to become a Statutory Body, be noted.
- 2.2 That the Proposal To Government be referred to Full council for agreement.

Full Council

- 2.3 That the proposal to Government as set out at Appendix 1 be agreed; and
- 2.4 That authority is delegated to the Executive Director for Economy, Environment and Culture to respond positively to Transport for The South East on the proposal;

- 2.5 That the need for a further report seeking formal consent from full Council to the creation of the statutory body, following the response from the Secretary of State, be noted.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Sub-National Transport Bodies (STB's) are designated within Part 5A of The Local Transport Act 2008 as amended by The Cities and Local Government Devolution Act 2016 with twin purposes to facilitate the development of transport strategies and so promote economic growth for the area.

- 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 Sussex; West Berkshire; Windsor and Maidenhead; and Wokingham.

- 3.3 Brighton & Hove City Council is a full member of the Board of Transport for The South East (TfSE), an emerging Sub National Transport Body (STB). TfSE has operated in 'shadow' status since July 2017 pending submission and agreement of a draft statutory order by the Secretary of State for Transport. The Chair of ETS Committee is the TfSE Board member representing Brighton & Hove.

- 3.4 The existing Shadow Partnership Board also includes arrangements for involving the 5 Local Enterprise Partnerships (LEPs) (Coast to Capital, Enterprise M3, Solent, South East, Thames Valley Berkshire); 2 National Park Authorities (Soth Downs and New Forest); 44 Boroughs and Districts in East Sussex, Hampshire, Kent, Surrey and West Sussex; and transport industry and other stakeholders in its governance. The Board is attended by senior officers from The Department for Transport, Network Rail, Highways England and Transport for London.

- 3.5 These efforts have been acknowledged by the Government's Department for Transport and grants exceeding £1.5 million have been awarded to TfSE to fund the development of the emerging Transport Strategy for the area. TfSE has also provided support to its constituent authorities, including Brighton & Hove, in pursuit of grant funding and bids to Government for specific projects, including support for the creation of its Major Road Network, such as the A259, that will unlock new funding streams. TfSE are supporting a bid from Brighton Hove for £20 million funding to reconstruct seafront arches.

- 3.6 Transport for The South East recently consulted on its draft Transport Strategy that was also considered by 21 January ETS Committee. The draft strategy was strongly supported across the region and will be further amended to reflect greater ambition amongst its partners to deliver on declared Carbon reduction targets.

- 3.7 The statutory basis for STBs as set out in Para 3.1 states that "the Secretary of State may by regulations establish as a sub-national transport body for any area in England outside Greater London"

- 3.8 If it obtains statutory status, TfSE will have powers and responsibilities that are required to deliver the Transport Strategy and support the work of its constituent local authorities and partners. It will have twin purposes to facilitate the development of the Transport Strategy for the region and to promote economic growth.
- 3.9 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. This draft proposal was first brought to Policy & Resources Committee for approval on 11th July 2019, during the consultation period.
- 3.10 The draft Proposal is required to identify the types of powers and responsibilities that the STB will be seeking, as well as identifying the proposed governance structures.
- 3.11 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. Transport for the South East consulted on the draft proposal between 7 May 2019 and 31 July 2019. A summary of the consultation responses is set out at paragraph 6 of Appendix 1.
- 3.12 Several amendments were made to the draft proposal that are now incorporated within the final Proposal (Appendix 1) to reflect the comments raised by respondents to the consultation including:
- Strengthening the opening narrative and strategic case sections to increase emphasis on environmental protection, climate change and social inclusion (sections 2 and 3);
 - Clarifying and strengthening the principle of subsidiarity and consent to highlight that any new powers would be operated jointly and with the full consent of its constituent authorities, that decisions relating to exercising powers are taken at the most relevant level and, where possible, future aspirations will focus on drawing down powers from central government (para 5.6);
 - Bus franchising powers were removed from the proposal, with the emphasis placed on building stronger relationships with bus operators and work with local authorities to ensure that services are operating in a way that supports the delivery of the Transport Strategy at a regional or wider level.
 - The powers relating to rail (section 5) have remained unchanged, however, TfSE is awaiting the outcome of the Williams 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.
- 3.13 The TfSE Board agreed the revised proposal, attached as Appendix 1, at its September 2019 Board Meeting and is awaiting further advice from the Department for Transport and Ministerial Team regarding a formal submission date.

- 3.14 It is anticipated a formal submission date will be agreed at the April TfSE Board Meeting and agreement of the recommendations by Members of this Committee and Full Council within this report will provide TfSE Board assurance that Brighton & Hove City Council are content for the joint submission of the Proposal document to Government.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Since Transport for The South East was established in June 2017 it has emerged as a powerful and effective partnership bringing together 16 local transport authorities, 5 LEPs, 46 districts and boroughs and other key stakeholders including Network Rail, Highways England and Transport for London. So far it has secured over £1.5m funding from the Department of Transport that has delivered and consulted on a draft South East Region Transport Strategy that if agreed in conjunction with the Proposal powers will potentially further secure significant levels of transport infrastructure funding to deliver the region's and our own City Council's policy agenda. TfSE has also supported the City Council in securing key parts of its own Highway Network as newly designated Major Road Network including the A259 Seafront Road that it is further supporting secure a £20m bid to reconstruct seafront arch structures. By not agreeing the recommendations will likely diminish the City Council's position within the region and impact on its ability to secure additional bidding opportunities and funding streams.
- 4.2 Agreement to the recommendations will, after further agreement at Full Council, enable Transport for The South East to submit the Proposal To Government document seeking powers to become a Statutory Body.
- 4.3 Failure to agree the recommendations will mean TfSE does not have the consent of all constituent authorities within the South East and therefore will be unable to obtain agreement to Statutory Status from the Secretary of State for Transport as prescribed within legislation.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 A full 12 week public consultation was undertaken from 7th May 2019 within the proposed TfSE geography and with neighbouring local authorities. Prior to the formal consultation exercise, there had been extensive discussions with constituent local authorities, LEPs, district and borough authorities and other stakeholders to inform the types of powers that TfSE might seek to support the delivery of the Transport Strategy.
- 5.2 During the 12 week consultation, TfSE was required to engage with all constituent authorities, LEPs, neighbouring authorities and other appropriate stakeholders. In addition to the 16 constituent authorities and 5 LEPs, there are 16 neighbouring Transport Authorities that TfSE included in the formal consultation.

- 5.3 The consultation resulted in 98 responses from a wide range of stakeholders, including a number of local interest groups and members of the public. The overall findings of the consultation were positive, with 94 respondents offering support for the principle of establishing a sub-national transport body for the south east.
- 5.4 The consultation raised several points for consideration and modification that are addressed in the main body of this report that were reviewed and agreed by the TfSE Board in September 2019.

6. CONCLUSION

- 6.1 Agreeing the recommendations will likely enhance the City Council's position within the region and improve its ability to secure additional bidding opportunities and funding streams through its position and influence on the TfSE Board.
- 6.2 It is a requirement of the primary legislation for all constituent local authorities of the proposed Sub National Transport Body area to agree to the joint Proposal to the Secretary of State for Transport, pursuant to it becoming a statutory body.
- 6.3 Policy, Resources & Growth Committee welcomed the draft proposal to establish a Sub-national Transport Body for the South East and its draft Proposal on 11 July 2019 and the subsequent changes identified in the main report have been agreed by the TfSE Board.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The TfSE has established an annual subscription for its members and secured grant funding from the Department for Transport to support the development of the Transport Strategy. The council's annual contribution is funded from existing resources within the City Transport service. There is a reasonable expectation that if statutory status is obtained, it will increase the likelihood of the TfSE and its members accessing external funding opportunities towards the delivery of the Transport Strategy.

Finance Officer Consulted: Steven Bedford

Date: 04/02/20

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 has now been completed and the outcome of that consultation has been reflected in the updated Proposal attached at Appendix 1.

- 7.4 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. 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. A further report will be required for full Council to give consent based on the final wording of the Statutory Instrument.

Lawyer Consulted:

Elizabeth Culbert

Date: 17/02/20

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 or 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. Its emerging Transport Strategy also acknowledges the City Council's and other local authorities declared Climate Emergencies and ambitions to be Carbon Neutral by 2030. 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.

SUPPORTING DOCUMENTATION

Appendices:

1. Transport for The South East – Proposal to Government, September 2019.

Background Documents

1. Developing a Proposal to Government, Report to Transport for The South East, Shadow Partnership Board, 19th September 2019