

CABINET

7 APRIL 2020

TRANSPORT FOR THE SOUTH EAST – CONSENT FOR SUBMISSION OF PROPOSAL TO GOVERNMENT

Portfolio Holder: Councillor Phil Filmer, Portfolio Holder for Front Line Services

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Summary

This report seeks Cabinet support for the creation of a Sub-National Transport Body for the South East, confirmation of Medway's position as a constituent authority, and consent for the submission of a Proposal to Government for statutory status.

1. Budget and Policy Framework

1.1 Medway Council does not have a stated policy position on Sub-National Transport Bodies. It is possible, however, to align the principles behind its creation with the Council's priority of maximising regeneration and economic growth.

2. Background

2.1 Transport for the South East (TfSE) formed as a shadow Sub-National Transport Body (STB) in June 2017, and brings together sixteen local transport authorities: Bracknell Forest, Brighton and Hove, East Sussex, Hampshire, Isle of Wight, Medway, Kent, Portsmouth, Reading, Slough, Southampton, Surrey, West Berkshire, West Sussex, Windsor and Maidenhead and Wokingham. The Shadow Partnership Board also includes arrangements for involving five Local Enterprise Partnerships in its governance process, along with two National Park Authorities, forty-four Boroughs and Districts in East Sussex, Hampshire, Kent, Surrey and West Sussex, and representatives from the transport industry.

2.2 TfSE's aim, as set out in its vision statement, is to grow the South East's economy by delivering a safe, sustainable, and integrated transport system

that makes the South East area more productive and competitive, improves the quality of life for all residents, and protects and enhances its natural and built environment. The emerging transport strategy, which covers the period to 2050, will form the basis for achieving this vision. It will deliver sustainable economic growth across the South East, whilst taking account of the social and environmental impacts of the proposals outlined in the strategy.

- 2.3 TfSE, in shadow form, has already brought together partners and stakeholders to work with Government on key strategic issues, securing positive outcomes for the region in the Road Investment Strategy and Major Road Network consultation processes, influencing rail franchising discussions and providing collective views on regional rail schemes.
- 2.4 If Parliament approves statutory status, TfSE will have the powers and responsibilities that are required to support the work of its constituent authorities and partners. It would allow TfSE to directly influence government decision-making and give it the tools to develop regional transport solutions and deliver major improvements to the transport network in the South East. Its main purpose will be to facilitate the development of a transport strategy for the region and to promote economic growth.
- 2.5 To achieve statutory status, TfSE is required to develop a Proposal to Government. This needs to demonstrate the strategic case for the creation of a sub-national Transport Body and set out how TfSE will fulfil the statutory requirements outlined in the enabling legislation. The Proposal will also need to identify the types of powers and responsibilities sought, and the proposed governance structure.
- 2.6 The constituent authorities and Local Enterprise Partnerships have steered the development of the Proposal, with input from transport operators, transport users and other interest groups. The Proposal represents a broad consensus on the key issues facing the region and the powers required to implement a transport strategy.
- 2.7 The statutory basis for STBs is set out in Part 5A of the Local Transport Act 2008, as amended by the Cities and Local Government Devolution Act 2016. Legislation requires the proposal to be subject to consultation within the area and with neighbouring authorities. The proposal for a new STB will also need to obtain consent from its constituent authorities. TfSE completed the formal consultation in 2019 and is now seeking the formal consent of its constituent authorities prior to submitting the Proposal to Government. Whilst there is currently no formal timeframe for seeking statutory status, TfSE anticipates submitting the Proposal to Government during 2020.
- 2.8 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. In preparation for this, TfSE would like to secure consent from its constituent authorities.

3. Executive Summary

- 3.1 The Proposal to Government document is attached at Appendix 1, with the specific functions, powers and responsibilities that TfSE is seeking contained within Section 5 of that document. These powers include general functions relating to the preparation of a transport strategy, advising the Secretary of State about the exercise of transport functions, and the co-ordination of transport functions within the South East region.
- 3.2 The Proposal to Government sets out a number of additional powers that TfSE may require to support the delivery of the transport strategy. These relate to consultation on rail franchises, Quality Bus Partnerships, public transport infrastructure, smart ticketing and helping constituent authorities to secure any regionally important bus services. TfSE is also seeking powers to support or oppose Bills in Parliament. This would enable the organisation to promote, coordinate and fund regionally significant infrastructure projects, accelerating the delivery of cross-boundary schemes.
- 3.3 TfSE requires a strong, formal role in roads investment decision making over and above that available to individual constituent authorities. The Proposal seeks powers to set the strategy for investment in the Strategic Road Network and enter into agreements to undertake certain works in order to promote and expedite the delivery of regionally significant cross-boundary schemes that otherwise might not be progressed.
- 3.4 The Proposal ensures that social inclusion and environmental protection are set down as priorities for TfSE. References to future transport technology, mobility as a service and smart and integrated ticketing demonstrate that TfSE is not pursuing economic growth at the expense of the environment.
- 3.5 TfSE is only seeking powers and functions to deliver the strategy and achieve its vision and does not include proposals for any existing local authority functions to be undertaken by TfSE: the additional powers requested would operate concurrently with – and only with consent from – the constituent authorities. The Proposal identifies a protocol in respect of the discharge of these powers:
- That future operations of TfSE should, where possible, seek to draw down powers from central government, rather than seek concurrent powers with the local transport authorities;
 - decisions on the implementation of the powers will be made at the most immediate (or local) level, i.e. by constituent authorities in the particular area affected;
 - consent from the relevant constituent authorities will be obtained in advance of any Partnership Board decision on a particular scheme or project.
- 3.6 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 draft legislation and the powers and

responsibilities granted. Work will then begin on drafting the Statutory Instrument to be put before Parliament. At this stage, Cabinet would be requested to consent to the legislation and Medway Council's membership of Transport for the South East as a statutory Sub-National Transport Body.

4. Options

4.1 There are two options for consideration:

- a. That Cabinet approves the submission of the TfSE proposal to become a Sub-National Transport Body, as attached as Appendix 1.
- b. That Cabinet does not approve the submission of the proposal to become a Sub-National Transport Body

4.1.1 By consenting to the submission of the proposal, the Council would have the opportunity to be consulted on and influence the formation of the final proposal and legislation, and then to fully consider whether the Council should consent to joining TfSE as set out in that legislation. The Council would also have the opportunity to develop and agree the TfSE operating model.

4.1.2 Under Option b, the Council would not be included in the submission made by those constituent authorities in support of the proposal and would not have the opportunity to influence the final proposal.

5. Risk Management

5.1 The proposal sets out key strategy, influencing and consultative roles for the new body. This activity is not inherently risky, given the governance arrangements and voting rights afforded to constituent members. The powers sought are proportionate and will be effective in helping achieve TfSE's strategic aims and objectives, complementing and building upon the existing powers afforded to local authorities.

6. Consultation

6.1 The Proposal to Government incorporates comments received from partner and stakeholder organisations, following a 12-week consultation period. The consultation document and a questionnaire was available on the TfSE website and promoted in the regular e-newsletter.

6.2 Following the consultation, the proposal was amended to ensure that social inclusion and environmental protection, including reducing emissions, are clearly recognised as a priority for TfSE. The proposed powers and functions remained broadly unchanged (with the exception of bus franchising, which was removed) although there will be some points of clarification around the principle of consent and the concurrent nature of the powers. The principle of subsidiarity was 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.

7. Financial Implications

- 7.1 TfSE established an annual subscription of £58,000 per County Council and £30,000 per Unitary Authority. Medway Council funds this subscription from existing budgets. Any changes to the level of subscriptions would be subject to approval by the Board as part of TfSE's governance process. Approval of the annual budget for TfSE decisions will require both a super-majority, consisting of three quarters of the weighted vote in favour of the decision, and a simple majority of the constituent authorities appointed present and attending at the meeting.
- 7.2 The Department for Transport (DfT) has awarded grants of £1,500,000 towards the cost of the development of the Transport Strategy and there is a reasonable expectation that core revenue funding for TfSE will be forthcoming from central Government once it has achieved statutory status, to supplement the subscriptions from constituent authorities. TfSE will also seek capital funding from the DfT to take forward its technical work programme.

8. Legal Implications

- 8.1 The statutory basis for Sub National Transport Bodies is set out in Part 5A of the Local Transport Act 2008, as amended by the Cities and Local Government Devolution Act 2016. The Secretary of State may grant statutory status in response to a Proposal put forward by the relevant constituent authorities.

9. Recommendations

- 9.1 Cabinet is asked to:
- 9.1.1 support the creation of a Sub National Transport Body for the South East;
- 9.1.2 approve the submission to the government of the proposal for statutory status of the Sub National Transport Body as set out at Appendix 1 to the report.

10. Suggested Reasons for Decisions

- 10.1 TfSE's aim to grow the region's economy by delivering an integrated and sustainable transport system aligns with Medway's vision to improve the quality of life for all our residents, protect and enhance our natural and built environment and deliver economic regeneration and growth.
- 10.2 TfSE provides an opportunity to support the delivery of growth plans in Medway through the development of a long-term strategic programme of transport measures to facilitate economic growth and make the South East more competitive. It will develop a Transport Strategy that complements the work of the Local Economic Partnerships and supports the delivery of Local Plans.
- 10.3 TfSE will address strategic transport infrastructure issues that have acted as a barrier to growth of the economy. As a constituent authority, Medway Council

will be able 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. Medway stands to benefit from a greater collective influence with Government and key stakeholders, helping to secure delivery of longstanding transport infrastructure ambitions.

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Appendices

Appendix 1 - Transport for the South East – Proposal to Government

Background Papers

None