

BARNESLEY METROPOLITAN BOROUGH COUNCIL

This matter is not a Key Decision within the Council's definition and has not been included in the relevant Forward Plan

**JOINT REPORT OF THE
EXECUTIVE DIRECTORS FOR
PLACE AND CORE SERVICES
TO CABINET ON 18 OCTOBER 2017**

INCORPORATION OF TRANSPORT FOR THE NORTH AS A SUB-NATIONAL TRANSPORT BODY

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is for the Council as Local Highway Authority to consent to the making of Regulations by the Secretary of State to establish Transport for the North (TfN) as a Sub-National Transport Body under section 102J of the Local Transport Act 2008. The consent of each Highway Authority within the area of each Combined Authority which is a Constituent Authority of TfN is required because the Regulations contain provisions giving TfN highway powers to be exercised concurrently with the Local Highway Authorities.

2. RECOMMENDATIONS

- 2.1 **That formal consent be given under section 102J of the Local Transport Act 2008 to the making by the Secretary of State of Regulations to establish Transport for the North (TfN) as a Sub-National Transport Body and giving TfN concurrent highway powers with the Council.**

3. INTRODUCTION/BACKGROUND

- 3.1 To address concerns about transport connectivity across the North, Local Transport Authorities and Local Enterprise Partnerships across the North of England came together in 2014 in partnership with the Department for Transport and the National Transport Agencies to form Transport for the North (TfN). Together they have developed an ambitious pan-northern transport strategy to drive economic growth in the North. The purpose of TfN is to transform the transport system of the North of England and the aim of TfN is to plan and deliver the improvements needed to truly connect the region with fast, frequent and reliable transport links, driving economic growth and creating a Northern Powerhouse.
- 3.2 Getting transport right is central to achieving the Northern Powerhouse ambition which is itself central to a successful UK industrial strategy. A world class transport system linking towns and cities across the North will create a unified economic area, attracting new business, improving productivity in the North and thereby rebalancing the UK economy.

- 3.3 There has been long term underperformance of the Northern economy when compared with other parts of the UK. There is a significant economic performance gap between the North and the rest of the UK economy – a difference in income of £4,800 per person in 2014, compared with the national average, and £22,500 compared with London. Having been on a downward trend since the early 2000s, the gap has widened since the 2008/09 recession.
- 3.4 Productivity accounts for the largest proportion of the ‘performance gap’, driven by underdeveloped skills base, under-investment by the private sector and low enterprise rates. This has worsened since the recession, in part due to out-migration of skilled workers to the southern regions where employment prospects are better.
- 3.5 Poor connectivity is central to understanding the economic challenges of the North. There is disproportionately low investment in the North compared with London and other city regions across Europe. A series of studies have shown how investing in transport infrastructure can unlock the economic potential of the North.
- 3.6 The Independent Economic Review of the Northern Powerhouse shows the scale of the benefits to the UK of closing the productivity gap. Advances in productivity, driven by key sectors of digital technologies, health innovation energy and advanced manufacturing have the potential to transform the North of England’s economy adding £97 billion and 850,000 jobs by 2050.
- 3.7 The North has had no way of agreeing strategic priorities, with the responsibility for transport divided over many organisations at different geographical levels. This has made it hard to properly consider and prioritise the right strategic transport interventions to transform economic growth at the regional scale. As a result, the North has been unable to speak with one clearly evidenced voice to Government on its transport priorities in Spending Rounds or rail and road investment plans.
- 3.8 The ambition of TfN over time is to achieve significant devolution of transport responsibilities for the North of England and specifically to:-
- a) Develop and deliver a multi-modal, integrated strategic transport plan that drives transformational economic growth in the North;
 - b) Set the strategic outcomes, outputs and priorities for the North of England’s rail infrastructure and strategic road network; and
 - c) Determine specifications and contracts for future rail service franchises in the North of England.
- 3.9 In October 2016 with the agreement of the Constituent Authorities set out below TfN submitted a proposal to the Secretary of State for Transport that TfN should be established as the first Sub-National Transport Body (STB) under the provisions of section 102E of the Local Transport Act 2008 as amended by the Cities and Local Government Devolution Act 2016.
- 3.10 The 19 Constituent Authorities of TfN are:-
- The relevant Combined Authorities within the TfN area
 - Cumbria County Council

- Lancashire County Council
- North Yorkshire County Council
- Blackburn with Darwen Borough Council
- Blackpool Borough Council
- Cheshire East Council
- Cheshire West and Chester Council
- Warrington Borough Council
- The Council of the City of York
- The East Riding of Yorkshire Council
- Kingston upon Hull City Council
- North Lincolnshire Borough Council
- North East Lincolnshire Council.

4. TRANSPORT FOR THE NORTH – PROPOSED POWERS AND FUNCTIONS

4.1 The Proposal submitted by the Constituent Authorities requested the following powers and functions:-

- a) To prepare a Transport Strategy for the Combined Area in accordance with section 102I of the Local Transport Act 2008;
- b) To provide advice to the Secretary of State about the exercise of the transport functions in the Combined Area;
- c) To be a Statutory Partner with the Secretary of State in both road and rail investment processes and to be responsible for setting the objectives and priorities for strategic road and rail investments in the Combined Area;
- d) To be consulted in relation to rail franchise agreements for services to and from or within its area;
- e) To co-manage with the Secretary of State the TransPennine Express and Northern Rail Franchises;
- f) To co-ordinate the carrying out of specified transport functions that are exercisable by its different Constituent Authorities with a view to improving the effectiveness and efficiency of the carrying out of those functions;
- g) To promote and co-ordinate road transport schemes;
- h) To make proposals to the Secretary of State for the transfer of transport functions to TfN;
- i) To make other proposals to the Secretary of State about the role and functions of TfN;
- j) To undertake Smart Ticketing within the Combined Area;
- k) To promote and oppose local or personal bills in Parliament;
- l) To pay Capital Grants to support the funding and delivery of joint projects;
- m) To exercise powers to construct highways and to acquire land for that purpose under section 8(1), 24 and 239 of the Highways Act 1980 concurrently with local Highway Authorities.

4.2 In carrying out these functions TfN will act as a Statutory Partner with the Secretary of State and will take devolved responsibilities from the Secretary of State. It will exercise a coordinating role in relation to specified transport functions

4.3 The Proposal also contained the following key provisions:-

- a) All Constituent Authorities will be entitled to appoint a representative to TfN, such representative to normally be the Elected Mayor, Chair, Leader or Member with delegated responsibility for transport;
- b) Decisions will be expected to be unanimous but where voting is required votes will be weighted in accordance with the populations of the Constituent Authorities;
- c) Decisions in relation to the Budget, the adoption of a Transport Strategy and the Constitution will require a Super Majority;
- d) Funding will be provided by the Secretary of State and no decision to require financial contributions from Constituent Authorities can be made without the agreement of each Authority;
- e) There will be appropriate mechanisms for Scrutiny of TfN's decisions;
- f) Rail North Limited will be wholly owned by TfN;
- g) A wider Partnership Board including representatives of government bodies and the LEPs will be set up to inform TfN's decision making.

5. THE SECRETARY OF STATE'S RESPONSE

5.1 The Secretary of State has now formally responded to the Proposal and has indicated that he is minded to make Regulations creating TfN as the first Sub-National Transport Body with the following functions:-

- a) The preparation of a Northern Transport Strategy;
- b) The provision of advice on the North's priorities, as a Statutory Partner in the Department's investment processes;
- c) The coordination of regional transport activities, (such as smart ticketing), and the co-management of the TransPennine Express and Northern Rail franchises through the acquisition of Rail North Ltd.

6. REGULATIONS

6.1 Regulations have now been drafted which, once passed, will confer on TfN the majority of the functions and powers requested in the Proposal. Before the Secretary of State can make the Regulations he must obtain consent to the making of the Regulations from each of the 19 Constituent Authorities and also consent to the granting of concurrent highway powers from each of the Highway Authorities within TfN's area. The Authorities which are County Councils or Unitary Authorities are Highway Authorities but the Combined Authorities are not and in these areas the individual Highway Authorities are being asked to give their consent to the granting of highway powers within the Regulations. A response to this request is required by the end of October 2017.

7. HIGHWAY FUNCTIONS

- 7.1 The highway powers which are contained in the Regulations are firstly the following powers of the Secretary of State in relation to the construction of trunk roads which may be delegated down to TfN:-
- a) Section 6(5) Highways Act 1980 (power to enter into agreements for works relating to trunk roads);
 - b) Sections 105A - 105C Highways Act 1980 (functions relating to environmental impact assessments);
 - c) Sections 239 to 240 and 246 Highways Act 1980 (powers to acquire land in connection with highways);
 - d) Section 250 Highways Act 1980 (powers relating to the acquisition of powers over land).
- 7.2 Secondly the following powers under the Highways Act 1980 are conferred on TfN concurrently with the local Highway Authority.-
- a) Section 8(1) (power to enter agreements with local highways authorities etc for doing certain works);
 - b) Section 24(2) (power of local highway authority to construct new highways);
 - c) Section 25(i) (powers to enter into agreement for creation of footpath etc);
 - d) Section 26 (i) (compulsory powers for creation of footpaths etc);
 - e) Various functions in sections 239, 240, 246 and 250 relating to the acquisition of land for highway purposes.
- 7.3 Importantly, the draft Regulations provide that TfN will not be able to exercise any of the highway powers which they hold concurrently with the Highway Authorities unless the manner in which it proposes to exercise the function has been approved by each of the Highway Authorities through whose area the highway will pass.
- 7.4 There is no intention that TfN will itself become a Highway Authority and as set out above the Regulations make it clear that before these powers may be exercised TfN will need to obtain the express consent of the relevant Highway Authority to the manner in which the powers would be exercised. These powers would therefore only be exercised in circumstances where all the local Highway Authorities consider that there would be a benefit in TfN carrying out the work.
- 7.5 It is intended that before TfN exercises any transport powers or functions it holds concurrently with any of the Constituent Authorities or Highways Authorities within the TfN area, TfN will enter into a written Protocol with the Constituent Authorities or the local Highway Authorities covering the way in which the functions will be exercised.

8. THE HIGHWAYS NORTH BOARD

- 8.1 TfN will participate in the Highways North Board which will consist of the Members of TfN along with representatives of the Department for Transport and Highways England. The role of the Board will be to make recommendations in respect of the future Roads Investment Strategy and competitive major roads funding programmes.

9. LIST OF APPENDICES

None.

10. BACKGROUND PAPERS

- Creation of TfN as a statutory body – Report approved by Sheffield City Region Combined Authority, 17th July 2017
- Letter from Transport for the North – September 2017
- Draft Regulations made under the Transport Act 2008.

Available for inspection in the Core Services Directorate, Town Hall, Barnsley, Tel 773421

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