



South Downs
National Park Authority

Agenda Item 15
Report NPA19/20-06

Report to	South Downs National Park Authority
Date	2 July 2019
By	Countryside and Policy Manager (Wealden Heaths)
Title of Report Decision	Response to Transport for the South East Draft proposal to government consultation

Recommendation: The Authority is recommended to:

- 1. Note the Transport for South East (TfSE) consultation document (Appendix 1)**
- 2. Support the proposed submission to Government to establish a Sub National transport body (STB), to be known as Transport for the South East, as set out in the consultation document.**
- 3. Delegate authority to the Director of Countryside and Policy Management, in consultation with the Chair of the Authority, to draft and submit the formal SDNPA response to the consultation to include the issues set out in section 2.24, and other issues agreed by the Authority.**

1. Introduction

- 1.1 On 18 March 2019 the Transport for the South East Shadow Board (TfSE) 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 subject of the consultation is the exact terms of a Proposal to Government 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 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 says that “the Secretary of State may by regulations establish a sub-national transport body for any area in England outside Greater London” (s.102E(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 is planning that the

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

formal consultation from 3 May – 31 July 2019 will be carried out in a way that meets this condition.

2. Issues for consideration

Transport for the South East – Background

- 2.1 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.
- 2.2 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.
- 2.3 The existing Shadow Partnership Board also includes arrangements for involving the five Local Enterprise Partnerships (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.
- 2.4 These efforts have been acknowledged by the Department for Transport, and a grant of £1m was awarded to TfSE to fund the development of the emerging Transport Strategy for the South East.
- 2.5 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 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.
- 2.6 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.
- 2.7 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.
- 2.8 The consultation is a full twelve week public consultation, which will be made available on the TfSE website and circulated to relevant stakeholders. Constituent authorities and other TfSE partner organisations are encouraged to circulate the consultation document to their own stakeholders.

The Draft Proposal to Government

- 2.9 At its meeting on 18 March 2019, the TfSE Shadow Partnership Board approved a draft Proposal to Government for formal consultation, which is attached at Appendix I.
- 2.10 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.
- 2.11 A final proposal will be recommended to the Shadow Partnership Board 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.
- 2.12 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.

2.13 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

2.14 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.

2.15 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 Transport for the South East's ("TfSE") Transport Strategy;
- The approval of TfSE annual budget;
- Changes to the TfSE constitution.

2.16 Decisions on these issues 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. The details of the proposed weighting voting system are set out in Section 5 of the draft Proposal to Government set out in Appendix I

2.17 The SE Protected Landscapes (i.e. the two National Parks and five AONBs) have 1 vote which is currently exercised by the SDNPA on behalf of the wider group.

Functions

2.18 The specific functions that TfSE is seeking as part of its Proposal to Government are set out in Section 6 of Appendix I. 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 Road Investment Strategy RIS for the TfSE area
- Obtaining certain highways powers which would operate concurrently and with the consent of the current highways authority to enable regionally significant highways 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 for 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. Issues for consideration in SDNPA response.

- 3.1 Members of the Shadow Partnership Board decided not to include any request for powers and /or involvement beyond being consulted on new rail franchises. This was due to the issues that have occurred locally with the Southern rail franchise. However, with the Williams Rail review now underway, there is the prospect of reform in this area. In view of this TfSE should be encouraged to seek the powers that would enable it to be involved in the specification of future rail franchises.
- 3.2 On the issue of rail investment decisions, you will see from the consultation documentation TfSE have asked for the power to specify the High Level Output Specification (HLOS) for Rail in the region jointly with the Secretary of State. The HLOS is the document that sets out the overall objectives for the rail network. Obtaining this power would be the springboard for greater involvement in decision making about future rail investment, as there are no specific legal powers that relate to this.
- 3.3 The SDNPA welcomes the protection of the environment within the vision statement for TfSE and would like to see the contribution to the economy that businesses within the SDNP and the other protected landscapes make to the regional economy made more of – Economic growth should not have to come at the expense of the environment
- 3.4 Appendix I. Section 3.6 of the consultation document refers to ‘numerous AONBs. There are 5 AONB’s within the TfSE area (High Weald, Kent Downs, Chichester Harbour Conservancy, Isle of Wight, Surrey Hills) all are very keen and willing to engage with TfSE – TfSE is evidence based and elsewhere facts and figures replace general comments. Relevant facts and figures would help quantify this in the same way as other assets are.
- 3.5 Appendix I Table p13 – It is noted that that there is an aspiration to ‘Acquire land to enable construction, improvement, or mitigate adverse effect...’ powers should also be available to ‘compensate’ when mitigation is not possible as it is not possible to mitigate for some impacts.
- 3.6 Appendix I Table p13 – The SDNPA welcomes the proposed powers to construct highways, footpaths and bridleways’ where they add significantly to the local access network offer, providing meaningful enhanced connections and are available for all legitimate users

4. Other Implications

Implication	Yes*/No
Will further decisions be required by another committee/full authority?	No
Does the proposal raise any Resource implications?	Currently the Chair of the SDNPA is a voting member of the STB, representing the Protected Landscapes family of the south east, with officer support
How does the proposal represent Value for Money?	The PLs get a seat at the table and a vote for no cost per annum. TfSE has established an annual subscription of £58,000 per county and £30,000 per unitary. DfT has recently settled 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 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.
Are there any Social Value implications arising from the proposal?	None
Have you taken regard of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	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.
Are there any Human Rights implications arising from the proposal?	None
Are there any Crime & Disorder implications arising from the proposal?	None
Are there any Health & Safety implications arising from the proposal?	None
Are there any Data Protection implications?	None
Are there any Sustainability implications based on the 5 principles set out in the SDNPA Sustainability Strategy?	The provision of regional transport infrastructure has the potential to enhance sustainability or harm sustainability. Having a seat on the STB will enable the SDNPA to be in a position to directly influence decisions

5. Risks Associated with the Proposed Decision

Risk	Likelihood	Impact	Mitigation
There is little risk to the SDNPA from welcoming the strategy and offering amendments			

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Appendices
1. Appendix 1 TfSE Consultation Document
2. Appendix 2 TfSE Consultation questionnaire
SDNPA Consultees
Chief Executive; Director of Countryside Policy and Management;
Director of Planning; Chief Finance Officer; Monitoring Officer; Legal
Services, Business Service Manager
External Consultees
The protected landscapes of South East
Background Documents
None