

North Tyneside Council

Report to Cabinet

Date: 19 March 2018

ITEM 3

Title: Devolution to North of Tyne: Consent to Order establishing the North of Tyne Combined Authority

Portfolio(s): Elected Mayor

Cabinet Member(s): Mrs N Redfearn
CBE, Elected Mayor

Responsible Officer: Patrick Melia, Chief Executive

Tel: (0191) 643 2001

Wards affected: All

PART 1

1.1 Executive Summary:

This Authority along with Newcastle City Council and Northumberland Council agreed a “minded to” devolution deal with the Government which will unlock new powers and funding for the region.

To implement the deal the three Authorities need to withdraw from the existing North East Combined Authority (“NECA”) and establish a new North of Tyne mayoral combined authority. The North of Tyne Authorities (“the NT Authorities”) have consulted on these changes and the Secretary of State has prepared a draft of the statutory Order which is required to implement these proposals.

This report requests authority to provide the Authority’s consent to the making of that statutory Order.

1.2 Recommendation(s):

It is recommended that Cabinet:-

- (1) Consider the content of this report;
- (2) Note that the report will be submitted to the next meeting of full Council for consultation;
- (3) Subject to no material issue being raised and agreed by full Council, agree in principle that the Authority should consent to the making of the Order;
- (4) Subject to recommendation 2 above, authorise the Chief Executive, in consultation with the Elected Mayor and Monitoring Officer, to issue the Authority’s formal consent to the making of the Order to the Secretary of State when requested;
- (5) Authorise the Chief Executive, in consultation with the Elected Mayor and Monitoring Officer, to finalise the terms of the side agreement with the North East Combined Authority regarding the support arrangements associated with these proposals; and
- (6) Authorise the Chief Executive to take all other steps necessary to implement these proposals.

1.3 Forward Plan:

The matter appeared on the Forward Plan on 9 March 2018.

1.4 Council Plan and Policy Framework

This report relates to the following priority(ies) in the 2018-20 Our North Tyneside Plan

Our people, our places, our economy and our partners

1.5 Information:

Background

- 1.5.1 The NT Authorities agreed a 'minded-to' devolution deal with Government in November 2017 for a significant shift of powers, funding and responsibility. The deal will enable the three Authorities to pursue their ambitions for inclusive growth, providing an initial £600M of additional investment for the region over 30 years and a range of opportunities to invest in skills development and labour market access across the North of Tyne area.
- 1.5.2 The deal requires the NT Authorities to withdraw from NECA and establish a new mayoral combined authority. At its meeting on 11 December 2017 Cabinet considered a report regarding these proposals and the relevant statutory process. Cabinet agreed that the NT Authorities should progress to the next stage of the statutory process by publishing a scheme relating to the proposals and then undertaking a public consultation exercise. The consultation exercise ran from 14 December 2017 to 5 February 2018. The results of that consultation exercise were reported to Cabinet on 19 February 2018. The consultation exercise demonstrated that the majority of respondents were in favour of the proposals. The three NT Authorities therefore submitted a summary of consultation responses to the Secretary of State and formally requested that the Secretary of State make the necessary statutory order to remove the authorities from NECA, create the new North of Tyne combined authority and set up a joint committee to maintain the integrated transport arrangements which currently exist across the NECA region.
- 1.5.3 As set out in previous reports to Cabinet, the Secretary of State must be satisfied that the relevant statutory criteria in the Local Democracy Economic Development and Construction Act 2009 are met before making the statutory Order to implement these changes. Furthermore, the Secretary of State can only make the order if NECA consents to the amendment of its boundaries and the three NT Authorities consent to the creation of the new combined authority. The Secretary of State has prepared a draft of the statutory Order to implement these changes and establish the joint committee for transport. This report seeks Cabinet's approval to confirm that the Authority consents to the making of the Order.

Content of the Order and Arrangements for the establishment of a North of Tyne Combined Authority

- 1.5.4 The Scheme which the NT Authorities published prior to the consultation exercise set out the basis on which they proposed that the governance changes should be undertaken. A copy of the Scheme is attached as Appendix 1. The draft statutory Order which the Ministry of Housing, Communities and Local Government ("MHCLG") is based on proposals set out in the Scheme. The draft Order is the subject of on-going discussions

with NECA and the seven local authorities. In brief, there are three elements to the draft Order:

- the amendment of NECA's boundaries to remove the NT Authorities;
- the creation of the new North of Tyne mayoral combined authority and
- the creation of a joint transport committee between NECA and NTCA to ensure continuity of transport arrangements.

Creation of the North of Tyne mayoral combined authority (sections 2 to 9 of the Scheme)

- 1.5.5 The Order creates a new North of Tyne mayoral combined authority. It is now proposed that the legal name of it is the Newcastle upon Tyne, North Tyneside and Northumberland Combined Authority (although, as with NECA, the new authority can use a name such as the "North of Tyne Combined Authority" for everyday purposes). The Order provides for a first mayoral election on 2 May 2019, and for an interim mayor to be appointed until this date.
- 1.5.6 The Order also sets out the key principles of the governance arrangements for the new North of Tyne Combined Authority ("NTCA"). These include the following (see section 2 of the Scheme):
- each constituent authority will appoint two members as members of the NTCA Cabinet or Leadership Board, alongside the mayor (or interim mayor) and a (non-voting) representative of the North East Local Enterprise Partnership;
 - each constituent authority and the mayor will have one vote,
 - decisions of the Cabinet are generally made by majority with no casting votes and no mayoral veto (although there is provision for the mayor to request a review of a decision which he or she did not vote in support of);
 - certain "key strategic decisions" (see paragraph 2.4.5 of the Scheme) require the unanimous support of the constituent authorities;
 - the mayor must prepare an annual budget for his/her functions which can be amended if 2/3 of the constituent authorities require this;
 - there will be an overview and scrutiny committee comprising 3 members from each constituent authority and an audit committee comprising 3 members from each constituent authority (plus an independent person).
- 1.5.7 As agreed in the "minded to" devolution deal, the draft Order devolves powers from central Government to the new NTCA to enable delivery of local priorities in economic growth and equality of opportunity, as well as allowing NTCA to exercise certain powers concurrently with the constituent authorities to support these aims. The draft Order sets out the powers which are exercisable by the mayor and those powers which are exercisable by the authority (i.e. by the Leadership Board/Cabinet).
- 1.5.8 The mayoral powers include the power to designate mayoral development areas and certain compulsory purchase powers; in both cases, these are subject to the agreement of the constituent authority(ies) in which the land is situated. The mayor also has the power to set a precept on council tax bills in relation to the funding of mayoral functions (such precept will be part of the annual mayoral budget).
- 1.5.9 The powers which are exercisable by NTCA include a range of housing powers devolved from the Homes and Communities Agency and others which are exercisable concurrently with the constituent authorities, together with a number of education, skills and training powers to support NTCA's role in respect of adult education which are also exercised concurrently with the constituent authorities.

Joint Transport Committee (Section 10 and 11 of the Scheme)

- 1.5.10 NTCA will become the Local Transport Authority for its area. However, as set out in previous reports, the aim is to ensure that transport across the current NECA region continues to be dealt with on an integrated basis. Therefore, the Order provides that a statutory joint committee will be established between NECA and NTCA to replicate the existing transport governance arrangements as far as possible (see below). In support of this approach, the Order also makes a number of other provisions in respect of transport:
- NECA and NTCA shall prepare a joint local transport plan for their combined area;
 - Nexus shall act as passenger transport executive for both combined authorities; and
 - all transport property, rights and liabilities which were transferred to NECA on the abolition of the Tyne and Wear Integrated transport Authority ("TWITA") are to be held jointly by NECA and NTCA.
- 1.5.11 The joint committee will be made up of 4 representatives from NECA and 3 representatives from NTCA, one of who will be the elected mayor unless he or she declines. Decisions are generally to be made by majority decision save that certain decisions require unanimity (in line with the existing NECA arrangements). The joint committee may provide for the delegation of certain functions to sub-committees or to the local authorities in whose area the functions are to be discharged. This will allow the joint committee to maintain the existing approach where each county council deals with certain operational transport matters in its area and a Tyne and Wear sub-committee deals with certain transport matters in that area. The joint committee will also be required to set separate transport levies for Durham, Northumberland and Tyne & Wear, as happens at present.

Supporting Arrangements

- 1.5.12 The draft Order has been circulated to NECA and the seven local authorities for their consideration and comment. Legal officers from the seven local authorities have met with officials from MHCLG to discuss the draft Order and have identified a number of areas which require clarification in respect of the transport arrangements. These include:
- a proposed commencement date (for the amendment to NECA's boundaries, creation of NTCA and establishment of the joint committee) of 1 July 2018 to ensure a smooth transition to the new arrangements;
 - a provision within the Order to explicitly recognise that there should be a designated officer who would be responsible to the joint committee for providing advice on transport matters;
 - the quorum for the joint committee should be two members from each of NECA and NTCA (rather than one from each as was proposed in the Scheme);
 - clarification of the matters which require a unanimous decision of the joint committee to ensure that these fully reflect the existing NECA arrangements.
- 1.5.13 At the same time, North of Tyne legal officers are reviewing the Order to ensure the efficacy of the governance arrangements within the new NTCA and that the functions which are to be provided to NTCA are appropriate to enable it to achieve its objectives.
- 1.5.14 Furthermore, discussions have been on-going between NECA and the seven local authorities to reflect the operational arrangements which will need to be put in place to support the changes delivered by the Order. The local authorities have agreed a joint policy note regarding these arrangements (see Appendix 2) and it is proposed to put in place a legal agreement between the relevant parties to deliver these arrangements.

This will ensure that there is clarity as to the support the combined authorities will provide to both the joint transport committee and also the North East Local Enterprise Partnership (“the LEP”), which will continue to operate on a regional basis. These matters are in progress at the time of preparing this report and it is therefore recommended that the Chief Executive, in consultation with the Elected Mayor and Monitoring Officer, is authorised to provide the Authority’s consent to the Order and to finalise the detail of these supporting arrangements.

Next Steps

- 1.5.15 Subject to the Secretary of State being satisfied that the statutory criteria are met and all three North Tyne authorities and NECA consenting to the making of the Order, it is anticipated that the Order will be laid before Parliament in early summer and then come into effect on 1 July 2018. This would amend NECA’s boundaries, create the new combined authority and establish the joint transport committee at that time.
- 1.5.16 The new combined authority would then need to appoint an interim mayor to hold office until the first mayoral election in May 2019.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

To agree to the recommendations set out paragraph 1.2

Option 2

To not agree to the recommendations set out in paragraph 1.2

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended because if the Secretary of State decides to make the Order to create the new North of Tyne combined authority, this will enable residents and businesses to access the benefits set out in the North of Tyne devolution deal. These include a £600M investment fund set to generate an additional £1.1bn for the local economy and over 10,000 new jobs; control over the £23M per year adult education budget, and new powers to improve housing supply, education attainment, skills provision, and labour market access across the area.

The Order also ensures that partnership arrangements across the current NECA area will continue where this geography is most appropriate, including through joint working with the LEP on a Single Economic Plan and through the proposed new transport arrangements.

Establishing a mayoral combined authority also ensures that North Tyneside and the North of Tyne have a strong voice alongside other major conurbations such as Greater Manchester the West Midlands, Liverpool and Tees Valley. It also opens the door for further devolution of powers and funding in future.

1.8 Appendices:

Appendix 1: North of Tyne Authorities Scheme
Appendix 2: Joint Transport Policy Note

1.9 Contact officers:

Patrick Melia	Chief Executive	(0191) 643 2001
Vivienne M Geary	Head of Law and Governance	(0191) 643 5339

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- (1) The North of Tyne Devolution Deal <https://northoftynedevolution.com/wp-content/uploads/2017/11/North-of-Tyne-minded-to-devolution-deal.pdf>
- (2) The Local Democracy, Economic Development and Construction Act 2009 http://www.legislation.gov.uk/ukpga/2009/20/pdfs/ukpga_20090020_en.pdf
- (3) Cabinet Report of 11 December 2017 <http://my.northtyneside.gov.uk/sites/default/files/meeting/related-documents/item%206%20q%20%2011%2012%202017.pdf>
- (4) Cabinet Report of 19 February 2018 <http://my.northtyneside.gov.uk/sites/default/files/meeting/related-documents/Cabinet%2019%2002%2018.pdf>

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

Implementing the Devolution Deal will enable the North of Tyne Combined Authority to access an initial £600M of additional funding over 30 years, together with control of the Adult Education Budget of around £23M per year. Over time the region would also expect to benefit from access to additional funding streams reserved for mayoral combined authorities.

Detailed discussions are taking place with NECA and the other constituent authorities regarding the financial arrangements associated with the transition. The general approach being taken to deal with the financial impact of the North of Tyne Authorities leaving the NECA is to find the most appropriate solution while also seeking to avoid detriment and unnecessary additional costs. In terms of the creation of the new arrangements for the North of Tyne Combined authority, the relevant authorities are working with Central Government to secure additional resources to fund such set up costs. Additional resources have previously been provided to those “devolution deals” already agreed. Current preparatory work that each of the North of Tyne Authorities is contributing to is being met from within each Authority’s existing budgets, and going forward we would expect that Newcastle’s existing contribution to the NECA budget would be redirected to the North of Tyne Combined Authority.

2.2 Legal

The Secretary of State can only make the draft Order amending the boundaries of NECA and establishing the North of Tyne Combined Authority with the consent of the NT Authorities and NECA. If such consents are given the local authority areas of North Tyneside, Newcastle and Northumberland will be removed from the area of the NECA and the other changes discussed in this paper implemented.

The consent of the Authority to the making of the Order by the Secretary of State is a Cabinet function although Council will be consulted on the draft Order at its meeting on 22 March 2018.

Insofar as NECA's consent to the making of the draft Order is concerned, this is a matter for the Leadership Board of NECA and is one that is made by simple majority.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

The Elected Mayor and Chief Executive, Deputy Chief Executive and relevant Heads of Service are aware of the proposals.

2.3.2 External Consultation/Engagement

The North of Tyne Authorities' Scheme was published in December 2017 and was the subject of extensive public consultation across the whole of the NECA area between 14 December 2017 and 5 February 2018.

2.4 Human rights

There are no human rights implications arising from this report.

2.5 Equalities and diversity

The North of Tyne Authorities in developing its strategy for the consultation of the Scheme took into account their obligations under section 149 of the Equality Act 2010 (i.e. the public sector equality duty) to ensure that all those who wanted to engage in the consultation process were able to do so.

It is envisaged that Cabinet's decision to consent to the making of an Order by the Secretary of State will not directly impact on equality and diversity issues.

2.6 Risk management

It is considered that the failure to establish a North of Tyne combined authority risks North Tyneside and the North of Tyne region falling behind other combined authority areas such as Greater Manchester, Liverpool City Region and Tees Valley, which have received new powers and funding.

In terms of establishing the North of Tyne combined authority, the key risk is that the Secretary of State will not be satisfied that the statutory criteria are met and/or that the necessary consents from the relevant Authorities are not forthcoming.

2.7 Crime and disorder

There are no crime and disorder implications arising from this report.

2.8 Environment and sustainability

There are no environmental and sustainability implications arising from this report.

PART 3 - SIGN OFF

- Chief Executive X
- Head(s) of Service X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Head of Corporate Strategy X