

## **CABINET MEMBER FOR HIGHWAYS AND TRANSPORT – CLLR R TONGE**

### **HIGHWAYS AND TRANSPORT SERVICES**

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### **SWINDON AND WILTSHIRE LOCAL TRANSPORT BODY – PROPOSED GOVERNANCE ARRANGEMENTS**

#### **Purpose of Report**

1. To outline the proposed governance arrangements and assurance framework for the Swindon and Wiltshire Local Transport Body.

#### **Background**

2. The Department for Transport (DfT) has announced its intention to devolve funding for local major transport schemes to Local Transport Bodies (LTBs) from 2015. Currently, all funding for major local transport schemes in England over £5 million is the subject of a competitive process, bidding for funds from a central funding pot.
3. The essential premise of the new proposals is that funding would be devolved on a geographical basis to areas provisionally focussed on Local Enterprise Partnerships (LEPs) with the annual allocation to be on a per capita basis.

#### **Main Considerations for the Council**

4. In order for the Council to potentially benefit from this funding, the LTB will have to demonstrate that it has put in place appropriate governance arrangements and safeguards for the use of these funds and is able to deliver value for money for the overall level of Government funding.

#### **The Role of the Local Transport Body**

5. The LTB will initially have a single function, and that is to prioritise schemes and allocate the devolved major scheme funding. The LTB will review and approve individual business cases for those schemes and ensure effective delivery of the programme. All other local transport funding and responsibilities will be retained by the two Local Transport Authorities (LTAs).

#### **Key Stages**

6. The key stages are:
  - (i) The submission of the proposed assurance framework for each LTB to the DfT, was the end of December 2012, now extended until the end of February 2013; and

- (ii) The development of an indicative prioritised programme of major schemes (from 2015/16 – 2018/19) across the Local Transport Body's area, the deadline was April 2013, now July 2013.

### **The Assurance Framework**

- 7. The assurance framework for the LTB is a key element of the DfT's devolving of decision making. The framework will provide the Government with the confidence that public funds are safeguarded and the new system is able to deliver value for money and sound decision making. If LTBs do not submit a satisfactory assurance framework by the required deadline, this could put at risk the ability of the LTB to have schemes ready for 2015 and therefore the DfT may not release the appropriate funding.
- 8. The DfT has now formally issued detailed guidance on the assurance framework and a draft copy of the proposed assurance framework is attached at **Appendix 1** to this report. A draft of the framework has also been sent to the DfT for comments.
- 9. Key areas of the assurance framework are dealt with in the following paragraphs.

### **Membership of LTBs**

- 10. The guidance states "as a minimum, full membership of a Local Transport Body, with voting rights, must be open to all LTAs within the geographical area of the Local Transport Body and to the primary LEP or LEPs upon whose geography the Local Transport Body is based".
- 11. In addition, LTBs should be "democratically accountable" and that "as a minimum, elected members should form the majority of voting members on the LTB, or, alternatively, other measures should be put in place to ensure that elected representatives cannot be out-voted by non-elected parties".
- 12. LTBs can also include other members, whether voting or not, such as the Highways Agency, Network Rail or other Transport Operators.
- 13. The proposal in the assurance framework is that the membership of the LTB is 2:2:1 for Swindon Borough Council, Wiltshire Council and the S&WLEP respectively.

### **Status of LTB**

- 14. Although the statutory position is not clear, options given by the DfT for the status of the LTB include an informal partnership, a committee or joint committee of an existing local authority, a company or by using the vehicle of the existing LEP.
- 15. Councils are able to enter into joint arrangements with one or more other local authorities. However, the requirement to have a voting member of the LEP on the LTB does not sit well within the current legislation and further guidance on this issue has been sought from the DfT.
- 16. It is clear from discussions with other councils that a number are extending the use of current mechanisms (either companies or existing partnership arrangements) to provide the vehicle for the LTB. Also there are a number that will be using the informal partnership approach.
- 17. It is proposed that in view of the constraints regarding the current legislation and the fact that no existing mechanisms exist for the LTB, that an informal partnership be agreed as the way forward for the Swindon and Wiltshire LTB.

18. Whilst this mechanism continues to provide some challenges to the decision-making processes these will be covered within the attached assurance framework.

### **Accountable Body**

19. The DfT has indicated that it anticipates that one of the partner authorities will become the accountable body.
20. Responsibilities would include:
- ensuring compatibility with legal requirements;
  - ensuring funds are used appropriately;
  - ensuring that the LTB assurance framework is adhered to and
  - maintaining the official record of LTB proceedings and holding all LTB documents.
21. As Wiltshire Council is the accountable body on a number of other projects for the LEP area, Swindon Borough Council's Cabinet has agreed to seek responsibility for this particular project and to take on the responsibility of accountable body for the LTB.

### **Scheme Prioritisation**

22. A long list of potential major transport schemes (over £1 million) will be drawn up based on a number of sources including the local development framework process. All relevant candidate schemes will then be assessed using information derived from the DfT's Early Assessment and Sifting Tool (EAST) to produce a short list of schemes. A forthcoming report to the Cabinet Member for Highways and Transport will set out the above process, including the long list of schemes, and seek approval for the recommended scheme short list.
23. The scheme short list of the two LTAs will then be prioritised by the LTB based on the outputs of Strategic Outline Cases (the first stage in the DfT's Transport Business Case process) for submission to the DfT by July 2013.

### **Environmental Impact of the Proposal**

24. There are no environmental and climate change impacts as a direct result of this proposal. The potential impacts of each major transport scheme will be initially considered as part of the EAST process and will be subject to increasingly detailed assessment as part of any subsequent business case development. Those schemes which are approved for implementation will be subject to statutory Environmental Impact Assessment requirements.

### **Equalities Impact of the Proposal**

25. There are no equalities impacts as a direct result of this proposal. The potential impacts of each major transport scheme will be initially considered as part of the EAST process and will be subject to increasingly detailed assessment as part of any subsequent business case development. Those schemes which are approved for implementation will be subject to statutory Equality Impact Assessment requirements.

### **Risk Assessment**

26. As the accountable body, Swindon Borough Council will be legally responsible for the decisions of the LTB in approving schemes. A legal agreement to be drawn up in due course will define the workings of the LTB and the responsibilities of the members.

27. The responsibility for managing the delivery of individual schemes will lie with the promoting authority. Risks associated with individual schemes will therefore be managed through the Council's existing processes and procedures drawing on the extensive past experience of managing major schemes in the county.

### **Financial Implications**

28. The DfT recently announced indicative funding levels for LTBs – the Swindon and Wiltshire LTB has been allocated £16.9 million for the period 2015/16 to 2018/19. The amount is indicative and the DfT have asked LTB's to plan for programmes 1/3 higher or 1/3 lower than this sum. The funding in this area as well as the Local Transport Plan (LTP) funding is dependent on future comprehensive spending reviews.
29. Swindon Borough Council will be responsible, as the accountable body, for holding the devolved major transport scheme funding and for discharging it in accordance with DfT requirements and LTB decisions. It is not currently anticipated that Wiltshire Council would have to contribute for any additional costs incurred by Swindon Borough Council.
30. It is understood that no additional funding will be made available by the DfT to meet any costs associated with the governance and management of LTBs. Therefore, there will be some additional resource implications in respect of the servicing of the LTB and in respect of the scheme assessment process. Some of the costs are likely to be internal staff time diverted from other projects; however, the scheme assessment process is likely to be required to be independent of the Council and so would incur additional external revenue costs. At present, these costs are unknown and will be the subject of a separate legal agreement to be drawn up in due course between the full members of the LTB.
31. A condition of the funding will be that the scheme promoter provides at least 10% of the capital funding of a major scheme. In the Council's case, this would be able to be met from existing LTP grants reallocated, additional borrowing, S106, commuted sums, etc., so could mean some diverting earmarked sums to other schemes, or additional borrowing costs. As the minimum local contribution is small, and the source of this 10% can come from many sources, it is not anticipated this will be a significant cost with the option of additional borrowing being the last option explored.
32. The DfT's guidance states that the devolved major scheme funding can only be used for delivery of major capital works. Therefore, scheme preparation and design work would need to be funded from the Council's and other highways capital budgets; if the schemes were aborted for any reason, then preparation costs would need to be financed from revenue budgets.

### **Legal Implications**

33. The development of the detailed assurance framework for the LTB will need to consider a number of specific legal issues including agreements between member organisations, the role of the accountable body and maintenance of strong governance.

### **Options Considered**

34. To:
- (i) Agree the proposal.
  - (ii) Not agree the proposal.

### **Conclusions**

35. Wiltshire Council and Swindon Borough Council officers have been working to develop the draft assurance framework and informal discussions at member level have taken place to indicate that the informal partnership arrangement is an acceptable model to both councils.

### **Reason for Proposals**

36. To provide a vehicle through which local major transport scheme funding is channelled.

### **Proposals**

37. That:
- (i) Wiltshire Council supports the establishment of a Local Transport Body in partnership with Swindon Borough Council and the Swindon and Wiltshire Local Enterprise Partnership through which funding for local major transport schemes is agreed.
  - (ii) The Cabinet Members for Highways and Transport, and Economic Development and Strategic Planning, be appointed as Wiltshire Council's representatives to the Body.
  - (iii) The key areas of the assurance framework set out in Appendix 1 to this report, including the proposed membership in the ratio of 2:2:1 set out in paragraph 13, be agreed and that the Service Director, Strategic Services, Highways and Transport be authorised following consultation with the Cabinet Member for Highways and Transport and the Service Director Law and Governance, to finalise the proposed framework for submission to the DfT.

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**The following unpublished documents have been relied on in the preparation of this report:**

None