

MIDDLESBROUGH COUNCIL

AGENDA ITEM

EXECUTIVE REPORT

Tees Valley Combined Authority – Mayoral Governance

David Budd: Elected Mayor

James Bromiley: Strategic Director of Finance Governance and Support

15 November 2016

PURPOSE OF THE REPORT

1. This report seeks the Authority's approval to give consent to the Tees Valley Combined Authority (Constitution) Order 2016 that determines the powers of the Tees Valley Mayor. A similar report is being presented to all five Boroughs in the current cycle of meetings. Once all five Councils have given their consent, along with the Leaders and Mayor meeting collectively as the Combined Authority on 25th November 2016, the Secretary of State will lay the Order before Parliament on 28th November 2016.
2. It is important to note that where a council operates a Leader / Cabinet system (Darlington, Redcar & Cleveland and Stockton) or elected Mayor / Cabinet system (Middlesbrough), the decision required to give consent is legally an Executive function. Hartlepool operates a Committee system.
3. To avoid potential confusion over the term 'Mayor' which may refer to Middlesbrough's Mayor as well as the forthcoming Tees Valley Mayor, this report refers to 'Leaders' (meaning the Leaders / Mayor of the 5 Borough councils), and 'Mayor' (meaning the forthcoming Tees Valley Mayor).

SUMMARY OF RECOMMENDATIONS

4. To approve the Tees Valley Combined Authority (Constitution) Order 2016 (See Paragraph 47)

IF THIS IS A KEY DECISION WHICH KEY DECISION TEST APPLIES?

5.

It is over the financial threshold (£150,000)	<input type="checkbox"/>
It has a significant impact on 2 or more wards	<input checked="" type="checkbox"/>
Non Key	<input type="checkbox"/>

DECISION IMPLEMENTATION DEADLINE

6. For the purposes of the scrutiny call in procedure this report is

Non-urgent
Urgent report

BACKGROUND AND EXTERNAL CONSULTATION

7. In October / November 2015, all five Tees Valley authorities gave their approval, (or approval in principle), to the historic Devolution Deal signed on 23rd October 2015. Since then, a great deal has happened, and this report sets out that progress, and the current position on which Executive's approval is now sought.
8. This report sets out the details of the proposed changes to the Tees Valley Combined Authority's operation to incorporate a Tees Valley mayor and enact the devolution of powers and responsibilities in the Tees Valley devolution deal. It follows the publication of the Tees Valley governance review and scheme in July 2016 and the recent public consultation on the proposed changes. The governance review and scheme proposed checks and balances on the power of a Tees Valley mayor and these were supported by the responses to the consultation. These have been highlighted in negotiations with Government and are embedded in the draft Mayoral Combined Authority constitution which is attached to this report.
9. The report covers:
 - a. Establishment of the Tees Valley Combined Authority
 - b. Progress on the development and delivery of the Devolution Deal
 - c. The Tees Valley (establishment of Mayor) Order
 - d. Checks and Balances and the Tees Valley Combined Authority (Constitution) Order 2016
 - e. Recent consultation on the proposed powers of the Mayor
 - f. Draft Mayoral Combined Authority constitution
 - g. Timescales going forward

Establishment of the Tees Valley Combined Authority

10. Tees Valley has a long track record of public and private partnership working to address strategic economic development, and transport matters. This dates back to 1996 with the formation of the Tees Valley Joint Strategy Unit. This collaborative, cross boundary approach included area wide strategy and vision development - Tees Valley Vision, Tees Valley City Region Business Case, Tees Valley City Region Transport Strategy, the Tees Valley Statement of Ambition, and the Strategic Economic Plan.
11. The Councils have, through Tees Valley Unlimited (TVU), pooled strategic economic functions – covering business engagement, economic strategy and intelligence, inward investment, marketing and promotions, strategic transport, and investment planning (previously through the JSU and the Tees Valley Regeneration Company).
12. The Council Leaders play a vital role in ensuring that the focus and direction of Tees Valley strategies and investments are in touch with the needs of local residents. Together with local councillors, they form a crucial link to the people in Tees Valley, ensuring Tees Valley's needs are centre stage and their identities and interests are protected. Together with business leaders, an effective and high

achieving voluntary partnership existed for many years; paving the way for the establishment of the Combined Authority.

13. The Tees Valley Combined Authority was formally established in April 2016 following a public consultation, approval by each local authority and Parliamentary approval. Members from across all Tees Valley authorities have been involved in workshops and meetings that have helped shape the Combined Authority's first constitution so that it builds on the success of, and formalises, many years of joint working across the area.
14. The Combined Authority is a legal authority in its own right and all Members can access details of its meetings, reports etc through the Combined Authority web-site: www.teesvalley-ca.gov.uk
15. The Combined Authority's Scrutiny Committee has now been established and members have been appointed to serve on the Audit and Transport Committees.

Tees Valley Devolution Deal

16. Tees Valley faces great challenges, and the opportunities afforded by working together are significant. Hence, in the summer 2015, we took the opportunity to negotiate a Devolution Deal with Government.
17. The deal which was agreed in October 2015 was firmly focused on driving economic growth across a range of areas: transport; education and skills, housing and place; business growth; culture; and innovation and energy.
18. The devolution deal included a commitment of £15m per annum additional investment funding for 30 years coming to Tees Valley, the first annual instalment of which has now been received. It also provided additional flexibilities in the use of existing funding so that the Combined Authority will be able to establish a significant single pot and have the ability to move money between years and between funding streams. In total, the investment funds now available to the Tees Valley amount to over £1/2 billion (2016-2021). With opportunities for further funds to be added in future, not only should the size of the pot increase, but the flexibilities to use funds between years allows for much more ambitious investment planning in the Tees Valley than we have previously enjoyed.
19. The Devolution Deal has also led to immediate financial savings to the individual councils, since the Combined Authority is now able to fund its operations through funding devolved from central government.
20. Some other specific gains from the early implementation of the Devolution Deal include:
 - a. Ability to establish Mayoral Development Corporations
 - b. Progress towards the establishment of a Land Commission to address brownfield sites and surplus public sector owned land for development
 - c. National support for Tees Valley's four key transport infrastructure projects, now considered as part of Transport for the North (new Tees crossing, East-

West A66 corridor from A1(M) to Teesport, Darlington HS2 Hub, rail electrification from Northallerton to Teesport)

- d. Government funding of £264,000 pa for two years for our Growth Hub (Tees Valley Business Compass), to pump-prime business support initiatives
 - e. The establishment of an Education, Employment and Skills Board, with devolved skills funding
 - f. The devolution of Apprenticeship Grant for Employers has been agreed with Government
 - g. £300,000 funding agreed from Government to develop carbon capture and storage proposals, and
 - h. Ability to submit programmes, rather than project proposals, to the Local Growth Fund, with priority given to areas moving towards a Mayoral Combined Authority
21. Government guidance is that being a Mayoral Combined Authority with a devolution deal would mean that we have an advantage in securing Local Growth Fund money in round 3. An ambitious bid has been submitted and the announcement is due as part of the Government's Spending Review on 23rd November 2016 (a verbal update will be provided at the meeting).
22. Whilst Government insists that a Mayor is required as part of our deal, we have maintained a clear position that the establishment of the Mayor would be accompanied by checks and balances to embed a Mayoral / Cabinet model, with strong scrutiny arrangements, building on our track record of collaboration.
23. Leaders and the Chair of the LEP held a positive meeting with the Secretary of State, Sajid Javid MP, on 20th October. Discussion centred on the opportunities arising from the Tees Valley Devolution Deal. The leaders sought, and received, assurance about the government's continued commitment to devolution, and the opportunities for Tees Valley to gain preferential access to investment in local growth and job creation. There was also discussion about future opportunities for devolution; including on cultural development, to deliver faster growth of housing, to deliver our transport priorities, and to enhance the Tees Valley's involvement in employment and skills programmes.

Tees Valley (establishment of Mayor) Order 2016

24. In July 2016, the Tees Valley (establishment of Mayor) Order was passed in Parliament. This led to the creation of the position of Tees Valley Mayor, and set out a date of May 2017 for an election, and an initial term of three years, to be followed by four-year terms after that. The first Order simply established the role of the position of the Mayor, and a further Order is separately required to devolve powers to the new Mayoral Combined Authority, and to establish the checks and balances. It is this second Order which now requires approval from each of the Councils.

Recent Consultation on the Proposed Powers of the Mayor

25. Tees Valley Combined Authority ran a statutory consultation on the proposals for how the Mayoral Combined Authority would work. The consultation was open for six weeks and 1160 people and organisations responded.
26. A significant proportion of respondents expressed opposition or scepticism about whether a Mayor was appropriate for the Tees Valley, and this has been fed back to Government. There were also strong themes around making sure that the changes did not bring about unnecessary bureaucracy, the need for local areas to retain their autonomy, and support for checks and balances in relation to the Mayor's powers. These themes have been taken into account in the draft Mayoral Combined Authority Constitution (see below).
27. Overall, the responses to the consultation which are directed at the key issues give support to the proposals to make governance changes as part of the overall devolution deal.
28. The consultation report is available at www.teesvalley-ca.gov.uk **Checks and Balances are set out in the** Tees Valley Combined Authority (Constitution) Order 2016.
29. The clear aim of the Mayoral Combined Authority will be to work by consensus, with the new Mayor working as one with his / her Cabinet. The Combined Authority has worked collaboratively to date and it builds upon a long history of joint work between councils. However, it is necessary to set out how decisions will be taken should there not be consensus so that the Authority can continue to operate. The way in which it is intended that decisions will be made is set out in detail in the key decisions table below.
30. While some powers devolved from Government will sit legally with the Tees Valley Mayor, the agreed concept of an embedded mayor means that we are aiming to set out how that power can be operated in the spirit of a Mayor working with the Cabinet, and to share decision-making with Council Leaders (the constituent members of the Combined Authority). The basic principles are that in general terms the Tees Valley Mayor should have the support of the majority of council leaders for their proposals on an ongoing basis; and where necessary, because of the critical nature of a decision or because of the direct impact on a particular area of the Tees Valley, there should be unanimity in decision-making.
31. The Tees Valley devolution deal set out some of these checks and balances but in many cases what is proposed in the draft Order and constitution goes further.
32. Tees Valley have negotiated with Government on how the Mayoral Combined Authority would work. Government's policy preference has been to centralise power in a mayor to provide a single accountability externally; and we have negotiated the checks and balances which will be necessary to make the Mayoral Combined Authority work in the context of the good partnership working that already exists in Tees Valley. Government raised questions about several proposals which were key checks and balances from a Tees Valley perspective:

- the rotation of a deputy mayoral role between the Borough Council Leaders / Mayor (as opposed to appointment by the mayor);
- the arrangements around a budget and strategy, where we have put forward a proposal to allow the rejection of a mayoral strategy and budget and an alternative proposal on which the mayor would not be able to vote;
- that (unlike in the original deal where it was proposed the mayor would need to be on the side of the majority and therefore hold an effective veto) the definition of majority voting should be a simple majority.

33. On each of these questions we have reached agreement with Government officials that we can press ahead as planned with our preferred solution, and this is reflected in the draft Order upon which Councils are now asked to give their consent (**NB need to confirm once we have had sight of the draft Order**). This is attached at Annex 1. Tees Valley has the ability to develop a set of proposals which fit best with our own specific context, and that these are anchored in the Tees Valley Mayoral Combined Authority Constitution.

34. What these checks and balances mean in practice, in terms of some of the

Key Decisions Table key decisions that the Combined Authority will have to make, is set out in the table below.

Decision	How	Rationale
Approval of the Tees Valley Investment Plan	Unanimous decision of TV leaders, and Tees Valley Mayor	Decisions on investment plans for the Tees Valley are critical to economic growth and therefore require the approval of all leaders
Setting of any transport levy under section 74 of the Local Government Finance Act 1988	Unanimous decision of TV leaders, and Tees Valley Mayor	Setting a levy would affect all households and so any decision requires unanimity
Such other plans and strategies as may be determined by the Combined Authority and set out in its standing orders	Unanimous decision of TV leaders, and Tees Valley Mayor	Allows the Combined Authority flexibility to require unanimous decisions for sensitive issues in the future

<p>Medium Term Financial Plan (MTFP) for the Combined Authority</p>	<p>Proposed by the Mayor. Can be rejected if three out of the five local authority leaders choose to do so. In that event, an alternative budget will be prepared, subject to three of the five local authority leaders approving it. The Tees Valley Mayor shall not be entitled to vote on the alternative budget.</p>	<p>This brings together the Mayor's budget and the Combined Authority budget in a single package. The Mayor will propose and checks and balances will then operate on approval</p>
---	--	--

<p>Strategic Economic Plan including Mayoral Strategy and Strategic Transport Plan for the Tees Valley.</p>	<p>Developed in collaboration between the Tees Valley Mayor and the local authority; and proposed by the Tees Valley Mayor. The Mayoral Strategy and Strategic Economic Plan can be rejected if three fifths of the local authority leaders choose to do so. In the event of the rejection of a Mayoral Strategy, an alternative Strategy will be prepared, subject to three of the five Tees Valley Cabinet members approving it. The Tees Valley Mayor shall not be entitled to vote on the alternative Strategy.</p>	<p>This brings together the Mayor's strategy and the Combined Authority strategy in a single document – the Strategic Economic Plan. The Mayor will propose and checks and balances will then operate on approval</p>
<p>Creation of Mayoral Development Corporations</p>	<p>Proposed by the Mayor. A proposal for an MDC can be rejected if three of the five members voting choose to reject it; or the member of the Combined Authority for a local authority which covers any part of the area within the proposed MDC does not give consent.</p>	<p>To propose an MDC the Mayor should have majority support of leaders where that majority includes the leader of any Authority where land proposed for the MDC lies.</p>

Draft Mayoral Combined Authority constitution

35. The Tees Valley Combined Authority's original constitution, agreed at its inaugural meeting in April 2016, would need to be amended to reflect how it would work as a Mayoral Combined Authority, and thus to reflect the Mayoral powers, checks and balances as described, including how key decisions will be made as set out in the table above. The draft Mayoral Combined Authority Constitution is attached at Annex 2.
36. Member seminars on the original draft constitution were held in each Borough to ensure the final version presented to the Combined Authority reflected Members' views.
37. Members Seminars have again been held in each Borough (on the Mayoral Combined Authority constitution) and key themes raised are reflected in draft at Annex 2. It will be the responsibility of the Combined Authority to consider and adopt its own constitution, but Members' further views from this meeting will be collated and shared with the Combined Authority ahead of its decision.
38. Following this cycle of Council meetings, the next steps are as follows:
 - Tees Valley Combined Authority to meet to consider giving consent at its meeting on 25th November 2016
 - Secretary of State lays the Order before Parliament on 28th November 2016
 - Early 2017 – Parliamentary approval expected and the Order comes into law
 - Process for the election of Tees Valley Mayor continues as now, with the date of the election as 4th May 2017

Conclusion

39. Tees Valley has ambitious plans for growth which have underpinned our collaborative working in recent years, and the rationale for the establishment of the Combined Authority. Whilst a Tees Valley Mayor is not something that is wanted either by many Members or by the public, the prize on offer through the devolution deal is significant. It is in the interests of the whole of the Tees Valley to maintain our drive for growth and prosperity, hence the recommendation before Members to approve the Tees Valley Combined Authority (Constitution) Order 2016.

IMPACT ASSESSMENT (IA)

40. We have assessed the implications of the governance changes and do not consider that they will have a detrimental effect on protected groups under the Equality Act and that they will have a positive impact on the communities of the Tees Valley through the localised decision-making in the Devolution Deal.

OPTION APPRAISAL/RISK ASSESSMENT

41. The Options are:

1. To approve the governance change (recommended)
2. To not approve the changes leading to withdrawal from the devolution deal.

FINANCIAL, LEGAL AND WARD IMPLICATIONS

42. **Financial** – None

SCRUTINY CONSULTATION

43. This has not been considered by the OSB

RECOMMENDATIONS

44. It is recommended that Executive

- a. Consents to the Tees Valley Combined Authority (Constitution) Order 2016 at Annex 1, and that consent is confirmed at the meeting of the Tees Valley Combined Authority on 25th November 2016, and
- b. Considers the content of the draft Mayoral Combined Authority Constitution at Annex 2, and requests that Members' comments are considered by the Combined Authority in reaching its decision on approval of its new Constitution

List of Annexes:

1. Draft Tees Valley Combined Authority (Constitution) Order 2016
2. Draft *Mayoral CA Constitution

REASONS

45. The recommendations are supported by the following reasons:

(a) Consent from the constituent Local Authority members of the Combined Authority is required by Government before legislation establishing the devolved powers and governance arrangements for the Mayoral Combined Authority can be laid before Parliament

(b) To enable the Combined Authority to update the Constitution to reflect legislation relating to the powers and functions for a Mayoral Combined Authority and the constitutional arrangements agreed locally.

BACKGROUND PAPERS

46. No background papers were used in the preparation of this report.

CONTACT OFFICER: James Bromiley
TEL NO: 01642 729020

Address:

Website: <http://www.middlesbrough.gov.uk>