

Report of:	Director of Regeneration
Submitted to:	Corporate Affairs and Audit Committee
Date:	23 September 2022
Title:	Middlesbrough Mayoral Development Corporation
Report for:	Information
Status:	Public
Strategic priority:	Town centre
Key decision:	Not applicable
Why:	Report is for information only
Urgent:	Not applicable
Why:	

Executive summary

The Tees Valley Mayor and Middlesbrough Mayor have announced an ambition for a Mayoral Development Corporation (MDC). This report provides this committee with an overview of the governance arrangements that will apply to this process and where they are within Middlesbrough Council's remit.

The aim of a Mayoral Development Corporation is to accelerate major regeneration initiatives, in a defined area / scope, by dedicating specialist capacity; securing additional investment; and, streamlining processes.

The process is in the very early stages of a TVCA request to the Secretary of State, for permission to establish a Mayoral Development Corporation, and its high-level objectives.

The next stages of the process will progress to formal consultation by the Secretary of State, and this process will be Middlesbrough Council (and elected members') opportunity to consider any specific proposals and their implications.

Should a Mayoral Development Corporation progress, any Council involvement, both financially (assets) and in terms of governance (influencing the constitution) will be considered as a material change to the Council's Budget and Policy Framework and would, therefore, require determination by Full Council.

Purpose

1. The purpose of this paper is to give members of the Corporate Affairs and Audit Committee an overview of the governance process for the proposed Mayoral Development Corporation and the next steps in the process.

Background and relevant information

2. The Tees Valley Mayor and Middlesbrough Mayor have announced an ambition for a Mayoral Development Corporation (MDC).
3. The aim of a Mayoral Development Corporation is to accelerate major regeneration initiatives, in a defined area / scope, by dedicating specialist capacity; securing additional investment; and, streamlining processes.
4. The establishment of a Mayoral Development Corporation is a power available to devolved, city-region authorities under the Localism Act 2011, albeit a case must be made to the relevant Secretary of State and formal approval must be granted.
5. This is a unilateral decision available to the Tees Valley Mayor, members of Middlesbrough Council are not able to determine whether a MDC can be established, or not. However, as the 'Host Authority', Middlesbrough Council is a principal statutory stakeholder and will have great influence on how the MDC is shaped.
6. The initial stages of the process to create a Mayoral Development Corporation have commenced but this amounts to an initial expression of interest / formal letter to the Secretary of State, to commence the process. This is informed by a provisional consultation held over June / July 2022. This only establishes the ambition to establish an MDC and the proposed area (red line boundary) within which the MDC's powers / influence would apply.
7. Upon receipt of the request, the Secretary of State will commence a detailed statutory consultation exercise to involve major stakeholders. Middlesbrough Council, as host authority, will be the principal statutory consultee in this exercise. This will provide the opportunity to express any governance, democratic, accountability and financial concerns to inform the establishment of an agreed Constitution for any MDC structure. This process will involve detailed discussion and engagement with elected members.
8. It is important to stress that the process is in the very early stages and many of the logistical factor and required financial appraisals can only be detailed once the scope of the Secretary of State's consultation is known. This is not to obfuscate the process, or material concerns of elected members, rather it is recognition that we are at the start of a collaborative process and any potential impacts can only be assessed as details of any framework, come forward.
9. However, Middlesbrough Council's initial thinking is based on the fundamental requirements that:
 - a) should any financial assets be proposed to be pooled within an MDC, this cannot prejudice Middlesbrough Council's financial position and would need to be protected / compensated accordingly; and,

- b) the Constitution of the MDC and any proposed transfer of powers, should properly reflect / protect the democratic mandate of Middlesbrough's elected members and the primacy of local powers, strategic objectives and adopted plans.

10. Details of specific proposals, development sites, investments are not known in any detail at this stage. When specifics are known, each factor will be assessed for implications and offered for member consideration. This is likely to inform the conditions, protections, and covenants which the Council would highlight as a response to the next stage (Secretary of State – Statutory Consultation). However, some frequently asked questions are set out below.

Frequently Asked Questions

11. What planning powers may be included?

An MDC has the ability to deliver all planning powers which a local authority enjoys, albeit in the applications for major developments. Routine planning issues would remain locally-determined. Statutory consultations would still have to be delivered and decisions would have to be made with respect to national and local policies (i.e. local plan which can only be established by Middlesbrough elected members and planning legislation.

For example, the MDC could instigate Compulsory Purchases, S106 agreements, and all other planning powers currently available to Middlesbrough Council, with respect to major developments. It is envisaged that the MDC will apply for full planning powers and delegate many routine powers back to the local authority for the development area.

12. Will the Planning Committee make the decisions?

An MDC would have the power to determine major planning applications within the MDC boundary area. All appeals would still have to go through the Secretary of State, as now.

13. Who sits on the MDC Board?

This is a matter for the MDC Constitution. Middlesbrough Council's opportunity to shape the Constitution would be through the Secretary of State consultation process. The only (currently) known roles for any proposed MDC board would be Tees Valley Mayor, Middlesbrough Mayor, and Middlesbrough Chief Executive. Others will be appointed by the Tees Valley Mayor.

14. Who agrees the MDC Constitution?

As Tees Valley Combined Authority would be accountable body for the MDC, all Tees Valley Leaders must, unanimously, agree the MDC Constitution.

15. Is business rates income included?

Potentially. Local business rates would remain with the Council but the MDC could make a case for the retention and use of the other Circa. 50%, which currently goes to Central Government. This would retain more business rates income locally.

16. Can the findings of the online consultation be shared?

Officers will secure this from TVCA and circulate to members.

17. A figure of £10m has been referred to in the press, has this already been allocated to the proposed development area?

It is understood that £10m has been allocated in the Tees Valley Investment Plan specifically to pump-prime the delivery of an MDC.

18. Does MDC funding / investment / borrowing use the Council's borrowing powers?

In terms of new funding for the development corporation, this should not implicate Council borrowing powers as the new body would be responsible for its own debt. It is understood that TVCA are the accountable body for the new MDC and, presumably, liable for any legacy debts, should the organisation cease. Any assets pooled in the development corporation would need to give clear limits on liabilities, whilst ensuring that any existing debt / income / servicing costs are honoured and agreed as being compensated for / not prejudiced by any development corporation activity.

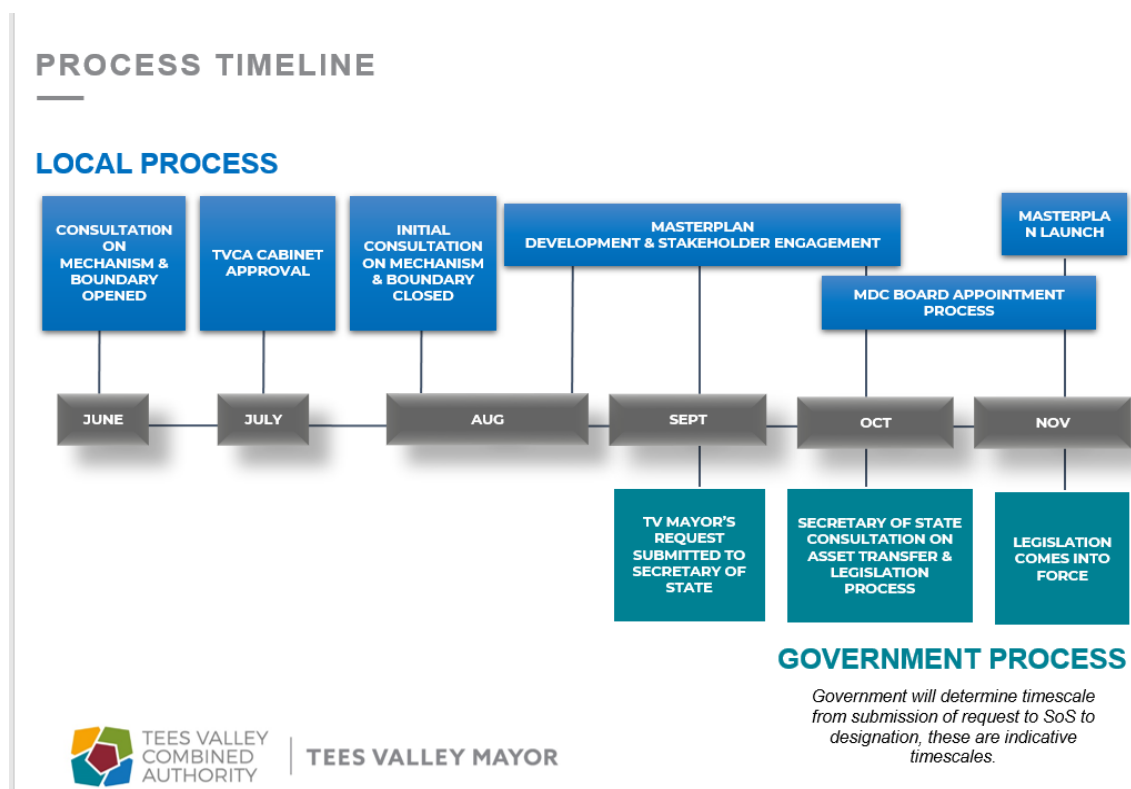
19. How will Middlesbrough Council's strategic objectives be met?

It is anticipated that any pooling of such assets would have appropriate conditionality to ensure that no major departure from the existing policy and strategy drivers – protections would include: control on any onward disposal, provisional agreement of purpose and aim; and minimum guarantees about valuation, recovery of outlay and overage – in the event of an agreed disposal.

Protections will be required to clarify the position in the event of dispute or divergence of strategic priorities. This would need to clarify which party, if any would have primacy over strategic objectives and any form of veto over the objectives / strategic interests of the over. This would include matter such as planning, policy, strategy and anything which creates any form of statutory, maintenance, obligation, limitation, or revenue burden on the other party.

20. As more specific development proposals, site and details emerge, these will be assessed and considered so that members have a full understanding of any risks and conditionalities.

Projected Timeline for Decision Making



What decision(s) are being recommended?

21. That the Corporate Affairs and Audit Committee:

- I. notes the report for information

Rationale for the recommended decision(s)

22. The establishment of an MDC is in the initial stages and additional details for consideration will seek member input as any detailed proposals emerge.

Other potential decision(s) and why these have not been recommended

23. N/A

Impact(s) of the recommended decision(s)

Legal

24. The power to request an area to be designated as an MDC is a devolved power to the Tees Valley Mayor under the Localism Act 2011.

25. In response to the Secretary of State consultation (date to be confirmed) Middlesbrough Council's interests can be protected in terms of appropriate conditions, covenants and expectations for the constitution of an MDC. The Secretary of State

would then consider the required statutory instruments required to establish the proposed MDC.

26. Should a Mayoral Development Corporation progress, any Council involvement, both financially (assets) and in terms of governance (influencing the constitution) will be considered as a material change to the Council's Budget and Policy Framework and would, therefore, require determination by Full Council.

Strategic priorities and risks

27. The aim of a MDC is to provide additionality by establishing new capacity and resources to deliver Middlesbrough's strategic ambitions. This will naturally align with existing local plans and policies which are locally determined, and whilst new masterplans and strategies are likely to emerge, this will be shaped in partnership with Middlesbrough Council. However, local democracy and accountability is key so measures to protect the interests of Middlesbrough Council can be shaped and recommended in shaping the constitution for the MDC.
28. Middlesbrough and its residents are facing a significant period of stretched local resources. This could limit the availability of regeneration investment in the coming years. An MDC opens new funding opportunities to maintain regeneration momentum and make central Middlesbrough a strategic priority for the entire Tees valley.
29. The MDC is anticipated to deliver major regeneration schemes only. Day to day support and administration of the Town Centre is anticipated to stay with Middlesbrough Council. Specialist capacity and resources will supplement the regeneration service and its functions, with significant and major regeneration initiatives continuing to be delivered in-house.

Human Rights, Equality and Data Protection

30. No Human Rights, Equality or Data Protection issues arise from this report.

Financial

31. It is possible that some Council assets within the proposed red line boundary will be sought to be acquired by the MDC, albeit the precise scale and scope of this acquisition is, as yet, unknown.
32. Many of the Council-owned, strategic assets in the area have been purchased via prudential borrowing (debt) and/or generate an income stream against which the Council is reliant.
33. As such, in considering whether Middlesbrough Council 'pools' any strategic assets in an MDC, it would need to be absolutely satisfied that the assets value was recovered to the Council, or that the income was retained to service any debt provision and / or revenue income, to ensure that any future planned income from the assets, is retained.
34. In engaging in discussions on a potential MDC, the working assumption is that any asset transfer would not be considered if it were to financially disadvantage or prejudice the Council's financial position. This would be an absolute precondition of any asset transfer.

35. It is theoretically possible for the Secretary of State to insist on the transfer of certain assets (through powers separate to those of establishing an MDC), essentially as a public sector Compulsory Purchase. However, it is assumed that the Council, as a minimum, would have to be compensated for such an acquisition.

Actions to be taken to implement the recommended decision(s)

Action	Responsible Officer	Deadline
N/A	N/A	N/A

Appendices

1	N/A
2	
3	

Background papers

Body	Report title	Date
N/A	N/A	N/A

Contact: Sam Gilmore – Head of Economic Growth and Infrastructure
Email: Sam_gilmore@middlesbrough.gov.uk