

GREATER CAMBRIDGE CITY DEAL EXECUTIVE BOARD DELEGATIONS

To: **Constitution and Ethics Committee**

Meeting Date: **19th November 2015**

From: **LGSS Director of Law, Property & Governance**

Electoral division(s): **Abbey; Arbury; Bar Hill; Bassingbourn; Bourn; Castle; Cherry Hinton; Coleridge; Cottenham, Histon and Impington; Duxford; East Chesterton; Fulbourn; Gamlingay; Hardwick; King's Hedges; Linton; Market; Melbourn; Newnham; Papworth and Swavesey; Petersfield; Queen Edith's; Romsey; Sawston; Trumpington; Waterbeach; West Chesterton; Willingham.**

Forward Plan ref: **Key decision: No**

Purpose: **To consider clarifications of the delegations made to the Greater Cambridge City Deal Executive Board and to recommend that Council makes the appropriate changes to its Constitution to reflect this.**

Recommendation: The Committee is recommended to endorse and propose to Council that:

- a) a City Deal infrastructure scheme is one arising from the Greater Cambridge City Deal which has been and remains designated by the Greater Cambridge City Deal Executive Board as a City Deal infrastructure scheme and is, or has been funded in whole or in part by funds received by the County Council under the auspices of the Greater Cambridge City Deal or allocated to the Greater Cambridge City Deal Executive Board by participating Authorities;
- b) the responsibility for making decisions regarding Traffic Regulation Orders for City Deal infrastructure schemes is confirmed as being delegated to the Greater Cambridge City Deal Executive Board;
- c) the responsibility for making decisions around and exercising Compulsory Purchase Order powers for City Deal infrastructure schemes is confirmed as being delegated to the Greater Cambridge City Deal Executive Board;
- d) the responsibility for making decisions around Side Roads Orders for City Deal infrastructure schemes is confirmed as being delegated to the Greater Cambridge City Deal Executive Board;
- e) the responsibility to promote Transport and Works Act Orders for City Deal infrastructure schemes is confirmed as being delegated to the Greater Cambridge City Deal Executive Board;
- f) the responsibility for considering planning applications for City Deal infrastructure schemes is delegated to the Joint Development Control Committee for Cambridge Fringes; and
- g) the Terms of Reference of the Joint Development Control Committee for Cambridge Fringes, the Economy and Environment Committee, the Highways and Community Infrastructure Committee, and the Cambridge City Joint Area Committee be amended accordingly.

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1. BACKGROUND

- 1.1 Full Council on 16 December 2014 approved the formation of the Greater Cambridge City Deal Joint Assembly and Executive Board, and agreed to delegate certain functions to the Executive Board as the decision-making body for the Greater Cambridge City Deal.
- 1.2 The Executive Board Terms of Reference includes the following wording in paragraph 4.3, which sets out the scope of the delegated responsibilities:

“The three Councils agree to delegate exercise of their functions to the Executive Board to the extent necessary to enable the Board to pursue and achieve the objectives of the Greater Cambridge City Deal and to undertake any actions necessary, incidental or ancillary to achieving those objectives, and, accordingly, the three Councils shall make the necessary changes to their respective schemes of delegation. The Executive Board may further delegate to officers of the three Councils.”

2. MAIN ISSUES

- 2.1 In order to ensure the smooth functioning of the Greater Cambridge City Deal governance arrangements, and particularly the delivery of the infrastructure investment programme on a very tight timescale, it is considered necessary to clarify the delegations that are considered to have been made.
- 2.2 The wording under paragraph 1.2, drawn from the Executive Board Terms of Reference, makes clear that the Executive Board is empowered to undertake any actions necessary, incidental or ancillary to achieving the objectives of the City Deal. Officers have considered the functions that could be considered to be covered by this wording, and have made recommendations in each case to provide clarification. These functions are:
- Traffic Regulation Orders (TROs)
 - Compulsory Purchase Orders (CPOs)
 - Side Roads Orders (SROs)
 - Transport and Works Act Orders (TWAOs)
 - Grant of Planning Consent
- 2.3 In each instance a recommendation is made for further action that would provide this clarity.

Definition of City Deal infrastructure schemes

- 2.4 In order to delineate the boundaries of the City Deal Board delegated authority it is necessary to define what is considered to constitute a ‘City Deal infrastructure scheme’. This definition will then be used to determine which body holds the responsibility for making the decision concerned. The following definition is proposed:

“A City Deal infrastructure scheme is one arising from the Greater Cambridge City Deal which has all of the following characteristics:-

- i. Has been and remains designated by the Greater Cambridge City Deal Executive Board as a City Deal infrastructure scheme.*
- ii. Is, or has been funded in whole or in part by funds received by the County Council under the auspices of the Greater Cambridge City Deal or allocated to the Greater Cambridge City Deal Executive Board by participating Authorities.”*

Traffic Regulation Orders

- 2.5 TROs, established under the Road Traffic Regulation Act 1984, are legal instruments that are used to regulate parking in particular. They are designed to regulate, restrict or prohibit the use of roads by vehicles or pedestrians. There is a statutory requirement to undertake a public consultation where a TRO is needed, with the outcome of that consultation being considered when the decision is made on whether or not to grant a TRO.
- 2.6 Generally speaking any major transport infrastructure scheme that includes the public highway will require at least one TRO. This is expected to be the case for most, if not all, of the schemes delivered through the City Deal.
- 2.7 Outside of the City Deal arrangements, decisions relating to TROs in Cambridgeshire are made by either the Cambridge City Joint Area Committee or the Council’s Highways & Community Infrastructure Committee. These Committees decide upon objections to TROs following public consultations.
- 2.8 The delegations made to the Executive Board are considered to include the power to make decisions regarding TROs when they relate to City Deal infrastructure schemes, including considering the outcomes of public consultations. However, to ensure that the processes around the delivery of the City Deal infrastructure programme are clear, it is recommended that the County Council confirms explicitly that this delegation has been made.

Compulsory Purchase Orders

- 2.9 A CPO is a legal instrument that allows certain bodies (including the partner Councils) to purchase land without the owner’s consent. It can be enforced if it is considered necessary in order to deliver public benefit, and can be particularly pertinent for transport infrastructure schemes. It is normal practice to seek CPOs on a contingency basis in parallel with negotiations with landowners to avoid delays to projects. Some City Deal infrastructure schemes will require the use of CPO powers in order to deliver the wider benefits that are expected to be associated with those schemes.
- 2.10 For the purposes of the City Deal, it is the County Council’s CPO powers that are most important. Outside of the City Deal arrangements, the County Council’s CPO powers are vested in the Economy & Environment Committee, which takes responsibility for promoting and exercising CPOs. The final decision to grant a CPO rests with the Secretary of State.

- 2.11 The decision made by the County Council to delegate responsibilities to the Executive Board is considered to include the power to promote and exercise CPO powers for City Deal infrastructure schemes in Cambridge City and South Cambridgeshire. To ensure that there is clarity around the processes involved in delivering the City Deal infrastructure programme, it is recommended that the County Council's CPO powers are confirmed as being delegated to the Executive Board.

Side Roads Orders

- 2.12 An SRO is an instrument established under the Highways Act 1980 that allows a Highway Authority (in the local context this refers to the County Council) to alter roads or other highways affected by a major transport infrastructure scheme. This deals with roads that are not specifically along the alignment of the scheme, but are impacted by or impact upon the scheme. It is likely to be the case that SROs are required for several City Deal infrastructure schemes. As with CPOs, the County Council acts as the promoter for SROs but the decision to grant these rests with the Secretary of State.
- 2.13 Outside of the City Deal arrangements, the responsibility for promoting SROs rests with the Economy & Environment Committee. The delegation made to the Executive Board means that this responsibility, where it relates to a City Deal infrastructure scheme, has been delegated to the Executive Board. It is recommended that this is explicitly confirmed by the County Council.

Transport and Works Act Orders

- 2.14 The Transport and Works Act 1992 established TWAOs as the default means of authorising the creation of a new railway, tramway or guided busway scheme, except for "nationally significant rail schemes in England". TWAOs can include within them TROs, CPOs and deemed planning consent. The County Council has the power to promote a TWAO, whilst the decision to grant a TWAO rests with the Secretary of State. As the prioritised City Deal infrastructure schemes are being developed at the moment, it is unclear if the final proposals for those schemes would require the granting of a TWAO.
- 2.15 The delegation made to the Executive Board is considered to include the responsibility for promoting TWAOs for City Deal infrastructure schemes. It is recommended that the County Council explicitly confirms that this delegation has been made.

Planning Consent

- 2.16 City Deal infrastructure schemes that are not within the highway will require planning consent in order to be delivered. Planning consent for transport schemes promoted by the County Council is considered by the County Council's Planning Committee, however the County Council has already delegated decisions on County Council applications to the Cambridge Fringes and Northstowe Joint Development Control Committees where applications fall within their respective remits.
- 2.17 Legal advice suggests that planning decisions should where possible be made across the relevant geography – in this case Cambridge City and South Cambridgeshire. By doing so, it is possible to ensure that planning decisions

most accurately reflect local circumstances, ambitions and constraints. It is therefore recommended that the most appropriate way to implement this principle would be to modify the remit of the Cambridge Fringes Joint Development Control Committee, which includes Members from all three partner Councils, to include planning permission for City Deal infrastructure schemes.

- 2.18 It is proposed that the Cambridge Fringes Joint Development Control Committee retains its geographical coverage, except in the case of City Deal infrastructure schemes when its geographical coverage extends to the whole area of Cambridge City and South Cambridgeshire. Short of creating a new Committee, this is considered to be the most appropriate available option. It is proposed to revise the Terms of Reference of the JDCC as set out in Appendix A (deletions are struck through and additions shown underlined).

Consequential changes to other Terms of Reference

- 2.19 In order to reflect the Greater Cambridge City Deal Executive Board's responsibility for City Deal infrastructure schemes, it is proposed to revise the Terms of Reference of the Economy and Environment Committee (see Appendix B), the Highways and Community Infrastructure Committee (Appendix C), and the Cambridge City Joint Area Committee (Appendix D).
- 2.20 A further change is proposed to the Terms of Reference of the Cambridge City Joint Area Committee. This is intended to clarify the meaning of one of the Committee's powers, where it is unclear to what the phrase 'of more than local significance' applies. Officers involved in the early development of the Terms of Reference confirm that the intention was to apply these words only to 'cycle and pedestrian schemes', and that there should be no comma between 'parking' and 'regulation'. The proposed revised wording has been discussed with City Council officers and is set out in Appendix D.

3. ALIGNMENT WITH CORPORATE PRIORITIES

3.1 Developing the local economy for the benefit of all

There are no significant implications for this priority.

3.2 Helping people live healthy and independent lives

There are no significant implications for this priority.

3.3 Supporting and protecting vulnerable people

There are no significant implications for this priority.

4. SIGNIFICANT IMPLICATIONS

4.1 Resource Implications

There are no significant implications within this category.

4.2 Statutory, Risk and Legal Implications

The following bullet points set out details of significant implications identified by officers:

- The recommendations made in this report would require some changes to the Council's Scheme of Delegations to clarify and confirm those delegations that are already considered to have been made but are not considered to be sufficiently clear.
- Leaving the responsibilities that are recommended to be confirmed as within the remit of the Greater Cambridge City Deal Executive Board with their 'business as usual' owners risks introducing conflict at several stages between the Executive Board and other bodies, which would substantially harm the delivery of the City Deal programme and reduce the likelihood of securing future City Deal funding (of which up to £400 million is potentially available).
- This would also cause substantial reputational harm, as the business community would see Greater Cambridge as a less attractive place to invest.

4.3 Equality and Diversity Implications

There are no significant implications within this category.

4.4 Engagement and Consultation Implications

The following bullet points set out details of significant implications identified by officers:

- Legal advice and the recommendations made in this report have been subject to discussion among the three partner Councils in the Greater Cambridge City Deal (the County Council, Cambridge City Council and South Cambridgeshire District Council).

4.5 Localism and Local Member Involvement

The following bullet points set out details of significant implications identified by officers:

- The recommendations made in this report would strengthen the ability of the Greater Cambridge City Deal Executive Board to deliver its ambitious infrastructure programme.
- This would empower this body that is acting more locally across Cambridge City and South Cambridgeshire, and would ensure that most decisions affecting the infrastructure programme are being made and controlled within that area, rather than by the wider County.

4.6 Public Health Implications

There are no significant implications within this category.

Source Documents	Location
Constitution & Ethics Committee – Greater Cambridge City Deal: Establishment of Joint Committee (11 November 2014)	http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/AgendaItem.aspx?agendaItemID=10582