

## Strategic Transport Forum

28<sup>th</sup> June 2017

### Agenda Item 3: Sub-national Transport Body

**Recommendation:** It is recommended that the meeting endorses the approach set out in this paper for undertaking an engagement with Strategic Transport Forum members and other interested partners.

#### **1. Background**

- 1.1. The Forum was established as the forum for a single conversation on strategic transport issues between the Strategic Alliance partners and the Government (and its associated agencies/companies).
- 1.2. Since the Forum first met in February 2016 it has developed a programme of work focused on ensuring that the Strategic Alliance's needs are reflected in national investment programmes, as well as helping to shape the strategic transport agenda moving forward.
- 1.3. In March 2017 the Department for Transport confirmed funding of £625k for 2017/18 – matching the contributions of the Strategic Alliance partners. An integral element of the work programme, agreed with the Department, was the development of a proposal to establish a Sub-national Transport Body.
- 1.4. The legislative framework enabling a Sub-national Transport Body to be established was placed on the statute book in early 2016. The legislation enables Local Transport Authorities to put forward a proposal to establish such a Body. It is for the Secretary of State to determine whether to agree to such a request. The first proposal to establish a Sub-national Transport Body (Transport for the North) is currently going through due process within Parliament.
- 1.5. There is no fixed template as to the functions and governance arrangements for a Sub-national Transport Body – it is for each proposal to set out the evidence base underpinning their proposal.
- 1.6. At the time the legislative framework was introduced the Government made it clear that it sees such bodies as providing the opportunity to devolve activities currently undertaken at the national level to the 'regional' level.
- 1.7. The Strategic Transport Forum has set out from its initial meeting its interest in developing a proposal to establish a Sub-national Transport Body on the basis that such a body would enable the Strategic Alliance to play a key role in shaping future investment and in providing the strategic leadership required to give confidence to potential business investors.

- 1.8. The Forum's ambition to develop a proposal for a Sub-national Transport Body is already bringing added value:
- It has led to the Strategic Alliance feeding into the early stages in the development of Highways England's Route Strategies
  - It has led to the Strategic Alliance setting the context for emerging Route Strategies being prepared by Network Rail
  - It has given added weight to the Heartland's infrastructure needs at the national level, with the Heartland being involved, along with the devolved administrations and other emerging Sub-national Transport Bodies, in discussions with the Secretary of State .

## **2. Strategic Context**

- 2.1. In its Interim Report (published in November 2016) the National Infrastructure Commission identified that improved connectivity was one of the critical issues that needs to be addressed if the economic potential of the Heartland is to be realised.
- 2.2. It went on to support the added value that a single body looking at strategic transport issues would bring in this regard.

## **3. Developing the Proposal: Overview**

- 3.1. As an initial step in developing the detail of a proposal to establish a Sub-national Transport Body the Forum agreed to seek specialist advice. Following a competitive procurement process, Bircham Dyson Bell were appointed as advisors to progress the first stage of the work (Stage 1 - the Concept Report).
- 3.2. This initial piece of advice work sets out the issues and options that this Forum will need to consider in developing a proposal. The Transport Officers Support Group has been closely involved in the work to date, whilst the National Infrastructure Commission has been kept sighted on its progress.
- 3.3. Once the Concept Report has been completed/approved, there are 2 further stages of work to be progressed:
- Stage 2 – Engagement/discussion with key stakeholders
  - Stage 3 – Development of proposal

An outline of the overall programme for progressing the STB is provided as Appendix 1.

- 3.4. In parallel, work is pressing ahead with the development of a long-term Transport Strategy. The preparation of a Transport Strategy and maintaining it, is a

requirement of a Sub-national Transport Body, providing as it does the basis for the preparation of national investment programmes.

#### 4. Stage 1 – Concept Report

- 4.1. A draft Concept Report has been circulated to members of the Forum. This initial piece of advice work sets out the issues and options that the Forum will need to consider in due course.
- 4.2. The report considers a wide range of factors, which include (but not limited to):
- What an Sub-national Transport Body is and the different options open for consideration
  - The benefits of the Strategic Alliance establishing a Sub-national Transport Body (i.e. in terms of the economy, potential powers etc.)
  - How the Body could potentially interact with local and national government and agencies
  - Some Initial advice on issues relating to membership and geographic area
  - What might be included within the Transport Strategy
  - Potential governance arrangements (and how this might work)
  - Potential financial arrangements (and how this might work)

#### *Potential Models for a Sub-national Transport Body*

- 4.3. As noted previously there is no fixed template as to what form a Sub-national Transport Body has to take: it is for the Local Transport Authorities putting the proposal forward to determine, and provide the case as to why their proposition is the most appropriate.
- 4.4. The advice from Bircham Dyson Bell identifies a number of potential models: these can be summarised as:
- Maintain the current, informal partnership;
  - Strengthen the current arrangements but remain a non-statutory partnership;
  - Establish a statutory Sub-national Transport Body, whose focus remains on strategic issues;
  - Establish a statutory Sub-national Transport Body with more extensive range of powers- a “devo-max” Sub-national Transport Body

A brief summary of these options can be found in Appendix 2, with further detail contained in the draft Concept Report.

*An Incremental approach*

- 4.5. It is important to emphasise at this stage that it is possible for a Body's functions to evolve over time, with the Secretary of State making a series of regulations through which the Body changes its roles and responsibilities. Such an approach would help ensure that a Body remains fit for purpose at all times and at the same time allows the constituent members of the Body to promote changes in the light of experience.

*Other considerations*

- 4.6. In addition to consideration of what functions and powers the Alliance may seek to have, the Forum will need to consider a number of governance factors (which are explained in more detail in the draft Concept Report). These include:
- The constitutional arrangements, including voting and types of membership;
  - Geographical scope of the Alliance;
  - How to fund the functions of the Alliance.

**5. Stage 2 - Wider Stakeholder Engagement (summer 2017)**

- 5.1. All of these issues are matters on which the Forum needs to seek views, not only from individual members of the Forum but other interested parties across the Heartland and in adjoining areas.
- 5.2. The draft Concept Report has been discussed by the Transport Officers Support Group. There was a clear consensus that the discussions should be focused around the proposition that the current partnership arrangements are strengthened as part of a journey towards establishing a statutory Sub-national Transport Body (in effect option 2 as part of a journey to option 3).
- 5.3. In terms of who the engagement is with, this will include:
- Members of the Strategic Transport Forum
  - Other interested parties across the Heartland – for example Local Planning Authorities, infrastructure providers/operators
  - User representative groups
  - Adjoining Local Transport Authorities - including London
- 5.4. Comments will be sought using a number of approaches, including:
- Workshops at a number of locations across the Heartland
  - Bi-lateral meetings with organisations
  - On-line submissions from interested parties

- 5.5. In parallel with this engagement, work will begin on reviewing the current Terms of Reference for the Strategic Transport Forum. Although that review cannot be concluded until after the engagement with interested parties, it is possible to begin that process now. In particular it is the opportunity to consider a number of specific issues, including:
- How the linkages with local planning authorities might be strengthened
  - How the linkages with public transport operators (both rail and road) might be strengthened
  - How the linkages with groups representing users (both individuals and businesses) might be strengthened
- 5.6. It is intended that this engagement will take place over the course of the summer 2017, with the results being used to start shaping the development of a more detailed proposal in the autumn.

Martin Tugwell  
**Programme Director**

June 2017

Appendix 1 – Proposed Sub-National Transport Body Work Programme

2017								2018		2019
May	June	July	August	September	October	November	December	Spring	May-December	Spring
Stage 1 – Development of STB Concept										
	28 <sup>th</sup> - STF Approval									
		Stage 2 – Wider Engagement								
			Stage 3 – Develop DfT Proposal							
					Stage 4 – Formal Sign-off of STB					
							15 <sup>th</sup> - STF Approval			
								Stage 5 – Formal Submission	... await decision...	Outcome expected
										Establishment of formal STB

## Appendix 2 – Summary of Potential STB Models

### 1. Maintaining the current status quo

1.1. The Alliance is currently structured as an informal partnership of stakeholders for the Heartland area. It does not have statutory powers. The Alliance could opt to maintain the current status quo and rely on existing institutions and economic and policy development frameworks to deliver the Alliance's aspirations.

### 2. A formalised non-statutory partnership

2.1. The Alliance could opt to develop a more enhanced informal partnership structure (potentially as a joint committee of its constituent authorities or structures similar to a "super-LEP") but without seeking a statutory basis. This could be done at the constituent authorities' own discretion.

2.2. This would enable the Alliance to carry out several of the same activities as a statutory STB in a co-ordinating role to try to influence and contribute to government and national agencies' policies without assuming any risk. Conversely, without statutory powers the government and other national agencies would be under no formal duty to accept or consider its strategies or recommendations from the Alliance, this would be at their discretion.

2.3. If the Alliance opted to enhance the current partnership and remain non-statutory, potential functions it could seek to have in relation to transport in the Alliance area are:

- contribute to the next Road Investment Strategy (**RIS**) (2020-2025) by undertaking initial development studies in its area to help identify key priorities for its area e.g. improve journey times and reliability and the Cambridge to Oxford Expressway;
- contribute to the next High Level Output Specification (**HLOS**), for Control Period 6, by identifying areas of priority within its area;
- liaise with the Secretary of State in relation to rail franchises within its area; and/or
- liaise with the local transport authorities in relation to bus ticketing schemes within its area.

### 3. A statutory STB with limited powers

3.1. The enabling legislation provides for a wide range of powers and functions an STB could seek to obtain, it is not prescriptive. It is therefore for the individual regions to determine if they would like to request approval for an STB and if so, what form that STB should take.

3.2. The Secretary of State can only establish an STB if they consider that the STB would facilitate the development and implementation of transport strategies for its area and that economic growth in the area would be furthered by the development and implementation of such strategies.

3.3. One option would be to apply to become a statutory STB. To do this the Alliance would need to submit a formal proposal to the DfT, and the Secretary of State would be the ultimate decision maker on whether to grant the Alliance a statutory basis through new secondary legislation.

- 3.4. If the Alliance sought to become an STB it could assume greater responsibility and influence as a statutory body. It would be focused primarily on the production of a statutory transport strategy. It would give the Alliance the ability to give formal advice and become a formal consultee requiring other authorities to consider the Alliance's strategy and the views of the Alliance in relation to relevant matters within its area
  - 3.5. The government and national agencies would be required to consider the Alliance's view on certain issues, depending on the nature of the regulations creating the STB. However, there would be governance and financial considerations relating to the creation of a new statutory body.
  - 3.6. If the Alliance opted to apply to become an STB, potential functions it could seek to have in relation to transport in the Heartland are:
    - seek to jointly exercise some functions in relation to roads that are exercisable by a public authority, to help create a regional major road network;
    - seek to enhance its influence on the decision-making process in relation to roads, for example the Alliance could be responsible for identifying the major road network in its area, priorities for investment and produce a report to identify the local priorities which would feed into the next RIS;
    - require the Office of Rail Regulation (**ORR**) to have regard to the Alliance's HLOS, and require the Alliance to be consulted on, or agree with, the Secretary of State's HLOS so far as it relates to cross-boundary activities; and/or
    - act jointly with the local transport authorities to make a ticketing scheme to cover the whole or any part of their combined area (once the new provisions in the Transport Act 2000, as amended by the Bus Services Act 2017, come into force in June 2017).
4. **A statutory STB with more extensive powers "devo-max" role**
- 4.1. An alternative STB structure would include seeking more extensive powers, carrying out functions currently exercisable by other public bodies (this can theoretically extend almost to network commissioning, although the DfT, Highways England and Network Rail have so far been reluctant to contemplate such extensive devolution). This may include, for example:
    - seek a role in the management of the major road network;
    - seek to jointly exercise some functions the Secretary of State currently exercises in relation to the HLOS for railway activities within its area;
    - seek to jointly exercise some of the functions the Secretary of State currently exercises in relation to rail franchising; and/or
    - gain powers to enter into agreements with rail franchisees or franchise operators for the provision of specific services.
  - 4.2. This option is most likely to give rise to a step change in transport strategy and delivery in the region, and most likely to deliver the aspirations of the Alliance.
  - 4.3. However, it is necessarily the most complex option to deliver, will involve the most change, seeks the most extensive powers and will be most likely to evoke resistance from other bodies, from whom functions are transferred.