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To: Growth, Economic Development and Communities Cabinet Committee - 14 April 2015

Subject: Local Growth Fund: Governance arrangements

Classification: Unrestricted

Past pathway of paper: None

Future pathway of paper: County Council – 21 May 2015

Electoral Division: All

Summary

To date, £109 million has been allocated from the Government's Local Growth Fund to capital projects in Kent. Most of this funding is for transport infrastructure, and will be channelled via the South East Local Enterprise Partnership.

This paper explains the governance arrangements that it is currently envisaged will be put in place to manage the funding. In particular, it is proposed that an Accountability Board, constituted as a Joint Committee of the six Local Transport Authorities within the South East LEP area, should be established to maintain strategic oversight and to allow funds to be transferred in the event of underspend or overspend.

Recommendations:

The Growth, Economic Development and Communities Cabinet Committee is recommended to:

- a) CONSIDER this report; and
- b) RECOMMEND that the Leader of the Council, subject to the continuation of the South East LEP and subject to further consideration at County Council on 21 May agrees to the establishment of a Joint Committee together with East Sussex County Council, Essex County Council, Medway Council, Thurrock Council and Southend-on-Sea Borough Council for the purposes of the management of the Local Growth Fund and other funds which may be directed by Government to the South East Local Enterprise Partnership.

1. Background

- 1.1. In 2013, the Government announced the establishment of the Local Growth Fund (LGF) for England. This is a 'single pot' capital fund, made up of contributions from a number of Government departments, in particular the Department for Transport. The LGF incorporates a number of funds which were formerly ring-fenced and transferred to local authorities, as well as some funds which were previously managed directly by central Government.
- 1.2. The Government makes allocations from the Local Growth Fund to Local Enterprise Partnerships (LEPs). These are informal public-private partnerships which aim to promote economic growth. Kent is currently covered by the South East LEP, which also includes Essex and East Sussex (as well as Medway).
- 1.3. To date, the Government has allocated £462 million to the South East LEP from the Local Growth Fund, against a specific schedule of capital projects. Of this, £109 million has been allocated to 24 projects in Kent, a list of which is attached in Annex 1. Spend on 15 of these projects is expected to start in 2015/16.
- 1.4. Because the South East LEP is an informal partnership with no legal personality with the capacity to enter into contracts, the Government has issued a grant offer to Essex County Council (as the Accountable Body for the LEP) for LGF funding for all schemes scheduled to start in 2015/16. This means that this funding will be passed from Government to Essex CC. Initially, funding will be transferred in quarterly instalments, but it is possible that in future, funds will be made available annually in advance of need.
- 1.5. Work has been underway to develop an agreement which would be put in place between Essex CC and all six Local Transport Authorities to enable them to draw down funds quarterly in advance of need. A draft agreement is currently being discussed by the Section 151 officers within the relevant authorities, including KCC.
- 1.6. It should be noted that discussions are taking place regarding the future boundaries and role of the South East LEP. Specifically, the Kent and Medway Economic Partnership and Kent Leaders are considering whether it would be in Kent's interests for the South East LEP in its current form to be abolished and replaced with a Kent and Medway LEP. Proposals may be developed further over the summer, and it remains to be determined how these will impact on the management of funds already allocated for 2015/16

2. Managing delivery

Managing delivery within KCC

- 2.1. Within KCC, a LGF Scheme Programme Board has been established to manage the delivery of those schemes for which KCC is responsible, chaired by the Head of Transportation and attended by the Corporate Director for Growth, Environment and Transport.

Managing delivery across the LEP-wide schedule of projects

- 2.2. Across the LEP's Local Growth Fund allocation, there may be project overspends, underspends and time delays. It will be important to manage these effectively to ensure that schemes are delivered and to avoid a loss of funding to the programme when projects cannot be delivered as originally planned.
- 2.3. Within the grant agreement that the LEP has received from Government, the Government reserves the right for itself to determine any, and all, project variances. However, it is possible that this right may be waived if a strong LEP programme oversight and accountability mechanism is in place. Following a review of LEP governance in autumn 2014, it is therefore proposed that:
 - a) Within the agreement between the Accountable Body and the local authorities referred to in para. 1.5, there will be flexibility to manage limited variances locally, below a threshold which is yet to be defined;
 - b) To determine larger variances and to maintain strategic oversight of the programme as a whole, an **Accountability Board** should be established covering the whole LEP area. It is proposed that the Accountability Board should be constituted as a Joint Committee, with KCC, East Sussex County Council, Essex County Council, Medway Council, Thurrock Council and Southend-on-Sea Borough Council constituent authorities. While the local authorities will be the only voting members of the Accountability Board, it is proposed that three non-voting private and educational sector members will be co-opted to ensure a link with the Local Enterprise Partnership. Draft outline terms of reference are attached at Annex 2.
- 2.4. The establishment of the Accountability Board will mean that the Local Transport Authorities across the LEP will be able to make funding decisions collectively, because the Accountability Board will be formally constituted. At present, because the LEP is an informal partnership, there is no mechanism to do this.

Partner oversight

- 2.5. In addition to the arrangements described above, progress in delivering the LGF programme in Kent will be reported to Kent and Medway Economic Partnership, ensuring that the Kent Districts and business representatives have an overview of delivery.

3. Legal implications

The establishment of the Accountability Board

- 3.1. If approved by all six proposed constituent authorities, the proposed Accountability Board will be established as a Joint Committee. Sections 101 and 102 of the Local Government Act 1972 provide a general power for local authorities to form joint committees in order to discharge functions jointly with other authorities. The functions to be discharged by the proposed Accountability Board relate to the making of loans and grants and are executive functions under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- 3.2. Section 9EB of the Local Government Act 2000 authorises the Secretary of State to make regulations facilitating the executive functions arrangements referred to in Section 101 of the 1972 Act. This has been done in the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 (2012/1019).
- 3.3. Reg. 11(6) of the 2012 Regulations provides that where the functions are executive the joint committee is to be appointed under Section 102(1)(b), and appointments to it made under Section 102(2), of the 1972 Act.
- 3.4. A Joint Committee will need to be underpinned by a Joint Committee Agreement between the constituent authorities. At the time of writing, this has not yet been prepared, but it will need to be in place by the time the Accountability Board is established.

The inclusion of non-voting co-opted members

- 3.5. Section 102 (3) allows a Joint Committee to include co-opted members. However, Section 13 of the Local Government and Housing Act 1989 requires co-opted members to be non-voting. While there is no restriction on a co-opted member being appointed chairman, a co-opted chairman will not have a first or casting (or any) vote (see paragraph 2.3(b) above).

4. Kent County Council's membership of the Accountability Board

- 4.1. In order to establish the Accountability Board, KCC will need to decide to become a constituent authority.

- 4.2. Subject to the preparation of a Joint Committee Agreement as described in para. 3.4, a decision to join a Joint Committee may be made by the Leader. A draft Record of Decision is attached as Annex 3. KCC's representation on the Accountability Board will then be determined by the Member Selection and Services Committee.
- 4.3. However, the decision to join the Joint Committee may be subject to the continuation of the South East LEP in its current form, as set out in para. 1.6.

5. Recommendations

The Growth, Economic Development and Communities Cabinet Committee is recommended to:

- a) CONSIDER this report; and
- b) RECOMMEND that the Leader of the Council, subject to the continuation of the South East LEP and subject to further consideration at County Council on 21 May agrees to the establishment of a Joint Committee together with East Sussex County Council, Essex County Council, Medway Council, Thurrock Council and Southend-on-Sea Borough Council for the purposes of the management of the Local Growth Fund and other funds which may be directed by Government to the South East Local Enterprise Partnership.

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1 April 2015

Annex 1

Local Growth Fund: Scheme allocations in Kent

	LGF Contribution (£m)							Match Funding (£m)	Total Scheme Budget (£m)
	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	Total LGF Input		
A28 Chart Road		1.00	1.00	7.00	1.23		10.23	22.57	32.8
Ashford Spurs		2.00					2.00	2.52	4.52
Sturry Link Road		1.00	2.45	2.45			5.90	22.70	28.6
A28 Sturry Road integrated transport package		0.30					0.30	0.25	0.55
North Deal transport improvements	0.40	0.40					0.80	0.75	1.55
Dover Western Docks Revival Project		5.00					5.00	195.00	200
A226 London Rd/ B255 St Clements Way				2.10	3.10		5.20	5.50	10.7
Rathmore Road Link, Gravesend		4.20					4.20	5.30	9.5
Maidstone Gyrotory Bypass	1.00	3.60					4.60	1.14	5.74
Maidstone sustainable access to employment areas		2.00					2.00	1.00	3.00
Maidstone Integrated Transport		1.30	2.00	2.00	3.60		8.90	6.90	15.80
Folkestone Seafront	0.50						0.50	0.15	0.65
Westenhanger Lorry Park			1.00	2.00			3.00		12.00
Sittingbourne Town Centre Regeneration	2.50						2.50	2.00	4.50
Thanet Parkway			4.00	6.00			10.00	14.00	14.00
M20 Junction 4 Eastern Overbridge	2.20						2.20	2.61	4.81
Tonbridge Town Centre Regeneration	2.00	0.40					2.40	4.28	2.65
A26 London Road/Speldhurst Road/ Yew Tree Road	1.00	0.80					1.80	0.25	2.05
West Kent LSFT	0.80	1.40	0.70	0.70	0.70	0.60	4.90	4.16	9.06
Kent Thameside LSTF	2.40	0.50	0.50	0.40	0.40	0.30	4.50	3.15	7.65
Kent Strategic Congestion Management	0.80	0.80	0.80	0.80	0.80	0.80	4.80		4.80
Kent Sustainable Interventions programme	0.50	0.50	0.50	0.50	0.50	0.50	3.00		3.00
Kent Rights of Way improvements plan	0.20	0.20	0.15	0.15	0.15	0.15	1.00	0.30	1.30
M20 Junction 10A*			8.30	11.40			19.70		
Total							109.43		

*

Highways

Agency

scheme

Annex 2

SOUTH EAST LOCAL ENTERPRISE PARTNERSHIP ACCOUNTABILITY BOARD DRAFT MEMBERSHIP AND TERMS OF REFERENCE

The SELEP Accountability Board is an executive joint committee of the following authorities. It is constituted under S.101 and S.102 LGA 1972 and Reg. 11(6) of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 (2012/1019).

East Sussex County Council

Essex County Council

Kent County Council

Medway Borough Council

Southend On Sea Borough Council

Thurrock Borough Council

Membership

9 members appointed as follows

Voting Members

1 member appointed by each of the 6 member councils (6)

Non-voting Co-opted members

A business Vice Chairman of the SELEP Strategic Board appointed by the Strategic Board

One member appointed by the Accountability Board on the nomination of the higher education sector (1)

One member appointed by the Accountability Board on the nomination of the further education sector (1)

Chairman

The business Vice Chairman of the SELEP Strategic Board appointed to the Accountability Board shall be the Chairman of the Accountability Board.

Quorum

One third of the members including at least two voting members

Terms of Reference

Within the Partnership's Growth Deal and Strategic Economic Plan and such other plans as may be approved by the Strategic Board, the Accountability Board will be responsible for the implementation of the Partnership's Accountability and Assurance framework and all processes by which bids are assessed, risks considered, approvals made and performance managed including

- Appraisals and approvals, including those of grants and loans, in accordance with Board recommendations
- Monitoring project assessment and delivery
- Ensuring accountability from each of the federated areas relating to expenditure and programme delivery
- Approving variations to schemes
- Quarterly performance reporting on an exceptions basis to the Strategic Board
- Reporting on progress to central government
- Any other accountability or assurance function required by central government or recommended by the Partnership's auditors or the Chief Finance Officer of the Partnership's accountable body,

The Accountability Board will be advised by the Accountable Body's chief finance officer.

Annex 3

KENT COUNTY COUNCIL – PROPOSED RECORD OF DECISION

DECISION TO BE TAKEN BY

Paul Carter – Leader of the Council

DECISION NO.

15/00040

Unrestricted

Establishment of the East Sussex, Essex, Kent, Medway, Southend-on-Sea and Thurrock Joint Committee, referred to as the South East Local Enterprise Partnership Board

Decision:

As Leader of Kent County Council, I agree that Kent County Council shall become a Constituent Authority of a Joint Committee together with East Sussex County Council, Essex County Council, Medway Council, Thurrock Council and Southend-on-Sea Borough Council, to be known as the South East Local Enterprise Partnership Accountability Board, for the purposes of the management of the Local Growth Fund and other funds which may be directed by Government to the South East Local Enterprise Partnership.

Reason(s) for decision

The decision is required so that collective decisions can be made by the proposed Constituent Authorities regarding the use of the Local Growth Fund and other funds which may be directed by Government to the South East Local Enterprise Partnership.

Cabinet Committee recommendations and other consultationCabinet Committee recommendations

The Growth, Economic Development and Communities Cabinet Committee will consider this at its meeting on 14 April 2015 and comments will be added afterwards

Other consultation

Consultation on this proposal has taken place with the South East Local Enterprise Partnership Board, with Kent and Medway Economic Partnership and with Kent Leaders.

The proposal was also considered by County Council on 21 May.

Any alternatives considered:

Two alternatives have been explored:

- a) Do nothing: continue to operate within the existing arrangements. This option is not viable, as the South East LEP has no formal status and there is no mechanism for collective decision-making.
- b) Establish a governance mechanism which delegates all accountability to the Local Transport Authorities via a grant agreement from the Accountable Body. This option is viable and may be administratively simpler than the proposed option. However, it is considered that the ability to make decisions collectively across the LEP area will be of benefit in relation to future funding opportunities.

Any interest declared when the decision was taken and any dispensation granted by the Proper Officer:

None

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signed

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date