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<b>REPORT TO:</b>	<b>EXTRAORDINARY COUNCIL</b>	<b>AGENDA ITEM: 6</b>
<b>DATE OF MEETING:</b>	<b>05 JANUARY 2023</b>	<b>CATEGORY: RECOMMENDED</b>
<b>REPORT FROM:</b>	<b>ARDIP SANDHU- MONITORING OFFICER</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>LIZ PAGE- LEGAL &amp; DEMOCRATIC SERVICES MANAGER</b> <a href="mailto:elisabeth.page@southderbyshire.gov.uk">elisabeth.page@southderbyshire.gov.uk</a>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>EAST MIDLANDS DEVOLUTION DEAL AND MAYORAL COMBINED COUNTY AUTHORITY</b>	
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE:</b>

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## **1.0 Recommendations**

- 1.1 That Council formally acknowledges the content of the East Midlands Devolution Deal signed by the four upper tier authorities on 30<sup>th</sup> August 2022.
- 1.2 That Council considers the detail and implications of the East Midlands Devolution Deal (the Devolution Deal) and proposes a response to the consultation.

## **2.0 Purpose of the Report**

- 2.1 To provide the Council with an overview of the Devolution Deal and the governance and financial implications for the Council.
- 2.2 To seek an agreed Council response to the consultation.

## **3.0 Detail**

### **Background**

- 3.1 In February 2022, the Government published its White Paper on Levelling Up, a significant set of proposals which look to address geographical disparities in funding, productivity and growth across England.
- 3.2 As part of the Levelling Up White Paper, Government announced that Derbyshire and Derby City were one of nine areas invited to agree new county deals, extending devolution across England. Invitations to apply for a County deal were also extended to Nottinghamshire and Leicestershire which provided the opportunity to pursue a wider Combined Authority (CA) deal at a regional level.

- 3.3 Whilst Leicestershire declined to cooperate the Nottinghamshire and Derbyshire four upper tier councils (Derbyshire County Council, Derby City Council, Nottinghamshire County Council and Nottingham City Council) agreed to cooperate on the creation of a new devolution deal that would cover the D2N2 LEP area by establishing a Mayoral Combined County Authority (MCCA).
- 3.4 At the end of March 2022, following discussions with government, the upper tier authorities submitted initial proposals for the establishment of an East Midlands Mayoral County Combined Authority (EMMCCA), with a target agreement date of April 2023.
- 3.5 Subsequently, during summer 2022, the upper tier authorities were asked by government to accelerate the negotiations with a view to an agreement being reached on an EMMCCA by late August/early September 2022. A consequence of this, is that whilst the broad terms of the Devolution Deal and governance arrangements would be agreed, furthermore detailed arrangements on specific areas of devolution and governance would need to follow.
- 3.6 The Devolution Deal Proposal was formally announced and signed by the government and upper tier authorities on 30 August 2022.

## **Key Issues**

### The Devolution Deal

- 4.1 The following provides an overview;

### Governance

The EMMCCA will have up to 17 Members in total comprising:

- The directly elected Mayor;
- 8 Constituent Council Members (Members appointed by the constituent upper tier councils, with each Constituent Council appointing 2 Members);
- Non-Constituent Members nominated by the District and Borough Councils within the Area (with 2 Non-Constituent Members to be nominated by Derbyshire District and Borough Councils, and 2 Non-Constituent Members to be nominated by Nottinghamshire District and Borough Councils);

A key area of focus for the EMMCCA will be economy, industry and business, where Government is clear that the independent business voice for the Area must be given sufficient prominence in governance arrangements. As a result, consideration is being given to appointing either a Non-Constituent or Associate Member who can represent the views of business on the EMMCCA.

Up to three further Non-Constituent or Associate Members. Initially, these three further Memberships will not be nominated/appointed. It will be for the EMMCCA to determine whether the three additional Memberships will be used, and if so, what interests those Memberships should seek to represent on the EMMCCA.

Notably-

- Each member of the upper tier authorities will have one vote each (8 votes in total), and the Mayor will have one vote. The EMMCCA has the discretion to allow other members to vote.

- The EMMCCA can create committees which can include representatives from city, county, district, and borough councils, and other stakeholders including Audit and Scrutiny Committees.
- Some of the powers held by the EMMCCA and/or the mayor will be national government powers. Some will be powers already held by the city and county councils.
- There appears to be some overlapping of functions between the District and the EMMCCA.
- The D2N2 LEP will be integrated into the new EMMCCA.

## 4.2 Resources

The EMMCA will be funded by-

- An East Midlands Fund, providing £38 million per year of capital/revenue funding over a 30-year period, totalling £1.14 billion.
- Capacity Funding of £500,000 in 2023/24 and £1 million in 2024/25 to support the MCCA in its early stages.
- Devolved Capital Funding of £16.8 million in 2024/5 to support the building of new homes on brownfield land, subject to sufficient projects being identified.
- Capacity funding of £918,000 across 2023/24 and 2024/25 to support the pipeline of housing sites.
- In year capital funding of up to £18 million to support the delivery of shorter-term housing and net zero priorities.
- Capacity funding to support the preparation of a Local Transport Plan.
- Responsible for devolved funding for projects within the Road Investment Strategy 2 (RIS2), Levelling-Up Fund (LUF) major capital programmes and UK Shared Prosperity Fund.
- Fully devolved Adult Education Budget.
- Power to borrow up to an agreed cap for non-transport functions.

## 4.3 New devolved functions and powers of the Mayor and EMMCCA

- Designation of a Mayoral Development Area (MDA), with consent of relevant District and Borough Councils.
- Housing and land acquisition powers, housing supply, land development and regeneration, commercial space, and infrastructure, working closely with Homes England. Relevant District and Borough Council consent also needed where Homes England compulsory purchase powers are being exercised.
- Business rate supplement on non-domestic ratepayers to fund Mayoral Functions.
- Power to provide relief from non-domestic rates in areas covered by a MDA.
- An option of a Council Tax precept to fund Mayoral functions are part of the framework.
- Power to draw up a local integrated transport plan and strategies, as well as bus franchising.
- Transport functions, including setting up and coordinating a Key Route Network, smart integrated ticketing, may run enhanced concessionary fares schemes.
- Work with national government and Great British Railways to ensure Integrated Rail Plan, including HS2, Midland Main Line electrification etc.
- Economic development and regeneration.
- Adult education and skills. Supporting development of Local Skills Improvement Plans (LSIP).

- Retrofit measures, clean heat coordination, and local energy plan.
- Duty to take action to improve public health given to EMMCCA as well as constituent authorities.
- Work closely with Police and Crime Commissioners on public safety.
- Work with local partners on long-term governance model for fire and rescue services.
- Working with national government to explore initiatives to address homelessness, domestic abuse, community safety, social mobility, and support for young people.

## **Consultation**

- 4.4 During early November 2022, the four upper tier authorities sought and gained approval of their respective councils to proceed to consult on the proposal. The proposal document can be found at Appendix 1 and response form can be found at Appendix 2. The consultation period commenced on 14th November 2022 and ends on **9th January 2023**.
- 4.5 Participation is via an online survey, public and stakeholder events. Details can be found through [www.eastmidlandsdevolution.co.uk/](http://www.eastmidlandsdevolution.co.uk/)
- 4.6 The Devolution Deal will be updated to reflect the outcome of the consultation and subject to the upper tier councils agreeing and the legislation being passed, the proposal to establish the EMMCCA should be submitted to Government during March 2023 as the formal request for a Mayoral County Combined Authority.

## **Key dates and stages**

- 4.7 The following sets out the stages so far and those yet to happen.
- March 2022 - the upper tier authorities submitted initial proposals for the establishment of an EMMCCA
  - August 2022 - formal agreement was signed by the government and upper tier authorities
  - October 2022 – Proposal document reviewed by the four upper tier leaders
  - November 2022 - Proposal document approved for consultation by the upper tier authorities
  - 14 November 2022 to 9 January 2023 – consultation period
  - January 2023 – Proposal updated to reflect the outcome of the consultation
  - March 2023 - upper tier authorities approve submission to Government (around this time legislation expected to be in place)
  - April 2023 to May 2023 – detailed design of EMMCCA operating model complete with shadow EMMCCA being formed
  - July 2023 to May 2024 – shadow EMMCCA operating including recruitment of operational team
  - May 2024 – Mayoral elections take place and transition from shadow to established EMMCCA complete

## **Implications for South Derbyshire**

- 4.8 The process which led to the drafting and formal agreement of the Devolution Deal was, from the outset heavily prescribed by Government.

4.9 Whilst the devolution of power and responsibilities will be to the two upper tier and two unitary authorities, the Devolution Deal is should respect the importance of the continued role of the eight Derbyshire and seven Nottinghamshire district and borough councils whose powers and functions remain intact and who will also have specified consenting rights in respect of the exercise of some powers by the EMMCCA and/or Mayor that overlap District/Boroughs current powers.

4.10 Establishing a EMMCCA is a formal, legal step, allowing upper tier councils across the region to work more closely together in a more structured way. A Combined County Authority with a directly elected mayor, would be a new statutory authority created to lead collaboration between councils and would act as the recipient of powers and funding from Government. The creation of the EMMCCA will not result in the merger or take-over of district/borough councils nor will it require individual councils to give up their powers, except in the specific area of transportation, where some powers will be transferred from the upper tier authorities to the EMMCCA. The Consultation documents indicate that there are some functions of the EMMCCA that overlap with the Councils, as set out in the table below-

Legislative Provisions	From	Concurrent exercise?	Mayor or MCCA	Consent	Voting
Business Rate Supplements Act 2009  Whole act, except s3(5)	All LAs hold	Yes	Mayor	No	Mayoral power, no voting - Note deal document suggests lead member required to vote in favour as part of a simple majority - so this is subject to a check with Govt  MCCA able to amend the Mayor's budget if 2/3 majority agree
Local Government Act 2003  Sections 1 - 6	All LAs hold	Yes	MCCA	No	To approve the MCCA budget, a simple majority which includes the Mayor and the lead member from each Constituent Council
Combined Authorities (Finance) Order 2017	All LAs	Yes	Mayor for precept and mayoral fund  MCCA for budget setting for MCCA	No	Mayoral powers, no voting  MCCA able to amend the Mayor's budget if 2/3 majority agree  To approve the MCCA budget, a simple majority which includes the Mayor and the lead member from each Constituent Council
VAT Act 1994	All LAs	Yes	MCCA	No	Simple majority which includes the Mayor

Section 33(3)					
Town and Country Planning Act 1990  Sections 226, 227, 229, 230(1), 233, 235, 236, 238, 239, 241	LPA powers	Yes	MCCA	Consent of LPA affected	Simple majority which includes the Mayor
Housing Act 1985  Sections 6, 8(1), 11, 12, 17 and 18	City Council and District/ Borough powers	Yes	MCCA	Consent of lead member of each Constituent Council, and of affected Districts and Boroughs required	Simple majority which includes the Mayor

4.11 Whilst the consent of individual District and Borough Council is not required to enable the formation of the EMMCCA. It is proposed that a joint committee is established with Derbyshire District and Borough Councils as voting members to

nominate two Non-Constituent Members to the EMMCCA. This joint committee will also be used as the mechanism for the District and Borough Councils to nominate additional individuals as substitutes and nominate representatives to the Overview and Scrutiny Committee and Audit Committee.

## **5.0 Financial Implications**

- 5.1 At this stage, it is unclear whether there will be any direct financial implications for the Council. Given that the proposal will not affect the overall sovereignty of the Council, then it is assumed that Government will continue to fund local authorities through the annual Financial Settlement, as is the case in other devolution models. Although the Combined Authority will have Council Tax raising powers and the ability to charge a NNDR supplement on businesses, this should not directly affect the Council other than having to collect any Precept that is levied as part of the current system.

## **6.0 Corporate Implications**

### **Employment Implications**

- 6.1 The employment implications of the Deal are as yet unknown.

### **Legal Implications**

- 6.2 The Levelling Up and Regeneration Bill (“the Bill”) seeks to establish a new type of combined county authority. This is distinct from a combined authority that can be created under the Local Democracy, Economic Development and Construction Act 2009. The progress of the Devolution Deal and the creation of a new combined county authority is subject to public consultation, the passage and coming into force of the combined county authority provisions in the Bill, the consent of the Constituent Councils affected to submit a formal Proposal to Government and approval of secondary legislation. The Council’s consent or otherwise to the Devolution Deal will not affect its progress.

### **Corporate Plan Implications**

- 6.3 The creation of the EMMCCA has possible service delivery implications for the Council, however, at this stage is unclear the impact the EMMCCA will have on the Council to deliver its Corporate Plan priorities.

### **Risk Impact**

- 6.4 Not known.

## **7.0 Community Impact**

### **Consultation**

- 7.1 A formal process of consultation is to be undertaken from 14th November – 9th January 2023. This report seeks a resolution on the Council’s consultation response.

### **Equality and Diversity Impact**

- 7.2 An Equality Impact Assessment has been undertaken by the four upper tier authorities. A copy of the assessment is published at [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk)

### **Social Value Impact**

- 7.3 Not known

### **Environmental Sustainability**

- 7.4 Consultation with the public and stakeholders about the establishment of an EMMCCA will not in itself directly have climate change implications. If subsequently established, it is anticipated that the EMMCCA will develop its own plans and strategies to address climate change issues subject to its own approval processes.

## **8.0 Conclusions**

- 8.1 Whilst the Council's consent is not required for the creation of the EMMCCA, the creation of it has implications for the Council.

## **9.0 Background Papers**

[East Midlands Devolution – A £1.14 billion deal for Derbyshire, Nottinghamshire, Derby and Nottingham.](#)