

WAVERLEY BOROUGH COUNCIL

EXECUTIVE

8 SEPTEMBER 2020

Title:

Local Government Reorganisation in Surrey

Portfolio Holder: Cllr J Ward, Leader

Senior Officer: T Horwood, Chief Executive

Key decision: No

Access: Public

1. Purpose and summary

1.1 The purpose of this report is to update the Executive, councillors and the public on progress since the Council resolution of 22 July 2020, and to allocate a budget for the collaborative work across Surrey district and borough councils on local government reorganisation.

2. Recommendation

It is recommended that the Executive:

1. Notes the progress in exploring local government reorganisation opportunities in Surrey; and
2. Allocates a budget of a further £20,000 to support preparatory work for a unitary council proposal taking the total to £30,000.

3. Reason for the recommendation

3.1 On 3 July 2020, the Minister of State for Regional Growth and Local Government (Simon Clarke MP) announced that a White Paper on “devolution and local recovery” would be published “this autumn”.¹ He encouraged councils to bid for new Combined Authorities with elected executive Mayors (see section 4 below), but indicated that, in two- and three-tier areas, creating unitary councils and abolishing district and county councils would be required as a precondition.

3.2 On 10 July, the Leader of Surrey County Council wrote to the Secretary of State for Housing, Communities and Local Government (Robert Jenrick MP) to seek permission to establish a single county-wide unitary council, which would entail the abolition of the eleven district councils, of which Waverley Borough Council is one.
[Annexe 1]

¹ Speech by Minister for Regional Growth and Local Government at Local Government Association annual conference, 3 July 2020: <https://www.gov.uk/government/speeches/local-government-association-annual-conference-2020-minister-for-regional-growth-and-local-governments-speech>.

3.3 At the Waverley Borough Council meeting on 22 July, the following resolution was passed (51 votes for, 2 abstentions, 0 against):

“This Council opposes a single Surrey-wide Unitary Authority. This Council recognises principles of localism many of which are incompatible with a single unitary authority within Surrey, therefore Council, instructs the Executive to urgently investigate alternative forms of Unitary Authorities and the timing of any such reorganisation that may be more advantageous to Waverley and its residents, including any opportunities with neighbouring Counties.”

3.4 **This report updates councillors and the public on the progress made in implementing this Council resolution, and seeks approval for an allocated budget to take the work forward.**

3.5 On 23 July, the Leaders of the eleven district councils² wrote to the Secretary of State asking for the opportunity to put forward other alternatives if he were minded to invite any proposals for local government reorganisation in Surrey. The district Leaders set out their councils’ principles for the potential future structure of local government, including: place-based local government, value for money and the democratic mandate. [Annexe 2]

3.6 At the Executive meeting on 28 July, the Executive resolved to “allocate a budget of £10,000 to support preparatory work for a unitary council proposal”.

4. **Background context**

4.1 It is helpful to note the definitions and public policy background to the current debate on local government reorganisation in Surrey: in particular, the definitions of such terms as “combined authority” and “unitary authority”.

4.2 **Combined authorities (CAs)** are not the same as unitary councils. CAs are an additional tier of government, covering a large area, initially focused on regeneration and infrastructure, taking on powers otherwise held by central Government and potentially local councils. While a directly-elected executive Mayor is not the only legal governance option for a CA, this Government has indicated that it favours the mayoral model.³

4.3 An August 2020 briefing paper from Bevan Brittan⁴ for local government lawyers provides a helpful commentary on the current Government policy on CAs:

“The Government is keen to create more mayoral combined authorities with funding deals and a number of areas are in the process of developing plans, strategies and governance arrangements with a view to concluding a devolution deal with Government. A devolution deal generally brings capital investment of between £450

² Elmbridge Borough Council, Epsom and Ewell Borough Council, Guildford Borough Council, Mole Valley District Council, Reigate and Banstead Borough Council, Runnymede Borough Council, Spelthorne Borough Council, Surrey Heath Borough Council, Tandridge District Council, Waverley Borough Council, Woking Borough Council.

³ Speech by Minister for Regional Growth and Local Government at Local Government Association annual conference, 3 July 2020: <https://www.gov.uk/government/speeches/local-government-association-annual-conference-2020-minister-for-regional-growth-and-local-governments-speech>.

⁴ Bevan Brittan is a large national law firm with a strong public sector specialism: <https://www.bevanbrittan.com/who-we-are/about-us/>.

million and £1.01 billion which is paid in instalments over three decades. Whilst combined authorities started their existence focused on economic regeneration and transport, they can now perform any local authority functions and, as we know, are responsible for a £6 billion budget for health and social care in Greater Manchester. Additional powers have also been granted by Parliament allowing other blue light services to fall under the remit of combined authorities including Police and Crime Commissioners and in turn Fire Officers. One area of tension has been around transport, particularly in the non-metropolitan areas, where funding and powers are effectively centralised, particularly around new infrastructure with the highway authority providing a levy to the combined authority. ...

“Whilst the specific powers, funding and functions of combined authorities vary, the Government’s rationale for creating combined authorities and so called ‘metro’ mayors is that by having a highly visible and accountable strategic leader operating at the scale of the city or regional economy rather than specific local authority level it helps to generate inward investment, create jobs, improve wages and the quality of life in cities.”

- 4.4 In current law, a CA “consists of the whole of two or more local government areas”.⁵ Therefore, a single council cannot create a CA as the law currently stands.
- 4.5 A **unitary council** is a local authority that brings together the powers held by district/borough councils and county councils in that area. Although not currently a legal requirement, the Government has indicated that it expects local government reorganisation around unitary councils as a precursor to devolution and CAs/Mayors.
- 4.6 The Government’s current criteria for unitary proposals are that the new council should:
1. improve the area’s local governance
 2. command a strong level of local support
 3. cover an area that provides a credible geography
- 4.7 The Government has indicated that the minimum population size ought to be greater than 300,000 to 400,000; no upper limit has yet been indicated.⁶ 109 of the 121 unitary councils in England contain fewer than 400,000 inhabitants, and the mean average is 277,000, so the Government’s announcement indicates a shift upwards in preferred scale.⁷
- 4.8 The Government’s devolution offer and further criteria for evaluating unitary and/or CA proposals, will be articulated in the **White Paper** on “devolution and local recovery”, due to be published in the autumn. This could change many of the assumptions listed above.

⁵ Local Democracy, Economic Development and Construction Act 2009, section 103(2): <https://www.legislation.gov.uk/ukpga/2009/20/section/103>.

⁶ Ministry of Housing, Communities and Local Government, Unitary Councils: Written question 61741: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2020-06-19/61741/>.

⁷ The five largest unitary councils in England are Birmingham (1.141 million), Leeds (789,000), Sheffield (583,000), Cornwall (566,000) and Manchester (548,000). The smallest are Scilly (2,000), City of London (9,000), Rutland (40,000), Hartlepool (93,000) and Darlington (107,000). Surrey’s population is 1.190 million.

4.9 In terms of **process and timing**, Bevan Brittan adds:

“At present it seems as though the Government is looking for swift action and the creation of new combined authorities with elected mayors and new unitary councils to take effect from April 2022.⁸ Working backwards if that were to be the case we would expect that council proposals would need to be submitted to Government in September (or October at the latest) with a view to consulting upon the proposals, receiving and analysing the results and being in a position to take forward proposals early in 2021.

“Once the Government agrees to the creation of a new unitary a Structural Changes Order will be prepared that provides for the abolition of the relevant councils and creation of the new Council(s) for the relevant area and then numerous other Regulations apply that deal with finance, assets, properties, staff and liabilities.”

5. Surrey update

- 5.1 Surrey County Council (SCC) has appointed PricewaterhouseCoopers (PwC) to develop a business case, which it intends to discuss at an extraordinary full council meeting on 29 September. The district/borough councils invited SCC to collaborate on one project to develop a range of options prior to submitting proposals to the Government; SCC declined, insisting on the single-unitary proposal alone.⁹ The district council Leaders have, therefore, agreed that the eleven councils should commission their own joint appraisal and business case, subject to the governance processes of each council. External consultants of appropriate experience and calibre will be procured to develop an options appraisal and business case. This project will cover the options of status quo, and one or more unitary councils. Runnymede Borough Council will run the procurement process and the other councils are being asked to support this financially.
- 5.2 Given that the SCC proposal will necessitate the abolition of district and borough councils in Surrey, it is important for Waverley Borough Council – as the authority that democratically represents the whole of the borough – to undertake research and planning work to come to a view as to which future structures of local government will provide optimum value for money and effective local representation and empowerment, all in the best interests of residents. Similarly, it is incumbent on the other district councils to do the same for their residents. The eleven district council Leaders have agreed to collaborate on this work without a single predetermined solution.
- 5.3 While the Executive has allocated a budget of £10,000, it is now clear that this will not be sufficient to see the project through on the timelines necessitated by the Government and by SCC’s project. Therefore, the Executive is **recommended to approve a further sum of up to £20,000**. Every effort will be made to restrain these costs, and regular reports will be made to the Executive on the project. Officers have identified that there is a high degree of certainty that an equivalent underspend will occur in this financial year in the area of establishment and

⁸ It may be that, for those areas that establish both, new unitary councils will be created first, followed by new combined authorities at a later date, as it would be challenging to do both on this timeline.

⁹ County and district council officers are cooperating on sharing base data and information to inform the two commissions.

vacancy savings. Under paragraphs 4.23-4.26 and annexe 1 of the Financial Regulations, this amount can be vired with officer approval, so a supplementary estimate is not required.

5.4 As Waverley Borough Council's resolution included the request to explore opportunities with its **non-Surrey neighbours**,¹⁰ the Leader wrote to the Leaders of those district councils. At the time of writing this report, four have responded:

- Chichester DC indicated that councils in West Sussex have agreed that there is no real appetite for disbanding the current system; they would await the White Paper and consider options if the Government indicated that all authorities must become unitaries.
- East Hampshire DC indicated that they would not consider the matter before the publication of the White Paper.
- Horsham DC wishes to await the detail of the White Paper and then consider whether cross-boundary options are a real possibility.
- Rushmoor BC indicated that it could informally discuss the matter only if there were support indicated in advance from the Government for cross-county boundary unitaries and it would prefer to wait until the detail of the White Paper is known.

5.5 In a video-call conversation with senior civil servants at the Ministry of Housing, Communities and Local Government, Waverley was told:

- The Government will rely on existing legislation to create new unitaries.¹¹ This means that existing boundaries will be the building blocks for new unitaries and parts of an existing district will not be separated from the rest of the district: i.e. a settlement in Waverley must not be a part of a new council without the rest of Waverley being part of that new council.
- Current legislation permits whole districts in adjacent counties to form a new unitary.
- A key criterion for the Government will be the historic identity of a place that will together make up the unitary council area. Ministers view current counties as having such an identity, so while there might be more than one unitary in a county, there is no evidence at present that ministers have any appetite for creating an area that crosses a current county boundary.
- Recent precedents of creating unitaries did not take any districts out of their counties.
- While all submissions will be given consideration by ministers, the civil servants would not encourage a council to pursue cross-county boundary proposals.

5.6 The joint project by the eleven Surrey district councils does not include an outside-of-Surrey option as other councils are not pursuing this. While there are several areas of the country in discussions with proposals being prepared for new unitary councils, neither Hampshire nor West Sussex are currently undertaking any work to fit the timetable of the forthcoming White Paper. Given the Government's direction of travel, it may be that those counties will be required to give this matter

¹⁰ Chichester District Council and Horsham District Council in West Sussex; East Hampshire District Council, Hart District Council and Rushmoor Borough Council in Hampshire.

¹¹ Local Government and Public Involvement in Health Act 2007:

<https://www.legislation.gov.uk/ukpga/2007/28/contents>.

consideration in the coming months and years. If the current Surrey project does not make rapid progress and if no proposal receives imminent support from the Secretary of State, the door may open for further cross-boundary conversations.

6. Relationship to the Corporate Strategy and Service Plan

6.1 The *Corporate Strategy 2019-2023* emphasises “open, democratic and participative governance” and “high quality public services”.¹² These principles, in particular, will guide our approach to this project.

7. Implications of decision

7.1 Resource (Finance, procurement, staffing, IT)

Finance implications are set out in paragraph 5.3. There is a risk that the local government reorganisation debate will divert councillors and senior officers from other critical activities during this time. Working collaboratively with ten other councils and commissioning independent expertise helps to mitigate this in part.

7.2 Risk management

As proposals emerge, further risk appraisals will be required and reported accordingly. If reorganisation proposals are approved, there will be some years of transition that will require thorough project planning and short-term cost, in order to achieve the intended longer term benefits. A substantial and multi-partner change programme will be required to determine the detailed structures and to harmonise tax and staff terms and conditions across the participating authorities. As several other areas in England have been through the process, there will be available a considerable wealth of expertise and knowledge, as well as direct support from the Ministry of Housing, Communities and Local Government.

7.3 Legal

The Local Government and Public Involvement in Health Act 2007 sets out the process by which any new single tier of local government is created. Section 2 enables the Secretary of State to invite or direct a county or district council to make a proposal. Where a proposal is received, the Secretary of State may then by order implement the proposal, with or without modification, and may make regulations via Parliament to supplement the implementation of any proposal.

7.4 Equality, diversity and inclusion

Equality impact assessments are carried out when necessary across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010. There are no immediate equality, diversity or inclusion implications in this report’s recommendations. Detailed impact assessments will be required as proposals are considered and if they are approved.

7.5 Climate emergency declaration

The climate change emergency declaration and the urgent target for net zero carbon by 2030 is a critical objective for Waverley Borough Council. While no specific impacts on the climate emergency declaration have been identified as a consequence of this report’s recommendation, the Council will be assessing and prioritising the environmental, climate and carbon impacts of any proposals that

¹² https://www.waverley.gov.uk/downloads/file/6351/waverley_borough_council_corporate_strategy_2019-2023.

emerge.

8. Consultation and engagement

- 8.1 No external consultation has yet taken place. As reorganisation options are developed, engagement with parish/town councils, community groups and the wider public will be required.

9. Other options considered

- 9.1 If Waverley Borough Council were not to support this project financially, its influence in the outcome would be severely curtailed and it would be less able to make an informed assessment of the proposals for local government. It is important for the council, as the local democratic institution covering the whole of the borough, to participate in the interests of residents. See also paragraph 5.2.

10. Governance journey

- 10.1 This report is for decision by the Executive on 8 September 2020.

Annexes:

1. Letter of Surrey County Council Leader to the Secretary of State, 10 July 2020.
2. Letter of District and Borough Leaders to the Secretary of State, 23 July 2020.

Background Papers

Background papers as defined by Section 100D(5) of the Local Government Act 1972:

- Bevan Brittan, *Devolution: Combined Authorities and Unitarisation, Lawyers in Local Government Insight Paper*, 24 August 2020.

CONTACT OFFICER:

Name: T Horwood
Position: Chief Executive
Telephone: 01483 523238
Email: tom.horwood @ waverley.gov.uk

Agreed and signed off by:

Legal Services: 27 August 2020

Head of Finance: 28 August 2020

Strategic Director: 26 August 2020

Portfolio Holder: 27 August 2020