



**OPEN REPORT
COUNCIL**

Council - 24 November 2022

**EAST MIDLANDS DEVOLUTION DEAL AND MAYORAL COMBINED COUNTY
AUTHORITY**

Report of the Chief Executive

Report Author and Contact Details

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Wards Affected

District-wide

Report Summary

The report updates members of the details contained within the East Midlands Devolution Deal along with the progress so far and next steps. The report also seeks Council agreement to participate in discussions related to the implementation of the deal.

Recommendations

1. That Council formally acknowledges the content of the East Midlands Devolution Deal signed by the four upper tier authorities on 30th August 2022
2. That Council endorses in principle support for the East Midlands Devolution Deal.
3. That Council delegates authority to the Leader of the Council and the Chief Executive, to continue to represent the interests of the district council in ongoing discussions with the upper tier authorities and other Derbyshire districts/boroughs.
4. That where formal decisions are required to be made on behalf of the District Council, future reports be presented to Members for consideration.

List of Appendices

Appendix 1 : East Midlands Devolution Deal Agreement.

Appendix 2 : East Midlands Devolution Deal Summary

Background Papers

East Midlands Devolution Deal Publication

Consideration of report by Council or other committee

N/A

Council Approval Required

Yes

Exempt from Press or Public

No

East Midlands Devolution Deal and Mayoral Combined County Authority

1. Background

- 1.1 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.
- 1.2 As part of the Levelling Up White Paper, Government announced that Derbyshire and Derby City were one of only 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.
- 1.3 Securing a devolution deal has been a long-standing ambition for leaders in Derbyshire, Derby, Nottinghamshire and Nottingham, in order to address the lasting impact caused through decades of under-funding (when compared to other areas). The deal also provides the chance to exploit strategic opportunities such as the East Midlands Freeport and Development Corporation as well as tackle persistent and systemic deprivation which drive significant inequalities in some parts.
- 1.4 The four upper tier councils therefore agreed to cooperate at pace on the creation of a new devolution deal that would cover the D2N2 LEP area by establishing a Mayoral Combined County Authority.
- 1.5 The Devolution Framework identified three levels/tiers that a 'deal' could be sought and agreed, each has a different requirement along with a different range of powers;
 - Level 1 – Local Authorities working together across a functional economic area (FEA) or whole county area e.g. through a joint committee
 - Level 2 – A single institution or County Council without a directly elected mayor (DEM) across a whole county area or FEA
 - Level 3 – A single institution or County Council with a DEM across a FEA or whole county area
- 1.6 To achieve the maximum powers provided through a Level 3 deal would require the need to progress governance through a Directly Elected Mayor and a Combined Authority model.
- 1.7 Although new legislation is underway for CA's, there are already a number in operation which provide some context – the legal basis for which is included in a number of Acts including; the Local Government Act 2000 (amended 2007), the Local Democracy, Economic Development and Construction Act 2009 and the Cities and Local Government Devolution Act 2016.
- 1.8 The proposed combined authority models are made up of upper tier local authorities only. It is expressly said however that this is not to exclude Districts and Boroughs, which are seen as vital partners. The Government

are clear that it expects involvement of as many District and Borough Councils as possible. Government also suggest that it is for local Leaders to determine the level and extent of such involvement, including decision making.

- 1.9 During early 2022, Derbyshire Dales along with other Districts and Boroughs took part in a series of meetings convened by DCC and Derby City at which they provided an update on the latest position. At those meetings it was very clearly set out that any application or submission for a deal needed to be executed imminently.
- 1.10 At the end of March 2022, following discussions with government, the four D2N2 upper tier authorities submitted initial proposals for the establishment of an East Midlands Mayoral County Combined Authority (EMCCA), with a target agreement date of April 2023.
- 1.11 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 East Midlands MCCA by late August/early September 2022. A consequence of this, is that whilst the broad terms of the deal and governance arrangements would be agreed, further more detailed arrangements on specific areas of devolution and governance would need to follow.
- 1.12 During the accelerated negotiations, the district councils were represented by the Chief Executives of Chesterfield Borough Council and Newark and Sherwood District Council, who provided regular updates and sought opinions from district colleagues.
- 1.13 During the summer, a number of progress briefings were provided by the upper tier authorities, as well as meetings of chief executives from across D2N2. In addition, Derbyshire County Council arranged a number of on-line briefing sessions open to all elected Members from across the county and specifically from Districts and Boroughs.
- 1.14 Throughout July/August 2022, the four upper tier authorities with Derbyshire/Nottinghamshire Chief Executive representation, worked with Government representatives across all relevant departments, to formulate the basis of a Devolution Deal. The full content of the deal was not published in advance and individual district/borough Leaders and Chief Executives did not see the content of the deal until it was formally announced and signed by the government and upper tier authorities at Rolls Royce in Derby on 30 August 2022.

2 **Key Issues**

The Devolution Deal

- 2.1 Given the pace and accelerated negotiations during the summer, whilst broad terms of the deal and governance arrangements have been discussed, further more detailed arrangements on specific areas of devolution and governance would need to follow. The following provides an overview;

2.1.1 Governance

- The CCA 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 CCA will be economy, industry and business, where Government are 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 CCA.
 - Up to three further Non-Constituent or Associate Members. These three further Memberships will not be nominated/appointed to initially. It will be for the CCA to determine whether the three additional Memberships will be used, and if so, what interests those Memberships should seek to represent on the CCA.
- Each member of the upper tier authorities will have one vote each (8 votes in total), and the Mayor will have one vote. The MCCA has the discretion to allow other members to vote.
- The MCCA can create committees which can include representatives from city, county, district, and borough councils, and other stakeholders.
- Audit and Scrutiny Committees will also be established.
- Some of the powers held by the MCCA and/or the mayor will be national government powers. Some will be powers already held by the city and county councils. There are no proposals to give the MCCA/mayor any district council powers.
- The D2N2 LEP will be integrated into the new MCCA.

2.1.2 Resources

- 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.

2.1.3 New devolved functions and powers of the mayor and MCCA

- Designation of a Mayoral Development Area, 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 and option of a Council Tax precept to fund Mayoral functions are part of the framework, but no plans to use the precept as can be avoided by capacity funding.
- 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. maximise regeneration impacts.
- 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, generating new jobs.
- Duty to take action to improve public health given to MCCA 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.

2.2 The Levelling-up and Regeneration Bill requires the upper tier members of the CA to develop a formal proposal to seek the establishment of a Mayoral County Combined Authority. This will then be consulted upon and updated to reflect the outcome of the consultation – if the upper tier councils agree and the legislation is passed, the proposal would be submitted to Government during March 2023 as the formal request for a Mayoral County Combined Authority.

Consultation

- 2.3 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 A. Consultation will take place over 8 weeks, from 14th November 2022 to 9th January 2023.
- 2.4 Participation is to be through an online survey, public and stakeholder events. Details can be found through www.eastmidlandsdevolution.co.uk/

Key dates and stages

- 2.5 The following sets out the stages so far and those yet to happen;
- March 2022 - the four D2N2 upper tier authorities submitted initial proposals for the establishment of an East Midlands Mayoral County Combined Authority (EMCCA)
 - 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 four upper tier Councils
 - November 2022 to January 2023 – Proposal goes out for consultation
 - January 2023 – Proposal updated to reflect the outcome of the consultation
 - March 2023 - four upper tier Councils approve submission to Government (around this time legislation expected to be in place)
 - April 2023 to May 2023 – detailed design of EMCCA operating model complete with shadow EMCCA being formed
 - July 2023 to May 2024 – shadow EMCCA operating including recruitment of operational team
 - May 2024 – Mayoral elections take place and transition from shadow to established EMCCA complete
- 2.6 The shadow EMCCA will not be a legally constituted body – individuals from existing bodies (largely constituent councils) will be selected. An ‘interim’ CEO will be appointed to oversee the creation of the EMCCA working with the political Leadership and CEO’s of the four constituent councils.

Derbyshire Dales Implications

- 2.7 The process which led to the drafting and formal agreement of the Devolution Deal was, from the outset heavily prescribed by Government. As such, whilst the upper tier authorities have sought to engage with district/borough representatives, their ability to engage fully with all districts/boroughs has been severely constrained through no fault or intention on their part. All parties agree that the lack of district/borough engagement in the process to date has been unsatisfactory and has not been helpful. However, it is now important to focus upon the future rather than dwell on the past.
- 2.8 Whilst the devolution of power and responsibilities will be to the two upper tier and two unitary authorities, the deal respects 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 CCA and/or Mayor.

- 2.9 Establishing a CCA 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. Significantly, the creation of the CCA will not result in the merger or take-over of district/borough councils in the area 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 CCA.
- 2.10 Whilst the consent of individual District and Borough Council is not required to enable the formation of a CCA, it is critical that the voice of District and Borough Councils is heard. In this regard, the Constituent Councils have proposed that District and Borough Councils agree a system of nominations whereby agreed nominations will be affected through the use of joint committees (joint committees are a formal local authority committee formed by several Councils to work together on specific issues.) Two joint committees will be utilised. One which the Derbyshire District and Borough Councils will be voting members of and which will nominate two Non-Constituent Members, and one which the Nottinghamshire District and Borough Council will be voting members of and which will nominate two Non-Constituent Members. These joint committees will also be used as the mechanism for the District and Borough Councils to nominate additional individuals as substitutes and representatives on the Overview and Scrutiny Committee, and Audit Committee, who may come from different Councils than the nominated Non-Constituent Members. It is hoped that existing joint committees will be able to be utilised for these purposes, but if that is not possible, new joint committees will be established to fulfil this role. The inclusion of a mechanism by which the District and Borough Councils can have a key role on the CCA ensures that the identities and interests of all of our local communities are fully represented on the CCA.
- 2.11 Derbyshire Dales District Council therefore has a choice. We can either continue to participate at both Leader and Chief Executive level discussions which will help to shape and influence the district/borough input into the CCA or we can choose not to participate.
- 2.12 Whilst there can be no guarantee that it will be a Derbyshire Dales Member who will ultimately be nominated to represent Derbyshire districts on the CCA, it is considered that the best interests of Derbyshire Dales residents and businesses are best served by our elected member and officer representatives continuing to engage in and influence debate and discussions. It is therefore recommended that authority be delegated to the Leader and Chief Executive to continue to represent the interests of the District Council. Where formal decisions are required to be made on behalf of the District Council, future reports will be presented to Members for consideration.
- 2.13 At the time of writing, details of the online survey have not been published. Should the District Council wish to make a detailed response to specific aspects of the consultation beyond an expression of its in principle views, an appropriate mechanism would need to be agreed to facilitate this by the 9th January

deadline.

3 Options Considered and Recommended Proposal

- 3.1 To NOT authorise the Council leadership and senior officers to continue to engage with other Councils across Derbyshire on the issue of devolution and the East Midlands County Combined Authority. This alternative option is rejected as this approach would not allow Derbyshire Dales to have an input into shaping arrangements in this regard and in promoting and preserving the interests of Derbyshire Dales and its residents, businesses and communities.

4 Consultation

- 4.1 A formal process of consultation is to be undertaken from 14th November – 9th January 2023.

5 Timetable for Implementation

- 5.1 The transition to a formal CCA in May 2024 can be understood in three stages:
- Stage 1: Establishing a shadow authority – by April 2023
 - Stage 2: Operationalising the shadow authority – April 2023 to May 2024
 - Stage 3: Formal establishment of the CCA – May 2024 onwards.

6 Policy Implications

- 6.1 None directly arising from this report, however if approved, the creation of a CCA has the potential to significantly increase resources into Derbyshire and the Derbyshire Dales to benefit residents and businesses.

7 Financial and Resource Implications

- 7.1 The creation of the EMCCA will lead to substantial additional funding being made available to be spent within the combined county authority area on a range of different projects and schemes that will help promote economic growth and improve outcomes for residents.
- 7.2 The cost of officers' time associated with the report recommendations can be met from within existing budgets. The financial risk is, therefore, assessed as low.

8 Legal Advice and Implications

- 8.1 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. Whilst the County Council agreed a devolution deal with Government, 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.

9 Equalities Implications

- 9.1 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 for the Extraordinary Council meeting held on 2nd November 2022.

10 Climate Change Implications

- 10.1 Consultation with the public and stakeholders about the establishment of an EMCCA will not in itself directly have climate change implications. If subsequently established, it is anticipated that the EMCCA will develop its own plans and strategies to address climate change issues subject to its own approval processes. Approaching the issues from a wider strategic and geographic position may beneficially impact the development of more consistent and measurable climate change measures.

11. Risk Management

- 11.1 There are no strategic risks arising directly from this report.

Report Authorisation

Approvals obtained from:-

	Named Officer	Date
Chief Executive	Paul Wilson	10/11/2022
Director of Resources/ S.151 Officer (or Financial Services Manager)	Karen Henriksen	13/11/2022
Monitoring Officer (or Legal Services Manager)	James McLaughlin	16/11/2022