

Meeting: Executive
Date: 13 October 2009
Subject: Local Transport Plan

Legal and Constitutional Issues

1. Central Bedfordshire has inherited an agreement that was made in April 2007 between Bedfordshire County Council South Bedfordshire District Council and Luton Borough Council. Under this agreement the three councils agreed to work together on formulating the planning and transportation policies required to deliver the Government's sustainable communities agenda in respect of the Luton and South Bedfordshire Growth Area.
2. The land use planning aspects were subsequently incorporated into an Order made by the Secretary of State under section 29 of the Planning and Compulsory Purchase Act 2004.
3. The agreement contained separate and distinct arrangements for the development of the Local Transport Plan because this is a function of the Highway Authority and requires approval by the full Council. A joint committee was established under section 101 of the Local Government Act 1972 with the following terms of reference:

"Preparation, recommendation for approval and maintenance of a Local Transport Plan for the designated area. Final adoption of a Local Transport Plan remains the function of the Local Highway Authorities."

The designated area is the Luton and South Bedfordshire Growth Area and the terms of reference clearly state that the Section 101 Committee can only recommend the LTP for adoption by the constituent Highway Authorities.

4. These arrangements were incorporated into the Central Bedfordshire Constitution which describes the terms of reference of the Section 101 Committee at Part J2 para 2 in the following way:

"To work jointly in relation to the preparation, recommendation for approval and maintenance of a Local Transport Plan for the Luton and South Bedfordshire Growth Area. (Final adoption of the Local Transport Plan remains a function of the full councils of the constituent authorities.)."
5. The Executive has been invited to consider two alternative proposals for the development of LTP3: a two tier approach (outlined in section 6 of the report) or a two LTP approach (outlined in section 7 of the report).
6. The two LTP approach conforms to the terms of reference of the Joint Committee in that it would result in a single LTP covering the Luton and South Bedfordshire Growth Area and a separate plan covering the remainder of Central Bedfordshire.
7. The two tier approach could also be accommodated within the joint working arrangements with Luton but would require the agreement of both councils.

In the event that Luton do not agree to this way of working it is inevitable that they will pursue the line that the proposals are outwith the original spirit and intention of the local agreement. This could result in the cessation of joint working between Luton and Bedfordshire under the Section 101 arrangement.

8. In summary, the legal position is that either of the proposals under consideration by the Executive could be accommodated within the existing joint arrangements. However, ultimately the position is that Central Bedfordshire cannot have an LTP or any part of an LTP imposed on it through the mechanism of Joint Committee, since it retains the final decision on adoption for the entirety of its administrative area.