

# North Yorkshire Council

## Chief Executive Officer

3 November 2023

### Granting consent for the York and North Yorkshire Combined Authority Order 2023

#### Report of the Assistant Chief Executive Legal and Democratic Services

#### 1.0 PURPOSE OF REPORT

- 1.1 Further to the Council decision on 22 February 2023, the Council granted approval to create the Mayoral Combined Authority and delegated the ability to grant consent to the final drafting of the Mayoral Combined Authority Order to the Chief Executive Officer in consultation with the Leader. This report seeks approval to grant such consent so that the relevant Order can be laid before Parliament and subsequently made.

#### 2.0 BACKGROUND

- 2.1 On 1 August 2022 the Secretary of State for Levelling Up, Housing and Communities announced that the Government was minded to enter into a Devolution Deal with York and North Yorkshire under which the region would benefit from £540 million of new Government investment to spend on local priorities to produce growth, together with a range of devolved powers. This Devolution Deal is dependent upon the York and North Yorkshire Authorities establishing a Combined Authority for the area with an elected Mayor. The full detail of the Deal can be found here: <https://www.gov.uk/government/publications/york-and-north-yorkshire-devolution-deal/york-and-north-yorkshire-devolution-deal#summary-of-the-devolution-deal-between-the-government-and-the-local-authorities-of-york-and-north-yorkshire-comprising-city-of-york-council-and-north-yorkshire-council>
- 2.2 In September and October 2022, the two Councils agreed to publish a Scheme to describe the governance of a new Combined Authority and to consult upon the Scheme. The consultation was held for 8 weeks from October to December. Both Councils considered the responses to the consultation and agreed to submit the Scheme for Devolution and a summary of responses to Government to allow the Secretary of State to consider putting in place the legislation needed to enable the creation of the Combined Authority.
- 2.3 Following the Executive approval on 14 February 2023 and the subsequent full Council decision on 22 February 2023, North Yorkshire Council agreed to implement the proposed Devolution Deal for the region. Council agreed to “*The delegation of authority to the Chief Executive, in consultation with the Leader of the Council, to undertake any action necessary to provide consent to the Order facilitating the creation of the Combined Authority in line with the scheme submitted to Government*”.
- 2.4 Civil Servants from the Department of Levelling Up, Housing and Communities have been working with officers from the two Councils to draft the relevant regulations which will implement the Devolution Deal. On 2 November 2023, the Department has written to North Yorkshire Council and the City of York attaching a final draft of the York and North Yorkshire Combined Authority Order 2023 and asking for consent from the constituent authorities to the making of this Order. They have requested that confirmation be provided no later than midday on 3 November 2023 so that the Order can be laid upon 7 November 2023. The exact wording

of the Order has to remain confidential until it is made before Parliament, however a summary of the provisions of the Order are attached at Appendix 1. The Order sets out the required legislative background for Government to deliver the Devolution Deal to a newly created Mayoral Combined Authority. It is envisaged that the Combined Authority will be created around January 2024, with the Mayor subsequently being elected in May 2024.

- 2.5 The Chief Executive Officer has consulted with the Leader of the Council with regard to the drafting of the Order.

### **3.0 ALTERNATIVE OPTIONS CONSIDERED**

- 3.1 The Chief Executive Officer could choose to refuse granting consent to the Order or attempt to seek further changes. However on the basis that the draft Order delivers the Devolution Deal that has been consulted upon, it is considered appropriate to recommend approval of the draft Order which will unlock the ability to obtain additional funding from Government and deliver the Devolution Deal.

### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 The financial implications of the Devolution Deal were considered in the previous reports that are identified in the background papers to this report, including the Council decision on 22 February 2023. This report purely seeks to provide the final administrative steps in granting consent for the Order to be laid.

### **5.0 LEGAL IMPLICATIONS**

- 5.1 Section 110 of the Local Democracy, Economic Development and Construction Act 2009 (the 2009 Act) provides that the Secretary of State may make an order establishing a combined authority only if: (a) He considers that to do so is likely to improve the exercise of statutory functions in the area or areas to which the order relates; (b) The constituent councils consent; and (c) Consultation has been carried out, either by the Secretary of State or the constituent councils.
- 5.2 This report seeks approval from the Chief Executive Officer in consultation with the Leader to grant North Yorkshire Council's consent as a constituent council to the proposed Mayoral Combined Authority. The legal implications of creating a Mayoral Combined Authority have been considered in previous reports.

### **6.0 EQUALITIES IMPLICATIONS**

- 6.1 The equality implications for the Devolution Deal were considered at the full Council decision on 22 February 2023. This report purely seeks to provide the final administrative steps in granting consent for the Order to be laid and therefore there are no additional equality implications of this decision.

### **7.0 CLIMATE CHANGE IMPLICATIONS**

- 7.1 The decision to create a Combined Authority has already been made by the constituent councils and part of the Devolution Deal was to attract investment "to enable York and North Yorkshire to drive green economic growth towards their ambition to a carbon negative region." The creation of the Mayoral Combined Authority will create a platform for future decisions to be made that will have climate change implications and those impacts will be considered at the relevant time. This report purely seeks to provide the final administrative steps in granting consent for the Order to be laid and therefore there are no additional climate change implications of this decision.

## 8.0 REASONS FOR RECOMMENDATIONS

- 8.1 It is recommended to grant approval to the draft Order as it implements the proposals of the Devolution Deal. The Legal Services Department has reviewed the terms of the Order and confirms that it implements the proposals of the Devolution Deal. Subject to Parliament's approval through the House of Commons and the House of Lords, the Order would create a Mayoral Combined Authority with an election for a Mayor for York and North Yorkshire in May 2024.

## 9.0 RECOMMENDATIONS

- 9.1 The Chief Executive Officer, in consultation with the Leader of the Council, is recommended to grant consent to the making of the York and North Yorkshire Combined Authority Order 2023.

### APPENDICES:

Appendix 1 – Summary of the draft York and North Yorkshire Combined Authority Order 2023

### BACKGROUND DOCUMENTS:

Executive Report – 6 September – Agree the Devolution Deal and commence consultation  
[Agenda for Executive on Tuesday, 6th September, 2022, 11.00 am | North Yorkshire Council](#)

Executive Report – 14 February 2023 – York and North Yorkshire – Outcome of Consultation  
[Agenda for Executive on Tuesday, 14th February, 2023, 11.00 am | North Yorkshire Council](#)

Executive Report to Council – 22 February 2023 - York and North Yorkshire Devolution – Outcome of Consultation  
[Executive Report to Council.pdf](#)

BARRY KHAN  
Assistant Chief Executive Legal and Democratic Services

County Hall  
Northallerton

2 November 2023

Report Author – Barry Khan, Assistant Chief Executive Legal and Democratic Services  
Presenter of Report – Barry Khan, Assistant Chief Executive Legal and Democratic Services

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

## York and North Yorkshire Combined Authority Order 2023

## Main Provisions

Section	Provision
1-2	<b>Amendment and Interpretation</b> This provides the Order will come into force on the day after it is made (which then creates the Combined Authority) and Mayoral functions will be conferred on 7 <sup>th</sup> May 2024 (which takes into account functions regarding the Police, Fire and Crime Commissioner role and other Mayoral powers).
3	<b>Establishment</b> This provision creates a Combined Authority known as The York and North Yorkshire Combined Authority.
4	<b>Mayor</b> This provision creates the Mayor with elections on 2 <sup>nd</sup> May 2024 and subsequent elections will take place on the first Thursday of May every four years.
5	<b>Political Adviser</b> The Mayor can appoint a political adviser. The appointment will be an employee of the Combined Authority.
6	<b>Constitution</b> Approves Schedule 1 to make provisions about the Constitution.
7 + 9	Provides <b>Homes and Communities Agency</b> (HCA) powers through the Combined Authority eg powers to provide housing, regeneration, infrastructure, acquisition of land etc. These powers are exercised concurrently with the HCA.
8 + 9	Grants the Combined Authority powers of the local authority to make <b>CPOs</b> , acquire land by agreement, develop land for planning purposes etc. These functions are exercisable concurrently with the constituent authorities.
10-12	The Combined Authority has the power to create a <b>Mayoral Development Corporation</b> (with appropriate consent as contained in separate provisions).
13	Provides that the Combined Authority has the <b>local passenger transport</b> services authorities and functions of the constituent authorities. Certain functions are exercisable concurrently with the constituent authorities.
14	The Combined Authority has the powers to <b>enter into agreements</b> with the Minister or Strategic Highway Company in respect of trunk roads. These powers are to be exercisable concurrently with the constituent councils and any exercise of this function requires the consent of each constituent authority.
15	The Combined Authority can exercise <b>civil enforcement of road traffic contraventions</b> .
16	Gives the Combined Authority powers to <b>grant to bus service operators</b> to the Combined Authority (under Section 154 of the 2000 Act). (Powers to run concurrently with the Secretary of State.)
17	Gives the Combined Authority concurrent powers to make <b>Traffic Regulation Orders</b> and Experimental Traffic Orders.

Section	Provision
18	Gives the Combined Authority concurrent powers with regard to <b>pedestrian crossings and placing of traffic signs</b> .
19	Gives the Combined Authority concurrent powers relating to <b>apparatus affected by highways, bridge or transport works</b> .
20	Gives the Combined Authority concurrent powers with regard to <b>highway permit schemes</b> .
21	Gives the Combined Authority concurrent powers with regard to <b>lane rental schemes</b> .
22	Gives the Combined Authority concurrent powers with the Minister of the Crown to <b>pay grants</b> in relation to the exercise of highway functions.
23	Replaces the separate appointments of CYC and NYC on <b>Transport for the North</b> with a single appointment for the York and North Yorkshire Combined Authority.
24	Allows the Combined Authority to <b>share data</b> under the relevant provisions of the Crime and Disorder Act 1998.
25	Gives the Combined Authority concurrent powers with regard to prepare an <b>assessment of economic conditions</b> .
26	Incidental provisions which include references to the <b>Local Government Pension Scheme Regulations</b> .
27	<p>Provides that <b>the following functions are only exercisable by the Mayor</b>:</p> <ul style="list-style-type: none"> <li>• Section 17(3) of the Housing Act 1985 (acquisition of land for housing purposes);</li> <li>• Act as the Local Transport Authority and develop and approve the Local Transport Plans (Section 108, 109 and 112 of the Transport Act 2000);</li> <li>• Give grants to bus service operators (under Section 154);</li> <li>• Powers to pay grants under Section 31 of the Local Government Act 2003;</li> <li>• Acquisition of land by CPO under Section 9(2) of the Housing and Regeneration Act 2008;</li> <li>• The functions conferred on the Greater London Authority by the Business Rate Supplements Act 2009 (powers to levy a supplement on business rates);</li> </ul> <p>The following powers under the Localism Act 2011:</p> <ul style="list-style-type: none"> <li>• Designation of Mayoral development areas and to keep under review (sections 197, 199 and 215);</li> <li>• Transfers of property etc to a Mayoral development corporation (section 200);</li> <li>• Powers of the Mayor to designate the Mayoral Development Corporation as the Local Planning Authority for that area (section 202 and 204);</li> <li>• Powers in relation to discretionary relief from non-domestic rates for the Mayoral development area (section 214);</li> <li>• Mayor can transfer to a permitted recipient any property, rights or liabilities of an MDC under a transfer scheme (section 216);</li> </ul>

Section	Provision
	<ul style="list-style-type: none"> <li>• The Mayor can give guidance to an MDC and the MDC must have regard to it (section 219);</li> <li>• The Mayor can give direction to an MDC and the MDC must comply with regard the direction (section 220);</li> <li>• A Mayoral Development Corporation (MDC) will have six or more members as appointed by the Mayor. It shall include at least one elected member from each constituent council (paragraph 1 and 2 of Schedule 21),</li> <li>• The Mayor must agree the terms and conditions of staff and may appoint the first Chief Executive of the MDC (paragraph 3 of Schedule 21),</li> <li>• The Mayor may pay its members and staff remuneration and allowances (paragraph 4 of Schedule 21),</li> <li>• An MDC may establish committees (paragraph 6 of Schedule 21) and</li> <li>• MDC can determine its own procedures, subject to any direction by the Mayor (paragraph 8 of Schedule 21).</li> </ul> <p>[Further provisions provide that the lead member of the constituent councils must give consent to MDC to operate within the relevant constituent council and potentially National Parks.]</p>
28	The Mayor may create joint arrangements ( <b>joint committees</b> ) with the Combined Authority, the constituent councils and other councils for the exercise of his/her powers jointly.
29	<p>Relates to <b>funding</b> and states:</p> <p>The constituent councils must ensure the costs of the Combined Authority are met, subject to:</p> <ul style="list-style-type: none"> <li>(a) a proportion as agreed between the parties, or failing agreement as a proportion of the total residents (the Mayor must agree this expenditure with the Combined Authority before being able to spend the same);</li> <li>(b) the cost of the transport functions will be levied against the constituent councils;</li> <li>(c) for the first year, the Police, Fire and Crime Commissioner functions will be funded by the precept determined by the existing Commissioner.</li> </ul>
30-31	Give the Combined Authority the <b>business rates supplement functions</b> .
32-33	Gives the Mayor the <b>Police and Crime Commissioner functions</b> from 7 <sup>th</sup> May 2024.
34, 35 and 38	<p><b>Transfers all property, rights and liabilities</b> (including contracts of employment) of the Commissioner to the Combined Authority on 7<sup>th</sup> May 2024.</p> <p>All property rights in relation to the Mayor's PCC functions are to be exercised by the Mayor.</p> <p>All monies held in the Police Fund kept by the Commissioner prior to 7<sup>th</sup> May 2024 are to be transferred to the Police Fund kept by the Mayor.</p>
36, 37 and 40	These contain savings provisions <b>to ensure decisions made previously continue</b> after the election and make the necessary changes to the relevant legislation to cater for a Mayor as opposed to a Commissioner.

Section	Provision
39	Changes financial year for the Police and Crime Commissioner and Chief Constable for North Yorkshire from (31 <sup>st</sup> March 2023 to 1 <sup>st</sup> April 2024) to (31 <sup>st</sup> March 2023 to 6 <sup>th</sup> May 2024).
41-42	<p>Transfers functions regarding <b>Fire and Rescue Authority</b> to the Combined Authority and states these functions of the Combined Authority are exercisable only by the Mayor.</p> <p>Members and officers of the Combined Authority may assist the Mayor.</p>
43-45	<p>The Mayor can delegate some of these <b>Fire and Rescue functions</b> to the Deputy Mayor for Police, Fire and Crime or committee of the Combined Authority. However there are certain functions which cannot be delegated such as appointing, suspending or dismissing the Chief Fire Officer or holding him/her to account for managing the Service.</p> <p>Where the Mayor creates a committee instead of a Deputy Mayor that committee will be known as the Fire Committee and each constituent council can appoint an elected member on that committee, the Mayor can appoint a maximum of five further members from constituent councils. This committee should reflect as far as reasonably applicable to be a balance of political parties of constituent councils when taken together.</p>
46-49	Restates that the <b>Police, Fire and Crime Panel</b> has oversight of the Community Risk Management Plan, budget for Fire and Rescue functions in the usual way. The Panel has oversight of any Fire and Rescue functions of the Mayor that are exercisable by the Deputy Mayor for policing and crime and Fire and Rescue functions exercisable by the Mayor.
50-53	<b>Transfers all property, rights and liabilities</b> (including contracts of employment) from the Fire and Rescue Authority to the Combined Authority on 7 <sup>th</sup> May.
54	<b>Extends the financial year</b> for the Fire and Rescue Authority so it is from 1 <sup>st</sup> April 2023 to 6 <sup>th</sup> May 2024.
Schedule 1	<p>Contains provisions of what needs to be in the Constitution for the Combined Authority for example:</p> <ul style="list-style-type: none"> <li>• Each constituent council must appoint two members.</li> <li>• Each constituent council must designate one as a lead member.</li> <li>• Must appoint two named substitute members.</li> <li>• The Combined Authority must appoint a Chair and Vice Chair prior to the Mayor being appointed.</li> <li>• Voting arrangements.</li> </ul>