

HERTSMERE BOROUGH COUNCIL

Meeting name & Date	COUNCIL 18 November 2020
Agenda item	8
Report title	Hertfordshire Growth Board Joint Committee
Report reference no.	C/20/45
Wards affected	All wards
Report author, job title & email	Sajida Bijle, Managing Director Sajida.Bijle@hertsmere.gov.uk
List of Appendices	Appendix A - The Hertfordshire Growth Board Integrated Governance Framework Appendix B - Terms of Reference and Standing Orders of the Hertfordshire Growth Board Scrutiny Joint Committee.
Reason for urgency	Not applicable

PUBLIC REPORT – This report is available to the public.

1 RECOMMENDATIONS

- 1.1 That the Council agrees to the establishment of the Hertfordshire Growth Board Joint Committee, and approves and adopts the Terms of Reference and Standing Orders for the Joint Committee as set out in the Hertfordshire Growth Board Integrated Governance Framework in Appendix 1 to the officer's report;
- 1.2 That the Council delegates to the Hertfordshire Growth Board Joint Committee, the discharge of the functions set out in in the Terms of Reference of the Joint Committee;
- 1.3 That the Council appoints the Leader of the Council as the Council's Representative to the Hertfordshire Growth Board Joint Committee;
- 1.4 That the power to appoint a substitute member to attend meetings of the Hertfordshire Growth Board Joint Committee in the absence of the Leader of the Council be delegated to the Leader of the Council;
- 1.5 That the Council agrees to the establishment of the Hertfordshire Growth Board Scrutiny Joint Committee, and approves and adopts the Terms of Reference and Standing Orders for the Scrutiny Joint Committee set out in Appendix 2 to the officer's report;
- 1.6 That the Council delegates to the Hertfordshire Growth Board Scrutiny Joint Committee the discharge of the functions set out in the Terms of Reference of the Scrutiny Joint Committee;

- 1.7 That the Council appoints the Chairman of the Operations Review Committee as the Council's Representative on the Hertfordshire Growth Board Scrutiny Joint Committee; and
- 1.8 That the Council gives the Head of Legal & Democratic Services delegated authority to amend the Council's Constitution as necessary to give effect to the Hertfordshire Growth Board Integrated Governance Framework including the scrutiny joint arrangements.

2 PURPOSE OF THIS REPORT

- 2.1 In order for the Council to become a fully active participant in the formally constituted Hertfordshire Growth Board Joint Committee (HGB) and Hertfordshire Growth Board Joint Scrutiny Committee which will enable the Council to serve the best interest of Hertfordshire as a whole. Additionally, without a formal constitution HGB will not be eligible for government Growth Deal funding. Furthermore, there is a significant risk that the decision making process may not be legally binding on all members of the Board without the establishment of a joint committee with clear decision making powers in relation to the functions jointly delegated to it by all the Hertfordshire Council's.

3 REASONS FOR RECOMMENDATION

- 3.1 Without a formal legal entity the HGB decision making process may be flawed and challenged. In particular, the government will not be able to grant Growth Deal funding to any unconstituted body as any grant funding or Growth Deal funding will require a number of legal agreements to be signed by both parties being: Hertfordshire's 11 Local Authorities plus the Ministry of Housing, Communities and Local Government (MHCLG).

4 ALTERNATIVE OPTIONS

- 4.1 The Council decided to join HGB with the intention to work in collaboration across Hertfordshire to achieve the best interests of Hertfordshire's residents and businesses. As an alternative option the Council can choose not to join the Joint Committee and Scrutiny Joint Committee. However this will mean that the Council may lose significant opportunities and therefore. Hence the option of not joining the Joint Committee and Scrutiny Committee is not the way forward.

5 BACKGROUND

- 5.1 Hertfordshire Growth Board (HGB) has been operating since late 2018 as a non-constituted partnership of the 11 Local authorities and Local Enterprise Partnership in Hertfordshire. Formed as a coalition of the willing with the purpose of taking a longer term place leadership approach to our place ambitions, growth pressures and economic performance, it has promoted effective joint working and common cause, delivering more than the sum of the parts and seeking to create additionality for all partners and the residents and businesses of Hertfordshire.
- 5.2 The Growth Board Partners have invested significant capital in the work that has been undertaken on developing the Growth Board programmes so far, charting a course of collective action through the dedication of political,

officer and financial resources. The Growth Board is a unique construct for Hertfordshire and the progress that it has made in its two years of operation is important. The relationships that have been built between the partners, the set of programmes that have been developed and the outcomes that are being sought in place and economic terms are significant and will extend beyond political horizons. They represent a coherent response to the ambitions that the partners have articulated together, and the challenges that we face, including economic recovery.

- 5.3 Through the Growth Board work, including the joint signing of the collaboration Memorandum of Understanding (MOU) in 2019/20 we have signalled to HM Government unity and a joint commitment to the Growth Board programmes across Hertfordshire and the pursuit of a Growth Deal for our area. A Growth Deal will require strengthening current governance of the Growth Board, to give it a legal identity and statutory weight.
- 5.4 The Growth Board has increased the openness and transparency around its activities in 2020, publishing its board papers and developing a website and greater visibility of its work and ambitions. There is recognition however, that an informal constitution and governance can only take those ambitions so far and formalising HGB into a statutorily constituted Joint Committee with associated scrutiny function will bring benefits for the partnership including:
- a) signalling the strong and ongoing local commitment to the joint Growth Board work, its pan Herts focus, delivery programmes and co-ordinating role now and in the future (going above the commitments set out in the existing MOU)
 - b) to maintain government and investor confidence in the visible alignment of business, political governance and civic support to deliver commitments in Hertfordshire
 - c) Would aid openness and transparency in decision making for councils whilst the negotiations with HM Government move forward
 - d) Providing a governance vehicle that can operate and take advantage of potential opportunities now, building on the progress made so far, and maintaining the momentum that has been established by the HGB.
 - e) Has a neutral impact upon any structural change considerations in Hertfordshire, enabling focus to be maintained on the joint HGB work and building on the progress and investment made over the last two years.
- 5.5 Moving to establish a statutory joint committee will bring the work of the Growth Board within a legally prescribed process. Good governance requires an associated scrutiny function to be established alongside. Both of these are now proposed to the Growth Board partners. Subject to all partners agreeing to establish the joint committees, and the local authority partners confirming this decision and taking the legislative steps to establish the joint committees, the first Growth Board joint committee could take place in December 2020. The first Growth Board Scrutiny Committee would follow in February 2021.

5.6 The Integrated Governance Framework – Key components

- 5.6.1 The HGB and Growth Board Scrutiny Committee will be joint committees of the District, Borough and County Councils, formed under provisions of Local Government legislation¹ which enable councils to come together to discharge their various functions. The Hertfordshire Local Enterprise Partnership shall also be a member of the HGB, in accordance with the same legislative provisions.
- 5.6.2 The Integrated Governance Framework attached to this paper provides the proposed Terms of Reference (TOR) and Standing Orders (SO) for the both of the Growth Board and Scrutiny Joint Committees.

Role of the Hertfordshire Growth Board

- 5.6.3 HGB in its new guise will continue to oversee and provide strategic co-ordination around growth across Hertfordshire. HGB will not have any statutory function in the Council's delivery of its Local Plan or the Joint Strategic Plan with our adjoining Districts and the County. However, it will provide Hertsmere with the ability to be part of the discussions and influence the wider strategic growth ambitions for the County in line with our own, ensuring delivery of infrastructure to support new growth.
- 5.6.4 The HGB has the primary aim of coordinating strategic development planning and delivery across Hertfordshire. The HGB is currently operating to provide strategic co-ordination around growth and place leadership for the eleven councils and Local Enterprise Partnership (the LEP) in Hertfordshire. Governance is through an agreed Terms of Reference and a collaboration Memorandum of Understanding. The HGB has developed a common purpose and a pan-Hertfordshire programme of projects supporting its vision and ambition for Hertfordshire the place.
- 5.6.5 HGB is also in negotiation with HM Government to secure a Growth Deal which will require a formal governance model to provide accountability to government and good governance and transparency in the local management and use of any funds received under such an arrangement. If this is achieved, HGB will be responsible for commissioning the projects which will be funded by the Growth Deal, and for the overall control of the project programme.
- 5.6.6 Going forward, within the framework of distributed leadership provided by the Growth Board, individual projects may be led by a constituent council, councils or by the HGB, and the HGB may delegate various of its functions to officers of the Councils. The constituent councils will also form a joint Scrutiny Committee to review the work of the HGB, comprising members from each of the constituent councils.

Core Provisions regulating the HGB and the Scrutiny Committee

- 5.6.7 The Growth Board commissioned the preparation of the Integrated Governance Framework with support and input from the Hertfordshire

¹ Sections 101 and 102 of the Local Government Act 1972; Section 9EB of the Local Government Act 2000 and pursuant to the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012

Heads of Legal/Monitoring Officers Group. The Framework drew on relevant governance models and examples from elsewhere (Oxfordshire and Cambridgeshire) and has also been reviewed in a number of previous iterations through the Chief Executives group. The version attached to this paper has been endorsed by the Growth Board for consideration by constituent councils in their individual democratic processes.

5.6.8 Each of the HGB and the HGB Scrutiny Committee shall operate in accordance with respective Terms of Reference and Standing Orders. Core Provisions of these are set out in summary below and the full framework is attached at Appendix A to this paper:

<p>HGB - Terms of Reference (Summary)</p>	<p>Membership and Voting – The HGB shall have twelve members, comprising one member from each council and one member from the LEP. The strong ambition of the HGB shall be for all decisions to be made on a unanimous basis, and issues on which consensus cannot be reached shall be deferred to the following meeting.</p> <p>Only where consensus cannot be achieved at a subsequent meeting will issues be put to a vote. In those cases, and in compliance with the law applicable to joint committees, the voting members shall be the Council members only, and votes shall be decided by majority. The Chair is entitled to a casting vote, but there will be a convention that he/she will not rely on this. Before taking any decision, the local authority members of the HGB will have due regard to the advice and opinions expressed by the LEP member.</p> <p>Division of functions between the HGB and constituent councils – Section 4 of the Terms of Reference clarifies those functions that will be given to the HGB, and those that will be retained by the constituent councils and the LEP (where applicable).</p>
<p>HGB - Standing Orders (Summary)</p>	<p>The HGB members shall appoint a Chair and two Vice-Chairs. There shall be a two-year non-consecutive limit on the Chair’s appointment (i.e. he/she may be reappointed, but only after a different member has been Chair).²</p> <p>Meetings will have a quorum of 9 members.</p> <p>Meetings will be open to public attendance (whether physical or virtual meetings) and will accept questions and petitions from the public.</p>

² For both the HGB and the HGB Scrutiny Committee, there will be an exception to the term limits for the initial appointment of the chair at the first meeting.

<p>HGB Scrutiny Committee - Terms of Reference (Summary)</p>	<p>Role - The Scrutiny Committee will provide pre-scrutiny of the business of the HGB. It will also act as a forum for discussion with a wider range of members and stakeholders across Hertfordshire. The Scrutiny Committee may review and comment on reports to the HGB, offer advice to HGB on the discharge of its functions and may review its work.</p> <p>Membership – the Scrutiny Committee shall have 12 members including the LEP. Members must not be executive members of their appointing authority.</p>
<p>HGB Scrutiny Committee - Standing Orders (Summary)</p>	<p>Meetings of the Scrutiny Committee will normally be scheduled shortly prior to meetings of the HGB, in order to facilitate its pre-scrutiny function.</p> <p>The HGB members shall appoint a Chair and one Vice-Chair to the Scrutiny Committee. There shall be a two-year non-consecutive limit on the Chair’s appointment (i.e. he/she may be reappointed, but only after a different member has been Chair).³</p> <p>Meetings shall have a quorum of 7 members.</p> <p>Voting where required shall be by simple majority, in accordance with legislative requirements. As with the HGB, the Chair shall be entitled to a casting vote, but there will be a convention that he/she will not rely on this.</p> <p>Meetings will be open to public attendance (whether physical or virtual meetings) and will accept questions and petitions from the public.</p>

6 FINANCIAL AND BUDGET FRAMEWORK IMPLICATIONS

- 6.1 None directly arising from this report. Currently HGB is funded via Hertfordshire joint Business Rates growth income.
- 6.2 The financial implications of establishing joint committees for the Hertfordshire Growth Board consist primarily of time for the attendees (Members and officers), secretariat and support, accommodation (for when meetings are hybrid or in a single location) and cost of ICT/live streaming of meetings. These costs will be met from the Hertfordshire Growth Board Growth Fund. The Growth Board Growth Fund is overseen by the Growth

³ See footnote 2.

Board and accounted for by the s.151 Officer at Hertfordshire County Council who are the accountable body for the fund.

7 LEGAL POWERS RELIED ON AND ANY LEGAL IMPLICATIONS

7.1 The full Council has the power pursuant to sections 101(5) and 102 of the Local Government Act 1972 to arrange for the discharge of functions belonging to the Council by and through the establishment of a joint committee. In addition, in a Council such as Hertsmere that operates executive arrangements consisting of a Leader and Cabinet Executive, it is the Leader of the Council that has the power pursuant to Section 9EB of the Local Government Act 2000 and Regulations 6 and 8 of the Local Authorities (Discharge of Functions) (England) Regulations 2012 to arrange for the discharge of functions belonging to the Executive by and through the establishment of a joint committee

7.2 However, as will be the case with the Herts Growth Board Joint Committee where the authority is delegating both council and executive functions to a joint committee, the 2012 Regulations provide that it is the full Council that has the power to make the arrangements, subject to having the consent of the Executive. The recommendations in this report (if carried by the Executive) will constitute the consent of the Executive to the full Council making the joint committee arrangements proposed in this report.

8 EFFICIENCY GAINS AND VALUE FOR MONEY

8.1 Hertsmere is only one district of ten in Hertfordshire. By working in collaboration with the other districts and County, Hertsmere stands to gain significant benefits for its communities and attract a higher level of funding from government departments, thus enhancing Hertsmere's chances for economic growth and recovery, resulting in a better future for all its residents and businesses.

9 RISK MANAGEMENT IMPLICATIONS

9.1 As explained in the body of the report above, without a legally constituted body in the form of HGB Joint Committee, decision-making and governance may be challenged and will not carry legal standing. Above all, government departments will not consider Hertfordshire for Growth Deal funding.

10 PERSONNEL IMPLICATIONS

10.1 None directly arising from this report.

11 EQUALITIES IMPLICATIONS

11.1 None directly arising from this report.

12 CORPORATE PLAN and POLICY FRAMEWORK IMPLICATIONS

12.1 This proposal accords with the priorities in the Council's Community Strategy, Corporate and Financial Strategy.

12.2 Environmental and sustainability implications. The Growth Board partners have established separate but also joint approaches to sustainability and climate change impacts/mitigation measures for Hertfordshire. There is crossover with the Growth Board work that will ensure that environmental considerations and programmes are taken forward and implications considered.

13 **ASSET MANAGEMENT IMPLICATIONS**

13.1 None directly arising from this report.

14 **HEALTH AND SAFETY IMPLICATIONS**

14.1 None directly arising from this report.

15 **CONSULTATION ON DRAFT REPORT**

15.1 A draft of this report was sent to the following on the following dates:

Consultee	Report sent	Comments rcvd
Managing Director		
Executive Director		
Head of Finance and Business Services		
Head of Legal And Democratic Services		
Head of Engineering Services and Asset Management		
Portfolio holder – Cllr Graham		