

<b>Meeting:</b>	Executive
<b>Meeting date:</b>	10 October 2024
<b>Report of:</b>	Director of Governance
<b>Portfolio of:</b>	Leader of the Council and Executive Member for Policy, Strategy and Partnerships

## **Decision Report: Granting consent for York and North Yorkshire Combined Authority Borrowing Powers**

### **Subject of Report**

1. To seek unconditional consent to the making of regulations by Central Government to provide the York and North Yorkshire Mayoral Combined Authority (“the CA”) with borrowing powers in line with the Devolution Deal and Scheme which were subject to public consultation.
2. Consent from the three constituent authorities is required before the Department for Housing, Communities and Local Government (“DHCLG”) can lay the relevant Regulations before Parliament.

### **Benefits and Challenges**

3. The decision is required to enable the Combined Authority to commence borrowing, in order to deliver the Mayor’s, and the CA’s, priorities. As such, unconditional consent to the laying of the Regulations would provide significant ongoing benefits for both City of York Council and for North Yorkshire Council, as borrowed funds would enable the delivery of larger schemes.

### **Policy Basis for Decision**

4. Close working with the CA is a key area for City of York Council (“CYC”), as it will enable substantial progress to be made in the areas of decarbonisation, climate change, housing, transportation,

and enhanced access to adult education. Consequently, the provision of consent would facilitate the Council's key aims.

## **Financial Strategy Implications**

5. The provision of unconditional consent will aid the Council's medium- and long-term financial strategy, in that the introduction of borrowing powers for the CA will assist CYC in the delivery of its strategic requirements.
6. The CA is its own legal entity and will need to make its own prudent decisions with regard to how much it can borrow. The amount of borrowing will be subject to a "borrowing cap" that will be negotiated with Central Government by the CA. The responsibility for the repayment of any borrowing will rest directly with the CA. The CA will need to follow the Prudential Code which applies to local authorities in addition to the borrowing cap agreed with HM Treasury, which will be subject to annual review each April.
7. It must be noted, however, that there is a potentially increased financial risk to CYC should the CA fail to make repayments on any borrowing. Further detail is at paragraphs 18 to 20 below.

## **Recommendation and Reasons**

8. It is recommended that Executive delegates authority to the Chief Operating Officer to agree to the unconditional granting of consent for the laying of Regulations granting borrowing powers to the CA. The reason for this recommendation is to enable to CA to deliver on its key strategic priorities.

## **Background**

9. The CA was created in December 2023 following the passing of the York and North Yorkshire Combined Authority Order 2023. This followed the decision of Council to agree to hold a consultation exercise in respect of the creation of the CA, from 6 October 2022; the decision of Council to agree to the submission of the consultation responses in respect of the creation of the CA and to delegate to the Chief Operating Officer power to consent to the making of the relevant Order to create the CA, from 23 February 2023; and the decision of the Chief Operating Officer,

pursuant to that delegated power, to consent to the creation of the CA, from 3 November 2023.

10. In order for the CA to be ambitious with its functions, it was envisaged that the Combined Authority would have borrowing powers. Currently the CA has borrowing powers for transport, and for the previous Police, Fire, and Crime Commissioner's functions.
11. However, borrowing powers for other functions must be dealt with by a separate Regulation. It is understood that DHCLG are aiming to lay Regulations before Parliament on 21 October 2024; this information was only made available to the three authorities on 25 September 2024.

## **Consultation Analysis**

12. Consultation has been undertaken within CYC in respect of the proposed decision. External consultation has not been undertaken, as the impact of the proposed decision will not fall on CYC.
13. Separate decisions, and associated consultation, will be taken by NYC and by the CA.

## **Options Analysis and Evidential Basis**

14. There are three available options:

### Option 1

The Executive may choose to grant unconditional consent to the laying of Regulations.

This would allow the Government to lay its proposed Regulations and would thereby allow the CA to borrow in order to meet its key priorities.

### Option 2

The Executive may choose to grant limited consent for only specified powers.

This would require the Government to significantly reconsider the scope of the CA's operations and would require significant redrafting of the draft Regulations. This is unlikely to be

achievable in a short space of time, which would likely delay the laying of any Regulations until 2025 at the earliest.

### Option 3

The Executive may refuse to grant any such consent. In light of the information contained in this report, it is considered that the evidence supports the granting of unconditional consent.

In this case, the Government would not be able to confer borrowing powers to the CA for functions outside transport, policing, and fire. This would significantly limit the CA's ability to deliver on its key priorities.

15. Both Option 2 and Option 3 are likely to restrict the CA's ability to deliver on its the ambition for regeneration and growth within the region.
16. For the reasons set out in this report, Option 1 is therefore the preferred option, and the Executive is therefore recommended to delegate authority to the Chief Operating Officer to agree to the unconditional granting of consent for the laying of Regulations granting borrowing powers to the CA.

## **Organisational Impact and Implications**

17. The direct implications of the decision for CYC are considered below but set within the policy context and benefits set out in paragraph 4 above:
  - **Financial:** there are no direct financial implications for CYC as a result of the decision.
  - **Human Resources (HR):** there are no direct HR implications for CYC as a result of the decision.
  - **Legal:** there are no direct legal implications for CYC as a result of the decision.
  - **Procurement:** there are no direct procurement implications for CYC as a result of the decision.
  - **Health and Wellbeing:** there are no direct health and wellbeing implications for CYC as a result of the decision.
  - **Environment and Climate action:** there are no direct environmental or climate change implications for CYC as a result of the decision.
  - **Affordability:** there are no direct affordability implications for CYC as a result of the decision.

- **Equalities and Human Rights:** there are no direct equalities or human rights implications for CYC as a result of the decision. No EIA is required as the decision, as the decision to grant consent will not directly impact on individuals or groups.
- **Data Protection and Privacy:** the data protection impact assessment screening questions were completed for the recommendations and options in this report and there are no direct data protection implications for CYC as a result of the decision.
- **Communications:** there are no direct communications implications for CYC as a result of the decision.
- **Economy:** there are no direct economic implications for CYC as a result of the decision.

## Risks and Mitigations

18. There are no risks directly associated with CYC granting unconditional consent to the laying of the Regulations. As noted above, the responsibility for the repayment of any borrowing will rest directly with the CA. However, as also noted above, under the provisions of Paragraph 29 of the 2003 Order, the constituent councils must ensure that the costs of the Combined Authority reasonably attributable to the exercise of its functions are met.
19. This potential liability currently exists for both CYC and NYC and covers the CA's current areas of responsibility (including existing borrowing powers which have transferred from the Office of the Police, Fire, and Crime Commissioner). Once expanded borrowing powers are granted to the CA, the potential liability will be expanded to encompass any borrowing authorised under the proposed Regulations.
20. However, the CA, like other authorities, is required to submit a balanced budget each year, and must borrow in line with the Prudential Code. As with current borrowing and the ongoing operational costs of the CA, budget and spending decisions are subject to decisions of the CA. It is therefore expected that risk mitigation measures, together with details of any increased risk to the constituent authorities, would be clearly outlined in both the CA budget report and any borrowing decision report, in order that the constituent authorities may consider those potential impacts as part of the decision-making process.

21. Conversely, however, there are risks to CYC should CYC decide not to grant unconditional consent for the Regulations to be laid. In particular, the CA would then be unable to exercise any borrowing powers beyond those already in existence (noted in paragraph 10 above) and will therefore be unable to deliver on some of its key priorities; this will, in turn, impact on CYC's future pipeline of projects for which CA funding is to be sought.

## Wards Impacted

22. There are no direct ward impacts arising from the proposed decision.

## Contact Details

For further information please contact the author of this Decision Report.

### Author

<b>Name:</b>	Bryn Roberts
<b>Job Title:</b>	Director of Governance
<b>Service Area:</b>	Governance
<b>Report approved:</b>	Yes
<b>Date:</b>	30 September 2024

## Background papers

- [Decision](#) of Council on 6 October 2022;
- [Decision](#) of Council on 23 February 2023; and
- [Decision](#) of the Chief Operating Officer on 3 November 2023.