

## HAMPSHIRE COUNTY COUNCIL

### Decision Report

<b>Decision Maker:</b>	Executive Member - Environment
<b>Date:</b>	29 June 2010
<b>Title:</b>	South Downs National Park Scheme of Planning Delegation
<b>Reference:</b>	1693
<b>Report From:</b>	Director of Environment

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### 1. Executive Summary

1.1. The purpose of this paper is to outline a proposed agreement between the shadow South Downs National Park Authority (SDNPA) and the County Council under s101 of the Local Government Act 1972 under which the County Council would discharge planning services through a planning delegation framework on behalf of the South Downs National Park Authority (the NPA).

1.2. This report:

- Describes the changes in planning service responsibilities when the SDNPA becomes a corporate body and fully operational on 1 April 2011
- Outlines the principles of the proposed planning delegation framework that would be covered by an agreement that is now formally offered to the County Council by the shadow SDNPA
- Considers the financial and resource implications to the County Council
- Conclude that an agreement for a planning delegation framework would be beneficial to Hampshire and should be recommended to the County Council accordingly.

## 2. South Downs National Park

2.1. The South Downs National Park (SDNP) came into existence on 1 April 2010. Like all national parks its purposes are set out in statute thus:

Function	Legislation
1. To conserve and enhance the natural beauty, wildlife and cultural heritage.	s5(1) of the National Parks and Access to the Countryside Act 1949 as amended by s61 Environment Act 1995
2. To promote opportunities for the understanding and enjoyment of the special qualities of the park by the public.	s5(1) of the National Parks and Access to the Countryside Act 1949 as amended by s61 Environment Act 1995
3. Duty to seek to foster the economic and social well-being of local communities in the park.	s11A National Parks and Access to the Countryside Act 1949 inserted by s62 Environment Act 1995

2.2. National Parks are administered by an NPA whose members are drawn from the local authorities covered by the SDNP and other bodies. The Hampshire County Council nominated member is County Councillor Felicity Hindson. A shadow NPA for the SDNP has been formed and the NPA will be fully operational on 1 April 2011.

2.3. The NPA will be a local planning authority and responsible for all statutory planning functions within the geographic area of the SDNP. The constituent local authorities will simultaneously cease to be local planning authorities for any of their area within the SDNP at that date.

2.4. Notwithstanding the loss of planning functions the local authorities have a duty under the legislation to help deliver national park purposes through other statutory functions and services they operate within and without the SDNP. Accordingly, the SDNPA, Hampshire County Council, district councils and other organisations form an important partnership for ensuring the SDNP achieves its objectives. Moreover, the creation of the SDNP is a major opportunity for Hampshire as it will create a body with its own Government funding that will be dedicated to conserving and improving the environment of a significant part of the county. A partnership between Hampshire County Council and other local authorities with the NPA is a major opportunity that Cabinet has given support to hitherto.

2.5. However, the SDNPA will be a local planning authority and the County Council will lose its powers in the area of the SDNP. This means that future plans for minerals and waste will be prepared by the SDNPA. Likewise the mineral and waste applications and sites that the County Council currently administers will be dealt with by the SDNPA, along with applications for development associated with the County Council's own services.

- 2.6. The Hampshire Minerals and Waste Core Strategy covers the SDNP and although this will stay as part of the 'development plan' for the time being, any review will undertaken by the NPA. It is proposed, however, that this work in the early years of the NPA could be done in partnership the County Council and its other partners.
- 2.7. In most years the County Council administers a handful – last year 13 – applications within the SDNP. However, there are about 17 mineral and waste sites within the SDNP along with approximately 27 schools, including a secondary, The Petersfield School, whose development could have major impacts upon local communities. During any one year there is the potential for any one of these sites - or new ones - to generate significant planning issues. All these will pass to the SDNPA for decision-making, so future changes will pass from local authority control.
- 2.8. The challenge for the partnership arrangements will be to secure arrangements between Hampshire County Council – and the other local planning authorities – and the NPA whereby decision-making in the planning arena still has meaningful local government input.

### **3. Proposed agreement for planning delegation framework**

- 3.1. In order to address this potential loss of local government input, an agreement for the delivery of planning services in the SDNP under S101 of the Local Government Act 1972 is now proposed. To facilitate this on the 15 June 2010 the shadow SDNPA resolved .

*'1. To agree in principle to providing planning services for the South Downs National Park (SDNP) through Agency arrangements with the current Local Planning Authorities for some Development Management planning services ('delegation')*

*2. That the Agency ('delegation') Agreements should provide for the South Downs National Park Authority (SDNPA) to determine itself those planning applications likely to be of significance to the SDNP*

*3. That the basis for significance should be a major/non major split, with the threshold at 10 dwellings, 1000sq.metres of commercial floor space or an application site over 0.5 HA, and non-major applications and appeals normally being delegated to the current Local Planning Authorities to determine, without prejudice to:*

*The NPA determining itself any non-major applications it considers to be likely to be of significance to the SDNP, and*

*The NPA agreeing exceptionally to delegate such particular major applications (including minerals and waste applications) which it considers not to be of significance to the SDNP*

*3. That the Agency Agreements should initially operate for a three year period from April 2011 to March 2014, with a review in year three for implementation from year 4 (either continued/modified delegation or moving to an in-house service), and 1 years notice to quit by any party to the agreement at any time.*

*4. That the SDNPA should pay the constituent Local Councils for the planning services provided on its behalf, on the basis of the funding principles set out in Appendices 1 and 2*

*5 That the current Local Planning Authorities be invited to participate in the proposed Agency arrangements, and those Authorities who agree to participate be invited to enter into a multilateral legal agreement with the SDNPA by 31<sup>st</sup> July 2010, binding them to provide an effective planning service from 1<sup>st</sup> April 2011, with 1 years notice to quit, with the SDNPA providing a guarantee that all costs reasonably incurred by each Council in carrying out the delegated functions will be reimbursed by the Authority*

*6. That the detailed provisions and agreements for implementing this decision should be delegated to the Interim Chief Executive, in consultation with the Chair and Deputy Chair of the Authority and the Chair and Deputy Chair of the Planning Committee, subject to any material issues being referred to the Authority for determination.*

*7. That the SDNPA should work with the current Local Planning Authorities on emerging Core Strategies and other Local Development Documents (LDDs) to ensure that they meet National Park purposes.*

*8. That SDNPA should work towards a Core Strategy for the SDNP as an early priority and that this work should be resourced by the SDNPA accordingly.'*

- 3.2. The resolution is self explanatory but in summary it would create an 'agency' agreement between the SDNPA and local planning authorities for the former to 'delegate' decisions to the latter so that the majority of planning applications would still be determined by the current planning authorities.
- 3.3. The procedural decision-making aspects of this arrangement are for the County Council's Regulatory Committee to consider and a report to its meeting on 30 June will consider the implications and make recommendations to the County Council subsequently. If this is agreed, planning applications and other development management cases would still be processed through Hampshire County Council's systems – validating and processing of applications, responding to complaints, site monitoring and enforcement, and reporting. Those matters that do not have significance to the SDNP would be determined by the Regulatory Committee in accordance with current procedures – by officer delegation or Member decision - as appropriate.
- 3.4. Those cases that are judged to have significant impact for the SDNP, and therefore contrary to National Park purposes, would be determined by the NPA. In practice about 150 of the potential 4,000 or so applications that would be within the whole SDNP area would fall in this category. With regard to Hampshire it is estimated that half of the dozen or so applications per year that the County Council have determined hitherto would in the future be determined by the SDNPA.

- 3.5. Those Hampshire cases that the SDNPA would determine, albeit with County Council officer advice, the County Council would still formally comment as a 'neighbouring authority' and influence the decision.

#### **4. Legal and resource implications of the proposed agreement**

- 4.1. The proposed planning delegation framework would be the subject of an agreement - an outline statement of intent to enter an agreement is attached as Appendix 3 - between the County Council and the SDNPA. Part of the agreement would be common to all the local planning authorities that participate and would covers the principle of the planning authorities working with the NPA to provide a planning service. The agreement would commit Hampshire County Council to provide the resources for a planning service - subject to review in three years - to the NPA, with a break clause that has to be subject to 12 months notice that cannot be invoked until 31 March 2011. What this means is that Hampshire County Council will be committed to the agreement and the funding implications to operate the planning delegation framework until 31 March 2012.
- 4.2. With regard to funding, a statement - copy attached as Appendix 4 – has been issued in the absence of final details, which will be clarified at the end of the year when Defra and CLG budgets have been finalised and Revenue Resource Grant implications are settled. The statement makes it clear however, the NPA would fund the costs of the County Council in providing a development management service to the NPA on a 'no winners or losers basis'. With regard to development framework costs, these are still being discussed, but there is an undertaking the NPA will share in extraordinary costs such as legal work and environmental studies.
- 4.3. On staffing, the County Council already delivers a planning service to that part of the SDNP as part of the service it provides to the county. The SDNP work load represents much less than 10% of the total workload.

#### **5. Commentary**

- 5.1. The proposed agreement covering the planning delegation framework between the planning authorities and the NPA needs to be seen within the wider context of delivering an enhanced service to that part of Hampshire within the SDNP. The SDNPA is not just a local planning authority as its purpose is to deliver national park purposes to the public within the SDNP. Accordingly, the agreement is part of a partnership for delivering public services to the community and as such the County Council should be in support.
- 5.2. Overall the impact on processes within the County Council is marginal. There would be slight changes in the manner that the Regulatory Committee would determine SDNP applications and some minor adjustments to practices.

- 5.3. Regarding resources, it is noted there is a degree of uncertainty on the budgetary impact as there are some high level funding transfers to be resolved. Nevertheless, the funding statement issued by the shadow SDNPA and confirmed by the resolution of 15 June gives a high degree of comfort that the County Council will not lose money. It is also noted that the County Council is only locked into the arrangement for one year from 2011 in providing planning services.
- 5.4. With regard to staffing, the people and skills are already in place to deal with the work within the SDNP as this is what happens now. Any additional burdens relating to increased liaison servicing the NPA Committee would have marginal effect.
- 5.5. In the light of the advantages in the provision of enhanced public service within the SDNP with the anticipated marginal adverse impact on the County Council the agreement for the planning delegation framework agreement should be approved.

## **6. Recommendations**

### **That the County Council be recommended**

- 6.1. To enter any required statement of intent and agency agreement with the South Downs National Park Authority under S101 of the Local Government Act 1972 for the delivery of those planning services currently carried out by the County Council within that part of Hampshire that is within the South Downs National Park.
- 6.2. To authorise the Director of Environment and the Chief Executive to negotiate the details associated with the agreement and conclude such agreements accordingly.

**CORPORATE OR LEGAL INFORMATION:****Links to the Corporate Strategy**

<b>Hampshire safer and more secure for all:</b>	yes
Corporate Improvement plan link number (if appropriate):	
<b>Maximising well-being:</b>	yes
Corporate Improvement plan link number (if appropriate):	
<b>Enhancing our quality of place:</b>	yes
Corporate Improvement plan link number (if appropriate):	

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

<u>Document</u>	<u>Location</u>
South Downs National Park Working File	Planning and Development, Environment Department, Elizabeth II Court West, The Castle, Winchester

**IMPACT ASSESSMENTS:**

**1. Equalities Impact Assessment:**

1.1. No impact.

**2. Impact on Crime and Disorder:**

2.1. No impact.

**3. Climate Change:**

a) How does what is being proposed impact on our carbon footprint/energy consumption?

N/A – decision concerns administration.

b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

N/A – decision concerns administration.