

HAMPSHIRE COUNTY COUNCIL

Decision Report

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| Decision Maker: | Regulatory Committee |
| Date: | 30 June 2010 |
| Title: | South Downs National Park Scheme of Planning Delegation |
| Reference: | 1804 |
| Report From: | Head of Planning and Development |

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1. Executive Summary

- 1.1. The South Downs National Park (SDNP) came into effect on 1 April 2010 with the purposes, like all National Parks, of enhancing/conserving its natural beauty, promoting understanding of its special qualities and fostering the well being of its communities.
- 1.2. The SDNP will be administered by the South Downs National Park Authority (SDNPA) whose members are drawn from the local authorities covered by the SDNP and other bodies. The Hampshire County Council nominated member is Councillor Mrs Hindson. Meanwhile, a shadow SDNPA has been formed pending the full SDNPA becoming operational on 1 April 2011 when it will be a local planning authority 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 the area of the SDNP at that date.
- 1.3. Notwithstanding the loss of planning functions these local authorities have 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 could form an important partnership for ensuring that the SDNP achieves its objectives.
- 1.4. To ensure the planning system fully contributes to achieving National Park purposes there has to be an effective planning function partnership. This, it is concluded, would be best delivered by the constituent local planning authorities agreeing to a 'planning delegation framework'. This would allow the current local planning authorities to continue to determine all but the most significant planning applications within the SDNP area on behalf of the SDNPA.

- 1.5. Hampshire County Council only deals with a few planning applications within the area of the SDNP each year although there are number of minerals and waste sites as well as schools that do raise planning issues from time to time. The delegation framework would allow the County Council to retain some influence on planning for these developments. Procedurally it would only have a small impact on the Regulatory Committee.
- 1.6. In the light of the advantages in agreeing to the 'planning delegation framework' it is recommended the Regulatory Committee recommends to the County Council to make an agreement as proposed by the SDNPA for the delivery of planning services.

2. The South Downs National Park – administration of planning

- 2.1. The purposes of National Parks are set out in statute:

| 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. The creation of the South Downs National Park is a major opportunity for Hampshire as it will create a body with its own funding that will be dedicated to conserving and improving the environment of a significant part of Hampshire. A partnership between the County Council and the other local authorities with the SDNPA is a major opportunity to not only deliver the National Park purposes but also facilitate the development of public services.
- 2.3. However, the SDNPA will be a local planning authority and the County Council will lose its powers in the SDNP. This means that future plans for minerals and waste will be prepared by the SDNPA. However, of more relevance to this Committee is the fact that the mineral and waste applications and sites that the County Council currently administer will be dealt with by the NPA along with applications for development associated with the County Council's own services.
- 2.4. The County Council in most years 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 26 schools, including a secondary, The Petersfield School, whose development can 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 through planning applications, other development management and development plan issues. All these will pass to the NPA for decision without recourse to the previous local planning authority.

- 2.5. The challenge for the partnership arrangements will be to secure arrangements between the County Council, and the other local planning authorities, and the NPA whereby decision making in the planning arena still has local input but the public receive a coherent and accessible service across the SDNP area.

3. Proposed Planning Delegation Framework

- 3.1. In order to address the issue of loss of local input into planning decisions by the NPA a planning delegation framework under S101 of the Local Government Act 1972 is proposed. Outlines of an interim legal agreement are attached as an Appendix. This would in effect create an 'agency' agreement between the SDNPA and current local planning authorities for the delivery of planning services so that the majority of planning applications and other development management functions will still be administered and decided on by them.

- 3.2. On the 15 June 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;*

4. 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;

5. 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;

6. 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 31st July 2010, binding them to provide an effective planning service from 1st 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;

7. 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;

8. 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;

9. 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.'

- 3.3. If the County Council enters into an agency arrangement as described above it would help facilitate local planning authority influence within the SDNP area. Relevant planning applications would still be processed through County Council systems and those applications that do not have significance for the SDNP would be determined by the Regulatory Committee or under officer delegation arrangements. In practice this would mean such applications would have to be identified separately on the agenda and in all cases, delegation or Committee, would have to be determined with reference to National Park purposes – see 2.1 above.
- 3.4. Those cases that are judged to have significant impact and therefore contrary to the National Park purposes would still be determined by the NPA. In practice about 150 of the potential 4000 or so applications that would be within the SDNP area would fall in this category. However, because the applications determined by the County Council are 'strategic', a disproportionate number, about half, of those in the Hampshire part of the SDNP would be determined by the SDNPA. Nevertheless, the County Council would submit comments on such applications as a 'neighbouring authority' so that the SDNPA has the benefit of local knowledge and understanding that the County Council has about significant applications. It would also monitor and enforce the mineral and waste sites on behalf of the SDNPA.

4. Procedural implications for the Regulatory Committee

- 4.1. It is for full Council to determine the overall acceptability of the proposed agency agreement as it has both resource and planning procedural implications and a report will go to the July meeting. The principal concern for the Regulatory Committee is the impact of the planning delegation framework on its business and report its views to the County Council.
- 4.2. If the planning delegation framework is adopted it is judged the impact on Committee business will vary year to year. Although only a few applications in the SDNP area are administered each year by the County Council - see 2.4. above - some can have important impacts not only for National Park purposes but also local communities. The minor planning matters will be dealt with under the current officer delegation arrangements, recently reviewed by the Committee. At the other extreme 'major' planning applications would still be determined by the NPA. These cases would be reported to the Committee who would provide on behalf of the County Council a view of the application as 'neighbouring authority'.
- 4.3. The important procedural matters concern planning applications and other matters that the Committee would determine on behalf of the NPA. These cases would be reported in the normal way, but would be identified clearly on the agenda as decisions to be made on behalf of the NPA. The important difference is that the determination of the application has to take into account National Park purposes – see 2.1. above. In this regard training would be arranged for Members so that they are fully aware of and can apply the duties to any SDNP application that they may have to determine
- 4.4. A final issue in the planning delegation framework relates to applications that the Committee wish to determine contrary to officer recommendation. In these circumstances a 'cooling off' provision is proposed prior to confirmation of the decision to allow the NPA to consider 'calling in' the matter for decision.

5 Conclusion

- 5.1. As from April 2011 the County Council will no longer be the local planning authority for that part of Hampshire that is in the South Downs National Park. However, the South Downs National Park will bring benefits to Hampshire and the proposed planning delegation framework will allow the County Council to continue to influence planning decision making. The planning delegation framework is part of the partnership of public sector organisations delivering services to the people of Hampshire.
- 5.2. The overall impact on the functioning of the Regulatory Committee is marginal. There would be slight changes in the manner that the Regulatory Committee would address South Downs National Park applications and some minor adjustments to practices would be required. However, in the context of the benefits the South Downs National Park will have for Hampshire the proposed planning delegation framework is considered an acceptable way forward.

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 S1010 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 Chief Executive to negotiate the details associated with the agreements and conclude such agreements accordingly.

Links to the Corporate Strategy

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| Hampshire safer and more secure for all: | no |
| Corporate Improvement plan link number (if appropriate): | |
| Maximising well-being: | no |
| Corporate Improvement plan link number (if appropriate): | |
| Enhancing our quality of place: | 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.)

Document

Location

None