

<b>Subject:</b>	<b>South Downs National Park Authority – Delegation of Development control function to constituent authorities</b>	
<b>Date of Meeting:</b>	<b>15 July 2010</b>	<b>Council</b>
	13 July 2010	Governance Committee
<b>Report of:</b>	<b>Director of Environment</b>	
<b>Contact Officer:</b>	<b>Name: Rob Fraser</b>	<b>Tel: 29-2380</b>
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<b>Wards Affected:</b>	<b>All</b>	

**FOR GENERAL RELEASE**

Note: By reason of the special circumstances, and in accordance with section 100B(4)(b) of the 1972 Act, the Chair of the meeting has been consulted and is of the opinion that this item should be considered at the meeting as a matter of urgency for the following reason. The South Downs National Park Authority expects all Local Authorities to formally confirm their acceptance of the delegation scheme by 31st July 2010, and to have signed the attached legal agreement by that date. This is necessary to ensure that the NPA can be confident that a satisfactory planning service can be provided from 1st April 2011.

The special circumstances for non-compliance with Council Procedure Rule 7, Access to Information Rule 5 and Section 100B (4) of the Local Government Act as amended (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) is that it has come to light there is an expectation from the South Downs National Park Authority that the delegation scheme would be signed and approved by the 31 July 2010.

**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The new South Downs National Park Authority (SDNPA) came into being on the 1 April 2010 but will have a year to prepare itself before it becomes fully operational. The SDNPA will assume planning powers for the area of the National Park on 1<sup>st</sup> April 2011. The SDNPA is seeking Local Authority agreement to a proposal to delegate back (at least in the short term) development control powers to the Local Authorities currently exercising those powers. The proposal includes a 'Joint working agreement to providing planning services from 1<sup>st</sup> April 2011' (Appendix 1) binding local authorities to providing planning services from 1<sup>st</sup> April 2011 and a 'Draft proposal for funding a scheme of planning delegation' (appendix 2). These anticipate a section 101 agreement with participating authorities. A Draft scheme of delegation (appendix 3) is included for information but is subject to change.

The Joint working agreement makes clear that this is an interim agreement for three years whilst the SDNPA considers how best to deliver its planning services. In the event that this is extended the financial agreement makes reference to a review after 3 years.

- 1.2 This report therefore seeks the agreement of the Governance Committee to accept the proposal on the terms proposed and amend the constitution to accommodate the proposed delegation of development control functions.

## **2. RECOMMENDATIONS:**

- 2.1 Note the scheme of delegation agreed by the SDNPA; the draft Joint working agreement under Section 101 of the Local Government Act 1972 and the Draft funding proposals as set out in appendices 1 & 2 and 3 attached.
- 2.2 That Governance committee recommend that Council agrees the delegation of development control functions from the SDNPA to the Council on the temporary basis proposed, subject to any review.
- 2.3 That the Head of Law be instructed to make any necessary amendments to the Constitution to reflect the interim delegation to the Council of SDNPA development control powers.

## **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 On the 12th November 2009 the creation of the South Downs National Park was confirmed by Hilary Benn, Secretary of State for Environment, Food and Rural Affairs. The South Downs National Park came into being on 31 March 2010 and the Sussex Downs and East Hampshire Areas of Outstanding Natural Beauty (AONBs) were revoked. Designation as a National Park is a formal recognition of the special qualities of the South Downs in terms of natural beauty and opportunities for open-air recreation. The famous South Downs Way, loved by walkers, cyclists and horse riders, stretches the entire 160 km length of the Park from Winchester in Hampshire to the white chalk cliffs of Beachy Head, near Eastbourne.
- 3.2 The South Downs National Park Authority is the lead organisation responsible for promoting the purposes of the National Park. The Authority has 27 Members appointed from Local Authorities covering the Park, Parish Councillors plus National Members appointed by the Secretary of State. It came into being on the 1 April 2010 but will have a year to prepare itself before it becomes fully operational in April 2011, including becoming the statutory Planning and Access Authority. In the meantime the existing respective planning authorities will continue to decide applications within the National Park.
- 3.3 Covering an area over 1600 square kilometres it is not the largest National Park but it is the most populated. The SDNPA would nonetheless be geographically one of the largest planning authorities and have one of the busiest caseloads in the country. An in-house planning service would require setting up a very large planning system and recruiting over 100 staff before April 2011.

- 3.4 Options for the administration of the National Park were considered by DEFRA and CLG in discussion with the affected Local Authorities in the lead up to the announcement of the National Park. The Shadow Authority has therefore built upon this work and is now proposing a scheme of delegation closely relating to that suggested by the affected authorities.
- 3.5 During the shadow year (April 2010 to April 2011) the South Downs National Park Authority will not be the planning authority, its role in planning will be consultative / advisory (if it chooses to take on this role, which is discretionary during the shadow year). Whilst the South Downs National Park Authority will have planning duties from April 2011 it has decided that at least initially it would prefer to concentrate on its plan making (policy) functions and delegate back to the 15 constituent local authorities some of its planning services (particularly some of the smaller development control functions that they were previously carrying out). The SDNPA would work with Local Authorities to complete their LDF documents as co signatory as an interim policy arrangement.
- 3.6 The delegation option is an interim arrangement. It allows the SDNPA to monitor how this arrangement works and to set up an in house system if this proves not to be satisfactory.
- 3.7 Any functions carried out by participating authorities would be carried out in the name of, and using the logo of, the SDNPA.
- 3.8 There are certain types of decision the SDNPA is not legally allowed to include in this arrangement so the SDNPA would hold back for decision certain major planning applications.  
Additionally the scheme of delegation allows for the SDNPA to call in any application decision it considers to be 'significant' regardless of the size of the application.  
The proposed threshold for decisions to be taken by the national park is the normal 'large application' threshold of 10 dwellings, 100 sq m of commercial floor space, or a site of over 0.5 hectares.  
Local Authorities will continue to provide all necessary functions (ecology, historic buildings etc. advice) to support the development control function.
- 3.9 The Joint working agreement makes clear that this is an interim agreement. The agency agreements should initially operate for three years whilst the SDNPA considers how best to deliver its planning services. There will be a 1 year notice to terminate on either side.  
The draft funding proposals indicate that the intention is to create a scheme which is cost neutral to those participating. In the event that the agreement is extended a review in year three is proposed in the draft agreement for implementation in year 4.  
The SDNPA anticipates funding from DEFRA of £4.5 M transferred from a top slice of the National Revenue support grant.

#### **4. CONSULTATION**

- 4.1 The proposal now in front of the committee follows lengthy consultation with the affected Local Authorities facilitated by DEFRA and CLG in the lead up to the establishment of the SDNPA.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 5.1 The draft funding proposals indicate that the intention is to create a scheme which is cost neutral to those participating. In the event that the agreement is extended a review in year three is proposed in the draft agreement for implementation in year 4.  
During the review in year three the financial implications will be investigated in full

*Finance Officer consulted: Patrick Rice      Date: 01/07/10*

##### Legal Implications:

- 5.2 Section 101 of the Local Government Act 1972 provides that a local authority may arrange for the discharge of certain of its functions by another local authority. Development control functions can be so discharged.

As currently drafted the Council's Constitution does not provide for Planning Committee nor the Director of Environment, exercising delegated powers, to carry out planning functions on behalf of the South Downs National Park. In order to allow Planning Committee and the Director of Environment to carry out those functions which it is intended to delegate to the Council under the terms of the proposed Joint Working Agreement with the South Down's National Park it is therefore necessary to amend the Constitution to enable such functions to be carried out.

*Lawyer consulted: Elizabeth Culbert      Date: 30/06/10*

##### Equalities Implications:

- 5.3 There are no identified adverse Equalities implications to the proposal that Brighton and Hove continue to undertake the planning control service for the area included within the National Park

##### Sustainability Implications:

- 5.4 None identified.

#### **6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 A range of alternative options were discussed and investigated during the lead up to designation of the National Park and these were considered by the Shadow Park Authority since April this year. The proposed scheme is anticipated to be broadly acceptable to all authorities. A number of Authorities (notably Lewes and Chichester) have significant parts of their local Authority area incorporated into

the National Park. This has significant implications for their provision of an affordable and efficient planning service within those areas. Consequently the most affected authorities have sought to persuade the new SDNPA to give the maximum level of delegation.

- 6.2 In comparison the number of applications dealt with by Brighton and Hove City Council is considered to be insignificant.
- 6.3 A number of variations of delegation arrangement and a number of thresholds, at which the SDNPA will determine the application themselves, have been considered.

## **7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 The proposed delegation arrangements are considered to be workable, likely to be widely acceptable to all affected authorities, not unduly onerous and achievable within the resources available within the planning division. The delegation arrangements and financial proposals will both be subject to review.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

- Appendix 1 'Joint working agreement to providing planning services from 1<sup>st</sup> April 2011'
- Appendix 2 'Draft proposal for funding a scheme of planning delegation'
- Appendix 3 Draft scheme of delegation (for information only)

<b>Documents in Members' Rooms</b>	None
<b>Background Documents</b>	None

