

NFNPA 548/18

**ANNEXES TO REPORT TO THE AUTHORITY
ON 15 JUNE 2018**

NFNPA/RAPC 363/18

NEW FOREST NATIONAL PARK AUTHORITY

RESOURCES, AUDIT AND PERFORMANCE COMMITTEE – 14 MAY 2018

REQUEST FOR JOINT WORKING

Report by: Alison Barnes, Chief Executive

1. Summary

- 1.1 Members will recall that the proposals for improved working arrangements set out in the letter from the Chief Executive of New Forest District Council dated 23 February 2018 would be referred to the next meeting of the Resources, Audit and Performance Committee (RAPC) for assessment in terms of the criteria contained in my earlier report to the Authority meeting on 22 March 2018 (NFNPA 546/18). Thereafter, the matter is to be reported back to the Authority meeting on 12 July 2018 to agree the Authority's formal response.
- 1.2 This report, collaboratively drafted with input from the Executive Leadership Team, senior planning managers and officers, sets out the relevant background and assesses the scope for further joint working in the four areas where New Forest District Council (NFDC) suggest improvements could be made, namely:
 - the formal leadership engagement between both organisations
 - working together
 - shared services
 - creation of a single managed planning service across the NPA and NFDC areas.
- 1.3 The assessment criteria considered and agreed at the Authority meeting on 22 March 2018 (whilst not intended to be exhaustive) included:
 - Is it legally within the Authority's remit?
 - Is it good for the New Forest National Park?
 - Does it support the National Park Purposes and Duty?
 - Is it good for the Authority?
- 1.4 A copy of my earlier report together with a copy of NFDC's letter of 23 February 2018 is attached as **Annex 1**.
- 1.5 It is important to consider these requests in the light of the Authority's purposes and duty as set out through the Partnership Plan, agreed new three-year Business Plan (2018 – 2021¹), the recently published 25-year Environment Plan and the current draft National Planning Policy Framework (NPPF). Our agreed programmes of work (Protect, Enjoy, Prosper and Achieving Excellence) have been designed, budgeted and resourced to work together as a whole, so they can be delivered in an integrated way across teams

¹ See link to new Business Plan - <http://www.newforestnpa.gov.uk/app/uploads/2018/03/NFNPA-543-18-Annex-1-Business-Plan-changes-accepted.pdf>

and with partners. Our planning service is at the forefront of this integrated work programme and the wider delivery of our two statutory purposes and associated duty as set out in the Environment Act 1995. The Authority is looking to work with a range of partners to deliver an ambitious programme of work, including:

- The delivery of the actions identified in the adopted New Forest National Park Partnership Plan 2015 - 2020, which requires the contribution of a wide range of statutory bodies, local organisations and extensive engagement with the communities in and around the National Park.
- Championing the New Forest at a national level and locally with all our public, private and third-sector partners.
- Completing the update of the Recreation Management Strategy for the National Park to ensure that people enjoy the special qualities of the New Forest in a way that does not damage its landscape and protected habitats.
- The delivery of key policy objectives within the 25-year Environment Plan relating to natural capital and net environmental gain.
- Engaging positively with all neighbouring local planning authorities, both those represented on the Authority and those to our western boundary, to ensure the statutory 'duty of regard' towards the two National Park purposes is delivered.
- Working across boundaries to address important strategic matters such as the approach to habitat mitigation measures from planned new development around the National Park; the development of a strategic approach to development along the Waterside (including the Fawley Power Station); and post-Brexit land management.

2. Background to the request

- 2.1 NFDC recently underwent a corporate peer challenge by the Local Government Association (LGA), which is designed to complement and add value to a council's own performance and improvement focus.
- 2.2 The LGA feedback report noted that the relationship with the Authority was of key importance, as reflected in the extract below:

The relationship with the NFNPA is of key importance – for example in addressing the need for more housing. The Council needs to ensure that this relationship is strong enough to allow for robust challenge and for areas of difference to be resolved. The Council should consider whether a formal engagement mechanism, involving leading District Councillors and Park Authority members would better enable the Council and Park Authority to discuss their respective areas of interest and provide an opportunity for improved cooperation and challenge, where appropriate. Currently, there are eight District Councillors who sit on the Park Authority (out of a total of 22 members of the NFNPA). Four are appointed by the District Council and four by the County Council, including both the Leader and Deputy Leader of the Council. A more formal arrangement for relationships between the Council and Park Authority could help to ensure leading Councillors are in a position to maximise their influence. Although to be fully effective, it would require a review of existing appointments to the Park Authority.

- 2.3 Two of the eight key recommendations of the NFDC Peer Review Report were to:
 - *Develop the strategic framework with underpinning action plans to deliver the Council's vision for the broader area*

- *Review the requirements for more formal engagement arrangements with the National Park Authority including, to be fully effective, a review of current appointments to the National Park*

2.4 The letter from NFDC seeks to respond to the recommendations from the peer review as one of the four areas where they are seeking improvements:

- the formal leadership engagement between both organisations
- working together
- shared services
- creation of a single managed planning service across the NPA and NFDC areas.

Each of these four themes are taken in turn below.

3. The formal leadership engagement between both organisations

- 3.1 As noted in the LGA Peer Review Report, NFDC Councillors account for one third of the Authority's membership and have over the years held various senior positions on the Authority including Vice Chairman of the Authority (twice) as well as Chairman and Vice Chairman of both our Planning Committee and our Resources, Audit and Performance Committee. All four of the District Council's direct appointees are members of the Authority's Planning Committee.
- 3.2 The composition of the membership of the Authority is legally established through the New Forest National Park Authority (Establishment Order) 2005, summarised in **Annex 2**. This statutory instrument stipulates the number of member appointees by each of the four constituent authorities in the National Park. The membership of the National Park Authority was reviewed and re-confirmed by the Government in 2012. The Government's National Parks Circular 2010 (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/221086/pb13387-vision-circular2010.pdf) confirms that all Authority members, no matter how they are appointed, should regard themselves first and foremost as members of the Authority, with a duty to act in the best interests of the Authority and of the National Park, rather than as representatives of any interest group or appointing body.
- 3.3 There are a number of existing arrangements in place that support close working and active Member engagement, which range from the Joint Member Advisory Group meetings on our Local Plan work, the Consultative Panel, Quadrant meetings, through to NFDC councillors being able to 'call in' planning applications to the Authority's Planning Committee and speaking at those meetings (with no time limits). It is acknowledged that these arrangements do not enable systematic engagement of all NFDC councillors, and therefore some may not be fully briefed on the work of the Authority.
- 3.4 The need for more formal leadership engagement, especially between local Councillors and Authority Members of all constituent authorities, recognising the importance of working across our boundaries, has recently been recognised through the New Forest

Leadership Group ²- this group was specifically established to drive forward delivery of, and engagement events through, the wider Partnership Plan.

- 3.5 The recommendation and findings of the LGA Peer Review are noted. We could explore a format for a new forum providing it offers NFDC Councillors and Authority Members an equal opportunity to come together to discuss and agree a more strategic approach to 'big ticket' items across the wider New Forest area, particularly in relation to issues such as housing allocations and affordable housing, the update of the Recreation Management Strategy, the Green Halo Partnership and the imminent review of the National Park Management/Partnership Plan.
- 3.6 The Forum would have no formal decision making powers and would need to be constituted to serve the shared interests of NFDC and the Authority, having regard to Section 62 of the Environment Act 1995 which requires all relevant authorities "exercising or performing any functions in relation to, or so as to affect, land in a National Park" to have regard to National Park purposes. This recognises that the delivery of the statutory National Park purposes rests with a range of organisations, not just the National Park Authority. The same section of the Act is also clear that when it appears that there is a conflict between the two purposes, then greater weight shall attach to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park (sometimes referred to as the 'Sandford principle'). Any such Forum would need to be seen as valuable by all its members, certainly not as an additional time or administrative burden, and members would need to be satisfied that none of the existing forums or groups could achieve the same purposes.

4. Working together

- 4.1 Working closely and effectively with our partners and communities, which include 80+ stakeholder groups, 37 parishes and numerous public, private and third-sector organisations, is a central theme of our new Business Plan. A number of the 'projects and developments' listed in section 2 of NFDC's letter exemplify this joint-working through our relationship with them. We support taking this programme of joint working forward where it supports our purposes and duty and serves to improve the environment, support land management that delivers public benefits and connect people with nature. There are opportunities for developing this joint working further within our existing structures.
- 4.2 Attached as **Annex 3** is a list of all areas of work where we currently work jointly and in partnership with NFDC.
- 4.3 However, in thinking about working more closely with NFDC, it is important that Members and officers remain aware of our capacity to meet the wider expectation of government, stakeholders and communities for us to promote and achieve joint working that will deliver our business plan across the range of public, private and third-sector organisations within and beyond the Forest, e.g. at a national level and the NFDC and Authority's administrative areas to our West. The National Park includes land within three other local authority areas (the counties of Hampshire and Wiltshire and borough of Test Valley) as well as New Forest district. All these authorities play important roles in the work of the Authority and supporting what is good for the New Forest National

² The role of the NF Leadership Group is to build capacity and understanding within the partners' organisations and develop further collaboration and efficient joint working across the National Park and wider New Forest Area

Park. To deliver the Section 62 'duty of regard' towards the National Park purposes, the Authority is looking to work in partnership with all of its neighbouring authorities. This is reflected in the agreed actions in the National Park Partnership Plan 2015 – 2020, and the recently successful joint bid by six planning authorities in and around the New Forest for Government funding to help develop a consistent strategic approach to habitat mitigation measures.

5. Shared Services

- 5.1 We have shared specialist services with NFDC since the inception of the National Park. As a general rule, the Authority has procured corporate support services from NFDC (e.g. HR, GIS, Finance etc.) whilst we have provided planning support/specialist services to NFDC (e.g. Ecology, Trees, Building Design, Conservation and Archaeology). These arrangements perform well for both organisations and are governed by detailed Service Level Agreements (SLAs). The SLAs for Building Design & Conservation, GIS and Agresso support were renewed last month.
- 5.2 We are willing to explore with NFDC the possibility of extending these shared services further to include the joint commissioning of new software to support our respective planning services that would allow the SLAs to operate in a much more effective and efficient manner, to include options for a shared planning database.
- 5.3 These SLA arrangements are legally within our remit and deliver a number of mutual benefits to both organisations that include:
 - Sharing scarce specialist resource/staff
 - Recruitment and retention of staff
 - Opportunities to manage cross-boundary issues - e.g. the three Conservation Areas that straddle the national park boundary
 - Efficient and effective use of resources

6. The proposal for creation of a single managed planning service

- 6.1 NFDC say that they have experienced difficulty in recruiting planning officers at a time when the volume and complexity of planning work is increasing.
- 6.2 NFDC's response to this challenge is its proposal to create a 'single managed planning service' although the details about how this could work are far from clear and would benefit from some further clarification on exactly what is being suggested. There appears to be an inherent conflict in so far as the proposal advocates the creation of a single managed service (which has been interpreted by many as a proposed merger of the NFDC and Authority planning departments) but then stresses that apart from one Head of Service post, all other planning staff would continue to work from their "current locations for their existing employer". As an example, it is difficult to see how an employee of one organisation could make line management decisions affecting the employees of another organisation.
- 6.3 Under Section 67 of the Environment Act 1995 and Section 4A of the Town and Country Planning Act 1990 the Authority is the sole statutory planning authority for the whole of the New Forest National Park. This covers the development control, planning enforcement, planning policy and minerals and waste functions; further detail on the Authority's statutory planning functions is set out in **Annex 4**. The planning function is

- given to independent National Park Authorities as the principal mechanism for delivering the National Park's two statutory purposes and associated duty.
- 6.4 The Authority has established a good reputation for delivering a responsive and accessible planning service focused on the first purpose. This was recognised in the Authority's own Peer Review Report (2012) which commended our strong and effective planning service and this matched the findings that same year of an independent benchmarking exercise undertaken through the Planning Advisory Service. The National Park Authority's planning team performs extremely well against a range of national key performance indicators (of our 10 KPI's, all of the targets were achieved and six were significantly exceeded) and we receive consistently positive feedback through our planning agents and applicant satisfaction surveys. The team have successfully delivered up to date Local Plans for the National Park against challenging timescales and an ever changing policy backdrop.
- 6.5 Over the last 12 years the National Park Authority has developed a planning service specially designed for a National Park, which necessarily focusses staff resource on specific issues that arise in a protected landscape through specialist officers covering landscape, ecology, trees, archaeology, building design and conservation. Our planning staff are well motivated to work within the National Park, with relatively low turnover; they have developed specialist skills and knowledge and work closely with their colleagues both within and beyond the Authority to enable the delivery of a tailor made National Park planning service.
- 6.6 It is clearly in the Authority's interest to have a strong and successful neighbouring NFDC planning service, however with increasing demands on our officers with respect to planning and wider priorities, it is unclear how practical, in terms of capacity and support, it would be to have a single shared Head of Service serving two busy local planning authorities and maintaining the high performance described above. The Authority would be reducing the capacity of its own senior planning and leadership resource at a time when the Authority is looking to respond to increasing pressures for new development as well as expectation that we deliver priorities in the Government's 25-year Environment Plan and the revisions to the NPPF. The single-managed planning service proposed would necessitate a significant restructure of the Authority's planning team and Executive Leadership Team. NFDC receive many more planning applications than the National Park, which invariably are more urban focused, with the risk that any new Head of Service would spend a proportionally greater amount of their time on attending to and overseeing NFDC planning related matters rather than those in the National Park.
- 6.7 It is important to note that we do not have a single role dedicated to the management of our planning service, instead this role is combined in one person at the Executive Leadership level so that it is also a key resource in corporate leadership, leading on health & safety, the Partnership Plan, developing strategy and undertaking extensive and vital stakeholder/community advocacy and engagement. Given that all these elements will continue to be required, the reduction in capacity and availability of expertise at a most senior level and the time/investment that would be needed to backfill roles, it is not considered that the shared officer proposals set out in the NFDC letter would lead to any financial saving on the part of the Authority.
- 6.8 Since its inception, the planning service, alongside the rest of the Authority, has had to justify its core funding through regular efficiency and effectiveness reviews and, in more recent years, to make significant financial savings following reductions in our central Defra grant. Since 2006/07 the comparative costs of the planning service have been

reduced by around 20% (from £1.4m down to £1.1m) whilst maintaining a strong and effective service, including delivery of the existing service level agreements to NFDC.

- 6.9 Planning within a nationally protected landscape fundamentally differs from the approach taken outside the National Park; it is driven by the delivery of the statutory National Park purposes (and related socio-economic duty) as opposed to the presumption in favour of sustainable development that applies outside the National Park. Different national planning policies and Permitted Development Rights apply within the National Park in recognition that a different approach is required. There are strong concerns amongst officers that a single managed planning service would seriously undermine and weaken the detailed focus that is currently brought to bear on planning issues affecting the National Park and in turn the Authority's delivery of the first purpose – this could be detrimental to morale, motivation and performance. We are already aware of concerns of some partners about this proposal and we must also consider the impact of any changes on perception of the public on our ability to act independently in pursuit of the National Park purposes and duty. There may be unavoidable impacts on our reputation and challenges brought forward, whether true or not.
- 6.10 In order to assist members in considering the request, legal advice has been sought as to whether entering into such a planning arrangement would be within the Authority's powers of competence and compatible with its statutory purposes. We have also asked for advice to provide members with guidance on any possible conflict of interest in discussing and deciding on the matter. We anticipate that this advice will be received early next week and we will then make it available to members.
- 6.11 Officers are therefore of the firm view that in order to properly discharge our statutory functions, and to be unequivocally understood to be doing so by stakeholders and communities, the Authority must retain an independent, stand-alone planning service for the National Park as prescribed in the 1995 Environment Act. Primary legislation is clear that the National Park Authority shall be the sole local planning authority for the area of the National Park with full planning responsibilities. This is reiterated in the English National Parks and the Broads: UK Government Vision and Circular 2010, cross-referenced within both the existing and consultation draft National Planning Policy Framework. For the reasons set out regarding remit and resourcing, officers do not feel that NFDC's proposal for a single managed, combined planning service or shared 'Head of Service' post is workable, but do believe there are other options for improved joint working.

7. Other options for delivering improved joint working

- 7.1 It is suggested that both authorities could develop ways of improved working and formalise existing joint working on planning and housing; to include:
- Preparing a strategic development framework for the Waterside
 - The handling and determination of the anticipated outline planning application for the Fawley Waterside proposals
 - Joint commissioning of data and evidence to support local plans and wider strategic plans/partnerships (also beneficial to do with other constituent and neighbouring Authorities and agencies)
 - Preparation of a joint SPD or equivalent document on provision and future management of SANGs (also with other constituent and neighbouring Authorities)

- Adoption of a memorandum of understanding to guide joint work on affordable housing
- Biannual updates/reports on joint planning and other work to NFDC cabinet
- Joint CPD events to promote shared understanding and knowledge between NFNPA and NFDC planning staff (also beneficial to do with other constituent and neighbouring Authorities and agencies)
- Commissioning a new joint planning database/ICT system
- Assisting NFDC in any review of their National Park appointments arising from the Peer Review.

7.2 By its nature, much of this work could be overseen and led by the Authority's Executive Director, with NFDC making an appropriate contribution towards the costs. In this scenario, staff engaged would remain the sole employees of the Authority, but deliver an agreed service in the same way as employees already deliver shared services. This programme of work is closely aligned to the Authority's Business Plan outcomes which look to work beyond our boundaries with a wide range of partners, with the focus on delivering our purposes and duty in partnership.

8. RECOMMENDATIONS

That it be recommended to the Authority that:

- i. Members note that, due to remit and resource constraints, the proposal for a shared Head of Service and single managed planning service across the National Park and District Council areas is not workable.**
- ii. Members propose their preferred alternative arrangements, which may include:**

The existing shared service arrangements continue to be supported and to actively explore with NFDC opportunities for extending these shared services as set out in Section 7 above
- iii. The Authority's Chief Executive and Chairman work with NFDC's Chief Executive and Chairman to explore opportunities for a new Forum for NFNPA Members and NFDC Councillors to come together to discuss and agree a strategic approach to the 'big ticket' items; the constitution and terms of reference of such Forum to be ratified at a future Authority meeting.**