

Report to: **Lead Member for Transport and Environment**

Date: **7 November 2005**

Title of Report: **South Downs Joint Committee; Delegation of Countryside Functions**

By: **Director of Law and Performance Management**

Purpose of report: **To propose delegation of certain functions to the Joint Committee**

RECOMMENDATION

The Lead Member is recommended to delegate the functions set out in Appendix A to the South Downs Joint Committee

1. Financial Appraisal

1.1 There are no direct financial implications as a result of this proposal. The County Council's contribution to the South Downs Joint Committee remains on the same basis as the former Sussex Downs Conservation Board. The Treasurer to the Joint Committee consults the constituent partners annually on their level of contribution based on a draft budget approved by the Joint Committee.

2. Background

2.1 The South Downs Joint Committee has now been set up as an interim measure for the period 2005 to 2008 when the situation will be reviewed following the Minister's decision on the Inspector's report following the Public Inquiry on a proposed South Downs National Park. The object of bringing the Sussex Downs Conservation Board and the East Hampshire Area of Outstanding Natural Beauty (AONB) Joint Advisory Committee together was to ensure a positive agenda to deliver actions for conserving and enhancing the South Downs in the interim period before the appointment of any successor body.

2.2 The agreement was approved and signed by the constituent authorities in the Sussex Downs and East Hampshire AONBs in spring 2005. The new Joint Committee held its first meeting on 8 July 2005.

2.3 The South Downs Joint Committee has 15 members co-opted on the nomination of the Countryside Agency. A Statutory Instrument is necessary under section 13 (4) and (9) of the Local Government and Housing Act 1989 to enable co-opted members to enjoy full voting rights. Any powers delegated to the Joint Committee by the County Councils will be specified in the Statutory Instrument.

3. The Proposal

3.1 The Sussex Downs Conservation Board was established in 1992, under the provisions of the Local Government Act 1972 (section 102), the County Council delegated powers to enable the Board to deliver countryside management functions on its behalf within the AONB.

3.2 It is proposed that the functions delegated to the former Sussex Downs Conservation Board be delegated to the South Downs Joint Committee. The list of functions to be delegated is in Appendix A.

3.3 West Sussex County Council has formally delegated similar powers to the Joint Committee. Hampshire County Council has delegated the function of preparing, publishing and

reviewing a management plan for East Hampshire AONB under section 89 of the Countryside and Rights of Way Act 2000 and the annual expenditure allocated to the AONB.

3.4 The making of the Statutory Instrument will not prevent the County Council reversing the delegation of functions should there be any reason to do so.

ANDREW OGDEN

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Local Member(s): None

BACKGROUND DOCUMENTS

None

**COUNTY COUNCIL FUNCTIONS TO BE DELEGATED TO
THE SOUTH DOWNS JOINT COMMITTEE 2005**

1. NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT 1949

Section 21

The power to provide or secure the provision of Nature Reserves on any land in the area and the power to enter into an agreement with any Drainage Authority (Water Company) in relation to any drainage works.

Section 54

The power for any Local Planning Authority along a long distance route to make arrangements for accommodation, meals and refreshments. Includes the power to erect buildings and carry out works, with the consent of a relevant land owner or with the use of Compulsory Purchase powers.

Section 64

The power of a Local Planning Authority to make an access agreement with any land owner of open country and for the making of payment by the Planning Authority for the processing of the agreement.

Section 89

A Local Planning Authority may plant trees on land in their area to preserve or enhance the natural beauty. The power to carry out works on neglected or derelict land, either on land belonging to them or on land owned by others with their consent but extending to the power to acquire land compulsorily for the purpose. This may include an agreement with a land owner as to the future management of the land by the Authority.

Section 90

The power to make byelaws in respect of land belonging to the Authority in any area of outstanding natural beauty or land in respect of which access has been given by agreement, being byelaws for the preservation of order and prevention of damage to the land. May include restricting use, prohibit rubbish and litter, prohibit fires and may be limited to certain parts of the land.

Section 92

The power to a Local Authority to appoint Wardens to enforce byelaws, giving the Warden powers to enter land comprised in any access agreement.

2. COUNTRYSIDE ACT 1968

Sections 6 to 10

The powers to provide Country Parks, including those within waterways, to exercise certain powers over common land and to provide camping and picnic areas.

These powers may be exercised inside or outside the area of the Authority.

With reference to a Country Park, the Local Authority may extend, maintain and manage the Park, plant and improve the site, erect buildings and carry out works, provide facilities, shelters, accommodation and means of recreation.

This may be done in relation to land owned by the Authority or with the agreement of a land owner. A compulsory purchase power applies.

A Local Authority has the power to designate a Park or Pleasure Ground as a Country Park.

Where the Country Park includes any waterway, the services may include those relating to boating, bathing and fishing.

A further power to make byelaws for the use of such facilities and services is made.

A Local Authority may take land out of provision for common land in order to provide facilities described above, if doing so in the interests of those who would otherwise have access to the common land, including the provision of facilities, services, parking, accommodation and the erecting of buildings and carrying out of works.

The Local Authority will have the power to acquire compulsorily any land in the neighbourhood of the common land required for this purpose.

The power to establish Camping Sites for holiday and recreation and to provide picnic areas includes a power to acquire land compulsorily and the power to lease the site to others for management.

Section 16

Modifies and extends the powers and responsibilities of a Local Planning Authority in relation to the powers for providing public access to open country under Section 59 (et seq) of NPACA 1949 (although these powers not specifically delegated).

Section 20

The power to defray or contribute to the costs relating to the reproduction of maps and notices relating to public access to any land the subject of an access agreement.

Section 27

The power of a Highway Authority, after consulting an owner or occupier, to erect and maintain sign posts along a footpath, bridleway or byway. Includes a duty to erect sign posts where any such path leaves the Highway.

Power to give consent to others to erect sign posts along any such path.

Section 41

The power to make byelaws and related rules concerning the powers of Wardens with reference to Country Parks, Picnic Sites, etc. as provided for in Sections 7,9 and 10 above.

Such byelaws may control the use of land and waterways, deal with rubbish and litter, the lighting of fires, the regulation of fishing, bathing, etc. require the registration of vessels.

A Warden may enter land to enforce such byelaws.

Section 43

The power to provide and charge for facilities and services in connection with arrangements provided under the Act, including the provision of buildings.

3. HIGHWAYS ACT 1980

Section 41

The duty to maintain the Highway at public expense. Includes arrangements for the designation of trunk roads.

Section 62

The general power to improve roads and to carry out works at public expense, to include the widening of carriageways and footways, provision of cycle tracks, provision of subways, barriers, fences, etc. construction of bridges, planting of trees and plants, provision of cattle grids, construction of road humps and other traffic calming measures, provision of drainage and provision of barriers.

Section 66 (3)

The power to maintain barriers, rails and fences for safeguarding those using a footpath on a Highway.

Section 96 (4)

The planting of trees, laying out of verges or removal of the same, and provision of fencing, etc. on Highways for which the Authority is not the Highway Authority but with the consent of that other Authority.

Section 100

The power to construct drains, lay barriers and clean and maintain drainage relating to the Highway.

The duty to compensate owners or occupiers of land suffering damage resulting from the exercise of the power. The power to carry out works and remedial measures relating to damage caused by others and to recover expenses from such a person.

The power to carry out the works relating to a Sewerage Undertaker contained in Section 158-168 Water Industry Act 1991 relating to the drainage of Highways.

4. WILDLIFE AND COUNTRYSIDE ACT 1981

Section 25

The power to publicise relevant powers under the Act and to institute proceedings relating to any offence under Part 1 (relating to the protection of wild birds, eggs, certain wild animals and controlling methods of killing wild animals, the protection of wild plants and endangered species).

Section 39

The power to enter into management agreements with land owners in order to conserve or enhance the beauty and amenity of any land.

The agreement may restrict the cultivation or agricultural use and otherwise control works over the land and may confer on the Authority the power to carry out works for any of its functions under the 1949 and 1968 Acts. Such agreements will be binding on persons deriving Title from the original maker of the agreement.

Section 49

The power to appoint Wardens to exercise any powers and to do so over any other land if this has the agreement of the owner.

Section 62

The power to appoint Wardens for managing footpaths, bridleways and byways.

5. LITTER ACT 1983

Sections 3-13

The power to consult other Authorities so as to make arrangements for the abatement of litter and the duty to prepare a formal statement on such proposals.

The power to provide, maintain and empty litter bins, the power to sell litter and the power to prosecute for offences of removing or interfering with any litter bin.

The power to contribute to any expenses incurred by a Parish Council in exercising the power of a Litter Authority.

6. ENVIRONMENTAL PROTECTION ACT 1990

Section 89

The duty of a Highway Authority to keep the Highway free of litter, including the duty to maintain signs, barriers, etc. to warn of or prevent danger when carrying out cleansing, etc. and to abide by any relevant Code of Practice.

7. COUNTRYSIDE AND RIGHTS OF WAY ACT 2000

Section 89(2)

Duty to prepare and publish a plan which formulates the County Council's policy for the management of the Sussex Downs area of outstanding natural beauty and for the carrying out of its functions in relation to it.