

# Natural England Board



Title: **Confirmed minutes of the twenty seventh Natural England Board Meeting on 28 September 2011**

<b>Members attending</b>	<b>Executives</b>
Poul Christensen (Chair)	Guy Thompson
Helen Phillips (Chief Executive)	Jim Smyllie
Catherine Graham- Harrison	Dave Webster
Tony Hams	Andrew Wood
David Hill	
Joe Horwood	<b>Secretariat</b>
Doug Hulyer	David Slater
Nigel Reader	Emily Finnie
Andy Wilson	
	<b>In attendance</b>
<b>Apologies</b>	Julie Lunt, head of Legal Services, Item 3
Peter Allen	David Vose, Project Manager, Lakes to Dales Project, item 3.
David Macdonald	
	<b>Public Gallery</b>
	Susannah England, Lakes to Dales Project, item 3
	Sylvia Evans, Trade Union Side Secretary
	Geoff Audcent, Defra Natural England Sponsorship Team

## Welcome from the Chair

The Chair welcomed everyone to the meeting. On behalf of the Board, Chair thanked Peter Allen for his enormous contributions to Natural England, particularly in managing relations with land management interests. In Peter's absence he wished to nevertheless record his sincere thanks and best wishes for the future.

Board members had no changes to make to the Register of Interests, or any particular interests to declare in relation to specific agenda items. However, Nigel Reader as a recently appointed Board member recorded that a protocol had been drawn up and agreed with Defra, Natural England and the Marine Management Organisation (MMO) to manage any potential conflicts of interest associated with being a Board member of Natural England and MMO. It was agreed that the protocol would be circulated to Board members.

**Action: Board and Executive Services Team to arrange circulation of Nigel Reader's protocol for managing potential conflicts of interest.**

Chair welcomed public meeting attendees Geoff Audcent from Defra, Sylvia Evans from Trade Union Side and David Vose from the Lakes to Dales Project.

## **1 Chair and Deputy Chair's Engagements (NEB PU27 01)**

- 1.1 The Board noted the stakeholder engagements conducted by Chair and Deputy Chair in the period between May and September 2011 Board meetings and the appointments scheduled before the November 2011 Board meeting.

## **2. Chief Executive's Report (NEB PU27 02)**

- 2.1 The Chair reminded the Board that this was an opportunity to exercise its scrutiny role. The Chief Executive invited questions on her report. The Board considered: Natural England's current strategic issues; delivery performance against corporate plan targets for 2011/12; and, the financial performance as at 31 August 2011. The Board:
- 2.1.1 extended thanks for the update on classic scheme renewals, and in the context of RDPE budget constraints, welcomed the report that 90% of expired classic agreements have joined Environmental Stewardship. In seeking confirmation that transfers would continue at this rate, noted that the expectation was this could not be higher and might be lower depending on other pressures.
- 2.1.2 offered congratulations on the financial position as at the end of August 2011, noted that the RDPE budget would be back on profile with end of September reports, and with 80% of the budget committed there were risks being managed around access and engagement and Olympic programmes;
- 2.1.3 recognised that staff satisfaction levels in February 2011 were understandably low, and in seeking evidence for an improvement as a result of the changes introduced on 1 April, 2011 noted that the survey would be repeated in the last quarter to report in Quarter 1 of 2012/13;
- 2.1.4 noted the update on Bovine TB;
- 2.1.5 expressed concern at the 'red' status of the SSSI condition target given the achievements of the previous year, and noted that this reflected a new target to increase the area of SSSIs in favourable condition, whilst maintaining the 95% area in favourable or recovering condition. It was noted that the net increase in favourable condition was behind profile but acknowledged Helen Phillips' reassurance that this was being well managed with the introduction of remedial measures to address on the ground and process issues;

**Action: Board and Executive Services to ensure that the Board is kept sighted on the SSSI condition target at a future meeting in the context of a discussion on England Biodiversity targets.**

- 2.1.6 was delighted that the integration target was 'green' demonstrating that our partners were satisfied with the quality of the working relationship they had with Natural England. That this had been achieved so soon after the changes was due to arrangements at the local level not being changed fundamentally as they had been regionally. The Board noted the Chief Executive took comfort from the strong package provided by the management of the transition combined with the setting of standards;
- 2.1.7 welcomed the support given to Defra on CAP reform negotiations, and noted that the 'amber-red' status was a reflection of the risk associated with CAP 2013 rather than Natural

England's performance;

- 2.1.8 welcomed additional funding secured from Defra to meet Water Framework Directive objectives and cooperation with the Environment Agency to use these funds to best effect;
- 2.1.9 noted the intention to work with Defra on guidance to support the natural environment sections of the National Policy Planning Framework.
- 2.2 The Chair thanked Helen Phillips for her comprehensive responses to the Board's questions and looked forward to the Quarter 2 report to the November Board.

**Action: Dave Webster to sponsor the Quarter 2 report for the November Board meeting.**

### **3. Lakes to Dales National Park Extensions: Designation Decision (NEB PU27 03)**

- 3.1 The Chair welcomed Julie Lunt, Head of Legal Services and David Vose, Project Manager Lakes to Dales National Park. The paper before the Board marked the Board's final consideration of the proposed boundary changes to the Lake District and Yorkshire Dales National Parks and was the culmination of a great deal of work for which the Project team were to be thanked.
- 3.2 David Vose gave a presentation covering:
  - 3.2.1 The background to the project. In addition to the paper for the agenda item the Board was invited to reach its decision based on all the information and evidence which had been provided to it including:
    - Board Paper (NEB PU18 03, November 2009): consideration of the initial evaluation and approval for the first consultation. This was followed by a site visit by the Board in March 2010.
    - Board Paper (NEB PU23 05 March 2011). Consideration of the analysis of responses to the first consultation (run from December 2009 – May 2010) and re-evaluation of proposals and approval for a further consultation including of proposed boundary amendments and a Strategic Environmental Assessment and Equality Impact Assessment (April – July 2011).
  - 3.2.2 The Board was reminded that the additional questions that had been asked in the most recent consultation were:
    - Orton Fells as an extension to the Yorkshire Dales?
    - Additions 1 and 2 to the Lake District extensions?
    - Additions 3 to 7 and Deletion 1 to Yorkshire Dales extensions?
    - Comments on the Strategic Environmental Assessment?
    - Comments on the Equality Impact Assessment?
    - Any other issues?
  - 3.2.3 The Board noted that the results of the most recent consultation are:
    - the balance of evidence remains in favour of including the Orton Fells in the Yorkshire Dales National Park;
    - very strong support for Additions 1 and 2 to the Lake District National Park extensions; support for the inclusion of a further area (labelled 'Addition 8' on the map in Annex 2) to the north of Sizergh Castle, within the Lake District National Park. In addition to the extensive consultation already undertaken, anybody may still make representations about this area during the 'deposit stage', directly to the SoS before a

decision to confirm the designation Order is reached;

- very strong support from consultees overall for Additions 3, 4 and 5 to the proposed western extension to the Yorkshire Dales National Park with a smaller but substantial number of objectors, many of whom are local to the area;
- strong support for Additions 6 & 7 and deletion 1 to the proposed western extension to the Yorkshire Dales National Park;
- in relation to the Strategic Environmental Assessment, that overall, in cumulative terms, there are likely to be significant positive effects particularly in relation to biodiversity, landscape, the historic environment and access. The determining factor for many of these potential effects however, will not be the act of designation itself, but could follow from future plans, policies and projects developed subsequently by the relevant authorities post designation, all of which would themselves be subject to the SEA process;
- in relation to the Equality Impact Assessment, that Natural England's original analysis is affirmed that direct impacts on equality groups are likely to be positive however both positive and some negative effects could potentially occur for some equality groups.

3.2.4 The Board also noted that many consultees focussed their responses primarily on wider issues of principle regarding the desirability of National Park designation, rather than the specific questions asked in this further consultation. The Board took account of all the responses in reaching its decision.

3.2.5 Furthermore, the Board noted that the responses to both consultations showed an overwhelming level of agreement from statutory and public consultees alike that the proposed areas meet the criteria for natural beauty and open air recreation.

3.2.6 Of the many issues of principle raised during both consultations, of particular concern were:

- Perceptions about the implications of designation;
- County boundaries and identity;
- Area specific issues and local campaigns;
- Decision making and localism.

3.2.7 Level of support as indicated in both consultations was summarised as follows:

- Both National Park Authorities are supportive;
- County and District Councils mostly opposed National Park designation;
- There is no consensus from Parish Councils as a group;
- The public (including residents) overwhelmingly support designation in principle plus proposed boundary amendments;
- There were campaigns both for and against specific proposals;
- There is public support for inclusion of Orton Fells in the Yorkshire Dales National Park;
- There is support for the further boundary additions and the deletion plus the minor further proposed addition to the Lake District National Park ('Addition 8').

3.2.8 Julie Lunt drew the following legal considerations to the Board's attention:

3.2.8.1 The Board must be satisfied (s5(2) of the 1949 Act) that the proposed areas are of such value because of:(a) their natural beauty; and (b) the opportunities they afford for open air recreation; that it is especially desirable that they are managed as National Park.

3.2.8.2 The Board might also take into account:

- wildlife and cultural heritage in so far as they contributed to natural beauty; and
- the extent to which it is possible to promote opportunities for the understanding and enjoyment of the special qualities of the area by the public when it considers

opportunities for open air recreation.

3.2.8.3 Confirmation that the Natural England guidance on assessing landscapes for designation had been followed.

3.2.9 Having considered the original evaluations (November 2009), analysed the responses to the two consultations (March 2011, September 2011) and considered the statutory legal tests the Board approved Natural England officers' recommendations that:

3.2.9.1 the areas proposed for designation meet the 'natural beauty' and 'opportunities for open-air recreation' criteria;

3.2.9.2 it is especially desirable that the areas proposed for designation be included, in accordance with the proposals in the Board paper, in either the Lake District National Park or the Yorkshire Dales National Park for the purposes of:

- conserving and enhancing the natural beauty, wildlife and cultural heritage of these areas; and,
- promoting opportunities for the understanding and enjoyment of the special qualities of these areas by the public with the boundaries as shown in the Board paper.

3.3 The Board, having regard to the Natural England officers' evaluation of the proposed areas for variation as informed by the submissions made as a result of both of the combined statutory and public consultations:

3.3.1 approved the variation shown on maps YDNP 1 to YDNP12 (Annex 3) to the boundary to the Yorkshire Dales National Park;

3.3.2 approved the variation shown on maps LDNP1 to LDNP3 (Annex 3) to the boundary of the Lake District National Park.

3.4 The Board agreed that Natural England should make the necessary variation Orders to give effect to these revisions and to proceed with formal designation variation procedures.

3.5 The Board noted the next steps would be:

- Submission of variation Orders to the Minister;
- Placing the Orders on deposit for anyone to make representations to the Minister.

3.6 The Board also noted that

- Prior to confirming the Orders there must be a public inquiry if objections were received from a local authority, and might be an inquiry, if there were representations from anyone else;
- The Minister might or might not confirm an Order with or without modifications; and,
- If the Minister was minded to confirm, a Confirmation Order would be produced specifying any modifications and when any new designation would come into effect.

**Action: Andrew Wood to take forward preparation of variation Orders for signature by Chair and submission to the Minister.**

3.7 Additionally the Board supported drawing wider issues from the consultation about localism and the wider framework within which National Parks were administered, to the attention of the Secretary of State as these were matters for her and not matters that Natural England could take into consideration.

3.8 In conclusion Board members reflected on their personal experiences of being involved in the designation of the Lakes to Dales National Park extensions and reiterated their praise for

the quality of the work undertaken in the project that was an object lesson in clarity and fastidiousness. Papers had been well received by the Board and by stakeholders and the process adopted would stand scrutiny for future designations. On behalf of the Board, the Chair thanked all involved and Board members expressed delight on the stage reached in designation from both a personal perspective and for Natural England.

#### **4. Proposed Changes to Charging Governance (NEB PU27 04)**

- 4.1 Chair reminded the Board that it had agreed in May 2011 that a submission should be made to the Secretary of State requesting consent for the potential to charge for some discretionary services. He reported that consent had been granted in June. The next steps were to put in place a policy and governance arrangements to provide reasonable and effective use of charging powers.
- 4.2 Jim Smyllie introduced the charging policy that outlined the proposed approach to how decisions would be made in future charging propositions and he reminded the Board that such powers were discretionary and designed to provide a better service rather than income generation.
- 4.3 In considering the breadth of existing and potential charging activities and the charging policy the Board:
  - 4.3.1 welcomed the letter from Defra confirming terms for discretionary charging but advised points of caution that: Natural England must ensure that it was able to benefit from keeping any income generated; and, when identifying areas to charge for must manage the risk of taking management away from core duties.
  - 4.3.2 welcomed David Hill and Nigel Reader's offers to assist in this area if their expertise could be of help;
  - 4.3.3 supported charges not being introduced where this would be detrimental to achieving environmental outcomes, but stressed the need to have clear mechanisms to develop intelligence and make judgements on environmental outcomes;
  - 4.3.4 advised that the policy for charging for training and events should be done in relation to other providers and was pleased to see consideration of charging for school based events;
  - 4.3.5 advised on technical points about cost recovery and noted that charges would be adapted to the market as appropriate and the Local Planning Authorities would not be charged;
  - 4.3.6 reported that there was a NAO review of costs and pricing in Defra agencies;
  - 4.3.7 recognised that there were some services that only Natural England could deliver and charge for that had implications for costing when there was no competitive market for comparison;
- 4.4 In summing up the Chair reflected that the discussion highlighted that introducing a charging policy was not without some new risks associated with operating in a different environment, but he had been heartened by the support amongst stakeholders for paying for pre-application licences at the workshop the previous day.
- 4.5 In conclusion the Board approved the charging policy described in section 3.3 and detailed in annex 1 and approved the revision of governance arrangements proposed in 3.4.2. In taking the next steps outlined in 3.5 for implementation of the charging policy Jim Smyllie was asked to take account of the Board's residual concerns.

**Action: Jim Smyllie to take forward the charging governance changes and next steps as outlined in 3.5.**

## **5. England Biodiversity Strategy Delivery Plan (NEB PU27 05)**

- 5.1 Jim Smyllie introduced the paper that updated the Board on the Government's revised England Biodiversity Strategy (EBS) and Natural England's response with a dual role for direct delivery and facilitating delivery by others.
- 5.2 The Board discussed the new EBS headline outcomes and the working principles, proposals and dependencies for developing the EBS Delivery Plan, and also Defra's proposed governance arrangements for EBS and the link to Natural England's own governance for biodiversity delivery, and:
  - 5.2.1 advised that the task of Outcome 4 (People and Engagement Working Group) had not been fully addressed in terms of delivery and it helped that the Board Outcome Group 2 discussions were happening in the same time frame with an opportunity to influence the agenda for biodiversity and people;
  - 5.2.2 advised that in governance terms there should be clear lines between objectives and delivery;
  - 5.2.3 advised that the way forward for dealing with the direct delivery role was to use the rhetoric from Nagoya, but the real issue was the underlying causes that could be addressed by scenarios planning and futures work. The ambitions for public engagement in the Natural Environment White paper were integral to delivery;
  - 5.2.4 supported the delivery mechanisms provided by the EBS and welcomed the focus on delivering outcomes and monitoring and reporting, but did not see how this could happen within the Defra governance arrangements shown in diagram 1;
  - 5.2.5 considered the EBS Delivery Plan to be a simple business plan that needed to be developed further and to include budgets and financial prediction models, but recognised that Annex 2 was a first attempt to define a framework for a delivery plan to 2020 populating targets in a way that had not been done before;
  - 5.2.6 stressed the importance of getting targets right from the outset, and establishing a proper baseline. Board Members also noted that Natural England would be addressing this in the context of the SSSI target. Potential approaches on targets would be brought back to the Board ;

**Action: Jim Smyllie to bring potential approaches to delivering EBS targets to a future Board meeting.**

- 5.2.7 raised the relationship between Nature Improvement Areas and Local Nature Partnerships as an issue;
- 5.2.8 gave a clear steer that regional and local biodiversity initiatives were waiting for leadership to establish a countrywide network of partnerships and the question remained as to how this was to be resolved.
- 5.3 The Board expressed a collective desire to see evidence of real simplification of the EBS governance, and looked for comfort that this would be pursued with Defra. The England

Biodiversity Strategy presented a huge opportunity but there was concern that the EBS Delivery Plan might not capture what was required. The Board noted that the Executive Board had too addressed the difficulties in providing leadership when it was beyond Natural England's authority and when there was no mandate to do so. Achievements sought from the EBS Delivery Plan were to be clear about Natural England's provision of leadership and inspiration and direct delivery role as set out in annex 2. There was also an understanding that this would not happen in the absence of partnerships. Defra needed to lead on this with Natural England's facilitation of wider partnerships.

- 5.4 In conclusion the Board having noted the present position on new England Biodiversity Strategy Delivery Plan and governance arrangements, considered it to be of such importance that it wished to be kept updated at future Board meetings noting that there would also be opportunities provided in discussions on the strategic direction and corporate plan.

**Action: Jim Smyllie to keep the Board regularly updated on EBS Delivery Plan.**

## **6. Natural England Science Advisory Committee Terms of Reference (NEB PU27 06)**

- 6.1 Andrew Wood invited the Board to approve the revised Terms of Reference for Natural England's Science Advisory Committee (NESAC);
- 6.2 The Board noted that as part of Natural England's review of evidence processes, the role and Terms of Reference for NESAC had been refined to bring them into alignment, where appropriate, with Government Office for Science guidance, and also with Natural England's new business model. There was a change in the number of meetings, from three to four, to bring NESAC into line with the cycle of Board meetings.
- 6.3 The Board approved the revised Terms of Reference for NESAC subject to changing the date for the circulation of papers from three to seven days before each meeting.

**Action: NESAC Terms of Reference to be implemented.**

## **7. Audit and Risk Committee Membership (NEB PU27 07)**

- 7.1 Poul Christensen invited the Board to review Audit and Risk Committee (ARC) membership and Terms of Reference, but first and most importantly, he extended his thanks to Tony Hams for carrying out the responsibility of chairing ARC with such rigour over the past year, providing reassurance to himself as Chair and to the rest of the Board. Under his chairmanship ARC had encouraged the Board to challenge the Executive as was so important in any organisation. Chair also thanked Catherine Graham- Harrison, Joe Horwood and Ian Scott (external member) for serving as ARC members until 30 September 2011.

**Action: Chair to send letter of thanks to Ian Scott on behalf of the Board**

- 7.2 It was also Tony Hams last Board meeting, and Chair thanked him for all he had done for Natural England and for the natural environment. He had been a tower of strength on the Board and to Chair personally: all valued his advice and counsel. He had adopted a corporate view at all times even if on occasion it was not where he wished to be and for this he was held in greatest respect. In reply Tony said it was joy to have worked with the Board and Executive, and that the service received by ARC from across the organisation was second to none.

- 7.3 The Board agreed the proposal to reduce the membership of ARC to three Board members and endorsed the amendment of the ARC Terms of Reference as shown in annex 2 to reflect this.
- 7.4 The Board approved the appointment of Nigel Reader as Chair of ARC and the appointment of Andy Wilson as a member of ARC from 1 October 2011.

## **8. Audit and Risk Committee Update and Annual Report (NEB PU27 8)**

- 8.1 Dave Webster introduced the paper inviting Tony Hams to introduce the ARC annual report to the Board and to give a report on the June and September ARC meetings.
- 8.2 Tony Hams reminded the Board of its scrutiny role and drew attention to Natural England's strategic risks that had been reviewed by ARC at its meeting on 26 September when it had been recommended that the risks associated with Natural England's role with other partners in government needed to be looked at again in the context of the impact of outside challenges. His key message to Nigel Reader in handing over the role of Chair was the importance of continued attention to the strategic risks.
- 8.3 The Board noted the unconfirmed minutes of the ARC's meeting on 13 June 2011 and noted that at its June meeting ARC recommended approval of the annual Report and Accounts by Chair of ARC, the Accounting Officer and Chair under delegated authority from the Board. The Board also noted the Audit and Risk Committee's fifth annual report.

## **9. Confirmation of Minutes from 26 July and 16 August 2011 Board Meetings (NEB M25 04 and NEB M26 02)**

- 9.1 The Board confirmed the minutes of the meetings on 26 July and 16 August 2011.

**Action: Board and Executive Services to produce confirmed minutes of the July and August 2011 Board meetings.**