

NATURAL ENGLAND BOARD

Meeting 3
21 February 2007



Paper No **NEB IN07 07**

Title: **Draft Post Consultation Statutory Guidance to
Natural England**

Sponsoring Director: **Andrew Wood, Director Science and Evidence**

1. Purpose

1.1 The purpose of the paper is to advise the Board of the likely content of the Secretary of State's statutory guidance to Natural England on regional planning and associated matters; and to seek their views on issues raised by the guidance in advance of Ministerial sign-off of the guidance. We expect David Coleman from the Defra sponsorship team to attend the meeting so that he is able to reflect the Board's views in final advice to Ministers. A final draft of the guidance is attached at **Annex 1**.

2. Recommendations

2.1 It is recommended that the Board:

- a. notes the content of the guidance and agree that it meets Ministers' remit to officials that it should be "light touch and strategic";
- b. comments on any outstanding issues of tone, style and substance, including those listed in the issues section of this paper and, in particular, on the Environment Agency's view that the guidance should be extended to cover national level collaboration.

3. Background

3.1 Section 15 of the Natural Environment and Rural Communities (NERC) Act 2006 requires the Secretary of State to give Natural England guidance on the exercise of any function relating to regional planning and associated matters. A similar requirement applies to the Environment Agency. Working to a remit from Ministers that any such guidance should be "light touch and strategic", Defra officials informally consulted Natural England over the likely shape and tone of the guidance for several months prior to Vesting. Draft guidance was issued for consultation on 14 September 2006. Consultation closed on 6 December 2006. It is expected that the guidance will come into force on 1 April 2007.

3.2 Defra received 44 responses to the consultation, from: Natural England; the Environment Agency; 17 local authorities (including a number of local authority consortia and one Regional Assembly); 7 National Parks, AONBs and their representative bodies; Wildlife Trusts; RSPB; CPRE; the RDAs; Woodland Trust; the Landscape Institute; the Planning Inspectorate; and the Law Society among others. These were overwhelmingly supportive, agreeing the principle of collaborative working and the importance of our role in the formulation of Rural

Development and Structural Fund programmes, as well as in the development and implementation of a wide range of regional frameworks. There were, however, some concerns that the discretion the guidance gives to Natural England to decide on its own arrangements could lead to regional inconsistency; and lots of bids for specific plans or strategies to be given explicit reference in the guidance.

- 3.3 The Environment Agency response was similarly supportive but included a request that the scope of the guidance should be broadened to cover national level collaboration, particularly with reference to RDPE; and to avoid a perceived risk of duplication by providing clarity on the two organisations' statutory roles. They also made specific requests for Natural England to be required to engage on Catchment Flood Management plans and other EA led frameworks.
- 3.4 Our response welcomed the light touch approach taken in the draft guidance; stressed that we already work with a much broader range of partners than that indicated in the guidance; emphasised our commitment to partnership working at every level; and called for discretion to determine the extent of our involvement in the full range of regional frameworks according to the priorities in our Strategic Direction, our business need and resource constraints.
- 3.5 Defra officials have concluded that the draft guidance already deals with most of the issues raised by respondents, although they have introduced a requirement for us to publish regional schedules of planned engagement (see Issue 1 below). They have rejected calls for prescription of national roles and relationships (Issue 2). We expect that Ministers will concur.

4. Issues

- 4.1 **Regional Schedules.** In response to calls for us to engage in a wide range of strategies, plans and frameworks and concerns about different approaches across regions, Defra has included a requirement for us to publish regional schedules of those strategies, plans and frameworks that we anticipate engaging in over the following 12 months. These would be maintained on a rolling basis. On the understanding that resource constraints may lead us to change our plans in-year and that such schedules would not prevent us from engaging in other issues if the need arose, we support the inclusion of this requirement.
- 4.2 **National level collaboration.** We are already committed to work closely with EA and other national partners. This commitment is underpinned by our Memorandum of Understanding with EA and the Forestry Commission. Both the Executive and Defra officials believe clarity about the remits of national agencies is provided in founding legislation; in the Hansard record of the passage of the Bill (when this issue was widely debated); and in other documents and guidance. We believe it would not be helpful and could be counter-productive to seek to prescribe these definitions more closely.
- 4.3 **Exercise of discretion.** We have sought to retain discretion about both the way in which we engage with our regional partners and the resources we apply to these issues. The guidance as drafted preserves this position, while providing partners with a framework of understanding for our engagement with them. We believe that it would be potentially damaging to our ability to operate flexibly and responsively if the guidance were to seek to prescribe more closely the details of our regional operations.

Draft Post Consultation Statutory Guidance to Natural England

1. Background

- 1.1 In responding to the EFRA Select Committee during Pre-legislative Scrutiny of the Natural Environment and Rural Communities Bill, Defra confirmed that Natural England would need to have a strong regional voice in order to achieve its purpose effectively. Natural England would engage with regional-level planning and associated processes including the Regional Spatial Strategies. To emphasise this expectation, section 15(1) of the Natural Environment and Rural Communities Act places a duty on the Secretary of State to provide guidance to Natural England “as to the exercise of any functions of Natural England that relate to or affect regional planning and associated matters.”

2. Scope

- 2.1 This note gives guidance to Natural England on the role that the Secretary of State expects Natural England to fulfil in regional planning and associated matters. It should be read in conjunction with the Rural Strategy 2004, the policy statement for the Natural Environment and Rural Communities Act 2006 and Natural England’s Management Statement . These documents, together with Natural England’s Strategy and corporate plan, provide greater detail on the role of Natural England and its partnership working with a wide range of stakeholders.
- 2.2 The guidance aims to promote engagement appropriate to Natural England’s purpose, as set out in section 2 of the Natural Environment and Rural Communities Act 2006, to encourage collaborative working with – and from - other regional bodies and to reinforce the value and scope of Natural England’s work.

3. A Champion for the Natural Environment

- 3.1 Working in close partnership with the Environment Agency and the Forestry Commission, Natural England will be a champion for the natural environment, exercising strong leadership in the regions. Defra will support Natural England’s role by encouraging partners to consult with, and take advice from, Natural England and help deliver Natural England’s strategic outcomes. Natural England will seek solutions which, while achieving environmental benefits, also provide long-term economic and social benefits, and avoid untoward economic and social impacts.
- 3.2 Natural England will:
- a. improve understanding of the natural environment by promoting and explaining its research and data to a wide range of audiences, including the interested public;
 - b. through working with others, monitor and report on the state of the natural environment in each region and the challenges it faces;
 - c. advise regional decision makers on how they can maximise the positive impacts of their decisions on the natural environment and minimise the negative impacts, whilst actively seeking to make linkages to the delivery of broader government policy objectives to secure solutions

which deliver environmental benefits and provide long-term economic and social benefits.

4. The Core Regional Framework

- 4.1 Natural England will be expected to help shape a wide range of regional policies and programmes and develop regional environmental futures through its research, advisory and regulatory roles. Natural England is expected, at an early stage, to engage with regional assemblies, Regional Development Agencies and Government Offices for the Regions and to play a major role in the preparation of Regional Spatial Strategies and their associated sectoral strategies.

5. The Wider Role

- 5.1 There is a wide range of other plans and strategies which Natural England will need to influence in order to satisfy its statutory purpose, giving leadership to the natural environment. Natural England must decide where its priorities lie in engaging with this large population of regional, sub-regional and local plans. However it is important that plan makers and other stakeholders know what to expect from Natural England. After discussion with local partners, Natural England should therefore publish on a region by region basis, and review regularly, a schedule of the plans and strategies it is expecting to engage with, and on what basis it will do so.
- 5.2 Natural England will work across both the rural and urban agendas, often working to join the two strategically and locally. The Sustainable Communities agenda will be a main driver and Natural England should engage in a range of sub-regional and community strategies in both urban and rural areas. Engagement with stakeholders is crucial and should include the public, private, voluntary and community sectors.
- 5.3 Natural England will work with the other delivery partners in the Rural Development Programme for England (the Regional Development Agencies and the Forestry Commission) at regional level to develop Regional Implementation Plans for the next Rural Development Programme, in line with guidance provided by Defra.
- 5.4 Natural England has an important contribution to make on Structural Funds. It will advise on the preparation and implementation of new Structural Fund programmes at regional level. It will act with the Environment Agency the Forestry Commission and other partners to support delivery of the programme. It will also have a key role in the Strategic Environmental Assessment of the programmes.
- 5.5 Each region has developed a rural delivery framework to identify the economic, social and environmental priorities for its rural areas. Work to develop and implement the rural delivery frameworks is co-ordinated by the Government Offices for the Regions. By providing a focus for a range of organisations to work together, the frameworks offer a mechanism for improving the co-ordination and targeting of 'rural delivery'. Natural England's participation in the development and implementation of the frameworks provides an opportunity to work collaboratively with a range of partners in translating national policies into appropriate regional and local action to secure a range of benefits for the natural environment.

- 5.6 It is important that Natural England also contributes its expertise to regional strategies and frameworks for public health, education and training etc as appropriate.
- 5.7 Natural England should consider how best to co-ordinate its representation at sub-regional and local level. In terms of capacity, Natural England will need to consider which Local Strategic Partnerships and Local Development Frameworks are of sufficient scale and relevance to its work to contribute towards, taking into account the representations of other Defra delivery partners and working closely with Government Offices. It should communicate its conclusions in the Regional Schedules mentioned in para 5.1 above.
- 5.8 Similarly, Natural England may in some instances have an important role to play in the development of those Local Area Agreements (LAAs) which cover a substantial area to encourage the inclusion of outcomes relating to biodiversity, landscape, outdoor recreation, open spaces, or nature conservation. Natural England should seek the support of Government Offices who could help facilitate their involvement in LAAs to ensure that the environmental, social and economic agendas are joined-up. Natural England should work closely with the Environment Agency, the Forestry Commission and other local partners to ensure strategic input to LAAs on the environment and sustainability. Where appropriate, Natural England should advise on the development of suitable outcomes and indicators. Natural England should also consider requests for alignment of funding with LAAs which contain appropriate outcomes.