

NAME OF COMMITTEE	Community Services
DATE	3rd March 2015
REPORT TITLE	Tamar Valley Area of Outstanding Natural Beauty (AONB): Memorandum of Agreement and related matters
REPORT OF	Natural Environment & Recreation Manager
WARDS AFFECTED	Bere Ferrers, Tamarside

Summary of report:

The Council is a funder of the Tamar Valley AONB team and projects, in partnership with other local authorities and DEFRA. The current funding and management agreements are due to expire at the end of 2014/15. This report proposes that an interim agreement for 2015/16 be sought with the funding partners to ensure continuity of delivery.

The report also seeks agreement to West Devon Borough Council (WDBC) being involved in a comprehensive review of future delivery options of AONB activities currently being led by the Tamar Valley AONB Partnership in order to identify preferred delivery options for 16/17 onwards.

Financial implications:

Entering into an agreement for 2015/16 would require commitment of budget for the next financial year under the "Biodiversity reserve" budget head. If WDBC tracked other partners and maintained 15/16 levels at 14/15 levels then this would amount to £8,835.

RECOMMENDATION:

That the Committee notes the issues and agrees to:

1. enter into renewed Memorandum of Agreement for the Tamar Valley AONB covering 2015/16 based on an assumed standstill budget;
2. delegate to the Natural Environment and Recreation Manager, in consultation with the Chairman of Community Services Committee, the task of agreeing the final wording of the Agreement; and,

3. instruct Officers to participate in a structured review of the future options for delivery of Tamar Valley AONB delivery from 16/17 onwards and to report back to Community Services Committee on preferred options

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1. BACKGROUND

- 1.1 There are 34 Areas of Outstanding Natural Beauty (AONB). They are designated by Government; their primary statutory purpose is the conservation and enhancement of natural beauty. The Tamar Valley AONB was designated in 1995. The AONB has:
 - A (non statutory) partnership body – which provides co-ordination and oversight;
 - A staff unit – which undertakes a wide range of actions and projects.
 - A (statutory) management plan – which sets out the local authorities’ policies for the AONB. The Tamar Valley 2014 – 2019 AONB Management Plans have been adopted by WDBC and sets out the policies of the Council for the management of the AONB
 - A requirement on all relevant authorities to “*have regard to the purpose of conserving and enhancing the natural beauty of the AONB*” when exercising any functions.
- 1.1 The Tamar Valley AONB staff unit is employed and hosted by Cornwall Council. The five core funding organisations comprise Cornwall Council, Devon County Council, West Devon Borough Council, South Hams District Council and DEFRA.
- 1.2 The AONB activities are supported through a grant from government administered by DEFRA, which covers up to 75% of the core costs. The remaining 25% is expected to be met jointly by the local authorities listed, whose areas are covered by the AONB designation.
- 1.3 The financial and administrative arrangements for each AONB are set out in a Memorandum of Agreement (MoA) signed by the respective core funding organisations. The current AONB MoA expires in March 2015. In anticipating this DEFRA has indicated
 - That it will maintain 14/15 levels of financial contribution for 15/16 subject to other funders maintaining their level of contribution.
 - That this will be offered as a grant and DEFRA will not be bound to new MoAs. This means DEFRA will not have shared staffing

responsibility – in particular in relation to any redundancy costs that might fall on the host in subsequent years

1.4 For the Tamar Valley AONB the other funding partners have indicated.

- DEFRA. There has been no update to the indicative funding position originally given for 15/16. Whilst there has been other correspondence (e.g. replies from Lord de Mauley to Cornwall Council and to Blackdown Hills AONB), all this has done is repeat what is already known, that there will be some form of announcement on AONB funding at some point after the election which will allow Councils “*the necessary time and security to plan for 2016-17 and beyond*”.
- Devon County Council (DCC) has indicated that it will maintain 14/15 levels of funding for 15/16 and that it would want to enter a MoA (or similar) and would be prepared to share liabilities with other partners on a proportionate basis.
- South Hams District Council (SHDC) has indicated a continued contribution based on the current level and that it would want to enter a MoA (or similar) and would be prepared to share liabilities with other partners on a proportionate basis.
- Cornwall Council (CC) had been considering budget removal post 16/17. This was a matter of concern – and raised a substantial number of responses to the CC budget consultation. CC has reviewed its position and is now holding over any decision on funding pending further information from DEFRA for 2016/17 and beyond. It is assumed the promised DEFRA clarification will assist CC in planning appropriately. Clearly the review of delivery options needs to be well advanced so the partners can respond rapidly and positively for 2016/17 and beyond. CC has been asked to review the draft MoA and it is anticipated that CC will move forward towards agreeing the MoA with other Council partners.

2. ISSUES FOR CONSIDERATION

- 2.1 The AONB designations highlight the significance of these areas as the nation’s finest protected landscapes. The Council is under a statutory duty to conserve and enhance the AONBs, and the existing AONB partnerships and staff units are a well established mechanism for delivering elements of that responsibility and sharing the costs of so doing.
- 2.2 Having a Memorandum of Agreement in place for each AONB provides important clarity and stability for the partnerships and staff units, allowing the AONB teams to plan their projects and activities ahead and secure additional external grants.
- 2.3 Having the Memorandum of Agreement is also very important for the Council in managing its financial liability, because the Memorandum sets out clear arrangements for the sharing of costs and risks between the funding organisations.

2.4 The suggested position is that

- An MoA be established between the local authority partners for 15/16 based on a sharing of liabilities proportionate to contribution and,
- The arrangement from 16/17 onwards be decided through a structured review of options. The Tamar Valley AONB Partnership has endorsed this approach and will be negotiating with Cornwall Council on this basis.

2.8 Entering the MoA would create a theoretical financial obligation for WDBC should future redundancies arise. However this needs to be seen in the context of the agreement being for 12 months only and with all other partners having committed funding for 15/16 – thus this risk is negligible. In any case the Tamar Valley AONB has established that it will have sufficient reserves or unrestricted income for this period in the unlikely event that redundancies would need to be paid at the end of 15/16.

3. PROVISIONS OF THE PROPOSED AGREEMENT

3.1 The current Memorandum of Agreement for each AONB follows a national format and runs to over 30 pages covering the following:

- A vision for the partnership;
- The purpose of the AONB staff unit;
- The respective roles of the employing authority, the other local authorities, and Defra;
- Arrangements for staff employment and line management;
- Financial and administrative arrangements, including arrangements for the payment and receipt of partnership funding contributions;
- A list of cost categories that are eligible for funding;
- Arrangements for sharing any redundancy costs between the funding partners;
- The amount of each partner's future funding input;
- Arrangements for termination or withdrawal from the Agreement;
- Provisions for resolving disputes or disagreements;
- Provisions for disclosure of information to comply with the Freedom of Information Act, Data Protection Act, Human Rights Act, etc.
- A number of schedules and appendices setting out the AONB Partnership terms of reference, purpose, governance, membership, structures and organisation; and the structure and terms of reference of the staff unit.

3.2 It is anticipated that MoAs established between local partners for 15/16 will incorporate key elements but omit reference and obligations on DEFRA. It is therefore proposed that members agree to the renewal of the Agreement on the lines set out above, but delegates authority to the Natural Environment and Recreation Manager to finalise the Agreements, in consultation with the Chairman. A draft MoA has recently been circulated by DCC and is under review.

3.3 The issues faced by WDBC are replicated nationally and strong representations have been made to DEFRA. In light of these further clarification has been

provided by DEFRA. This has come via a tripartite meeting between DEFRA, NAAONB and Natural England. It is confirmed that DEFRA will offer a grant for 15/16, that it won't enter new or extended MoAs and that the grant can't be used to cover redundancy costs.

4. LEGAL IMPLICATIONS

- 4.1 The Countryside and Rights of Way Act 2000 gives local authorities an explicit statutory duty to prepare and publish a management plan for each of their AONBs, and to review it every five years. The Act also requires local authorities to have regard for the purposes of the AONBs in conducting their functions.
- 4.2 The Council has the ability to undertake activity in relation to AONBs under General Powers of Competence within the Localism Act 2011.
- 4.3 The terms of the existing MoA are generally acceptable and DCC has prepared an interim 15/16 version for consideration by funding partners. Subject to this being acceptable to the Council it will be reviewed by Support Services for suitability prior to signing.
- 4.4 This report is brought to Committee because it needs to agree the extent of the terms of the agreement with the accompanying financial commitment.

5. FINANCIAL IMPLICATIONS

- 5.1 It is proposed that a one year MoA be entered into for Tamar Valley AONB for the year 15/16. At this stage it is assumed this will be based on the 14/15 level of funding.
- 5.2 Entering into agreements for 2015/16 would require commitment of budgets for the next financial year under the "Biodiversity Reserve" budget head. If WDBC tracks other partners and maintained 15/16 levels at 14/15 levels then this would amount to £8,835. Maintaining current levels allows for a structured review of future delivery options – at the heart of which will be opportunities for both cost reduction and income generation. Any potential redundancy liabilities are covered from in year budget held by the AONB unit.

6. RISK MANAGEMENT

- 6.1 The strategic risk management implications are set out below:

Corporate priorities engaged:	Economy, Environment
Statutory powers:	Countryside and Rights of Way Act 2000. Section 111 of the Local Government Act 1972. Section 2 of the Local Government Act 2000 (the well-being power).
Considerations of equality and human rights:	N/A
Biodiversity considerations:	The AONB Management Plan takes these matters into consideration.

Sustainability considerations:	The AONB Management Plan takes these matters into consideration.
Crime and disorder implications:	N/A
Background papers:	Tamar Valley AONB: <ul style="list-style-type: none"> • Management Plan 2014 - 2019. • 2011 - 2015 Memorandum of Agreement. • Annual report 2013-2014.
Appendices attached:	

STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Financial	Council is exposed to financial liabilities for staff and redundancy costs	2	2	4	↔	<p>Seek equitable arrangements for 15/16</p> <p>Seek stable long term funding and operational position through review</p> <p>Costs could be covered from contribution if liabilities occur</p>	Ross Kennerley
2	Legal	Need to adhere to current MoA and seek secure position for 15/16 onwards	3	3	9	↔	<p>Ensure any actions don't breach current MoA and expose Council to legal (and potentially financial) liability</p>	Ross Kennerley
3	Reputational	Impact on AONB delivery programme, team and partnership	3	2	6	↔	<p>Participate in managed and structured review of future options</p> <p>Seek external validation of process</p>	Ross Kennerley

Direction of travel symbols ↓ ↑