

Exempt information – Paragraph 1: Information relating to any individual and Paragraph 2: information which is likely to reveal the identity of an individual – applies to Appendix A

AGENDA
ITEM
7

SOUTH HAMS DISTRICT COUNCIL

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NAME OF COMMITTEE	Executive
DATE	23rd October 2014
REPORT TITLE	South Devon and Tamar Valley Areas of Outstanding Natural Beauty (AONBs): Memoranda of Agreement and related matters
REPORT OF	Natural Environment & Recreation Manager
WARDS AFFECTED	For Tamar Valley AONB: Bickleigh & Shaugh; For South Devon AONB: Allington & Loddiswell; Avon & Harbourne; Brixton & Wembury; Charterlands; Dartmouth & Kingswear; East Dart; Erme Valley; Kingsbridge; Newton & Noss; Salcombe & Malborough; Saltstone; Skerries; South Brent; Stokenham; Thurlestone; West Dart; Westville & Alvington; Yealmpton.

Summary of report:

The Council is a funder of both the Tamar Valley and South Devon AONB teams and related delivery programmes, 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 interim agreements for 2015/16 be sought with the funding partners to ensure continuity of delivery.

The report also seeks agreement to SHDC being involved in comprehensive reviews of the delivery options of AONB activities currently being led by the respective AONB Partnerships in order to identify preferred delivery options for 16/17 onwards. In relation to the South Devon AONB team (where SHDC hosts the team) a T18 activity analysis is underway to inform this review of delivery options. In respect of the Tamar Valley AONB team Cornwall Council (as host) is consulting on future funding options and a response is proposed.

Financial implications:

Entering into agreements for 2015/16 would require commitment of budgets for the next financial year under the "Environmental Initiatives" budget head. If SHDC tracked other partners and maintained 15/16 levels at 14/15 levels then this would amount to

- South Devon AONB Core Budget £ 23,200
- South Devon AONB Project Budget £ 9,700
- Tamar Valley AONB Core Budget £ 580

Liabilities in relation to potential redundancy scenarios are set out in Appendix 1

RECOMMENDATIONS:

That the Executive resolves:-

- 1. To recommend to Council agreement to enter into renewed Memoranda of Agreement (or similar) for the South Devon AONB and Tamar Valley AONB covering 2015/16 based on an assumed standstill budget (subject to ratification during the budget setting process)*
- 2. To delegate to the Natural Environment and Recreation Manager, in consultation with the Portfolio Holder, the task of agreeing the final wording of the Agreements.*
- 3. To instruct Officers to participate in structured reviews of the future options for delivery of both AONB delivery programmes from 16/17 onwards and to report back to Executive on preferred options*
- 4. To complete a T18 Activity Analysis and Proof of Concept of the current activity of the South Devon AONB Team for consideration as part of the review of future options*
- 5. To respond to the Cornwall Council consultation on future funding of the Tamar Valley AONB recommending that the situation be stabilised for 15/16 through a renewed MoA and that post 16/17 funding decisions be reviewed in light of the outcomes of the future delivery options work.*

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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. South Devon AONB was designated in 1960; the Tamar Valley AONB in 1995. Each 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. Both South Devon and Tamar Valley *2014 – 2019 AONB Management Plans* have been adopted by SHDC and set out the policies of the Council for the management of the AONBs
 - 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.
- 1.2 The South Devon AONB staff unit is employed and “hosted” by South Hams District Council on behalf of the wider South Devon AONB partnership. There are three core funding organisations: South Hams District Council, Devon County Council and Defra.
- 1.3 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.
- 1.4 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.
- 1.5 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 MoAs expire 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 won't be bound to new MoAs. This means DEFRA won't have shared staffing responsibility – in particular in relation to any redundancy costs that might fall on the hosts in subsequent years

- 1.6 For the South Devon AONB the only other funding partner is DCC. For 2015/16 DCC has indicated.
- That it will maintain 14/15 levels of funding for 15/16
 - That DCC would want to enter a MoA (or similar) and would be prepared to share liabilities equally with SHDC
- 1.7 For the Tamar Valley AONB the other funding partners have indicated.
- 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.
 - WDBC has not made a clear position but there is no indication of a budget reduction
 - Cornwall Council has not confirmed budget position for 15/16 and the position over a renewed MoA is unclear. A public consultation on the 16/17 budget has indicated potential withdrawal of all AONB funding thereafter.

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 In respect of the South Devon AONB (where the Council is the employing authority): without the Memorandum in place, the Council would be exposed to carrying the full costs and liabilities of the staff unit. The proposed situation for 15/16 at the time of compiling this report is that Defra will continue to fund – but not be tied to staff or other liabilities. DCC has indicated a willingness to share liabilities (proportionally) with SHDC for 15/16. Without any MoA SHDC would hold 100% liability in 15/16 – but if an MoA can be signed with DCC then this would reduce to 50%. Details of the current AONB budgets and redundancy liability scenarios are given in Appendix A.

It should be noted that the continued commitment of 75% government funding for 15/16 means that it is expected that a managed approach to controlling future budget pressures can be reached through the review of future delivery options which will look to guard against redundancies. Whilst Defra has indicated that its funding will continue after 2015/16 no commitment can be made until the next Comprehensive Spending Review following the general election and thus any future delivery model will need to protect delivery against any redundancies as far as is possible.

- 2.5 Alongside this suggested interim MoA it is proposed that a thorough review of future delivery options take place. The South Devon AONB partnership has already embraced this approach and a Task and Finish Group has been established and has met. The National Association of AONBs is also supporting this work and the T&F group is currently working on
- Establishing a long list of future delivery options
 - Agreeing evaluation criteria
 - Undertaking evaluation
 - Shortlisting preferred options for detailed financial and operational testing.

It is anticipated that this short list and initial outcomes can be reported back to the January Executive

For clarity The AONB Partnership has agreed the following recommendation at its recent meeting

- i. Accepted the need for a review of the AONB unit and stressed the value in the process being led by the Partnership.*
- ii. Agreed to establish a task and finish group consisting of Cllr Hawkins, Kat Deeney, Peter Chamberlain, John Martin, Andy Pratt, Ross Kennerley, Cllr Cooper and Cathy Fitzroy to assist with the options review process.*
- iii. Requested the AONB Manager writes to South Hams Council on behalf of the Partnership setting out its collective view about the review of the AONB unit as well as drawing attention to existing partnership agreements.*
- iv. Made the following recommendations to the AONB core funding authorities:*
 - *In view of the prospect that core funding for next financial year appears secure, that the core funding authorities adopt a new local Memorandum of Agreement for 2015 – 2016.*
 - *To use the time to undertake a review of options for future AONB service delivery and governance, given the long term trend of declining funding from Defra.*
 - *That the scope, timetable and process for the AONB Service review should be established and conducted in an open manner with reference to the views of the AONB Partnership Committee.*
 - *That evaluation of all options is undertaken against an agreed common set of criteria.*

- 2.6 To date the complexities of the funding and partnership arrangements have led to the 4 core AONB staff (along with two temporary staff) being held outside the initial T18 phases. With T18 now progressing through stage 1a, and an in depth review of future AONB options now underway, it is timely to review this and to consider afresh whether, and when, AONB staff are drawn into T18. To help inform this option a T18 Activity Analysis and Proof of Concept is being undertaken and a verbal update will be given at Executive. This work will identify T18 options and will be considered as part of the overall review of options for future delivery.
- 2.7 The situation for the Tamar Valley AONB is equally complex. Cornwall Council is currently consulting on a complete removal of all AONB funding for 16/17 onwards. Given the importance of the AONB team to delivery of the Management Plan and delivery plan this is considered to be premature. The preferred suggested position is that the approach taken for the South Devon AONB is more appropriate and that
- An interim 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 The financial implications of this approach are indicated in the Appendix A. This would create a financial obligation for SHDC should future redundancies arise where none exists at present. However this needs to be seen in the context of other reciprocal arrangements being proposed across Devon and Cornwall where host and partner Council's work collaboratively to create equitable and proportionate future arrangements.

3. PROVISIONS OF THE PROPOSED AGREEMENTS

- 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 interim MoAs established between local partners for 15/16 will incorporate key elements but omit reference and obligations on Defra. It is therefore proposed that the Executive agrees to the renewal of the Agreements on the lines set out above, but delegates authority to the Natural Environment and Recreation Manager to finalise the Agreements, in consultation with the Portfolio holder.

3.3 The issues faced by SHDC 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 will not enter new or extended MoAs, and that the grant cannot 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 it is anticipated DCC will be formulating 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.

4.5 There is sensitive information relating to individuals in this report, there are grounds for Appendix A of the report's publication to be restricted, and considered in Exempt session. Having applied the public interest test, it is felt that the public interest lies in non-disclosure due to the personal data contained in the Appendix. Accordingly Appendix A contains exempt information as defined in Paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972

5. FINANCIAL IMPLICATIONS

- 5.1 It is proposed that new one year MoAs be entered into for both South Devon and Tamar Valleys AONBs 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 “Environmental Initiatives” budget head. If SHDC tracked other partners and maintained 15/16 levels at 14/15 levels then this would amount to:
- o South Devon AONB Core Budget £ 23,200
 - o South Devon Project Budget £ 9,700
 - o Tamar Valley Core Budget £ 580

These figures would need to be ratified during the budget setting process. 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.

- 5.3 The issue of redundancy liabilities needs to be considered with liabilities shown at Appendix A. The confirmation of Defra and DCC funding for the South Devon AONB for 15/16 eases any need to consider redundancies up to March 2016. Beyond that time it is assumed a model for delivery will be arrived at that is financially resilient and guards against future redundancy – however this cannot be assured at this time. Given that SHDC would bear 100% of redundancy costs without an MoA in place the entering of an interim shared liability with DCC is an appropriate arrangement that minimises liability and establishes a stable platform on which to undertake the review of future delivery options. It is suggested this approach be pursued.
- 5.4 In the case of the Tamar Valley AONB, the Council's current annual contribution to the AONB Unit's core costs is £580 (of which 50% is recharged to Bickleigh Parish Council). On this basis both the current and future contribution (assumed to be pro-rata) to any redundancy is very limited. Details are set out in Appendix A – and in either case any liability can be covered from the in year budget.

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. South Devon AONB: <ul style="list-style-type: none">• Management Plan 2014 - 2019.• 2011 – 2015 Memorandum of Agreement.• Annual report 2013 -2014.
Appendices attached:	Appendix A. Financial implications

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	3	3	9	↔	Seek equitable arrangements for 15/16 Seek stable long term funding and operational position through review	Ross Kennerley
2	Legal	Need to adhere to current MoA and seek secure position for 15/16 onwards	3	3	9	↔	Ensure any actions don't breach current MoA and expose Council to legal (and potentially financial) liability	Ross Kennerley
3	Reputational	Impact on AONB delivery programme, team and partnership	3	2	6	↔	Participate in managed and structured review of future options Seek external validation of process	Ross Kennerley

Direction of travel symbols ↓ ↑