

### **Item 3. Development of options for AONB Partnership structure and budget**

#### **Summary**

This paper presents possible alternative options for the future structure of the AONB Partnership and possible ways to ease budget pressure in 2016-17.

#### **Background**

This additional Management Board meeting has been called urgently after Shropshire Council on 16<sup>th</sup> March 2016 placed the AONB Partnership Manager under a formal redundancy consultation as part of a management restructure of its Outdoor Partnerships service. This was done without any consultation with the AONB Partnership - the Chair and Vice Chairs were informed the day before. The Council intends as part of this restructure to delete the AONB Partnership Manager post and reallocate £48k of the Defra AONB funding to parts of other posts within the Council's Outdoor Partnerships teams deemed to be 'delivering the AONB Management Plan'. These indicatively include:

- a 'merged' manager post (who would cover the AONB as well as the Outdoor Partnerships Landscape/Health/Economy team and quite possibly also the new Outdoor Partnerships Service Manager role)
- "the Outdoor Partnerships Wild Team Officer, Parish Paths Partnership Officer, Area Rights of Way Officer and Walking for Health & Walking Coordinator, plus others whose work contributes to the non-statutory delivery of the Management Plan". (per email from Neil Willcox)

A briefing note from Shropshire Council on the restructure initiated has been circulated to AONB Partnership members.

In 2012 the Management Board, at the specific request of Shropshire Council, considered potential alternative structures for the AONB Partnership, including alternatives to hosting by the Council, drawing on similar work being carried out by other AONBs and the National Association for AONBs. This 2012 structure review paper has been circulated as a background paper. It is not apparent that the options considered in this paper have been considered as part of the Council's current restructuring action.

The Council have stated that they are open to discussion of alternative options. The AONB Partnership has made clear that it believes using a formal redundancy consultation on the AONB Partnership Manager as a consultation on the whole future management of the AONB is inappropriate. At its meeting of 22<sup>nd</sup> March the Partnership passed a resolution strongly urging the 45 day redundancy consultation be lifted in order to allow a proper unconstrained discussion about options. The termination of this redundancy consultation is a matter which is being pursued by the Partnership, and the arguments for this do not form a part of this paper.

This paper re-examines in the current context the same options considered in the 2012 review, and broadens the scope to include the consideration of short term budgetary issues resulting from financial pressures at Shropshire Council.

The following aim is suggested for the AONB Partnership to work with the Council to achieve:

**To find a solution which is in the best long-term interests of the AONB, while acknowledging the immediate budget situation Shropshire Council has, and the administrative burden the Council has from the current arrangement. The AONB Partnership accepts that this requires some urgent change to the status quo.**

<b>Section 1 Options for future structure and governance of the AONB Partnership and its staff team</b>
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The options as assessed in 2012 are considered below (but re-ordered):

***Options remaining with Shropshire Council as host authority:***

1. Work much more closely as an in-house part of the Council
2. Re-form the Partnership's 'Joint Advisory Committee' as a local authority 'Joint Committee'
3. Retain current arrangement hosted by the Council as a semi-independent Partnership
4. Retain current hosting arrangement but develop linked structures to optimise broader sources of income including charitable, other grants, and trading

***Options becoming independent from Shropshire Council:***

5. An independent body for the AONB using a 'generic' model in the form of a Trust, charity or company
6. AONB Conservation Board
7. Transfer hosting to a different organisation

Some further information and analysis on each of these options in relation to the Shropshire Hills AONB is given below. See Appendices 1 and 2 for diagrams relating to the main options.

**Options remaining with Shropshire Council as host authority**

1. Work much more closely as an in-house part of the Council

This is the option towards which the Council have now taken steps without any involvement of the AONB Partnership. Perceived drivers now, as in 2012, are of the Council 'commissioning' or externalising as many activities as possible, and the present action appears in contradiction of that. In 2012 the scenario in which this option was thought most likely to come about was in the event of collapse of Defra funding, seen at that time as quite a possibility. Defra's favourable four year funding settlement secured in January 2016 was designed to provide AONB Partnerships with improved financial stability, while moving forward with sourcing new sources of income.

The AONB Partnership Chair's letter to George Candler of 23<sup>rd</sup> March sets out some key arguments against the current action by the Council towards this option. These include:

- Inevitable loss of independence and identity for the AONB Partnership.
- Loss of the dedicated AONB Manager role, as set out with high importance in the AONB governance documents over a long period of time.
- Likely fall in partner and volunteer engagement due to disenfranchisement of the AONB Partnership (Joint Advisory Committee) by the Council's unilateral action.
- Difficulty in retaining sufficient skills, capacity and separation to provide effective input on behalf of the AONB into planning.
- Lack of fit of the primary purpose of AONBs with the Outdoor Recreation department.
- High likelihood of continued erosion of the AONB team and its capacity.
- Reduced delivery of AONB activity within Telford & Wrekin.

The Council on the other hand describes envisaged beneficial synergies with its Outdoor Partnerships department. This paper does not attempt to set out the Partnership's case in full on this scenario, which the Partnership will continue to do elsewhere. The main focus of this paper is on the analysis of the alternative options, as below.

2. Re-form the Partnership's 'Joint Advisory Committee' as a local authority 'Joint Committee'

As stated in 2012, this option provides an alternative model of governance but does not have any direct implications with regard to funding and so is unlikely to meet requirements to cut costs. The smaller Joint Committee only includes local authority representatives, and would almost certainly be a backward step for established partnership working. There appear to be no advantages of this option to the Shropshire Hills AONB.

3. Retain current arrangement hosted by the Council as a semi-independent Partnership

This was the 'no change' option in 2012 and was rejected then in favour of the next option of developing linked structures (i.e. a charity) to optimise broader sources of income. Since steps have been taken with establishing a charity since 2012, this option has effectively gone and is not considered further.

4. Retain current hosting arrangement but develop linked structures to optimise broader sources of income including charitable, other grants, and trading

This was the option favoured in 2012, and which has been pursued since then. The establishment of a charitable body has taken much longer than expected due to having to backtrack on a couple of avenues explored, and other areas of work for the team. However a Charitable Incorporated Organisation (CIO) application for the AONB Conservation Fund was submitted on 4 March 2016 to the Charity Commission by a group of four trustees comprising three individuals and the AONB Partnership Manager as an *ex officio* trustee. In line with the model of 'linked structures', the CIO has been cast as primarily a fundraising and grant-making vehicle, and not intended as an alternative governance structure for the AONB overall. The constitution does however give the CIO quite broad powers to fulfil its charitable objects, as discussed further under option 5. No news has yet been heard on the charity registration application, and the Charity Commission decision timescale of 8 weeks for a decision extends to 29<sup>th</sup> April 2016.

This option is now the 'status quo' and appears no longer to be viable.

The implications for the Shropshire Hills AONB Conservation Fund CIO of the current shift towards Option 1 by the Council are discussed briefly here. The charitable structure proposed would be affected by the Council's current management restructure proposal. The CIO Constitution includes the AONB Partnership Manager as an *ex officio* trustee, and this is not directly transferable to the proposed 'merged' manager post, in terms of that manager's roles and clarity of their interests, aside from issues of capacity. The constitution also sets out a relationship between the AONB Partnership and the CIO. This may be an area on which the Charity Commission will comment, but also is an area which the Council's proposed changes might affect – the Charity Commission's typical concerns with this type of linked structure are understood to be particularly around the relationship of a charity to a public sector body.

It is perhaps quite likely however, that the charity would be able to proceed with minor modifications to its constitution. It is worth noting that the charity would not be accountable to Shropshire Council, and its trustees would act independently in the interests of the AONB as set out in the CIO constitution. In the current scenario of loss of trust with the Council among the Partnership and other AONB stakeholders, there is a risk of potential conflict between structures.

## **Options becoming independent from Shropshire Council:**

### **5. An independent body for the AONB using a 'generic' model in the form of a Trust, charity or company**

A variety of potentially overlapping models exist for independent bodies, as trusts with or without charitable status, and with or without limited liability company status. (N.B. The relatively new CIO model, which has both company and charity status, has become available since 2012).

There are no AONBs in England and Wales which have the governance model of an independent trust. In Northern Ireland there are at least two AONB trusts, and information has been gathered on their detailed constitutional arrangements. The statutory basis of AONBs in Northern Ireland is however different (and not as strong). The Trusts are still funded by their constituent local authorities.

#### **Possible use of the new CIO as a governance structure.**

Given the significant stage which this new structure has already reached, it is obvious to consider the scenario of the Shropshire Hills AONB Conservation Fund CIO becoming the governance structure for the AONB and employing body for the AONB team. It is hard to envisage that there is capacity for two different Shropshire Hills AONB related trusts to exist. It is probably very feasible for the CIO, with minor modifications to its constitution, to be used as an independent organisation employing the AONB team, since the CIO model has broad powers including employment of staff. This could potentially happen quite quickly, but transfer of the Defra AONB funding to an independent body would require agreement of both Shropshire Council and Defra itself.

Issues relating to governance and links would require to be resolved if the CIO employed the AONB team. These would include how the independent body would link to the local authorities (who would retain their legal duty on the AONB Management Plan). The Councils could not simply be 'represented' on the CIO, since the role of trustees is carried out as individuals who act for and 'represent' only the interests of charity (though they may be 'appointed' by particular bodies). It may be deemed that a Joint Advisory Committee (JAC) would still be needed in addition to the CIO structure, providing a link both to the Councils and other partners, especially in relation to the Management Plan statutory duty. The constitutional links of a JAC to the CIO would also need to be considered, and the administrative arrangements of this.

Some advantages of an independent charitable structure for the AONB could be:

- Increased ability to access non-exchequer funding. An AONB body with charitable status could apply to sources of funding which are not open to public sector bodies.
- Increased ability to access charitable donations, including Gift Aid and legacies. If the AONB operating body is itself a charity, this would change perceptions of it significantly, and opens the possibility of seeking charitable donations towards core operating costs, as well as for grants and projects as at present.
- Enhanced ability to attract volunteer involvement at both practical and governance levels. An independent charitable body would be perceived differently from one closely linked to a local authority, probably assisting volunteer involvement.
- Reduced financial and administrative burden for Shropshire Council. The few existing models of independent AONB structures nationally still include funding contributions from the local authorities. Even if reduced, a level of funding contribution would help to retain a degree of influence and involvement by a local authority. Aside from any direct reductions

in financial contribution, an independent AONB body would save the Council the additional uncharged support costs, which it has valued at around £55k.

- Independent voice for the AONB. This structure would avoid conflicted positions in relation to the Council especially regarding involvement in planning consultations.
- Closer working opportunities with other charities.

Some issues to overcome for an independent body, which could otherwise be disadvantages, include:

- Cash flow. Bankrolling is significant when much income is from grants received in arrears. For an independent body this requires a reserve of working capital and/or borrowing.
- Assets. Reserves of unrestricted income are needed both to match grants and to meet costs not covered by grants. Some independent trusts have been given assets such as property to provide income and security (e.g. Severn Gorge Countryside Trust).
- Additional costs for support functions which would have to be bought in, e.g. IT, finance, legal, insurance, etc.
- Staff conditions. Where staff are transferred from public bodies under TUPE arrangements, some employees' rights and conditions are protected, potentially including rights from past service. The financial burden of pensions on small independent organisations can be a major issue. If however an independent body offered poorer conditions, this may affect staff retention and recruitment.
- Additional responsibilities on Trustees and staff. The levels of responsibility for trustees would be significantly higher than currently required of Partnership members, and an independent body would be a different way of working for both partners and staff.

## 6. AONB Conservation Board

Conservation Boards are a structure specifically created for AONBs by sections of the Countryside and Rights of Way Act 2000. There are two AONB Conservation Boards, in the Cotswolds and the Chilterns, both established in 2004. A number of other AONBs have expressed interest in the Conservation Board model, and continue to do so. Defra revised guidance of 2008 on AONB Conservation Boards has been circulated to Management Board members as background.

AONB Conservation Boards are established by a Statutory Instrument. They are legally incorporated bodies and employ staff and hold money directly. They also take on the statutory role of the AONB Management Plan from the local authorities, and can take on other local authority functions by agreement.

Since the Conservation Board model is designed specifically for AONBs, it offers some advantages which may not be found from more general trust or company structures, including:

- Coherence. A Conservation Board brings together the statutory AONB Management Plan duty, the AONB team and the overall governance structure in a single legal entity, in a way that no other available option does. This has advantages of clarity and lack of complex inter-relationships.
- Defra funding. Conservation Board is a proven model for the application of Defra AONB funding, which is arguably therefore lower risk than a generic independent structure. Defra also pay their contribution to Conservation Boards earlier than to AONB Partnership host authorities in order to assist with cash flow, and have not so far done this for another type of structure.

- Representation of national importance of the AONB as well as local interests. Through the process of Secretary of State appointments, a Conservation Board structure is arguably less at the potential whim of a group of entirely locally appointed trustees in a more generic independent structure, and therefore less at risk of 'mission creep'. The appointments process could on the other hand be seen as distant and not determined by the Board itself.
- Representation of local authorities. The process for appointments to a Board set out in Defra's guidance provides for a valuable level of local authority representation more easily than in the case of a trust and trustees.
- Independent voice for the AONB. Though still not a statutory consultee in planning, a Conservation Board ensures avoidance of conflicted positions in relation to the Council especially regarding involvement in planning consultations.
- In the transition process to a Conservation Board, a Shadow Board can be established and a Chief Officer is appointed by the Secretary of State. These steps can be taken early on so that progress can be made.

There may however be some disadvantages. The main factors appear to be:

- Costs. As with an independent trust, support functions currently provided at little or no charge by the Council would have to be bought in. Conservation Boards also have to pay VAT. The set-up costs for establishing a Conservation Board are not completely known.
- Establishment time. The overall lead-in time for full establishment of a Board is considerable (up to 18 months/ 2 years to being fully operational, though significant steps can be taken before this, as above).
- Cash flow and need for financial reserve. This is similar to the situation with a trust, in order to bankroll activity.
- Local authority funding and influence. The two Conservation Boards which exist receive funding contributions from their constituent local authorities, of which they have a much greater number than in Shropshire. These contributions are paid to them at the beginning of the Financial Year and therefore help cash flow as well as overall budgets. With most of the AONB within Shropshire Council's area, a Conservation Board for the Shropshire Hills AONB would be at a disadvantage financially if Shropshire Council did not contribute at all. The level of local authority representation on a Board recommended by the Defra guidance (40% of seats) may also be disproportionately high in such a scenario.
- Risk of loss of local authority 'buy in' to the AONB Management Plan, which becomes approved by the Conservation Board itself and not by the constituent local authorities. On the other hand the Plan can perhaps be more aspirational in the interests of the AONB if coming from the Board itself. The change in status of the Management Plan may however be less significant than other operational pros and cons of a Conservation Board.
- Not having charitable status directly. It is understood that a Conservation Board cannot hold charitable status in its own right. However, the AONB Conservation Fund CIO structure which is on the point of establishment could work in synergy with a Conservation Board, as it was expected to do with the AONB Partnership.

## 7. Transfer hosting to a different organisation

Some AONBs have a range of possible local authorities for hosting. In the Shropshire Hills, hosting by Telford & Wrekin Council would be the only local authority alternative. This possibility has not been explored but should not be ruled out without consideration.

As a slightly different model, in some areas neighbouring AONBs are close enough to share certain functions, especially where through the same host authority. Due to distance from other AONBs, this is not likely to be viable for the Shropshire Hills.

Hosting by a non-local authority body would leave the local authorities with their statutory duty on the AONB Management Plan. As with the independent trust option, there would probably need to remain a Joint Advisory Committee. Agreements would need to be made for connection of the new host body to a JAC and to the local authorities, as well as agreement of Defra and Shropshire Council to provide the AONB funding to a different organisation.

There is a recent example of this option now within the AONB Family, where the Isles of Scilly team (less than 2 officers full time equivalent) was recently disbanded by the local authority and an officer is now employed for the AONB by the Isles of Scilly Wildlife Trust, drawing down the Defra AONB funding. This is the smallest AONB in the country (for whom other options such as independence may therefore not exist), and this change has been regarded by many as a backward step, associated so far with reduced activity by the Partnership (JAC).

There is a risk with this option of another host organisation seeking to impose its own remit on the AONB structure, and redirect AONB team activity to its own advantage over and above the interests of the AONB.

This option does not appear to have particular merit or many possibilities for the Shropshire Hills AONB, but could perhaps be regarded as a 'last resort' option. It is worth noting that the Shropshire Star article of 25<sup>th</sup> March focused on this scenario without mentioning possible options for an independent AONB body, so this option may be higher at present in people's thoughts than perhaps is justified.

Implications for the Stiperstones & Corndon Hill Country Landscape Partnership Scheme (LPS)  
The implications for the LPS of these options need to be considered. Though time-limited, the LPS has two years to run and a different AONB structure might be taken forward within that period. The LPS Board Chairman has raised concerns on behalf of the Board about the current action by Shropshire Council and the implications of reduced management capacity in support of the LPS team at a crucial point in delivery. If progressed quickly, independent options for the AONB may not allow retention of the strong AONB-LPS link, unless the Heritage Lottery Fund (HLF) and Shropshire Council agreed also to transfer the LPS to the independent body. If not, the 'legacy' aspects of the LPS (in which the AONB is obviously expected to have a key role) could be significantly affected. The timescale of a Conservation Board creation may mean that the LPS would be close enough to completion for this to be much less of an issue. However the end of a large scheme such as this can bring much work for the lead organisation, especially if members of the project team leave early for other jobs.

HLF have been alerted to the issue of the AONB restructure by the LPS Board Chair but discussions on their views have not yet been held.

## **Section 2 Options for adjusting 2016-17 AONB Partnership budgets**

Appendix 3 shows a revised AONB Partnership budget for 2016-17 in a suggested scenario of repayment by the AONB Partnership to Shropshire Council for the currently uncharged support costs of £31,290, conditional on the Council continuing with their contribution of £40,830, and on not taking forward the restructure action initiated or reallocating £48k of Defra AONB funding.

The '2016-17 revised budget' column shows modest potential savings possible on some operating budgets, though these have already been squeezed repeatedly over recent years.

The key part of the revised budget lies in the bottom section where sources of earned income are identified, against committed needs for income. Two key sources of income are significant for 2016-17. The first of these is income earned by the AONB Promotions Officer and the AONB Sustainable Business Officer carrying out work in support of the Landscape Partnership Scheme, which is paid for at cost from the LPS budget. This amounts to a significant source of income. This can continue into 2016-17, but HLF are currently capping the amount payable for the Sustainable Business Officer's work on the Scheme. This may be negotiable to allow further work and income.

The second significant source of earned income is the HLF Upland Commons project, for which the large application was made in February by the Foundation for Common Land, building on over two years of joint working with the AONB Partnership and four other areas of the country. The decision on this application is expected from HLF on 24<sup>th</sup> May 2016. If approved, the project is likely to provide the opportunity to contract the AONB Community & Landscape Officer for three days/week for up to four years. The £20k sum entered for this is an approximate figure for funding this work at cost. Since the other areas will be employing a freelance person for this role, the project has budgeted to provide this service at higher day rates and it is possible that this higher rate would be available for the Community & Landscape Officer.

**In summary, the effect of these adjustments on the 2016-17 budget is to make a balanced budget feasible while still providing Shropshire Council considerable saving through payment for support services.**

There are other possibilities including further income earning work by other members of the AONB team (e.g. consultancy, providing technical training on a commercial basis), and even the possibility of voluntary reductions in hours. Some opportunities only arise within the year, and in 2015-16 a budget deficit of around £20k expected near the beginning of the year has been brought effectively to a break even budget by the end of the year. The AONB Partnership's financial reserve provides a short term insurance against risk, to a certain level.

#### **RECOMMENDATION:**

**The Management Board is recommended to comment on the options presented and analysis of them, in order to take forward a refined options paper with a recommendation to the additional AONB Partnership meeting on 18<sup>th</sup> April, and to inform ongoing discussions with Shropshire Council management regarding the restructure initiated.**

This paper is put to the Management Board by the AONB Partnership Chair. For further information please contact James Williamson on [james@williamsonharrison.co.uk](mailto:james@williamsonharrison.co.uk) or 01588 630666.

#### **Appendices**

Appendix 1 Current AONB Partnership structure in detail

Appendix 2 Simple visual representation of main structure options

Appendix 3 Revised AONB Partnership budget for 2016-17