



South Downs

National Park Authority

Agenda Item 12

Report 09/17

Report to	South Downs National Park Authority
Date	30 March 2017
By	Head of Income Generation and Marketing
Title of Report	Income Generation Update

Recommendation: The Authority is recommended to:

- 1) Approve the Memorandum and Articles of Association of the South Downs National Park Trust (SDNPT),**
- 2) Approve the appointment of the initial Trustees, as set out in Appendix 2 to this report in accordance with the terms of paragraph 3.6 of the articles of association of the SDNPT and approve the appointment of the NPA member for the purposes of the Authority's indemnity for Members and Officers. ,**
- 3) Approve the Memorandum of Understanding (MOU) and Licence of the Shared Identity and delegate authority to the Chief Executive in consultation with the Chair of the Authority to make any minor changes as necessary arising from the South Downs National Park Trust's consideration of the MOU and licence,**
- 4) Approve the registration of the South Downs National Park Trust with the Charity Commission and delegate authority to the Chief Executive to take all associated steps and including establishing the South Downs National Park Trust,**
- 5) Note that a Grant Agreement will be brought to the July NPA meeting before the approval of any non-staff financial budget for the Trust.**

I. Summary and Background

- I.1. The development of a Charitable Trust has been a long standing aim, explored as part of the 2014/2017 corporate plan and adopted as an objective in the 2016/2020 corporate plan, which was developed in line with the restructure.
- I.2. On the 23 July 2016 the SDNPA agreed in principle to the setting up of a charitable entity for the South Downs National Park, subject to the provision of a business case, articles of association and governance arrangements, including the appointment of Trustees. It was agreed that this would be reported to the Authority for approval before approaching the Charity Commission or the appointment of Trustees.
- I.3. On the 31st of January the SDNPA were updated on the progress towards establishing the charity and initial draft of the proposed Memorandum and Articles of Association, The South Downs National Park Trust (Trust).
- I.4. This paper reports on the action that has been taken to implement the conclusions of the discussion on the 31st of January NPA meeting and seeks formal approval of the final Memorandum and Articles of Association, proposed Trustees, MOU and Licence of the Shared Identity, allowing the registration of the Trust.
- I.5. A subsequent Grant Agreement will be brought to the July NPA meeting, before the transfer of any funds to the Trust.

2. Memorandum or Articles and Association

- 2.1. Eversheds (who were commissioned to give advice on the establishment of the charity), have assisted in drafting the Memorandum and Articles of Association as set out in **Appendix I**.
- 2.2. Following discussion at the 31 January NPA meeting, the following amendments have been made:
 - 2.5 - Removal of powers to establish other Charities.
 - 3.6 - Provisions to spread the Terms of Appointment of Trustees', ensuring adequate hand over.
 - 3.7.7 - Provisions for the removal of SDNPA Members from the Trustee board, once they have stepped down from the SDNPA.
 - 4.2 and 9.3 - Provisions ensuring that at least one SDNPA Member is required to make a quorum.
 - 9.3 - Increase in the number of Trustees needed for an AGM from 2 to 3.
 - 9.8 – Makes the Trust's AGM mandatory, rather than optional

3. Trustees

- 3.1. Six initial Trustees, including the Chair and first SDNPA Member have been put forward for approval by the SDNPA. The Trustees and Chair, along with a short biography, are set out in the exempt **Appendix 2**.
- 3.2. The Independent Trustees have either been drawn from a list of suitable candidates, collated from member suggestions, shortlisted by the Authority Chair and Chief Executive Officer or through a formal recruitment process, from a pool of suitable candidates that had responded to the Trustee advert on the SDNPA website.
- 3.3. The Chair of the Trust was selected through a formal recruitment process, from a pool of suitable candidates that had responded to the Trustee advert on the SDNPA website.
- 3.4. The proposed SDNPA Trustee was selected following an email from the Chair of the Authority, which invited interested Members to apply. This was in line with the process agreed for appointments to outside bodies, which will be used for future Member appointments to the trust. It is proposed that the appointment be approved for the purposes of the Authority's indemnity for Members and Officers. The Authority's indemnity will only apply after any indemnity or insurance form the Trust has been applied.
- 3.5. A further independent Trustee and one SDNPA Member will be recruited to the Trust within the first year, once registered.

4. Memorandum of Understanding between the SDNPA and South Downs National Park Trust.

- 4.1. Eversheds have assisted in drafting the Memorandum of Understanding set out in **Appendix 3**.
- 4.2. This MOU is a collaborative agreement between the SDNPA and the South Downs National Park Trust, setting out the key objective (which in this case is establishing an effective and financially stable charity), roles and responsibilities alongside means to escalate any areas of concern.
- 4.3. Once agreed by the SDNPA, the MOU will need approval of the Trust before it comes into full effect. In order to ensure this is completed as smoothly as possible a delegation to the Chief Executive in consultation with the Chair is proposed to agree any minor changes arising from this process. Should there be significant changes required this will be reported back to the SDNPA for agreement.

5. Grant agreement

- 5.1. This MOU will be accompanied by an annual Grant Agreement specifying the non-staff budget provided by the SDNPA and the specific conditions associated with this. The Grant

agreement will include requirements to spend the grant funding in accordance with the Partnership Management Plan and to provide regular reporting. It is important that such requirements are included in a Grant Agreement and not an MOU to protect the independence of the Trust.

- 5.2. The Grant Agreement will be brought to the July NPA Meeting by which point we anticipate having successfully registered the Trust.

6. Licence of the Shared Identity

- 6.1. The Trust will operate on a brand linked to the shared identity. This gives the Trust the opportunity to capitalise on the goodwill towards the South Downs National Park.
- 6.2. This brand will be licenced to the Trust by the Authority. This licence and the logo can be seen in **Appendix 4**.
- 6.3. This licence is based on the agreement developed by intellectual property lawyers Barren Warren Redfern and has been approved by the Authority's legal services provider.
- 6.4. The terms of this agreement enable the SDNPA to revoke the licence on the basis that the Trust operates in a way that is not in keeping with the Purposes and Duty of the National Park.
- 6.5. This arrangement will also help ensure long term co-operation with the SDNPA and protects against reputational risks.

7. Business Case for the SDNPA

- 7.1. A three year income and expenditure budget for the Trust is included below. This has been reduced from the five years proposed in the January NPA, in line with the timeline of the proposed MOU.

Year	2017	2018	2019	Total 3 year
Income generated against the PMP	£120,000	£300,000	£500,000	£920,000
Total Expenditure	£172,453	£174,902	£177,400	£524,754
Salaries (Inc. NI and Pensions)	£67,282	£68,627	£70,000	£205,909
Fixed Overheads (full cost recovery at 82%)	£55,171	£56,274	£57,400	£168,845
Expenses	£50,000	£50,000	£50,000	£150,000
Income after expenditure	-£52,453	£125,098	£322,600	£395,246
ROI	£0.70	£1.72	£2.82	£1.75
ROI (exc Fixed Overheads)	£1.02	£2.53	£4.17	£2.45

- 7.2. All costs have been accounted for in the current corporate plan and budget round as well as the long term financial strategy. The £50k non-staff budget has been ring-fenced, but will need to be approved as part of the grant agreement before being issued to the charity.
- 7.3. Investment within this model refers to investment in the PMP, not the SDNPA.
- 7.4. "Salaries" represent 0.6 of James Winkworth, the Head of Income Generation and Marketing and 0.8 of Sophie Riston, The Fundraising and Development Manager, including NI and Pension. These are not new posts.
- 7.5. Fixed Overheads are estimated on full cost recovery at 82% of salary. This represents for example, HR, ICT, Facilities and Insurance. Please note that these costs do not present a financial saving to the SDNPA should the charity not be progressed.
- 7.6. "Non-staff budget" covers finance and legal advice, promotional materials alongside staff and trustee expenses. A full budget will be set out in an annual grant agreement, to be brought to the July NPA Meeting.
- 7.7. The income forecasts are based on the extensive independent competitor analysis and feasibility study delivered by the Management Centre. This report, which was endorsed by Members at the NPA in February 2016, conducted on a comprehensive review of regional

and national funding opportunities and the comparative success of a large number of related organisations operating in a similar regional or thematic area. The Conclusions and recommendations of this work were presented to the NPA in February 2016.

- 7.8. Based on these assumptions, the Charity would deliver a ROI of £2.82 by 2019 and an average ROI of £1.75 across the three year period of the proposed MOU.
- 7.9. When omitting Fixed Overheads, which would not represent a saving should the SDNPA not proceed with the Trust, the ROI increase to £4.17 in 2019 and an average ROI of £2.45 across the three year period.
- 7.10. The Head of Income Generation and Marketing will work develop a Fundraising Strategy with the Trustees once the charity has been established. This will set out the approach and fundraising mix which will be pursued by the Trust. It is important that this is developed and approved by the Trustees in line with the independence of the Trust.

8. Other Implications

Implication	Yes*/No
Will further decisions be required by another committee/full authority?	Yes, a Grant Agreement will be brought to the SDNPA covering the financial support for the Trust in 2017. This will be reviewed annually.
Does the proposal raise any Resource implications?	Yes, as covered by the business case.
How does the proposal represent Value for Money?	In 2019 we anticipate the Trust will be raising £2.82 against the Partnership Management Plan, for every £1 invested by the SDNPA.
Are there any Social Value implications arising from the proposal?	Yes. The Trust aims to build capacity to deliver against the PMP, particularly in the areas of conservation, enjoyment and education. This will create huge social value for those who live in and around the National Park.
Has due regard been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	The charity will need to look after its own due diligence to the equalities act to ensure it is compliant. They will also need to consider this within respect of trustee appointment. Equalities considerations have been taken into account in the process of selecting trustees
Are there any Human Rights implications arising from the proposal?	None directly arising from this report.
Are there any Crime & Disorder implications arising from the proposal?	None directly arising from this report.
Are there any Health & Safety implications arising from the proposal?	None directly arising from this report.

<p>Are there any Sustainability implications based on the 5 principles set out in the SDNPA Sustainability Strategy:</p> <ol style="list-style-type: none"> 1. Living within environmental limits 2. Ensuring a strong healthy and just society 3. Achieving a sustainable economy 4. Promoting good governance 5. Using sound science responsibly 	<p>Yes, this project will help deliver against the SDNPA sustainability Strategy through 1, 2 and 4.</p>
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9. Risks Associated with the Proposed Decision

- 9.1. A risk has been added to the corporate strategy risk register around reputational risk, with the appropriate mitigations and controls.

Risk	Likelihood	Impact	Mitigation
The Charity Commission does not see the proposed Trust as independent from the Authority and therefore does not approve its registration.	Unlikely	Moderate	Working with Eversheds we have taken a cautious approach to the provisions within the Trusts Memorandum and Articles of Association, and have followed the precedent which has been set by the Charity Commission through their recent approval of charities such as the Hampshire Cultural Trust and North York Moors Trust.
Delays in the setup of the charity lead to missed opportunities and reduced delivery against the partnership management plan.	Possible	Major	Work with Eversheds as highlighted above. Work with Trustees to seek guidance from the Charity Commission before registration.
The Trustees refuse the MOU proposed by the Authority	Almost Impossible	Major	Close working in the early days of the Trust will ensure that there is a strong partnership approach between Trustees and the Authority. This will ensure that the MOU represents a positive partnership.
Reputational risk caused by an inappropriate fundraising activity	Unlikely	Major	A draft fundraising policy will be presented to, and agreed by, the Trustees at their inaugural meeting.

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Appendices

1. Memorandum and Articles of Association for the South Downs National Park Trust
2. Initial trustees (exempt)
3. Memorandum of Understanding
4. Brand Licence and Logo

SDNPA Consultees

Chief Executive; Director of Countryside Policy and Management; Director of Planning; Monitoring Officer; Legal Services, Business Service Manager. Head of Governance.

External Consultees

Eversheds

Background Documents

[Authority Report 31 January 2017](#)
[Authority presentation 31 January 2017](#)
[Authority Report 27 March 2016](#)
[Authority Report 2 February 2016](#)
[Authority presentation 2 February 2016](#)

Authority meeting June 2016 Part II report; SDNPA – Comparator analysis – Management Centre 19.12.2015; SDNPA – Philanthropic fundraising strategy – Management Centre 19.12.15;