

# North York Moors National Park Authority

22 September 2014

## Establishing a Charitable Trust to Fund Activity in the North York Moors

### 1. Purpose of the Report

- 1.1 To seek Members' support for detailed proposals to set up a Charitable Trust to enhance the environment, enjoyment and understanding of the North York Moors.
- 1.2 To seek Members approval to approach the Charity Commission.

### 2. Background

- 2.1 In order to sustain the delivery of park purposes (especially in the face of continued cuts in core grant) the Authority is placing an increasing importance on income generation and fundraising. Ambitious plans are in place to increase these and the Authority has already been successful in securing funding from a wide variety of external sources including the Heritage Lottery Fund. It is also generating more from fees, sales and charges. Funds of this nature are however becoming increasingly competitive and there are other sources of funding that the Authority is unable to tap effectively such as donations, legacies and sponsorship. There are also charitable sources that are not open to the Authority. Applying gift aid to giving is another function a charity can potentially apply and the North York Moors benefit from.
- 2.2 It has therefore been suggested by Members and Officers that a charitable trust should be established to fundraise and support the charitable aspects of the work of the Authority to benefit the North York Moors and associated communities.
- 2.3 To set up a trust it must demonstrate independence from the Authority and it cannot simply replicate the Authority's statutory purposes. However, the charitable objects that define the scope of the trust could be set up in a way that the visions and objectives of the trust are complementary to the Authority so that the two organisations remain mutually supportive. This should ensure that competition and duplication are avoided and the interests of the NYM and the public are best served. Avoiding duplication and competition are seen as essential prerequisites to make the undertaking worthwhile.
- 2.4 The proposals in this paper have been developed with the benefit of specialist legal advice and Members have discussed the principle of setting up a trust informally, at FRASC on 3 February, at a training seminar on 28 July, and were given the opportunity to comment on the core proposals by email in August 2014. Members asked Officers to return to them with specific proposals by September.

### 3. Legal Powers

- 3.1 It has been established that the NPA has the legal power to apply funding to establish a charitable trust under section 65 of the Environment Act 1995.
- 3.2 The Charity Commission issues prior guidance only (which officers have considered thoroughly) and assesses each application to set up a trust individually. Most trusts set up by local authorities are to administer specific places or buildings such as

sports fields, swimming pools and museums, but there are other trusts in existence whose purpose is to benefit a wider area and as such a precedent has been set for the type of trust to be established that is described in this paper.

#### 4. **Charitable Trust Model**

4.1 There are several models for setting up a trust, but to fulfil Authority aspirations only two of these have relevance;

1. A Charitable Incorporated Organisation
2. A charitable trust which is also a Company Limited by Guarantee

The creation of the charity using a company limited by guarantee restricts the liability of trustees, permits trading through the company structure, and importantly allows the company to be 'charged' should it seek company /corporate finance to help develop a project. Legal advice is that it is the most appropriate charitable model for the proposed North York Moors National Park Charity.

4.2 The proposed charitable trust must be separate in law from the Park Authority. The aims of the trust will be broader than those of the National Park Authority and the area of benefit is likely to extend beyond the boundary of the National Park.

#### 5. **Governance**

5.1 The proposed title of the trust is;

##### **The North York Moors National Park Trust (NYMNPT)**

The title is deliberately similar to that of the place and the Authority in order to encourage close working between the two organisations to provide sustainable long term benefits for the place, its communities and the wider public.

5.2 The trust would be governed by a number of trustees suggested at 7 who must act to further the aims of the trust. Trustees would be a mix of NPA members and others as appropriate which would help to emphasise the independent nature of the trust. The Charity Commission have the power to impose a ratio should they consider that the trust has to be seen to be more clearly independent from the Park Authority. It is suggested that the Trustees would meet up to four times per year, though this would be for the Trustees to agree in the long term.

5.3 In order to establish the trust, it is proposed that in the first instance the CEO, Chair and Deputy Chair of the Authority nominate appropriate individuals to be approached as potential trustees having canvassed ideas from Members and others. Once the trust is established, filling any vacancies will be a matter for the remaining trustees.

5.4 The trust will not be subject to governance by the National Park Authority and will be responsible for operating its own bank account and completing its own legal and statutory returns. It is anticipated that the trust will be based at the Helmsley office.

5.5 The staff support needed and associated costs, especially to kick-start fundraising, will be initially provided by the Authority. Staff can be seconded from the NPA to the trust, or in the long term may be employed directly by the trust. As soon as funds allow, staff time and support costs for the administration of the trust will be legitimate operating costs funded from the gifts and income received.

## **6. Ensuring Long Term Synergy between the Trust and the Authority**

- 6.1 Once a trust is registered with the Charity Commission it will exist as an independent body and the Authority cannot undo the decision without the agreement of the Trustees. Therefore it is essential that a long term relationship is established at the outset between the Authority and the trust which is mutually supportive, consistent, transparent and set up so that the two organisations are least likely to expend energy duplicating activity.
- 6.2 Legal advice, based on experience, suggests that the chair of the trustees should be the CEO of the NPA which would provide a firm basis for the establishment of a trust and security of operation. This is thought to be the most robust way of ensuring that the trust both maintains its necessary independence whilst also ensuring it has the support and continuity it will need, especially in the early years. Having the Authority's CEO as chair is also seen as the best way of reducing the danger of duplication and rivalry between the two organisations in the long term.

## **7. Proposed Activities of the Trust**

- 7.1 When established, it is proposed – though this would be a decision for the trust - that the initial activity in the early years is based around two themes; fundraising and partnership building. The trust will need to create a 'public face' in order to invite donations, seek sponsorship and legacies and apply gift aid to giving where possible. There are also charitable sources of funding and grants to investigate that are not open to the Authority to apply for. These are functions the trust could set up and the North York Moors benefit from, almost immediately. This will include working with external organisations to seek sponsorship and identify complementary activity and potential partnerships.
- 7.2 A key activity from the outset will be creating and nurturing a symbiotic relationship between the Authority and the Trust that will enable and ensure the two organisations remain mutually supportive and complementary in purpose and activity, whilst being free to have constructive relationships with other parties.
- 7.3 In the longer term, and when significant progress has been made toward the aims at 7.1 and 7.2, the trust could potentially undertake commercial activities, employ staff, commission the NPA to carry out project works (or vice versa). These possibilities can be developed when there is a clear benefit to doing so and as time, resources and opportunity allow.
- 7.4 It is envisaged – and the objects should reflect this – that the trust would not engage in any policy or campaigning work, nor would it focus exclusively on any one aspect of the North York Moors. Discussions will take place with the North Yorkshire Moors Association to reassure their membership that the aims of the trust proposed in this paper are significantly different in that no campaigning or lobbying role is proposed.

## **8. Charitable Purposes and Objects**

- 8.1 'Charitable Objects' is the term used to describe and identify the purpose for which a charity has been set up. These need to be broad and flexible as, once accepted by the Charity Commission they are difficult to alter. Greater definition and detail can be then be added when the constitution of the trust is developed. In order to best benefit the North York Moors area and communities the proposed trust's charitable objects should be consistent with (but not identical to) the communally agreed National Park Management Plan and Park Purposes.

A charity's purposes should make it clear (Charity Commission wording follows):

- what outcomes the charity is set up to achieve
- how it will achieve these outcomes
- who will benefit from these outcomes
- where the benefits extend to

8.2 Suggested charitable purposes for the NYMNPT in principle should:

- Benefit local communities and the general public
- Build on and enhance the special qualities of the NYMNP
- Carry out activities that are in tune with the NPMP
- Operate in the wider NYM area i.e. not to be restricted by a precise boundary
- Have no geographical restrictions on trading

8.3 Whilst the precise wording of charitable objects will need to be developed with legal advice, the following examples (under the headings of the appropriate Charity Commission accepted purposes in bold below with the full list at **Appendix 1**) the NYMNPT may wish to undertake that would be entirely consistent with the NPMP include (but are not confined to it at this stage);

**(i) the advancement of environmental protection or improvement;**

- Undertake activities that will enhance the distinctive landscape of the area
- Promote the conservation, protection and improvement of the physical and natural environment by improving biodiversity and helping species adapt to climate change

**(b) the advancement of education;**

- Promote education and better understanding about the NYM

**(d) the advancement of health or the saving of lives;** *(N.B This includes charities that promote activities that have a proven beneficial effect on health)*

- Promote opportunities for recreation and sport that are compatible with the place
- Raise awareness of the long spiritual history and traditions of the area and provide opportunities for contemplation and reflection through contact with nature
- Assist those that are less than fully able to enjoy the NYM

**(e) the advancement of citizenship or community development;**

- Providing opportunities for learning through experience and training
- Rural regeneration activities compatible with the special nature of the environment

**(f) the advancement of the arts, culture, heritage or science;**

- Protect and promote the cultural heritage including literature and traditions of the area

## 9. Financial and Staffing Implications

9.1 The cost of setting up the trust is initially estimated at approximately £1,600 which includes registration and incorporation though this may vary depending on how much legal input is needed.

9.2 There will be the commitment of staff time of the CEO and others as delegated and appropriate to establish the trust. Once established, a programme of work will be developed and agreed by the CEO and Directors which will require staff time to implement and be reported to Members in due course.

## 10. **Contribution to National Park Management Plan**

- 10.1 The establishment of a trust on the guidelines set out in this paper is directly supportive both in principle and practice of the National Park Management Plan objectives and delivery of National Park purposes.

## 11. **Legal Implications**

- 11.1 Though the trust once set up will be an independent body responsible for its own legal and statutory returns the ties between the two organisations as outlined at points 6 and 9.2 should ensure that the two organisations remain mutually supportive in the long term.

## 12. **Recommendation**

- 12.1 That: Members agree to pursue the idea of establishing a trust to the next stage and instruct Officers to develop charitable objects that ensure the objectives of the trust are consistent with National Park purposes and the National Park Management Plan as outlined in this paper. These will be recirculated to Members for comment by email.
- 12.2 That: Members instruct Officers to approach the Charity Commission and Companies House to establish the North York Moors National Park Trust as a charitable company limited by guarantee as outlined by the proposals in this paper.
- 12.3 That: Members be given the opportunity to comment on the proposal before a final decision is taken to proceed.
- 12.4 That; Members instruct Officers to undertake further work to understand the staff time required to support a trust to the point where it is functioning effectively

Contact Officers

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### **Background papers to this Report**

### **File ref**

1. None

**Charitable Purposes as defined by the Charity Act 2011 with the most relevant for NPA highlighted in bold;**

- (a) the prevention or relief of poverty;
- **(b) the advancement of education;**
- (c) the advancement of religion;
- **(d) the advancement of health or the saving of lives;**
- **(e) the advancement of citizenship or community development;**
- **(f) the advancement of the arts, culture, heritage or science;**
- (g) the advancement of amateur sport;
- (h) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
- **(i) the advancement of environmental protection or improvement;**
- (j) the relief of those in need because of youth, age, ill-health, disability, financial hardship or other disadvantage;
- (k) the advancement of animal welfare;
- (l) the promotion of the efficiency of the armed forces of the Crown or of the efficiency of the police, fire and rescue services or ambulance services;
- (m) any other purposes—
  - (i) that are not within paragraphs (a) to (l) but are recognised as charitable purposes by virtue of section 5 (recreational and similar trusts, etc.) or under the old law,