

North York Moors National Park Authority

16 December 2019

Woodland Management Agreements – Longer Term Payments

1. Purpose of the Report

- 1.1 To propose a framework for the delivery of Woodland Management Agreements to include longer term payments via contributions made under the Landscape and Ecology element of the Woodsmith Mine S106 agreement.

2. Background

- 2.1 Planning application NYM/2014/0676/MEIA, was granted permission on 15 October 2015 (updated NYM/2017/0505/MEIA - 6 February 2018). This included a Section 106 (S106) agreement to provide considerable resource to compensate and mitigate in specific ways against the assessed harmful residual impacts on the National Park arising from the development.
- 2.2 Woodland and Forestry Measures are delivered under the Landscape Compensation Fund element of the Woodsmith Mine S106 agreement. These measures on existing woodland are to retain and improve the visual appearance of the landscape and are separate from the carbon offsetting woodland planting regime.
- 2.3 The measures that may be taken forward for landscape compensation with respect to woodland and forestry are stated in the ‘Section 106 Proposed Programme, Rationale and Costings to Compensate for Residual Impacts relating to Conservation Matters’ document as follows:
- Removal of coniferous blocks that are sited inappropriately on previously open habitats, especially moorland.
 - Conversion of coniferous woodland to broadleaves.
 - Softening of angular edges on blocks of woodland (coniferous plantations are more likely to be targets for this work but broadleaved blocks may also exhibit this characteristic and may also be appropriate for softening measures)
 - Establishment of new woodland creation schemes.
 - The management of existing as well as new in-field and hedgerow trees.
 - Woodland management and maintenance to enhance visual amenity (e.g. coppicing, thinning, long-term retention, avoidance of inappropriate clear fellings and where appropriate conversion to continuous cover silvi-cultural systems).
- 2.4 Within these measures a significant priority in the National Park Management Plan is the restoration of ancient woodland and specifically the restoration of Plantations on Ancient Woodland Sites (PAWS) back to broadleaved woodland. Broadleaved woodland is a particularly significant but much diminished element of the landscape. The Management Plan states that *“The North York Moors contain the largest concentration of PAWS in the north of England. Despite significant restoration schemes by the Forestry Commission and some private owners, assisted by the National Park Authority, the remaining resource is being steadily eroded and much is in danger of permanently losing its value as an ancient woodland site as, over time, the surviving ancient native woodland ground flora and shrub layer will disappear.”*

3. Ancient Woodland Restoration Progress

- 3.1 Since 2005 the Authority has focussed efforts on PAWS restoration with considerable success, as to date 1,130ha of PAWS sites (31% of PAWS) have either undergone works or have firm commitments to do so through an agreement with the Authority. This figure includes Forestry England data for sites where the restoration process has physically started (323ha).
- 3.2 Although significant progress has been made it is getting more difficult to persuade landowners to restore their ancient woodland sites both here and across the country, as our partner the Woodland Trust has found.
- 3.3 A recent review of the barriers to restoration undertaken by our Woodland Officer highlighted that the main reason is the economic benefits of coniferous timber production over broadleaves due to higher volume production with shorter crop rotation lengths and also supplying known reliable markets. The costs of establishment and management may also be lower. Costs and income are often quite difficult to quantify or predict, therefore continuing with current known practice is often chosen as the easiest or safest option.

4. The Need for Long Term Payments

- 4.1 Current woodland grants are usually for capital works only and do not even offer maintenance work payments. Immediate capital grants are not suitable for all sites as sometimes there is nothing to pay for, especially on sites where commercial timber production is both practical and profitable. Also on areas where the timber crop has not reached economic maturity landowners are very unlikely to fell early in order to begin restoration. Owners are generally reluctant to reverse recent management decisions or sign up to longer term commitments unless these are supported by grant aid (or cover substantial costs at the outset). There will inevitably be situations where the economic position of the woodland in question makes conservation work prohibitively expensive. The aim of this paper is to extend the reach of payments so environmental improvements on relatively marginal sites becomes financially acceptable.
- 4.2 Woodland conservation work is only likely to be attractive if there is a funding mechanism that reasonably addresses the economic losses to the landowner in the long term. No grant schemes currently provide this support despite the acknowledged importance and value of woodland, especially ancient woodland sites. However, some externally funded projects offer funding over 3 or 4 years which is helpful to fund medium term works
- 4.3 The Authority's experience shows that progress is made when support:
- a) is carefully tailored to the site and the landowner's objectives;
 - b) can fund 100% of costs, where appropriate;
 - c) proposals and agreements are clear and concise;
 - d) grants can be offered over a number of years
 - e) grants can be used in a complementary way but avoiding double funding i.e. Authority grants can work alongside Countryside Stewardship.

5. Proposed Framework

- 5.1 All woodland projects are subject to a Woodland Management Agreement to document the work required, management, monitoring and funding arrangements. These are a minimum of 15 years and are all land charged.

- 5.2 These Agreements generally fund up to 100% of capital costs in Year 1 but do not make an annual maintenance payment. Capital works include; thinning or clear felling, tree planting, controlling invasive species and track work for access. On some sites an annual maintenance payment may be available through Countryside Stewardship.
- 5.3 It is proposed to continue to use core Authority funding through the PAWS budget (currently £80,000 annually) to pay for Year 1 works, however, other funding could be used where it is deemed more appropriate. The S106 funding presents an ideal opportunity to forward commit payments in order to persuade landowners to enter a long term agreement with the Authority to carry out conservation management on woodland sites. Therefore it is proposed that works in Years 2 to 10 of these agreements will be funded through S106 Landscape and Ecology. These works are likely to include those listed in 5.2 as well as other works such as; removal and recycling of tree guards, maintenance of planted trees and control of conifer regeneration.
- 5.4 To ensure value for money projects will be devised and costs estimated by the Authority's Woodland Team based on a range of sources including national standard prices and evidence from local tendering exercises. As per our financial procedures agreements with total payments under £20,000 will be signed by the Director of Conservation and agreements over £20,000 will be signed by the Chief Executive. The programme of works will include estimated maximum costs but details of work and actual costs will be confirmed in writing with the Authority prior to work commencing as it is impossible to fully understand these details for works so far ahead. Maximum costs will not exceed £8,000 per hectare unless otherwise agreed in the Compensation and Mitigation Action Plan (C&MAP) by Members.
- 5.5 All agreements will contain a clause that enables the Authority to re-claim grant from an agreement holder that is found to be in breach of the terms and conditions of the agreement.
- 5.6 All woodland work will be reported to Members annually along with other Landscape and Ecology Fund spend. Work on Forestry England's land will be highlighted in advance in the C&MAP and any funding given will reflect the fact that it has an existing duty to increase the value of woodlands to society and the environment and a commitment to restore PAWS sites.

6. Financial and Staffing Implications

- 6.1 The Woodland Management Agreements will be funded for initial capital works from the Authority's existing core funded PAWS budget or other sources if appropriate. Long term payments, up to 10 years in advance, will be committed from the Woodsmith Mine S106 Landscape and Ecology budget. **Members will approve the size of this budget in the C&MAP each year. The total forward committed amount will also be shown in the C&MAP as well as being noted in the Authority's annual accounts.**
- 6.2 The security arrangements that are in place through the S106 agreement ensure that there is sufficient money lodged in an ESCROW arrangement with Barclays Bank to cover any commitments for a rolling 10 year period from year one until year ten of the development and early operational phases. This arrangement is annually reviewed to ensure it is sufficient to cover all obligations for the main contributions and increased for inflation. This potentially covers agreements for the first twenty years of the developments lifespan. By the end of this period, the mine should be fully operational and generating sufficient income to meet its S106 obligations.

6.3 There will be no additional staffing implications as this work will be carried out by the current woodland team. The Polyhalite Projects Officer will ensure payments are included in the S106 Landscape and Ecology budget.

7. **Contribution to National Park Management Plan**

7.1 The activities delivered through the Woodland Management Agreement deliver against the objectives of the Management Plan: E1, E12, E19, E36, E37, E38 and B15. The Landscape and Ecology Fund is already delivering against other aspects of the Management Plan and Officers will, in due course, present further programmatic proposals for Member approval to give a more strategic outlook to these activities.

8. **Legal Implications**

8.1 With regard to core National Park monies, some payments made may not constitute state aid whilst other payments may be state aid and can be processed/managed/recorded in compliance with *de minimis* regulations' under the Authority's *de minimis* arrangements. The state aid position will be monitored and managed on a case-by-case basis, and the following clause will be included is present in all Woodland Management Agreements with regard to state aid "the Landowner should ensure that they are not in receipt of state aid that puts them in breach of the Industrial *de minimis* threshold of €200,000 over a three year rolling period".

8.2 With regard to S106 monies appropriate management of the collection and payment of these monies is necessary to ensure delivery of the identified compensation and mitigation elements in accordance with the express terms of the S106 Agreement and general Section 106 principles. As the monies are from a private source and are regulated and repayable in accordance with the S106 provisions, the Authority does not have discretion to allocate payments for materially different purposes other than, in this case compensating for landscape impact through woodland measures. State Aid issues are not expected to arise for any of the contributions if those parameters are adhered to as no commercial advantage is expected to result from the contributions and for other reasons. The state aid position will be monitored and managed on a case-by-case basis. Accordingly, for some projects and circumstances, offers of payment may not be made. The post EU position is still unclear. Should issues around subsidy and competition arise, the Authority should be able to process/manage/record them, for example through *de minimis* arrangements. To monitor and manage risk the Authority will continue to determine and monitor the appropriate value of payments to be made.

9. **Recommendation**

9.1 That:

That the approach to the delivery of Woodland Management Agreement payments made under the Landscape and Ecology element of the Woodsmith Mine S106 agreement outlined in Sections 4-6 above is agreed.

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Background papers to this Report

File ref

1. S106 Agreement
2. Compensation & Mitigation Action Plan
3. Section 106 Proposed Programme, Rationale and Costings to Compensate for Residual Impacts relating to Conservation Matters