



SHEFFIELD CITY COUNCIL Cabinet Report

Report of: Executive Director PLACE

Date: 16 September 2015

Subject: **Burbage, Houndkirk and Hathersage Moors
Proposed Lease to the National Trust for
Places of Historic Interest or Natural Beauty
and the Royal Society for the Protection of
Birds (RSPB)**

Authors of Report: Dave Wood, Capital and Major Projects, Place
Chris Heeley, Head of Countryside and
Environment, Place

Summary:

Burbage, Houndkirk and Hathersage Moors comprise 937 hectares of public access moorlands containing habitats and supporting wildlife of both national and international importance. The site contains eight Scheduled Monuments and many other archaeological features. The landscape is cherished by the people of Sheffield for its sense of wilderness despite its close proximity to the City and provides an accessible destination for many different types of access and recreation.

The land falls within the area of The Sheffield Moors Partnership formed between the Peak District National Park Authority, the RSPB, Sheffield and Rotherham Wildlife Trusts, Natural England, the National Trust and the City Council, covering circa 21 square miles of upland and moorland sites on the western fringe of Sheffield in the Peak District National Park and held in public sector or charitable ownership. The Sheffield Moors Partnership Masterplan 'Making connections - a landscape scale vision for the Sheffield Moors' is endorsed and supported by the City Council (see <http://www.sheffieldmoors.co.uk/>).

In order to secure delivery of the Masterplan and improved coordinated management of this locally, nationally and internationally important landscape Cabinet, at its meeting of 17th July 2013, authorised the Director of Capital and Major Projects to negotiate a lease with the RSPB and National Trust for Burbage, Houndkirk and Hathersage Moors. Following negotiation of appropriate terms, the proposed leasing arrangements were advertised as a disposal under section 123 (2A) of the Local Government Act 1972 and this report sets out the responses to the statutory Notice and seeks Cabinet approval to grant the proposed lease in accordance with agreed terms.

Reasons for Recommendations:

Through the terms of the proposed lease, the RSPB and National Trust will bring substantial additional expertise and resources to support the long term sustainable management of this valuable landscape, within a robust framework of consultation, stakeholder engagement and accountability to the City Council.

Recommendations:

That Cabinet welcomes the support expressed in response to the advertised disposal of Burbage Houndkirk and Hathersage Moors, notes the concerns expressed by two respondents, the measures proposed to mitigate such concerns and:

1. Approves the granting of a lease of Burbage, Houndkirk and Hathersage Moors to the National Trust for Places of Historic Interest or Natural Beauty and the Royal Society for the Protection of Birds, in accordance with the terms of this report
2. Authorises the Director of Legal and Governance to complete the lease in accordance with the terms of this report and such further detailed provisions as may be approved by the Director of Capital and Major Projects.

Background Papers: Report of the Executive Director, Place to Cabinet dated 17th July 2013.

Category of Report: OPEN

Statutory and Council Policy Checklist

Financial Implications
YES Cleared by: Paul Schofield
Legal Implications
YES Cleared by: David Sellars
Equality of Opportunity Implications
Yes
Tackling Health Inequalities Implications
Yes
Human rights Implications
NO:
Environmental and Sustainability implications
YES
Economic impact
NO
Community safety implications
NO
Human resources implications
NO
Property implications
YES Cleared by Dave Wood
Area(s) affected
South West
Relevant Cabinet Portfolio Leader
Cllr Ben Curran/Cllr Isobel Bowler
Relevant Scrutiny and Policy Development Committee if decision called in
Economic and Environmental Wellbeing
Is the item a matter which is reserved for approval by the City Council?
NO
Press release
NO

**Burbage, Houndkirk and Hathersage Moors
Proposed Lease to the National Trust for Places of Historic Interest or
Natural Beauty and the Royal Society for the Protection of Birds (RSPB)**

1. SUMMARY

- 1.1 Since March 2010 the National Trust have held a short term Farm Business Tenancy of Burbage, Houndkirk and Hathersage Moors assisting the Council to provide effective management of the site by providing additional resources and expertise.
- 1.2 The Executive Director, Place submitted a report to Cabinet on 17th July 2013 seeking support for the Sheffield Moors Partnership (SMP), a unique partnership with the purpose of leading an innovative approach to deliver the vision of the SMP area as the UK's leading model on how the uplands should be managed in the future and securing the long term sustainability of this wild and open landscape. The report also sought formal support from the Council as a key land owner for the recently developed Sheffield Moors Masterplan.

Cabinet resolved to:-

- (a) support the work of the Sheffield Moors Partnership and agree that the City Council should continue its collaborative work within the Partnership;
- (b) endorse the Sheffield Moors Masterplan and as a major land owner and partner in the area agree it as a statement of the City Council's vision for the Sheffield Moors; and
- (c) authorise the Director of Capital and Major Projects, provided the disposal has been advertised and no objections received, to negotiate a lease with the RSPB and National Trust for Burbage, Houndkirk and Hathersage Moors on terms that meet the requirements set out in the report and to instruct the Director of Legal and Governance to complete the necessary legal documentation.
- 1.3 Terms for a proposed lease have been agreed subject to approval and the disposal advertised in the Sheffield Telegraph on the 19th and 26th February 2015, under the provisions for the disposal of open space contained in s123 (2A) of the Local Government Act 1972
- 1.4 Twenty four responses to the advertisement were received, twenty two expressing support, one expressing some concerns and one raising objections
- 1.5 In view of the benefits associated with granting the lease, the level of support for the proposed leasing arrangements and the measures

proposed to mitigate concerns, it is recommended that Cabinet approves the granting of the lease in accordance with the agreed terms.

2. WHAT DOES THIS MEAN FOR SHEFFIELD PEOPLE

The granting of the lease will deliver significant public benefit, in particular:

- By 2018-19, over £350k of expenditure including biodiversity improvements, visitor experience and access upgrade, and conservation work to key archaeological features like Carl Wark
- The recruitment of two new dedicated staff focused on Burbage Moors (a warden - focused on-site maintenance and management and a Community Ranger – focused on community engagement, events and volunteering)
- The preparation and delivery of an integrated management plan that delivers real conservation benefit as well as visitor experience, historic environment management, etc.
- The provision of a co-ordinated approach to visitor management, and engagement through events, activities and volunteering (that has never happened before)
- The provision of a variety of stakeholder forums that actively engage the City Council, statutory bodies, representative interest groups and the local community and other users in the development and delivery of the management plan
- The delivery by the lessees – as a partner of SCC – of the City Council's statutory duties under Section 28G of the Wildlife and Countryside Act 1981 to further the conservation and enhancement of this Site of Special Scientific Interest.

3. OUTCOME AND SUSTAINABILITY

During a period of austerity in public spending, the proposed lease will bring external resources and expertise to secure delivery of the Sheffield Moors Masterplan, support the emerging outdoor economy strategy and ensure sustainable long term management of the Council owned Burbage, Houndkirk and Hathersage Moors.

4. PROPOSED LEASE TERMS

- 4.1 The National Trust and RSPB are currently the Peak District National Park Authority's lessees of the adjoining Eastern Moors. The terms proposed for the Council's Burbage, Houndkirk and Hathersage Moors draw on and develop the success of these arrangements to ensure an effective partnership approach to delivery of the Sheffield Moors Masterplan.

4.2 The agreed terms provide for the following:

Area to be leased: Approximately 937 hectares shown coloured pink and green on the attached plan

Period of the lease: 25 years

Permitted Use: Open moorland, woodland and grazing and particularly:

- To conserve, manage and enhance the natural beauty, wildlife and cultural heritage of the site and the surrounding area
- To promote opportunities for the understanding and enjoyment of the special qualities of the site by the public including holding events or providing facilities in accordance with the Management Plan or with the written consent of Landlord such consent not to be unreasonably withheld or delayed
- To seek to foster the economic and social well-being of the local community

Rent: One peppercorn per annum if demanded

Representation: The proposed lessees will be required to make proposals for a Key Partner's Forum, a Stakeholder Forum and for an Annual Meeting open to all interested parties, for the approval of the Council. The proposals are to cover: frequency of meetings; terms of reference; representation and protocols.

Management Plan: The proposed lessees will be required to produce a Management Plan on a 5 yearly cycle for the approval of the Council's Cabinet Member for Culture Sport and Leisure, with management proposals and a work programme addressing the following issues:

- a. Aims & objectives for the site
- b. Guiding management principles i.e. reference to delivering the objectives of the Sheffield Moors Masterplan
- c. Land & habitat management (including position on grazing, legal predator control for conservation objectives, species objectives, woodland)
- d. Visitor experience plan (volunteering, events & activities, brand & communications)
- e. Infrastructure (paths, fences, car parks etc. – covering both maintenance and any proposals for new provision)
- f. Monitoring programme (how and what will be monitored to determine if the Management Plan is delivering and the data collected in order to make informed decisions relating to future actions)

Review: As well as the monitoring provisions to be incorporated in the Management Plan the terms also provide for an annual review of the nature conservation value of the site, access, and any implications for the future work plan, by the Council's Ecology and Woodland Teams.

Break Provisions: The tenants may terminate the lease on 31.05.2023 and every subsequent five years on giving at least 12 months' notice.

Assignment and Subletting:

- Assignment of the lease will only be permitted where either party wishes to withdraw from the lease and the remaining party wishes to continue.
- Subletting for grazing purposes consistent with the Management Plan will be permitted.
- The granting of licences or concessions for purposes consistent with the permitted use will be permitted if they are approved either as part of the Management Plan or separately.

Option to add additional land: After the first 5 years of the lease there will be the option to add the area shown hatched red on the plan (former Burbage Plantation) to the lease, subject to agreed criteria.

5. RESPONSES TO THE ADVERTISEMENT OF THE PROPOSED DISPOSAL

- 5.1 Twenty four responses from organisations and individuals were received in response to the publication of the Council's intention to grant the proposed lease.
- 5.2 Overwhelmingly the responses endorse and support the proposals, mostly based on the RSPB/National Trust's management of the Peak District National Park's Eastern Moors since they took over management of the site in early 2011. This includes responses from: the Sheffield Local Access Forum; the British Horse Society; the Peak District National Park Authority; Derbyshire Ornithological Society; Ride Sheffield; Sheffield Bird Study Group; the British Mountaineering Council; Hunter Archaeological Society; Arteamus (Practical Archaeology Group); Sorby Invertebrate Group; Kinder and High Peak Advisory Committee and eleven individuals. A significant number of responses make specific reference to excellent stakeholder engagement and delivery of the agreed management plan on the Eastern Moors.
- 5.3 One objection was received on behalf of an individual and Dore Village Society has expressed concerns. The objection is chiefly for the reasons of transparency and accountability:
- No public examination of the full lease terms

- Inadequate public discussion as to the reasons for the proposed lease
- The rights of the public to scrutinise the activities of the RSPB/National Trust are not comparable with the those applicable to the City Council
- Reference is made to similar arrangements at Blacka Moor and the Eastern Moors in support of this objection

5.4 Dore Village Society's concerns also make reference to Blacka Moor and are summarised as a concern that the land will be over managed to conform to 'artificial biodiversity standards' which may conflict with public enjoyment of the wild landscape.

5.5 In response to the objection and concerns it is considered that:

- Whilst the Director of Legal and Governance advises that the detailed lease terms are commercially sensitive and would therefore fall within an exemption under the Freedom of Information Act, the responses given to requests for information and the details contained within this open report provide a comprehensive overview of the main lease terms.
- The proposed leasing arrangements formed part of the wider consultation on the Eastern Moors Partnership in 2010, have been reported and discussed at the former South West Community Assembly and, through the advertisement of the proposed leasing arrangements, further public response has been invited and received.
- The proposals for a Key Partner's Forum, a Stakeholder Forum and for an Annual Meeting open to all interested parties will provide a much greater opportunity for public engagement than is currently provided.
- The requirement for approval of a Management Plan by the Council's Cabinet Member for Culture Sport and Leisure and annual review by the Council's Ecology and Woodland Teams will ensure that management conforms to the Council's statutory duties under Section 28G of the Wildlife and Countryside Act 1981 rather than any 'artificial biodiversity standards'.

6. FINANCIAL CONSIDERATIONS

The public and conservation benefits to be delivered through the proposed leasing arrangements will be at no cost to the City Council. The terms of the lease do not require the Council to make any financial contribution as a result of this arrangement..

7. LEGAL IMPLICATIONS

In accordance with the provisions of s123 (2A) of the Local Government Act 1972 a council may not dispose of any land consisting or forming

part of an open space unless before disposing of the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to them.

In addition, s123 of the Local Government Act 1972 states that the Council cannot dispose of property for less than the best price reasonably obtainable, unless it obtains the consent of the Secretary of State. As the lease is proposed to be granted at a nil rent, there is potentially an undervalue, but pursuant to the powers conferred by section 128(1) of the 1972 Act. the Secretary of State has issued the General Disposal Consent (England) 2003. Where the terms of a proposed disposal fall within the scope of this consent there is no requirement to obtain a specific consent for it. This consent permits the disposal of land at an undervalue of up to £2,000,000 where the Council considers that it will help to secure the promotion or improvement of the economic, social or environmental well-being of its area.

It could be argued that the land has a nil value due to the restrictions on usage imposed on it under the terms of the proposed lease, but, in any event, its value is significantly less than the permitted £2,000,000 threshold. Accordingly, there is no requirement to obtain the consent of the Secretary of States specific consent to the grant of the lease.

8. HUMAN RIGHTS IMPLICATIONS

There are no specific human rights implications arising from the proposed letting.

9. ENVIRONMENTAL AND SUSTAINABILITY IMPLICATIONS

The proposed lease will deliver substantial environmental benefits and help to secure the long term sustainability of the site through delivery of the Sheffield Moors Masterplan.

10. EQUALITY OF OPPORTUNITY IMPLICATIONS

The delivery of the Sheffield Moors Masterplan through the leasing arrangements proposed will make recreational and volunteering opportunities available to a wider cross section of citizens.

11 ALTERNATIVE OPTIONS CONSIDERED

- 11.1 Retain direct management of the site with complete control and flexibility over future use and management. Not considered a viable alternative as existing resources are inadequate to ensure sustainable management, a situation which is unlikely to improve in the foreseeable

future. This alternative is also unlikely to:

- optimise the benefit of environmental grant aid available
- generate comparable levels of investment from third party organisations
- result in the same degree of public engagement in the management of the site

11.2 Undertake a procurement exercise to find an alternative partner organisation to assist the Council in the long term future management of the moors. This option has been considered but discounted due to:

- the track record of the National Trust/RSPB in delivering demonstrable public benefits through exemplary stakeholder engagement and land management on the adjoining Eastern Moors leased from the Peak District National Park Authority
- the beneficial effect of the close proximity of the National Trust's operations at Longshaw and the RSPB/National Trust's base at Barbrook in delivering effective day to day management of the Council's moors
- lessons learned from management of the Eastern Moors, within the context of the established network of stakeholder engagement, can be applied to the benefit of the Council's moors
- the National Trust and RSPB are existing partners in the Sheffield Moors Partnership and are fully committed to delivery of the wider vision for the Sheffield Moors, through delivery of the Masterplan

12. REASONS FOR RECOMMENDATIONS

Through the terms of the proposed lease, the RSPB and National Trust will bring substantial additional expertise and resources to support the long term sustainable management of this valuable and cherished landscape, within a robust framework of consultation, stakeholder engagement and accountability to the City Council.

13. RECOMMENDATIONS

That Cabinet welcomes the support expressed in response to the advertised disposal of Burbage Houndkirk and Hathersage Moors, notes the concerns expressed by two respondents with the measures proposed to mitigate such concerns and:

13.1 Approves the granting of a lease of Burbage, Houndkirk and Hathersage Moors to the National Trust for Places of Historic Interest or Natural Beauty and the Royal Society for the Protection of Birds in accordance with the terms of this report

13.2 Authorises the Director of Legal and Governance to complete the lease in accordance with the terms of this report and such further detailed provisions as may be approved by the Director of Capital and Major Projects.

Dave wood

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