

**7. BROSTERFIELD –REPORT ON THE GATEWAY REVIEW UNDERTAKEN ON 1<sup>ST</sup> NOVEMBER 2021 (CBM)**

**1. Purpose of the report**

This report informs the Committee that Officers have evaluated all the evidence provided by the Foolow Community by the deadline for the gateway review on 1<sup>st</sup> November 2021. It advises the Committee as to whether Officers consider that the evidence provided is sufficient to show that funding is in place for the Foolow Community to purchase the Brosterfield site and exchange contracts by 28<sup>th</sup> February 2022. It advises whether the second gateway review has been passed in accordance with Authority Committee Minute No 7/21 below and whether the Authority should proceed with the sale of the site to the Foolow Community or to sell it on the open market.

“To agree to sell the site to the Foolow Community at an agreed price with exchange of contracts by 28 February 2022. The following gateway reviews will need to be passed by the Foolow Community proposals:

- A robust business plan to be submitted by an agreed date. The Plan will be assessed by Officers and if not deemed sufficient a report will be brought to the Authority meeting on the 21 May 2021.
- Evidence that funding is in place to purchase the site is submitted by 1 November 2021. The evidence to be evaluated by Officers and if not deemed sufficient a report will be brought to a future Authority meeting.

If either of these gateway reviews are not passed then the Authority will revert to selling the site on the open market.”

**Key Issues**

- The Foolow Wildwood Project (the Project) met the first gateway review but have been unable to meet the second gateway review.
- The Project have asked for an extension of 12 months to satisfy the second gateway review but there is no provision for this in the Committee resolution.
- In accordance with the Committee resolution, the Authority is obliged to proceed to dispose of the site on the open market.
- This matter has been ongoing since 2012 and has cost the Authority over £700,000 (purchase, fees and management not including staff time).
- The Authority is obliged to recoup as much of this cost as possible and in any event, it is an audit requirement that the net cost of intervention into this site does not exceed £500,000.

**2. Recommendation**

**1. There is not sufficient evidence that funding is in place for the Foolow Community to purchase the Authority’s site at Brosterfield. The second gateway set out in resolution 7/21 has therefore not been passed and the Authority shall proceed to dispose the undeveloped site on the open market with the benefit of planning permission for a touring caravan and camping site.**

**2. To discharge the planning pre-conditions, carry out a material operation and proceed with the 'discontinuance order' in the context of the disposal.**

**3. How does this contribute to our policies and legal obligations?**

The site was purchased in order to protect the intrinsic landscape value of the National Park due to great concern of the possible impact of the development of a 20-unit static caravan park near Foolow village.

The planning status of the site will be regularised with a discontinuance order being made for the static caravan park permission and permission for a touring caravan and camping site re-established.

The Authority's intervention into the site as owner will be ended and the audit requirement satisfied.

**Background Information**

The 'historic' background to the site from 2012 is described at Appendix 1. In more recent times, the following options for the site were reappraised

- (1) Sell the site on the open market having carried out a material operation.
- (2) Develop the site and sell on the open market
- (3) Develop and lease (or enter a joint venture arrangement) to a 3<sup>rd</sup> party to operate the site
- (4) Lease the un-developed site to a 3<sup>rd</sup> party
- (5) Develop and manage as an in-house trading operation
- (6) Consider the approach from Foolow Community to purchase the site and develop a community wildlife area.
- (7) To keep the site in agricultural use

The following two options were selected for further investigation

- Sell the site on the open market
- Consider the approach from Foolow Community to purchase the site and develop a community wildlife area.

The Authority Committee considered the results of these investigations at its meeting on 19 February 2021 and resolved to agree to sell the site to the Foolow Community at an agreed price with exchange of contracts by 28 February 2022 provided the two gateway reviews described above were passed. The first gateway review was to submit a revised robust Business Plan.

The Foolow Community, now renamed the Foolow Wildwood Project (The Project) provided a new Business Plan on 21 April 2021 This is attached at Appendix 2. The Plan was considered by a Working Group of Officers including the Head of Finance, the Head of Asset Management, the Corporate Property Officer and Senior Legal Officer (Projects). They concluded that the Business

Plan was sufficiently robust and therefore the Foolow Wildwood Project were informed that they had passed the first gateway. Members were informed by email that this was the case. Since February 2021, the Foolow Wildwood Project, now registered as a Community Interest Company (CIC), have pursued the activities set out in the Business Plan including launching a web site and raising the profile of the project with the public and supporters. Officers have been kept informed as to progress.

Three representatives from the Project met the Head of Asset Management and the Corporate Property Officer on 24th September 2021 to update the Authority of progress pending the upcoming 1 November 2021 gateway review to assess whether sufficient funds are in place to purchase the site for the agreed price.

At the above meeting, that the Project's representatives explained that sufficient funding would **not** be raised by 1 November 2021. The Project therefore requested an extension of time (later confirmed as 12 months). They also informed the Authority's officers of a recent development whereby they wished to enter into a legal partnership with the Blythe House and Helens Trust to jointly fundraise and for the partnership to acquire the land rather than the Project on its own in accordance with the resolution at the Authority meeting on 19 February 2021.

A fuller description of the key points discussed at the meeting is set out below:

### **General background**

It was explained that, due to the Covid Pandemic, it had taken more time than expected to set up a bank account and register the Project as a CIC. As a result, fund raising activity had been delayed. It was also highlighted that the Project had encountered difficulties in accessing funds for a 'capital' land purchase rather than 'revenue' expenditure to develop projects on land already available. It was confirmed that the proposals had strong support from Sarah Dines MP and Derbyshire County Council Councillor Alistair Sutton (Bakewell Division).

### **Progress on raising the agreed price indicated in the Business Case**

#### **Grant aid**

The Project representatives reported that applications to the National Lottery –Green Recovery Fund had not been successful on the grounds of value for money and lack of 'diversity' in the community. The application to Tarmac was also unsuccessful, as they have not given large amounts for land purchases in the past and value for money concerns were raised. An application to Severn Trent Water required 'matched funding' that was not in place yet. An application for £5,000 had been made to 'Derbyshire Better' but the Project have been advised to resubmit this when they are closer to reaching the target sum. The Project representatives indicated that other funding sources identified in the Business Plan had not yet been followed up.

#### **Private pledges**

The Project representatives reported that 'significantly' more financial pledges had been received than the £33,325 that was currently showing of the Project web site. It was agreed that the actual figure raised would be given to the Authority prior to the publication of this report (please see below).

#### **Crowd funding**

The Project representatives reported that the Project had not yet registered for Crowd Funding as the advice they had been given was to wait until the end of the funding raising 'window' when people were more likely to contribute.

## **Loans**

It was reported that the possibility of private loans had been considered but none had been secured so far. Investigation of a 'patient' loan was on going (a loan with a very long payback arrangement). It was also suggested that the Authority might loan the Project any balance of funds not raised by 1<sup>st</sup> November 2021.

## **Blythe House and Helens Trust**

The Project reported that they were in discussion with and seeking legal advice to enter into a legal partnership with the above Trust to jointly fund raise and jointly acquire the site from the Authority. Both parties see scope for a common purpose in providing natural space to use, to plant memorial trees and promote general fund raising activities. The Project sought assurance from Officers that such a partnership would be favourably looked upon by the Authority.

The Project were subsequently informed that 'The view is that it is entirely up to the Foolow community to decide if you wish to work with others to raise the necessary funds, this is at your discretion, however the agreement (Committee resolution) is to sell the site is with the Foolow Community and so that is who the Authority will work with if you raise the funds to purchase the site'

## **Update on 1<sup>st</sup> November 2021**

The Project subsequently confirmed that funds raised so far from pledges, tree dedications, private donations etc. is approximately **£69,977.00**

## **Proposals**

### **Evidence that funding is in place to purchase the site is submitted by 1 November 2021**

Taking into account the above information, Officers have concluded that sufficient evidence has **not** been provided by the Project that funding be in place to purchase the site by the second gateway review date of 1 November 2021.

A table of potential funding sources outlined in the above Business Plan is shown at Appendix 3.

Therefore, in accordance with Minute No. 7/21 above, Officers have concluded that the second gateway review has not been passed. If Members are minded to agree with this conclusion, in accordance with Minute No. 7/21, the Authority will revert to selling the site on the open market.

The Project, alone or in partnership with Blythe House and Helen's Trust can obviously still continue with their fund raising activities and bid for the property in the open market.

### **Sell the property on the open market**

It is considered that the demand for this type of caravan and camping site remains strong with good evidence of a buoyant market for holidays in the Peak District due to the effects of the pandemic.

This proposal would involve:

- Confirming the disposal in line with the Disposal Procedure and Tool Kit (Stages 4- 11). Please see Appendix 3
  - Discharging some of the planning pre-conditions and implementing the ‘material operation’. Please see details below.
  - Putting the site on the open market as soon as practicable
  - Making a ‘discontinuance order’ relating to the static caravan site permission. Please see details below.
  - Completing a sale with the Authority ‘exiting’ the site as a landowner.
  - Completion of the original purpose of acquisition in 2012.

#### **Discharge of pre-conditions and implementation of a ‘material operation’**

There are a number of pre-conditions relating to the planning consent of 24 February 2021. It could be advantageous to discharge three of these pre-conditions prior to marketing the site so that potential buyers are aware of any constraints and would avoid the extra cost of discharging the conditions. These relate to ecological and landscape management plans and a maintenance and repair condition survey of dry stone walls on the site. All these matters can be dealt with ‘in house’.

In the previous report to the Authority Committee on 13 November 2020, it was reported that it was likely that the Authority would need to undertake some ‘material operation’ to the site to keep the planning permission extant. Work is required to start on the site within 3 years of the date of the planning permission it will lapse –therefore by 24 February 2023. It is therefore proposed that once the pre-conditions are discharged, a short section of the proposed access road is dug out so that the development has commenced before the above deadline.

#### **Discontinuance order**

The Authority will need to make a ‘discontinuance order’ relating to the static caravan site. At its meeting on 6 August 2021, the Planning Committee resolved that ‘The Head of Planning in consultation with the Head of Finance and the Head of Law be authorised to make a discontinuance order for the Brosterfield caravan site, Foolow. (Minute No. The order would be initiated once a buyer has exchanged contracts and disposal would be conditional on the discontinuance order being made. 82/21). This provides discretion as to when a discontinuance order is made. This process could take up to 6 months.

#### **Are there any corporate implications members should be concerned about?**

The Programmes and Resources Committee approved the Authority’s Corporate Property Asset Management Plan on 11 February 2020 (Minute No 8/20).

**4. Financial:**

**Cost of discharging relevant planning permission pre- conditions:** As all these matters can be dealt with, 'in house' the cost will be minimal.

**Cost of material development/ operation:** Digging out the soil to start a section of the access road. Approximate cost of £2,000

**Valuation and marketing costs:** The site was independently valued in Nov 2020. An up to date valuation will be obtained as part of the marketing process. The Authority would instruct a specialist agent to deal with the matter. The likely cost of their fees would be in the region of £7,000.

**Legal costs:** Each party would bear its own legal costs. In the case of the Authority, this would be dealt with 'in house'.

**Net cost of intervention**

When the Authority resolved in March 2012 to purchase the site at Brosterfield, the Chief Finance Officer (at that time) gave value for money advice on the intervention in the Authority report in respect of using public funds for this purpose. He advised that the total cost of intervention of over £500k (costs of purchase less sale proceeds) was not considered reasonable and should not be considered. (Minute number 49/18 Audit Resources and Performance Committee). The current Chief Finance Officer shares this view and feels that any value above this threshold does not represent good value for money and would not be a prudent use of public funds.

The use of public funds is subject to public and Audit scrutiny. The Authority could be vulnerable to a complaint that the expenditure was not in the public interest and the External Auditors may consider a public interest report under S.8 of the Audit Commission Act 1998, or qualify their opinion on value for money in the course of the annual audit, if they felt the Authority had not gone through a considered decision-making process or made good use of public resources.

**5. Risk Management:**

The current significant increase in the cost of building materials will no doubt increase the cost of developing the required infrastructure for the site (the access road, ablution block etc.). This could have the effect on the anticipated sale price.

There are on-going reputational risks to the Authority due to the opposition of many of the local community to a caravan and camping site

**6. Sustainability:**

There could be advantages to the land being used for tree planting over a caravan and camping site. Please see Climate Change section below.

**7. Equality:**

NA

## **8. Climate Change**

### **1. How does this decision contribute to the Authority's role in climate change set out in the UK Government Vision and Circular for National Parks?**

#### **a. Educators in climate change**

Spreading messages about the impacts of climate change and how individuals can play their part in tackling it that leads to behaviour change.

Use of site as a caravan/campsite would present opportunities for encouraging the operators to include interpretation and organised activities.

The local community would be encouraged to be include in this and on any on-site and digital interpretation as well as any organised activities.

#### **b. Exemplars of sustainability**

Enabling the natural environment to adapt to predicted changes, supporting the delivery of ecosystem services and in developing more resilient infrastructure.

Either option has the potential to achieve this outcome dependent on how the schemes are taken forward.

#### **c. Protecting the National Park**

Authorities must ensure that they protect the public assets, which the Parks represent.

Neither of the proposals would be 'public assets'.

#### **d. Leading the way in sustainable land management**

To prevent further carbon loss from soils and to encourage carbon storage.

Conversion from an improved grassland to amenity grassland (caravan/campsite) would have little impact on the rate of carbon loss from the soil.

Tree planting would, over the long-term result in greater carbon sequestration and reverse the loss of carbon from the soil in the long term.

#### **e. Exemplars in renewable energy**

A caravan/camping site presents some opportunities for this although the planning permission does not include provision for renewable energy.

#### **f. Working with communities**

Reducing emissions and renewable energy is the norm whilst not compromising the National Park purposes and duty.

The Foolow proposal would be a community led project.

### **2. How does this decision contribute to the Authority meeting its carbon net zero target?**

The site does not contribute towards the Authority's existing emissions calculations and would not do so under either option, therefore no impact.

**3. How does this decision contribute to the National Park meeting carbon net zero by 2050?**

As above.

**4. Are there any other Climate Change related issues that are relevant to this decision that should be brought to the attention of Members?**

None

**9. Background papers (not previously published)**

**10. Appendices**

Appendix 1 - The background to the site as described in the report to Authority Committee in 17 November 2020.

Appendix 2.- Foolow Wildwood Project Business Plan (21 April 2021)

Appendix 3 -Progress on potential funding sources outlined in the above Business Plan.

Appendix 4 – Disposal Tool Kit

**Report Author, Job Title and Publication Date**

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