

## Establishment of a Charitable Trust - Report on Further Research

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### Pentland Hills Regional Park Joint Committee

13<sup>th</sup> March 2009

#### Purpose of report

- 1 As agreed at the Joint Committee meeting on the 17<sup>th</sup> October 2008, to report on the outcome of further research into the benefits of establishing a company limited by guarantee to assist with fundraising and project delivery within the Pentland Hills Regional Park.

#### Main report

- 2 At its meeting of 14<sup>th</sup> March 2008, the Joint Committee agreed to the principle of establishing a trust in the form of a 'company limited by guarantee' primarily to raise funds for the then proposed Flotterstone Gateway Centre.
- 3 As reported to the Joint Committee on the 17<sup>th</sup> October 2008 however, the Gateway Centre project will not now proceed due to a significant shortfall in available funding. It was also established that a trust as proposed, would not assist with securing grant from key public funding bodies at this time.
- 4 It was recognised however that beyond the Gateway Centre, a trust may have potential to enable projects that 'add value' to the work carried out within the Regional Park. At its meeting of 17<sup>th</sup> October 2008, the Joint Committee agreed therefore to consider further recommendations following additional research.
- 5 Further advice has now been provided by the Edinburgh Chamber of Commerce through the Social Enterprise Edinburgh Programme. This support has been provided at no cost to the Regional Park Service.
- 6 Additionally, meetings were held with managers of existing trusts currently operating within the countryside sector in Scotland. These include: the Edinburgh & Lothians Greenspace Trust; Perth & Kinross Countryside Trust; Fife Coast and Countryside Trust; and the Water of Leith Conservation Trust. A summary note of these meetings is provided in Appendix 1.

- 7 Further discussions were also held with The Friends of the Pentlands (FOP). The FOP confirmed that while they wish to continue to be proactive in delivering small scale projects for the benefit of their members, visitors to the hills, and the landscape and habitat of the area, they do not wish to consider taking greater responsibility for managing, owning or developing assets such as visitor centres. This would apply to acting as a community applicant for larger projects.
- 8 The FOP confirmed however that they intend to further develop the positive working relationship with the Regional Park Service and have greatly valued this to date.
- 9 The discussions with established trusts consistently highlighted a number of fundamental considerations associated with proposing to establish a new trust for the Regional Park:

#### **Start-Up Resources**

- 10 In order to have a good chance of success, a new trust needs to have its own identity, dedicated staff and operating budget from the outset.

#### **Autonomy**

- 11 A trust needs to be autonomous and genuinely independent of local authority control. If a new trust operates as an alternative mechanism for delivering public services, it would not be unlikely to secure significant project grant from the key external funding bodies at this time.

#### **Scale**

- 12 Most successful countryside trusts tend to cover a large geographical area (either on a local authority area scale (e.g. Fife Coast & Countryside Trust and Perth & Kinross Countryside Trust), or multi-local authority scale (e.g. Edinburgh & Lothians Greenspace Trust). The Regional Park may not have sufficient size or scale to compete effectively for external funding or to operate efficiently. The resource required to operate a credible trust on a Regional Park Scale may not therefore be justified by the limited likely benefit.

#### **Reputation and Track Record**

- 13 It takes time to establish a proven track record as a new trust. In the current climate of intense competition for available funding for countryside projects, a new trust on a small scale is likely to be at a significant competitive disadvantage.

#### **Expectation of External Funding**

- 14 Trust Managers consistently stressed that it is a mistake to establish a new trust on the expectation that it will raise significant additional external funding. Competition for funding is intense, and the amount currently available, particularly for the type of projects delivered by the Regional Park is limited. The principle advantage of a trust, rather than securing grant, is that it offers greater flexibility and freedom in the way in which it can operate compared to a local authority service.

### **Partnerships with Existing Charitable Organisations**

- 15 There are existing charitable organisations currently capable of delivering environmental projects within the Regional Park. Of these, the Edinburgh & Lothians Greenspace Trust and the Friends of the Pentlands are most relevant.
- 16 The Edinburgh & Lothians Greenspace Trust (ELGT) has a strong track record of delivering green space projects in partnership with local authorities. The ELGT has significant expertise in community engagement, project management and in particular, external fund raising. The ELGT has the ability to take core local authority funding allocated to a particular project, and 'gear it up' by securing additional funding from a range of external sources. The ELGT charges a management fee raised from the overall income generated. This fee essentially provides for the fund raising and project management service. There is likely to be significant potential for the Regional Park Service to work more closely with the ELGT to deliver, and provide 'added value' to a number of annually selected projects. A similar relationship might be developed with the Central Scotland Forest Trust for projects in the West Lothian sector of the Regional Park.
- 17 The Friends of the Pentlands is a registered charity established with the aims of caring for the habitat, landscape and visitor experience with the Pentland Hills. The Regional Park has developed a strong and productive working relationship with the Friends which adds significantly to the range of projects delivered. This partnership is evolving, and could be further developed to the mutual benefit of the Friends, the Regional Park, and the communities it serves.

### **Further Research - Conclusion**

- 18 This further research suggests that there would be little real benefit from establishing a new charitable trust specific to the Regional Park at this time. It is concluded that a more effective approach will be to work more closely with the Edinburgh & Lothians Greenspace Trust on selected projects and to further strengthen the working partnership with the Friends of the Pentlands.

### **Financial Implications**

- 19 There are no financial implications at this stage.

### **Environmental Impact**

- 20 Working in partnership with charitable organisations has significant potential to further enhance environment quality within the Pentland Hills Regional Park.

### **Recommendations**

- 21 It is recommended that the Joint Committee:
- a) notes that further research suggests that establishing a new trust dedicated to the Pentland Hills Regional Park is unlikely to be of significant benefit at this time; and

- b) recommends that the Regional Park Service seeks greater partnership with the Edinburgh & Lothians Greenspace Trust and the Central Scotland Forest Trust on selected projects and further develops the successful working partnership with Friends of the Pentlands.



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Appendices	Appendix 1: Summary of Meetings with Charitable Trusts and Similar Organisations.
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Wards affected	All
Single Outcome Agreement	Supports National Outcome 12 – We value and enjoy our built and natural environment and protect and enhance it for future generations.
Background Papers	N.A

## **APPENDIX 1: SUMMARY OF MEETINGS WITH CHARITABLE TRUSTS AND SIMILAR ORGANISATIONS.**

As part of the further research into whether a charitable trust model would be of benefit to the Pentland Hills Regional Park, discussions were held with: Edinburgh Chambers of Commerce, Edinburgh & Lothian Greenspace Trust, Water of Leith Conservation Trust, Fife Coast & Countryside Trust, and Perth & Kinross Countryside Trust. The main points arising from these meetings are summarised below.

### **1 The Edinburgh Chamber of Commerce / Social Enterprise Edinburgh**

A meeting was held with Maureen Munro, Business Manager with the Edinburgh Chamber of Commerce. The Chamber is currently providing support for the establishment of social enterprises throughout the Edinburgh Area. It was established that the most appropriate legal structure for a new trust would be a Company Limited by Guarantee. A Company, once established, could then apply for charitable status assuming the appropriate criteria are met.

It was stressed that setting up a successful trust is a significant undertaking and requires dedicated resources from the outset.

Further support was offered with consultation and scoping activities and with procedural aspects of establishing a charitable trust should it be required.

### **2 Edinburgh & Lothians Greenspace Trust (ELGST)**

A meeting was held on 27<sup>th</sup> November 2008, at Laundry House, Dalkeith between Alan McGregor (PHRP), Charlie Cumming (ELGT Manager), Chris Lewis (Chief Executive, ELGT).

Chris Lewis (CL) reported that he has previous relevant experience of setting up a fund raising charity in the Peak District National Park (Peak Environment Fund).

Some doubt was expressed about the likely ability of a new Pentland Hills Trust being able to secure additional external funding. CL suggested that the area may be geographically too small and that it takes many years for a new trust to develop successful relationships with key funders. CL suggested that the type of projects likely to arise within the PHRP are typically the most difficult to secure grant for.

CL and Charlie Cumming (CM) confirmed that significant local authority involvement at Board level in a new Trust would make it ineligible as an applicant to many of the key funding bodies.

CL suggested that the ELGT is a well established and respected charity with the capacity to fund raise and deliver green space projects in the area. A new trust may therefore represent unnecessary duplication.

CL pointed out that the Central Scotland Forest Trust cover the West Lothian area of the Regional Park and that the ELGT cannot therefore deliver projects in this area.

The ELGT is already working with CEC on the delivery of parks and green space projects throughout Edinburgh. CL & CC suggested that the following benefits would arise from the Pentland Hills Regional Park working more closely with ELGT:

- strong community consultation ability;
- ability to access funding not available to local authorities;
- ability to act as for, or as a community group;
- 'gearing up' initial core funding available for projects;
- linkage with Forest Habitat Network funding;
- ability to act as a 'neutral' third party in sensitive or contentious projects; and
- strong project management service, freeing up Regional Park Resources for other core duties.

The ELGT can essentially offer a project management / facilitation service and add value to projects by securing additional funding some of which is not directly available to local authorities. The ELGT takes a management fee for this service but it was suggested that this is significantly outweighed by the added value provided for individual projects. All contract work is subject to competitive tender.

The relationship between a trust and a 'Friends' group was discussed. CL suggested that a trust needs significant professional support to operate successfully, and that the added responsibility may not always suit friends groups. A trust and friends group have different roles and can be complementary.

It was agreed that projects could be identified for 2009/10 that might be suitable for partnership delivery between the PHRP and ELGT. This would not prejudice any proposals to establish a new trust. AM and CC will meet in the New Year to discuss further.

CL expressed particular interest in working with the Regional Park on fundraising, charging and donation schemes, having had significant previous experience of this within the Peak District National Park.

### **3 Water of Leith Conservation Trust**

A meeting was held on 2<sup>nd</sup> December 2008 between Alan McGregor (AM) and Helen Brown (HB), manager of the Water of Leith Conservation Trust (WLCT).

The WLCT started out as a 'friends' group. It is a company limited by guarantee and has charitable status. From the outset, paid staff were employed to administer the Trust and to manage volunteers and projects. HB stressed that appointment of professional staff at an early stage is fundamental to the success of most trusts.

HB questioned whether a new trust would work in terms of raising funds because:

- lack of credibility for a new trust without a proven track record;
- current difficulty with securing grant for access, landscape and biodiversity works; and
- a perception of the trust being closely associated with the Regional Park and therefore a core local authority service.

HB further suggested that a Regional Park Trust could be confusing since the distinction between the Regional Park *Service* and a Regional Park *Trust* could overlap.

HB stressed the importance of core countryside management services (including ranger services) being delivered by the local authorities, and indicated that there has been a strong tradition of this within Edinburgh & the Lothians. The advantages of this approach include:

- credibility and authority
- direct access to legislative powers and duties
- land ownership & management responsibility
- access to the business support and professional services of the local authorities
- provision of a strong strategic, policy, statutory, and management planning overview.

HB suggested that the Regional Park should retain this strong local authority basis, and that any new trust should have it aims clearly differentiated from that of the Regional Park Service.

HB indicated that a new trust should perhaps be largely autonomous from local authority involvement and leadership, but questioned whether in view of the successful work of the Friends and support already available from ELGT one was really necessary at all.

It was recognised that a company limited by guarantee with charitable status would require ongoing revenue resources and that unless it has clarity of purpose and is successful in securing and allocating significant funds, may become a 'burden' rather a benefit to the Regional Park. An alternative model of working with existing charitable trusts on a project by project basis may be more effective and offer better value.

The relationship between the WLCT and the City of Edinburgh Council Countryside Ranger Service operates harmoniously and continues to evolve. It was noted that this is similar to the evolving relationship between the Friends of the Pentlands and the Regional Park Service.

#### **4 Fife Coast & Countryside Trust (FCCT)**

A meeting was held on the 5<sup>th</sup> December 2008 between Alan McGregor (AM), Amanda McFarlane (AMF, FCCT)) and Mark Wooton (MW, FCCT) at the FCCT HQ, Dysart.

Fife Council has effectively transferred its entire countryside service to the FCCT. The Fife Countryside Ranger and Maintenance Service will transfer to the Trust under TUPE conditions in the near future.

The principal advantages of this approach in Fife are greater operational flexibility and ability to reclaim VAT. The Trust is a company limited by guarantee (incorporated) and a registered company.

It is crucial that the local authority does not have a controlling role on the Board and that decisions cannot be carried at meetings where local authority majority occurs.

The FCCT is a large organisation with 4 project teams: Business Development, Projects, Countryside Ranger Service, and Maintenance.

It was stressed that external funding is currently very difficult to secure, even for well-established charitable organisations. This is particularly true for countryside projects. It is important therefore not to base a proposal to establish a new trust on its likely ability to raise significant new funds. If this is its aim, it is likely to fail.

AMF stressed that running a successful charity requires significant specialist expertise. Investment would need to be made to ensure that lead officers attend a range of training, networking and funding events on an ongoing basis.

A trust following the FCCT model is not about saving money. It is principally about providing greater operational flexibility and a fresh 'profile' distinct from the local authority.

FCCT is responsible for a large number of sites, the Lomond Hills Regional Park, being just one. There is no dedicated Regional Park Ranger Service in Fife.

The statutory duties (for example, those under the LRA) remain with the Council and relevant officers (such as the Access Officer) remain employed by the local authority.

Caution was expressed about setting up a Pentland Hills Trust if its aims were to raise new funds and deliver projects, parallel to existing arrangements. It was thought that the resources and effort required to operate a successful trust would far outweigh the advantages. It was thought that building partnerships with existing charities such as ELGT and the Friends of the Pentlands would be significantly more efficient.

In summary, FCCT's view is that the Regional Park should either: a) work to strengthen existing partnerships, or b) consider a more fundamental shift to the entire service being delivered through a trust model. Doubt was expressed however that option 'b' above would be viable given the small scale of the service.



## **5 Perth & Kinross Countryside Trust**

A meeting was held on 14<sup>th</sup> December between Alan McGregor (AM) and Trust Manager, Paul McLennan (PM)

The Trust was originally established at the instigation of Perth & Kinross Council (P&KC). The board has representation from 5 partner organisations including: P&KC, SNH, Scottish Enterprise, Forestry Commission, and another local trust. Each partner organisation has only 2 board members, ensuring that there is no majority control of the Board.

The Trust employs a Manager and 3 Project Officers. Administration, accommodation and professional support is provided by P&KC. All employees were recruited directly by the Trust and were not transferred from P&KC. One of the posts is dedicated to marketing and promotion.

The Trust receives core funding from the partners and works to an agreed business plan.

Activities delivered by the Trust include: path construction & maintenance, award of grant for community groups and private landowners, marketing, and part funding of project officers.

PM indicated that one of the key advantages of the Trust is that it can hold and accumulate funds and is not bound by the requirement to spend budget within a particular timescale.

P&KCT acts as an 'enabling arm' for P&KC countryside services, delivering projects and securing match funding that the Council cannot deliver alone.

Countryside Ranger and other countryside professional staff remain employed by P&KC. The Trust operates autonomously using its own staff, but in practice works closely with the Ranger Services. There is no proposal at this stage to change this arrangement.

PM confirmed that fundraising is currently extremely difficult since the majority of funders are looking to support community led ('ground up') projects. This applies to the Big Lottery, SRDP and HLF. The Trust is seen as performing a 'top down' role in seeking to provide a strategic approach to development.

PM cautioned against assuming that a new Trust of the scale proposed for the Regional Park would be effective at raising significant funding.

P&KCT started by appointing full time professional staff from the outset.

In relation to access development, the Trust operates by offering incentives to improve access provision. The local authority retains the powers & duties under Part 1 Land Reform (Scotland) Act 2003 and carry out enforcement activities as required. The Access Officer remains employed by P&KC.

PM suggested that the PHRP should focus on developing existing partnerships particularly with ELGT and the Friends of the Pentlands. The resource / benefit ratio of setting up another local charity is unlikely to be favourable at this time.