

Executive – 4 March 2010

LANGAGE SECTION 106 AGREEMENT - PILOT LANGAGE LANDSCAPE FUND GRANT ARRANGEMENTS

Report of Head of Landscape and Leisure

Statutory Powers: Local Government Act 1972, Town and Country Planning Act 1990.

Financial Implications: The Council has received a Section 106 Agreement sum of £500,000 (plus interest), with a further £500,000 (plus interest) required from the developer prior to the commissioning of the power station. These funds are to be allocated to landscape related works in the vicinity of the Langage Energy Centre in order to mitigate the impact of the power station and its operations. This report proposes releasing a further £200,000 of this fund in addition to the £250,000 previously released following Executive of 28th May 2009.

Purpose: To seek Executive approval for continuing the pilot grant award process to deliver projects under this fund with a number of identified land management partners, in particular the Woodland Trust.

The Langage Grant Fund is linked to the Council's priorities CP3 to maintain the District's distinctive environment

RECOMMENDATION

That the Executive RESOLVES to:

- 1. Warmly welcome progress to date on the pilot Langage landscape fund grant undertaken in conjunction with the Woodland Trust.**
- 2. Approve additional expenditure from the landscape fund of up to £200,000 over and above the £250,000 already allocated and delegate authority to the Strategic Director (Community), in consultation with the Leader of the Council, to enter into a formal agreement**
- 3. Instruct officers to investigate options for establishing a company limited by guarantee to deliver the objectives of the fund**

Background

1. On 26 June 2008 South Hams District Council entered a Section 106 agreement with Centrica Langage Ltd to cover a range of issues relating to development of the Energy Centre at Langage.
2. The agreement sets out the establishment of "*The Landscape Fund*". This involves the payment of £1,000,000 (backdated with interest to 1999) to the Council for the purposes of delivering the fund. 50% of this payment has already been made to the Council and a further 50% falls due prior to commissioning of the Power Station. This second contribution would be expected within the next three months. The primary objectives of the fund are to:

- reduce the landscape and visual impact of the Power Station;
- undertake planting and landscape works which address climate change; and
- support landscape and planting schemes involving local communities in areas affected by the development.

Emphasis will be placed on ameliorating the impact of the development on views from publicly accessible locations.

Progress to Date

3. At Executive of 28th May 2009 members approved proposals to establish a pilot grant arrangement for delivery of landscape schemes to meet the objectives of the fund (minute 08/09 refers).
4. Following in principle agreement by Executive detailed discussions took place with the Woodland Trust, the outcome of which was that a conditional £250,000 grant was made to the Woodland Trust to establish a *Morewoods for South Hams and Plymouth* planting project based on a 10km nominal radius around the Lantage power station – this being broadly consistent with the zone of visual influence for the power station. The £250,000 was an aspirational figure intended to pump prime interest and momentum into the scheme – with the capacity to deliver c.60ha's of woodland planting involving over 60,000 trees.
5. The Woodland Trust incorporated this project within their national *Morewoods* project and the Trust itself also allocated staff time and funding to the promotion and delivery of the project. This has included project management, finance, graphics and communications staff time at Woodland Trust headquarters and their local staff on the ground who have been the primary promoters of the schemes with the owners of the land to be planted. The grant has been offered to cover actual planting costs, ongoing maintenance and direct costs involved in marketing the scheme and site visits. Overall the Woodland Trust has been a net contributor to the scheme in accordance with it's overarching charitable objectives to deliver tree planting.
6. In order to maximize landowner take up of landscape projects from a standing start in June last year the *Morewoods for South Hams and Plymouth* scheme was designed to be simple and attractive to land owners. It offered a free visit and advice, free trees, planting and protection for the trees and also, if a land owner was interested, an additional service whereby the Woodland Trust would seek to bring in additional grant aid from the Forestry Commission.
7. In tandem with this promotion the Forestry Commission specifically targeted enhanced planting grants on urban fringe projects and made clear their availability to support projects around the Plymouth fringe under the *Morewoods for South Hams and Plymouth* scheme.

8. The scheme outcomes since June 2009 are detailed in appendix A. Negotiation and final details are still under discussion for a number of schemes for planting by the end of this planting season (end March 2010) but in broad terms more than 24 hectares of land (and therefore the planting of approximately 33,000 trees) has been identified. Based on this the total project costs to date are in the region of £132,000.
9. There are also two major schemes (one of c.20 ha's and one of over 100ha's) which have been brought forward which are currently under discussion with The Forestry Commission, Dartmoor National Park Authority and other agencies. The partners are looking at the potential for these to be brought forward in the 2010/2011 planting season.
10. Overall this is considered by officers to have been successful progress. Many land owners quite rightly wish to consider in detail the benefits and constraints of tree planting and to have brought forward in the region of 24 hectares from a standing start in June is considered to be a significant achievement – and in particular brings a momentum to the scheme from which future work can build. Key issues from the work so far are identified in Appendix A. Whilst there were clear strengths in the work to date there were some identified areas and types of projects where additional schemes could be sought. These are identified in Appendix B.
11. One of the original intentions was to seek to draw down additional funds from others. A number of the schemes brought in under the *Morewoods* scheme are being considered for Forestry Commission grant and a number – still to be confirmed – are likely to be successful. Some of these will be delivered this planting season but others may need to be held over to 2010/11 to ensure maximum FC support. It should also be noted that the land owners participating in the scheme have also effectively brought forward their land as a contribution in kind towards the overall program (albeit they retain ownership of the woodland in the long term).

Proposals for 2010/2011

12. The purpose of bringing this item to members at this time is to seek agreement to a refreshed scheme for 2010/2011 and to allow continuity at the end of the current project which terminates on 31st March 2010. Given the effort that has gone into publicising the project, liaising with land owners and identifying future projects there are considered to be significant benefits in a continuation of a project rather than having a break and then having to start again either with the Woodland Trust or another partner.
13. One of the potential benefits to the *Morewoods for South Hams and Plymouth* arrangement with the Woodland Trust is that it is based on an existing national campaign, with an existing administration team and with established promotion based with the Woodland Trust. This national campaign is set to continue and expand and the Woodland Trust has expressed an interest in continuing with the Langage arrangement into 2010/2011.
14. It is the officers' view that whilst considering this request from the Woodland Trust other options need to be considered. Any delivery agent (whether internal or external) would have to have the required attributes, namely

- available staff capacity,
- technical expertise in woodland design and planting,
- delivery of planting and subsequent maintenance
- existing local knowledge networks and awareness of existing projects and grant opportunities,
- community project management experience,
- experience of working with landowners, community groups, planning authorities and third sector
- access to a strong publicity/ promotional team, and
- a good reputation from existing projects.

The ability to bring added value and a financial partner contribution (or contribution in kind), along with access to a membership through whom to promote the campaign, is clearly also a consideration.

15. On the assumption that the work to date has demonstrated a viable delivery mechanism for the objectives set out in the legal agreement the following alternative means of delivery could be considered

Option	Considerations
1. Delivering the work in House.	This would require dedicated internal staff allocation (with specialist skills outlined in para 14). Currently a range of these skills do exist but staff are fully committed to other areas of work, not least the Public Space Capital Programme and other management responsibilities. Bringing the work in house, without additional resources and capacity, would be problematic and jeopardise work streams.
2. Seeking a commercial delivery partner.	<p>This is feasible and a market tested project could be considered Nevertheless the costings offered by the Woodland Trust are comparable to that provided commercially and the grant only pays against actual costs based upon competitive pricing. The existing grant to the Woodland Trust requires full details of costings to be provided and that any savings are returned to the Langage Landscape fund. The actual planting is sub-contracted by The Woodland Trust on a competitive basis so effectively there is already a commercial delivery partner on the ground wrapped within the value added by a Charitable delivery partner.</p> <p>Whilst there are a number of private planting companies offering tree planting services the Council is not aware of any that would offer the full range of skills identified at para 14. This is a complex scheme where the tree planting itself is a relatively straightforward element – the greater task is the promotion, scheme development, liaison and capacity building.</p> <p>Use of a private contractor would mean that that contractor would have dedicated access, on behalf of the District Council, to a wide number of land owners around the Langage area. In any such arrangement potential conflicts of interest would need careful management.</p>

<p>3. Seeking an alternative existing charitable partner.</p>	<p>It is considered that an arrangement with a charitable delivery organisation, rather than a purely commercial contractor, is far more likely to engender public support and bring forward land owners.</p> <p>The combination of the scheme requirements set out at para 14 led to a very limited number of alternative potential delivery bodies being identified and available in the area. There are other third sector groups, some with forestry and woodland aims – but none are considered to have the full range of attributes and the current capacity to take on the scheme. No other bespoke or appropriate forestry specialist charitable groups have been identified as likely successors on the scheme.</p> <p>The Woodland Trust has also made a direct contribution to the costs of delivery under its own charitable objectives to plant new woodlands and it may be challenging for other charities to directly support the scheme themselves (indeed many would seek to top slice any contribution to cross subsidise their own core running costs).</p>
<p>4. Establishing a bespoke delivery organisation</p>	<p>The planning agreement allows specifically for the establishment of a company limited by guarantee (with or without charitable status) to be established for the delivery of the landscape fund. This is also identified as potential delivery mechanism for other land management and landscape projects in the Plymouth fringe – and is a specific recommendation in the Plymouth Green Infrastructure Plan.</p> <p>The s.106 allows for any Langage Landscape Company to be the focus for contributions for other development projects. In light of the range of emerging projects in Plymouth and the western South Hams there appears to be merit in investigating this option further during 2010/2011.</p>
<p>5. Review and continue with Woodland Trust arrangement</p>	<p>The existing arrangement has clearly provided a strong launch to the fund. There are strengths that have come forward and opportunities that need to be picked up – particularly in concentrating in on the primary aims of the s.106.</p> <p>It is considered that an arrangement with a charitable organisation, rather than a purely commercial delivery agent, is far more likely to engender public support and bring forward land owners.</p> <p>The Woodland Trust has widespread goodwill and can promote the scheme through an extensive existing membership. Woodland Trust have requested that they be considered for a delivery arrangement in 2010/2011 and have suggested a number of enhancement options to the current scheme.</p>

16. In light of the works undertaken to date and the options available to the council, the officer proposal is that for delivery in 2010/2011 that members consider the following:

- a) That the District Council enter into a continued arrangement with the Woodland Trust to deliver a refreshed South Hams *Morewoods for South Hams and Plymouth* scheme in 2010/2011. This be subject to providing up to an additional £200,000 from the Langage landscape fund (giving total overall expenditure up to £450,000 including any residual grant left from 2009/2010). This to be subject to reaching an acceptable legal and financial arrangement for the offer of grant to the Woodland Trust based on the delivery mechanism for 2009/2010. This also to be based on existing projects and some, or all, of the additional projects set out in Appendix B and to include the ability for the Woodland Trust, by agreement with SHDC, to employ additional staff or consultant capacity to deliver the scheme.
- b) Investigation, and potential early establishment of, a separate Langage Landscape Company (or similar organisation) in to which some, or all, of the remaining Langage landscape fund could be transferred.

17. It is proposed that in moving forward with the Woodland Trust in 2010/2011 that a number of other options for encouraging major and significant tree planting projects be considered. These options are set out in Appendix B for consideration by members. Final decision on the mechanisms it is suggested be delegated, subject to further financial and legal consideration and assessment of options with the Woodland Trust – this to be set within an overall agreed level of grant.

Monitoring and Review

18. The grant will be monitored and reviewed through an officer group working alongside the Woodland Trust.

Risk Assessment

Issue	Risk	Mitigation
Failure to spend the fund in a timely fashion	<ol style="list-style-type: none"> i. Failure to meet objectives of the s.106 fund ii. That a failure to gain projects limits negotiating position over other landscape mitigation schemes. iii. The Council is criticised for delayed action 	<p>Instigate a timely programme of project delivery on the ground.</p> <p>Instigate programme of monitoring and review to allow the scheme to be delivered in 2010 / 2011</p>
Procurement Process	<ol style="list-style-type: none"> i. That the approach to a single delivery partner could be open to criticism or challenge ii. That the spend of the fund as a grant could be challenged under procurement legislation 	Detailed internal analysis with relevant sections undertaken to validate and secure the process

Issue	Risk	Mitigation
Adherence to the s.106 requirements	i. Projects fail to meet the legal requirement ii. Projects fall outside of the s.106 scope iii. Challenge over proper due process in agreeing spend	Precedent set elsewhere with Essex County Council. Full adherence to s.106 built into the partnership process, promotion of the schemes, assessment of the schemes and the subsequent agreements with landowners

Conclusion

19. The Langage Landscape Fund offers a significant opportunity to deliver strategic planting and landscape schemes on land in the vicinity of Langage. In order to deliver these schemes private landowners need to be encouraged to offer land for planting.
20. The Pilot scheme undertaken with the Woodland Trust starting in June 2009 indicated a significant local interest in undertaking such planting schemes. The opportunity exists to learn from the successful schemes to date and to reconfigure the project to target specifically against the key objectives of the s.106 fund.
21. Schemes are still advancing at the time of the preparation of the report and a final mechanism for delivery of the grant aid needs to be finalised under delegation to configure precisely against the delivery mechanism for 2010/2011 and to ensure financial and legal probity.
22. Centrica are also party to the 106 arrangements and their detailed considerations on this proposal are currently being sought following notification to Centrica. Feedback will be reported verbally to members at Executive.

Ken Carter
Head of Landscape and Leisure

Executive
 4 March 2010

Ross Kennerley
Landscape and Recreation Manager

Background Papers

Langage s.106 Agreement. 26 June 2008
 Circular 05/2005 Planning Obligations
 Woodland Trust and Essex County Council Grant Award Agreement and supporting papers

Appendix A Langage Landscape Fund

Morewoods South Hams and Plymouth progress to date

1. The criteria for *Morewoods South Hams and Plymouth* is
 - reduce the landscape and visual impact of the Power Station
 - undertake planting and landscape works which address climate change; and
 - support landscape and planting schemes involving local communities in areas affected by the development.
2. The grant payable to the Woodland Trust from the Langage landscape fund was up to £250,000 to deliver the planting of a minimum of 62,500 trees in the season through 2009/2010 within a nominal 10km radius of the Langage energy centre.
3. At time of preparation a total of 24 hectares (accommodating approximately 33,000 trees) has been identified to take part in *Morewoods South Hams and Plymouth* with a range of land owners. Four England Woodland Grant Scheme applications have been submitted to the Forestry commission.
4. The potential for two significant large sites (one in excess of 100 hectares and the second one upwards of 20 hectares) have been identified and are currently under discussion with the land owners, statutory agencies, Woodland Trust and the District Council.
5. Currently 3 members of Woodland trust staff (2 woodland officers and a project manager) are working on the project for an average of 5 hours per week each. These staff are supported by the Woodland Trusts communication, finance and graphics teams as well as Woodland Trust colleagues and line managers within the woodland operations department within the Woodland Trust South West.
6. A regular steering group including South Hams District Council, the Woodland Trust Forestry Commission, Plymouth City Council and Natural England has been established to oversee the scheme.
7. What's gone well
 - Local woodland officers have allowed for quick follow up to initial enquires with site visits and effective feedback usually within 1 week
 - Good public relations coverage has meant a steady stream of enquires
 - Good centralised coordination with the Woodland Trust headquarters and management of applications
 - Word of mouth has started to produce results as successful applicants talk to their neighbours and colleagues and significant sites are now being brought forward for consideration
 - High level of public satisfaction and general public trust in the Woodland Trust as a deliverer of quality projects
 - Forestry commission have confirmed that they will receive early applications under the England Woodland grant scheme for 2010/2011 application period
8. What could have gone better
 - The system for site checking was slow off the mark and has taken a bit of time to catch up and ensure coordination with the District Council, the Woodland Trust and other statutory agencies

- Local radio and television coverage could have been more extensive and more widely promoted
- Slow launch of the project and delayed into June meant that there was a catch up during the year
- Only a limited number of sites score well against direct visual impact in close proximity to the power station. Localised sites are under consideration for other uses and there is more opportunity to progress prominent sites at further distance
- More opportunity for sites which bring forward community engagement – would be helped by a longer lead in time and opportunities to provide a link between the land owners and local communities.

Appendix B Options for the future

Building on the success and gathering momentum of the existing Morewoods pilot project, the steering group has been looking at other options to increase the level of activity and further deliver against the objectives of the Lamage Landscape Fund.

Future management and delivery of woodland creation activity

For the effective future development of the project, the steering group feels that it would be extremely beneficial to have a Project Officer based in the South Hams area to co-ordinate future development, delivery and community engagement activities.

One of the roles of the Project Officer would be to use the potential of the Lamage Landscape Fund to access match funds from other organisations, which is something the Trust has considerable experience in. The Project Officer would be managed locally and would have access to support from the Woodland Trust's Head Office.

Morewoods South Hams and Plymouth continuation

The steering group feel that locally within the South Hams priority area the project has built up a head of steam with Morewoods. It would be prudent to make best use of this and continue a Morewoods element within future plans. This could be developed by considering the inclusion of hedgerow planting (as already started this year), hedge and copse packs and individual trees e.g. fruit trees. The project would particularly focus on those sites where planting would mitigate the visual impact of the Energy Centre. These sites are currently being reviewed through a visual impact study.

Parish Tree Planting Plans

Parish tree planting plans would utilise parish councils and the well developed parish tree warden scheme in South Hams to encourage tree planting with a significant emphasis on community engagement. The scheme would be look to arrange a series of meetings/events with a community mapping style that would consider areas for potential tree planting and woodland creation. This would result in a parish tree planting plan where the planting and maintenance would be carried out by the community. It is hoped that by engaging with the parishes in this way, it would encourage more private landowners to come forward with other woodland creation sites locally.

Whole Farm Tree Planting Plans

The Woodland Trust is having a big push currently to promote woodland creation and a landscape with more trees in the farming community against a background of productive farming. To achieve this landowners need to take a whole farm, economic-based approach to tree planting and woodland creation. This will include the use of shelter belts, woodland for wood fuel production and tree planting for extra game cover.

Acquisition of a site suitable for woodland creation

Acquisition is an option if suitable land becomes available within the priority area. An acquisition would be positive here in terms of community engagement and development of the site in line with project objectives.