

SURREY COUNTY COUNCIL**CABINET MEMBER FOR TRANSPORT AND ENVIRONMENT****DATE: 13 MARCH 2013****LEAD OFFICER: TREVOR PUGH, STRATEGIC DIRECTOR FOR ENVIRONMENT AND INFRASTRUCTURE****SUBJECT: LICENCING OF THE SURREY HILLS TRADEMARK TO SURREY HILLS ENTERPRISES COMMUNITY INTEREST COMPANY****SUMMARY OF ISSUE:**

The Surrey Hills Area of Outstanding Natural Beauty (AONB) Board is seeking a number of innovative ways of promoting the area and generating income to invest in activities in the Surrey Hills. This includes developing the Surrey Hills Trademark by licensing it to be used by businesses in the Surrey Hills and promoting the brand throughout the County and beyond.

Surrey Hills Enterprises is a Community Interest Company (CIC) established in 2012 to educate the public, raise awareness of the Surrey Hills and to promote the brand for the Surrey Hills. The CIC is able to trade commercially but has to ensure that all its profits are used for the benefit of the community, in this case for the communities of the Surrey Hills. Creation of the CIC was supported by the Surrey Hills AONB Board with a view to the CIC running events and educational programmes in the Surrey Hills and generating income to be used to fund activities that are identified in the Surrey Hills Management Plan.

The Trademark ("Surrey Hills") is owned by Surrey County Council on behalf of the Surrey Hills AONB Board and therefore to enable the CIC to develop the brand, it needs to be able to use the Trademark. In order to retain control over the Trademark, the County Council proposes to licence the Trademark to the CIC rather than transferring it.

RECOMMENDATIONS:

It is recommended that:

1. The Trademark is licensed to Surrey Hills Enterprises to use commercially for an initial period of three years at no cost, to be reviewed at the end of that term.
2. The final wording of the Trademark licence to be agreed by officers and signed off by the Cabinet Member for Transport and Environment
3. The Trademark to be licensed to the CIC once the Head of Legal Services has advised that the CIC is properly established and The AONB Board have approved the licence.

REASON FOR RECOMMENDATIONS:

The Surrey Hills AONB Board and the County Council are keen to see the Surrey Hills Trademark developed into a significant brand for Surrey, to support businesses in the County and to encourage visitors. The CIC has the ability to trade freely and can therefore sub licence the Trademark and generate an income and as the company has a community interest that income has to be used for the purposes set out in the CIC Memorandum and Articles of Association. In addition, the CIC has an asset lock whereby anything transferred into the company has to be retained by the company for the community interest.

This will help develop the Surrey Hills brand, help promote local businesses and allow the income to be used to fund activities in the Surrey Hills that deliver the AONB management plan. The licence will only be for three years initially to see how it works and ensure that all parties are getting the expected benefit from the Trademark.

DETAILS:

1. Background

- 2 The Surrey Hills AONB is a nationally designated landscape with the equivalent landscape status to a National Park. The AONB stretches across the North Downs and Greensand Hills taking in some of the most iconic sites in the County, such as Box Hill and Newlands Corner.
- 3 The production of a management plan for the Surrey Hills AONB is a statutory duty on all first and second tier local authorities covering the AONB. Those authorities are Surrey County Council, Waverley Borough Council, Guildford Borough Council, Mole Valley District Council, Reigate and Banstead Borough Council and Tandridge District Council. These authorities are part of the Joint Committee that steers the work of the staff in the AONB Unit. The AONB unit is currently funded up to 75% of its core costs by Defra with the remainder coming from the local authorities. This funding is under considerable pressure and does not provide enough budget to cover the delivery of the management plan. Delivery is supported by external funding from other organisations.
- 4 Surrey County Council is the host authority for the Surrey Hills AONB Board and as such has legal ownership of the Surrey Hills Trademark on behalf of that Board. The trademark is currently used by the AONB Unit and by the Surrey Hills Society as a means of identifying the link to the Surrey Hills AONB and to promote the area. The Surrey Hills Society is a membership charity established to raise awareness of the Surrey Hills through walks, talks and events and via voluntary activities.
- 5 There are a number of options to exploit the benefit of owning the Trademark. It could be used solely by the AONB Unit and could be licensed to businesses in the Surrey Hills to use. However the ability to make an income from those licences is limited while the County Council is the body issuing the licence because of the limits on the ability of a local authority to trade.
- 6 A further option is to licence the Trademark to a commercial business to then sub licence and the County Council could receive an income in return to cover its costs. This runs the risk of the commercial business using the income it

generates for any use it pleases including absorbing all the income in salaries unless it is limited by its memorandum and articles.

- 7 A further option is to advertise the availability of a licence for the Trademark to see if there is an organisation or company that would take it on and develop the brand. This would need to be a company or organisation that could show they have a particular interest in the Surrey Hills and would invest the profits in activities in the Surrey Hills.
- 8 Following discussions between the AONB Board members it was felt that establishing a company that had specific purposes but was commercially independent would allow the Trademark to be developed and promoted commercially. This structure would also need to allow the net income to be distributed to activities in the Surrey Hills that benefit the communities living and working there via a Fund for example it is proposed to establish a Fund held by Surrey Community Foundation (SCF). SCF holds and manages charitable funds on behalf of a number of organisations and individuals in the County.
- 9 Surrey Hills Enterprises was established as a Community Interest Company limited by shares which ensures that the company works for the interests of the community of the Surrey Hills and all the profit generated has to be used to benefit the Surrey Hills. There are currently two shares in the company, one held by The Birtley House Group Ltd. and the other held on behalf of the AONB Board. The Directors will not be taking salaries and so the profit available to be distributed can be maximised.
- 10 The objects of the company are to carry on activities which benefit the community and in particular (but without limitation):
 - To educate the public and raise awareness of natural beauty having regard to enhancing and conserving natural beauty, and respecting the individual landscape, character and habitats
 - To promote rural enterprise and regeneration
 - To develop an image, and an identity, for the Surrey Hills AONB and develop and support initiatives to encourage economic activity, and improve social or environmental well being, within the Surrey Hills Community
- 11 The company is an independent company which allows it to trade freely and so it could develop the value of the Trademark. The Trademark has the potential to create a significant identity for this part of the County particularly linked to activities in the countryside for local residents and visitors, services provided for visitors in the Surrey Hills and products produced in the Surrey Hills. The company would like to use the trademark commercially to develop it further and build on the existing profile of the brand.
- 12 In order to ensure that any risk linked to licensing the Trademark to the CIC is limited, the Chairman of the AONB Board sits as a director on the CIC and the proposed licence for the Trademark includes a means of monitoring the progress of the Trademark, through the AONB Board, controlling its use and reviewing the licence. In addition, the Head of Legal Services has been asked

to advise the AONB Board on the set up of the CIC: the licence will only be finalised once the appropriateness of that set up has been confirmed. In the meantime it is important to keep the momentum going and get approval for the Trademark to be licensed to the CIC, so that once the final details on the governance are completed the CIC can be given the licence and can be ready to start promoting it.

The Trademark Licence

- 13 A report to the Transport and Environment Select Committee on 19 September 2012 set out the proposal along with a draft trademark licence. Since then discussions between the County Council, on behalf of the AONB Board, and the CIC have continued to refine the details of the licence agreement and agree the governance of the CIC.
- 14 The final draft of the licence is attached as Appendix 1. The licence would:
- Give the CIC non exclusive rights to use the Trademark (to the extent the Trademark is not used for commercial purposes), thus allowing the AONB Unit and the Surrey Hills Society, a charitable company, the right to use the Trademark as well for non-commercial purposes.
 - Give the CIC exclusive rights to use the Trademark for commercial purposes.
 - Allow the CIC to sub licence the Trademark to other companies to use, subject to the CIC agreeing to constantly update the Council on the identities of such sub-licensees and the fees payable by the sub-licensees to the CIC.
 - Allow the charging of a fee by the CIC to sub-licensees to use the Trademark.
 - Result in the Trademark being used in compliance with a set of criteria agreed by the Surrey Hills AONB Board.
 - Result in the licence being initially for 3 years with a review at the end of the third year to agree whether to extend it. This will allow the CIC to demonstrate their effectiveness in promoting the brand and distributing the profits.
 - Result in no fee being charged by the County Council for the licence at this stage but the County Council reserves the right to charge on review
- 15 The CIC has been structured with the assumption it would get a licence to promote the Trademark. The income from that fee will form an important part of their income in the early years and is expected to be one of the main areas of trading in those years. The expected income from the sub licence in 2013/14 is £58,000 and £64,000 in 2014/15. Part of that income will be needed initially to fund the running of the company, however in later years it is expected to generate a surplus that can be invested in the Surrey Hills. The amount available to be distributed is shown in the CIC Business Plan as £41,000 for each of these two years. As outlined above an option being considered is to transfer those funds into a Fund in the Surrey Community Foundation. This would allow those funds to be distributed by a panel

especially set up for the purpose and allow them to attract money from other sources.

CONSULTATION:

- 16 A report on the proposed licensing of the Trademark to the CIC went to the Environment and Transport Select Committee on 19 September 2012. The Committee agreed to recommend to the Cabinet Member that the Trademark is licensed to the CIC.
- 17 Consultation has taken place with the Surrey Hills AONB Board and with the Chairman of the Board of Directors for Surrey Hills Enterprises CIC.

RISK MANAGEMENT AND IMPLICATIONS:

- 18 The main risk is that the Trademark could be misused and result in loss of credibility in the Trademark and loss of reputation. This in turn would then have an adverse effect on the income of the CIC and therefore it is not in their interest to misuse the Trademark or allow it to be misused. The Licence does state that the Trademark has to be used in compliance with a set of criteria set out by the AONB Board. In the event of anything untoward the licence can be terminated. The licence also gives the County Council the ability to charge a fee to the CIC for the licence.
- 19 In addition there is a risk that the CIC may not have any income to invest in the Surrey Hills, because it is all used to cover running costs. In this instance the County Council has only licensed the Trademark for three years and therefore does not have to extend it.

Financial and Value for Money Implications

- 20 There is no direct cost for issuing the licence. The licence to the CIC will however allow the CIC to generate an income that can be used to further promote the licence and invest in activities in the Surrey Hills that implement the Management Plan. If the CIC is successful in promoting the Trademark then it will generate not only an income but also goodwill attached to the trademark. The latter will be owned by the County Council and will help to increase the overall value of the Trademark.

Section 151 Officer Commentary

- 21 The recommendations are not expected to result in additional financial costs or risks falling on the Council, aside from existing employee costs. However as this arrangement has not been subject to market testing, the S151 officer is unable to comment on whether the proposed arrangement represents value for money.

Legal Implications – Monitoring Officer

- 22 The licence has been drafted with the direct input from Legal Services.

Equalities and Diversity

- 23 All businesses within the Surrey Hill territory will have the opportunity to use the Trademark if they fulfil the environmental and sustainability criteria.

WHAT HAPPENS NEXT:

- The Trademark Licence will go to the Surrey Hills Board in March for their final agreement on the wording of the licence and criteria for the use of the Trademark.
- The Trademark licence to the CIC will be finalised and signed in April 2013.
- Use of the licence will be monitored though the Surrey Hills AONB Board at its regular meetings.
- A similar licence will be finalised for the Surrey Hills Society which will not involve subletting the Trademark.

Contact Officer:

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Consulted:

Surrey Hills AONB Board which includes the partners in the Surrey Hills AONB
Head of Legal and Democratic Services
Tony Orzieri, Financial Services
Cabinet Member for Transport and Environment
Environment and Transport Select Committee
Simon Whalley, Chairman of Directors of the CIC

Annexes:

Annex 1 Final Draft of the Trademark Licence Agreement

Sources/background papers:

- Surrey Hill Trademark Licence Agreement, Report to the Environment and Transport Select Committee 19 September 2012
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Appendix 1
The Draft Trademark Licence

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