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**Your ref:****Our ref:** CRS**Date:** 27 Nov 2012**E-mail:** Democratic\_Services@bathnes.gov.uk**To: All Members of the Cabinet**

Councillor Paul Crossley	Leader of the Council
Councillor David Dixon	Deputy Leader and Cabinet Member for Neighbourhoods
Councillor Simon Allen	Cabinet Member for Wellbeing
Councillor Tim Ball	Cabinet Member for Homes and Planning
Councillor Cherry Beath	Cabinet Member for Sustainable Development
Councillor David Bellotti	Cabinet Member for Community Resources
Councillor Dine Romero	Cabinet Member for Early Years, Children and Youth
Councillor Roger Symonds	Cabinet Member for Transport

Chief Executive and other appropriate officers  
Press and Public

Dear Member

**Cabinet: Wednesday, 5th December, 2012**

Please find attached a **SUPPLEMENTARY AGENDA DESPATCH** of late papers which were not available at the time the Agenda was published. Please treat these papers as part of the Agenda.

Papers have been included for the following items:

- 18. BEECHEN CLIFF OPEN SPACE - FUTURE MANAGEMENT ARRANGEMENTS  
(Pages 3 - 18)**

Yours sincerely

Col Spring  
for Chief Executive

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<b>Bath &amp; North East Somerset Council</b>		
MEETING:	<b>Cabinet</b>	
MEETING DATE:	<b>5 December 2012</b>	EXECUTIVE FORWARD PLAN REFERENCE:
		<b>E 2502</b>
TITLE:	<b>Beechen Cliff – Future Management Arrangements</b>	
WARD:	<b>Widcombe, Lyncombe</b>	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b>		
<ul style="list-style-type: none"> <li>• <b>Appendix 1 - Proposed Outline Agreement between the Council and the National Trust Concerning Beechen Cliff and the Adjoining Land.</b></li> <li>• <b>Appendix 2 – Background and history of Beechen Cliff</b></li> <li>• <b>Appendix 3 – Plan of Beechen Cliff and Adjoining Land</b></li> </ul>		

## 1 THE ISSUE

- 1.1 Beechen Cliff is a large and prominent area of steep, north facing and generally densely wooded slope used as public open space on the valley side overlooking the city of Bath.
- 1.2 The area is particularly important within the setting of the World Heritage Site, however the past and current revenue funding and maintenance regime, which is essentially reactive, are insufficient to ensure the conservation, safety, effective management, community involvement and sustainability of the woodland and surrounding habitats.
- 1.3 This report describes the background and history of Beechen Cliff and sets out a proposal and recommendations for the Council to enter into a partnership agreement with the National Trust to ensure the future care of the woodland and surrounding fields (identified in Appendix 3 of the report).
- 1.4 The objectives and reason for the proposal are to:
  - a) ensure better future management, conservation and stewardship of the woodland and surrounding fields, by accessing expertise and resources through joint funding and reducing vulnerability to revenue pressures by placing this outside the direct management of the Council, whilst the Council still retains ownership of Beechen Cliff;
  - b) make best use and return on investment of the Council's identified allocation within the capital programme for 2012/2013 for Beechen

Cliff by working with the National Trust to safely ensure the future protection and management of Beechen Cliff, the adjoining land and World Heritage skyline, as set out in Appendix 1.

- c) recommend the transfer of management as this provides access to the National Trust's expertise as well as potentially leveraging-in funding from an appeal to be launched by the National Trust..

## **2 RECOMMENDATION**

The Cabinet agrees, in principle subject to satisfying the financial implications in paragraph 3 and property law considerations in paragraph 5.5, to offer to:

- 2.1 enter into a management agreement with the National Trust whereby the future management and maintenance of Beechen Cliff is undertaken by the National Trust in perpetuity; however ownership of Beechen Cliff is retained by the Council;
- 2.2 transfer the ownership of the adjoining fields and allotments to the National Trust as a gift;
- 2.3 work with the National Trust as it launches a Bath World Heritage Landscape Appeal for up to £2m., the proceeds of which would initially be used to provide the necessary cost of the maintenance of Beechen Cliff and then the cost of the endowment of Beechen Cliff, and thereafter the protection and maintenance of other landscape features in the world heritage site;
- 2.4 to contribute £500,000, less the costs of immediate tree safety works, for securing the future of Beechen Cliff woodland as included for Provisional Approval in the Capital Programme for 2012/2013, subject to third party negotiations and a detailed project proposal, with the management agreement recognising the appropriate level of future liability and subject to the agreement of the S. 151 officer.

## **3 FINANCIAL IMPLICATIONS**

- 3.1 The Council currently spends, on average, in the region of £5k per annum from revenue in the Parks service budgets on reactive works within Beechen Cliff. This expenditure is not sufficient to manage and maintain the woodland and surrounding land in good order. Estimates of the true annual maintenance costs are being quantified currently from the National Trust's Head of Forestry. The business case for making best use of the capital allocation for Beechen Cliff by entering into a partnership agreement with the National Trust becomes attractive when compounding the cost of maintenance to the Council over a period of years. Similarly the business case, in terms of return on the Council's investment, is attractive when the possibility of attracting further funding by the National Trust launching a World Heritage Landscape Appeal to boost available funding is taken into account.

- 3.2 £500k for 'Beechen Cliff Woodland and Other Open Spaces Improvement' was included in the 2012/13 capital programme for provisional approval in the February 2012 Council budget report, subject to detailed project plan and third party negotiations; this is to be financed through corporate capital funding (corporate headroom).

The budget narrative states: "The project will seek to restore the woodland above the cliff and maintain it to a suitable standard working in partnership with experts from the National Trust. Any balance will be reserved for open spaces improvements across Bath & North East Somerset."

- 3.3 Initial discussions between Members, officers and representatives of the National Trust indicate that that the majority of the provisional budget would be required for the future management of Beechen Cliff. A smaller proportion of the funds (between £25K - £50K) will need to be released earlier in order to address urgent tree works on the site. This will increase substantially the extent to which the asset can be used to improve public access and public safety, as set out in the Tree Safety Inspection report by Alan Engley.
- 3.4 As the scheme budget only has provisional status at present, there is no authorisation to spend or commit capital resources at this stage. Accordingly, appropriate authorisation (through the capital scheme approval process) will need to be granted in order to release the identified funding; this will be the subject of future Cabinet decision.
- 3.5 In order to progress the necessary work to complete an agreement between the Council and the National Trust, legal and property costs will need to be incurred. This will also be subject to the Council's capital approval process when the costs have become clearer.
- 3.6 Before entering into any agreement for the final capital amount this will also need to be subject to a formal decision process.
- 3.7 In addition there is a need to clarify and establish the value of gifting the adjoining land and fields during the process of negotiations with the National Trust.
- 3.8 Finally it is important to emphasise that the remaining risk and responsibility for Beechen Cliff will always remain with the Council, as ultimate landowner.

#### **4 CORPORATE OBJECTIVES**

- 4.1 The proposal will enable the more effective management of an important part of Bath's natural heritage, which will benefit from the expertise of the National Trust in improving management, safe access, interpretation, education and community involvement.
- 4.2 In turn this will support the Council's corporate objective of creating neighbourhoods where people are proud to live.

## 5 THE REPORT

### Introduction

- 5.1 Beechen Cliff is a large and prominent area of steep, north facing and generally densely wooded slope used as public open space on the valley overlooking the city of Bath. The Council owns about 5 hectares of the area (see map in Appendix 3).
- 5.2 It has been proposed by the present administration that the management responsibility for Beechen Cliff and the adjoining fields on the east and south side of the cliff be transferred from the Council to the National Trust.
- 5.3 The National Trust has a large membership, estimated at approximately 15,000, within Bath and the surrounding area; nowhere else in England has a higher proportion of its population as members. Initial discussions have been held with officers of the National Trust, with a view to a possible transfer of management responsibility.
- 5.4 The National Trust has indicated that they would be interested in managing Beechen Cliff. They would not however wish to accept ownership of the woodland and associated liabilities so would require the Council to indemnify them against any future liability in perpetuity, should they take on the area. The National Trust would require a dowry if they are to accept this or other parcels of land.
- 5.5 The Cliff itself, forming part of the land under consideration, was originally purchased by public subscription in 1869 and given to the Council "to be held in trust in perpetuity". Legal advice will be sought from the Council's Property Law service to confirm their opinion on matters material to the negotiations with the National Trust, including the proposal set out in Appendix 1 of this report and whether there are any constraints which would prevent the Council from transferring the management/maintenance responsibility for Beechen Cliff and the ownership of the adjoining land (identified in the plan in Appendix 3 of this report) to the National Trust.

### Next Steps

- 5.6 There is a need to determine whether a beneficial transfer of management responsibility for the woodland can take place and whether the Council could enter into an agreement to indemnify the National Trust in perpetuity against any future liabilities associated with the transfer of management responsibility for the woodland.
- 5.7 The Council needs to form its own view of the costs of restoration and on-going maintenance of Beechen Cliff, whether the giving of an endowment is good value for money and whether the launch of a World Heritage Landscape Appeal by the National Trust, to attract further funding to safeguard Beechen Cliff and the surrounding land, provides added value and represent a good return on investment.

- 5.8 If the Council and the National Trust are willing to agree to explore the possibility of the transfer of the land (but without commitment by either party), the next step would be for the National Trust and the Council jointly to review what works would be necessary to restore the cliff to a good state of maintenance at what cost and the future cost of maintaining it.
- 5.9 Initially this would involve urgent remedial works and subsequently the agreement of a specification for woodland, habitat and land management, planting, aftercare (particularly irrigation) and maintenance in consultation with the National Trust's advisors, and a contract let (preferably to local ) by the National Trust to carry out the works. Timescale for completion of these works is in the current financial year.
- 5.10 Future work required will include maintenance and irrigation to ensure establishment of newly planted trees and the creation of a woodland and habitat management plan which identifies further planned interventions required and likely costs.
- 5.11 Appendix 1 of the report sets out a proposal which could form the basis of negotiation for an outline agreement and timescale in order to take forward, in partnership with the National Trust, the future management of the Beechen Cliff and the launch of a Bath World Heritage Landscape Appeal by the National Trust.
- 5.12 The work required to bring this 'in-principle' recommendation to a subsequent satisfactory conclusion between parties will involve considerable financial, legal and property advice and appropriate authorisation.
- 5.13 The necessary financial approval for the urgent tree safety works will be sought at the earliest opportunity and in accordance with the Council's capital approval process.
- 5.14 Authorisation of further financial, legal and property considerations to progress the project will be reported back to a future meeting of Cabinet in early 2013.

## **6 RISK MANAGEMENT**

- 6.1 The report author and Lead Cabinet Member have fully reviewed the risk assessment related to the issue and recommendations, in compliance with the Council's decision making risk management guidance.

## **7 EQUALITIES AND HUMAN RIGHTS**

- 7.1 An EqIA has been completed. No adverse or other significant issues were found. It is also considered that this issue does not impact adversely on any provisions of the European Convention on Human Rights.

## **8 RATIONALE**

- 8.1 The Council has been unable to maintain Beechen Cliff to the standard identified within the 1993 Cobham Resource Consultant's management plan for Beechen Cliff. This is not a result of lack of professional and technical expertise by the Council's staff, but as a result of insufficient revenue funding within the Parks budgets.
- 8.2 It is considered that a management agreement with the National Trust will ensure the future stewardship of such an important asset and at a higher standard than could be delivered by the Council acting alone.
- 8.3 The use of the Council's allocation of £500k for Beechen Cliff as a contribution towards the future management of Beechen Cliff and the surrounding land and the launch of a Bath World Heritage Landscape Appeal by the National Trust represent a good return on investment of the Council's resources to safeguard the future conservation and stewardship of this important area.
- 8.4 The proposal fits with the Council's corporate and strategic objectives within the refresh and launch of the World Heritage Setting document and the Council's Green Infrastructure strategy.

## **8 OTHER OPTIONS CONSIDERED**

- 8.1 Do nothing – this is not an option as the risk to Beechen Cliff is further decline and potentially an increased safety risk, together with risk to the woodland cover through lack of management and increased risk arising from climate change factors.
- 8.2 Continue to manage the site as present – this is not a sensible solution as continuing to maintain the site with an inadequate budget and within a context of reducing revenue resources will lead to similar risk identified in paragraph 8.1.

## **9 CONSULTATION**

Ward Councillor; Cabinet members; Staff; Other B&NES Services; Local Residents; Community Interest Groups; Stakeholders/Partners; Section 151 Finance Officer; Chief Executive; Monitoring Officer

- 9.1 Consultation has been carried out through meetings with:
  - Officers from the National Trust;
  - a steering group formed from local residents and interests groups, with ward members in attendance and
  - internally through the Cabinet report sign-off process.



## 10 ISSUES TO CONSIDER IN REACHING THE DECISION

Social Inclusion; Customer Focus; Sustainability; Human Resources; Property; Young People; Corporate; Health & Safety; Other Legal Considerations

## 11 ADVICE SOUGHT

11.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

<b>Contact person</b>	John Crowther, Service Manager: Neighbourhood Services, Tel: 01225 396878, E-mail: john_crowther@bathnes.gov.uk
<b>Sponsoring Cabinet Member</b>	Councillor David Dixon, Deputy Leader of the Council and Cabinet Member for Neighbourhoods
<b>Background papers</b>	<ul style="list-style-type: none"><li>• Beechen Cliff - Tree Safety Inspection report by Alan Engley (commissioned by National Trust)</li><li>• Beechen Cliff – Land Stability Risk Assessment report by Geo Consulting (commissioned by Bath and North East Somerset Council)</li></ul>
<b>Please contact the report author if you need to access this report in an alternative format</b>	

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## **Appendix 1**

### **Proposed Outline Agreement between the Council and the National Trust Concerning Beechen Cliff and the Adjoining Land.**

#### **1. The Council**

- a. offers to enter into a management agreement with the National Trust whereby the maintenance of Beechen Cliff is undertaken by the National Trust, but ownership is retained by the Council
- b. offers to transfer the ownership of the adjoining fields and allotments to the National Trust as a gift.
- c. offers to contribute £500,000 to the Appeal referred to in 2.c below.

#### **2. The National Trust:-**

- a. agrees to accept an offer from Bath and North East Somerset Council to maintain Beechen Cliff in accordance with a management agreement.
- b. agrees to accept a gift of the adjoining fields including the allotments when it is ready to declare them inalienable.
- c. agrees to launch a Bath World Heritage Landscape Appeal for up to £2m., the proceeds of which would initially be used to provide the necessary cost of initial works to 1. a. and 1. b above, and then the cost of the endowment of 1 a. and 1.b. above, and thereafter the protection and maintenance of other landscape in the world heritage site.

#### **3. Subject to:-**

- a. The National Trust having the right to surrender management if structural or other major issues arise, the resolution of which are beyond the scope of the management agreement.
- b. The Council having the right to terminate the management agreement if the National Trust fails to comply with it.
- c. The Council and the National Trust agreeing that c.£50,000 (sum to be reviewed when actual costs have been ascertained) of the Council's contribution of £500,000 shall be spent on initial works to Beechen Cliff to put them into a good state of maintenance, as specified in the Management Agreement, with the balance being held by the National Trust as a ring-fenced endowment fund.
- c. If 3.a. or 3.b. occur the National Trust shall be obliged to repay to the Council the balance of the then current invested value of the £500,000, less the cost of the initial works, referred to above, but not the income it has derived therefrom.

### **Possible Timetable.**

- a. The Council and the National Trust to forthwith agree a brief and jointly commission from consultants a draft of the management agreement referred to above.
- b. By December 2012 the Council and the National Trust negotiate, agree, and sign a Memorandum of Understanding covering the heads of agreement, subject to contract.
- c. At the World Heritage Site 25<sup>th</sup> anniversary dinner on the 11<sup>th</sup> December 2012, the Memorandum of Understanding is formally announced.
- d. In early 2013, when the terms of a management agreement have been agreed, solicitors are commissioned to draw up and organise the agreement and execution of the necessary documents. The local appeal is then launched, and the Council contributes £500,000, less the costs of immediate tree safety works required on the Cliff, which would be returnable if the Appeal fails.
- e. The Council would transfer the ownership of the adjoining fields as soon as the National Trust is ready to declare them inalienable.
- f. The National Trust would take on the management of Beechen Cliff in accordance with the Management Agreement when sufficient funds have been raised by the Appeal to cover the cost of the initial works and the endowment.

## Appendix 2

### 1 Background to the History and Importance of Beechen Cliff and the Involvement of the National Trust in the Adjoining Land

- 1.1 Beechen Cliff is a product of the last ice age, about 10,000 years ago, when glacial melt cut through the oolitic limestone hills, adjacent to the river Avon, thereby leaving a dramatic backdrop to the city. As stated above, the area is the site and result of a major historic landslide and, whilst no large scale mass movements of the landslide appear to have occurred in recent centuries, there is evidence of small slips and instability over the past 200 years, with falls of trees on the steep upper slopes within the last 30 years. The cliff has a slope angle of 45 degrees+, but appears to be currently stable with no recorded movements in the last 100 years. Small land slips and instability are commonly associated with human activity and heavy rainfall.
- 1.2 Jane Austen noted in *Northanger Abbey* the “noble hill, whose beautiful verdure and hanging coppice render it so striking an object from almost every opening in Bath”.
- 1.3 Bath has been designated by UNESCO as a World Heritage Site (WHS) because of “its outstanding universal values”. In other words Bath is a world class exemplar of these universal values, and its landscape setting is specified as one of those values in the formal designation. It is characterised by a rural landscape which provides a green hills setting for the City, particularly where it stretches in to the city centre, and nowhere more so than at Beechen Cliff and the adjoining fields.
- 1.4 No other City in England offers such a magnificent panoramic view of itself, nor has rural woodland, within 200 metres of its main shopping centre.
- 1.5 In its recent report on the Bath World Heritage Site, UNESCO highlighted the need to enhance the protection of the landscape surrounding the City, and the WHS Steering Group agreed at its meeting earlier this year, that this should be one of the Group’s four immediate priorities.

### 2 Recent History

- 2.1 The Cliff itself, forming part of the land under consideration, was purchased by public subscription in 1869. The deed describes the cliff as a “picturesque object from most parts of the City, purchased with a view of preserving it as an ornamental appendage to the City” The land was given to the Council “to be held in trust in perpetuity” Legal advice will need to be sought about whether this would stop the Council from transferring the land to the National Trust. It is likely that the mature beech trees at the top of the cliff were planted soon after, to help stabilise the cliff. Earlier prints show a patchy covering of vegetation. It is understood that the various springs on the cliff face which had fed property in the Southgate area, were also culverted about this time, presumably for the same purpose. Alexandra Park was established

on the flat area at the top, in 1902, and subsequently Beechen Cliff School, which opened in 1932.

- 2.2 In 1993 the former Bath City Council commissioned Cobham Resource Consultants, Landscape Consultants to prepare a Management Plan for Beechen Cliff. Their report stated that:-
- “The most significant trees are 24 mature beech trees on the upper slopes which are reaching the end of their safe life. New planting is urgently required if the impact of these trees is to be in any way maintained”. Over the majority of the site “there is no evidence of current (1993) management”. The report proposed a maintenance action plan over a period of 16 years from 1993 and indicated that its implementation was essential :-
- “to maintain the landscape contribution of the trees to the city, and
  - to secure the long-term stability of the cliff, and
  - to retain the existing nature conservation interest”.

The objective of this Plan was described as “to sustain uneven aged, predominantly broad-leaved cover on the site in order to eliminate exposure and consequent rapid erosion of sections of the steeper slopes”.

### **3 Current Situation**

- 3.1 Little implementation of this management plan has occurred since 1993, mainly as a result of a lack of funds, but the viewpoints have been kept clear. The Parks section only has sufficient funds currently, to carry out emergency works to Beechen Cliff, particularly concerning public safety. The cost of these works is currently averaging about £5,000.
- 3.2 Mature trees have fallen in several places, and several trees lean at an angle in excess of 20 degrees. Trees are being throttled by ivy, and others have shed major branches. Public access is limited to a footpath up the face of the cliff, and footpaths in the adjoining fields, and park. A rough tractor route through the woods at the bottom of the cliff has been created, presumably to deal with collapsing trees which have slid down the cliff face, and the trunks of at least 20 substantial former trees are on the side of that track. A footpath along the bottom of the cliff, was recommended in the 1993 report to encourage public enjoyment of the woods, but has not been implemented. New beech tree planting has been concentrated in Alexandra Park, where they still impact on the skyline but are more accessible for management. Some tree planting on the cliff and closer to properties has been undertaken utilising smaller tree species.
- 3.3 It is clear that the lack of adequate funding has impeded the implementation of the recommendations within the 1993 report. In the present financial climate, it is unlikely that the Council will be able to find sufficient additional revenue funds for the management of the woodland in the foreseeable future.

## 4 The National Trust

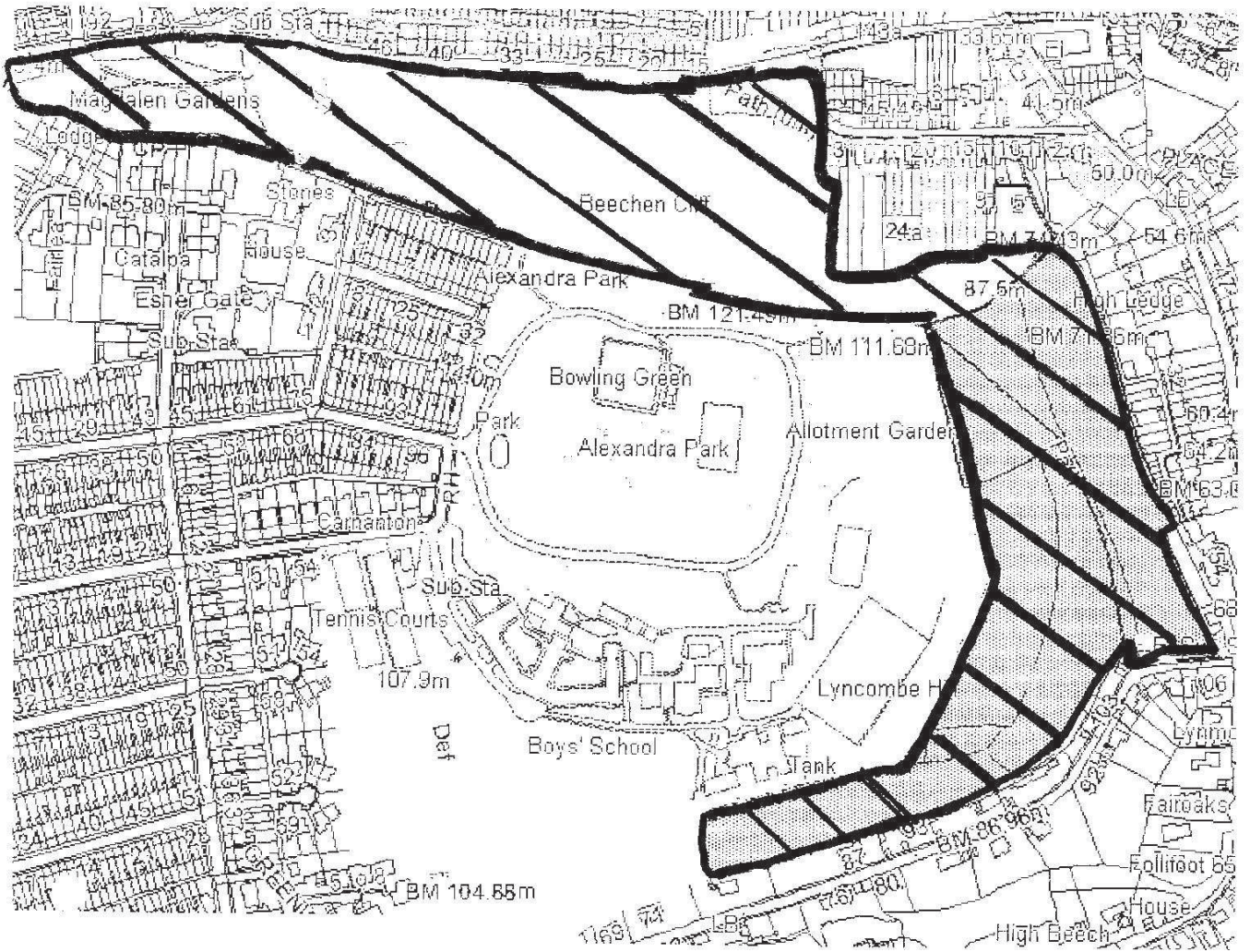
- 4.1. The National Trust already owns over 200 hectares of Bath's skyline, particularly in Bathwick and Widcombe, (equivalent to about 200 football pitches) and manages it to a high standard. It first acquired parts of this land in the 1950's and made further substantial acquisitions in the 1980's when it launched its Bath Skyline Appeal, to which the former Bath City Council contributed £100,000, and it has subsequently made further additions to this landholding. The National Trust also acquired the Prior Park Landscape Garden in the 1980's and has carried out major restoration works there. During this time the National Trust has raised and spent several million pounds, on the acquisition and conservation of this land and currently incurs a running cost of around £200,000 per annum on its Bath landholdings.
- 4.2. There are 15,000 subscribing members of the NT in Bath which together with Guildford has more members as a proportion of their populations than anywhere else in the UK. (1 in 6 households has a member) This suggests that there would be considerable local support for a transfer to the NT.
- 4.3. The National Trust has been granted by Parliament a unique power to declare its land inalienable. This means that once an acquisition is so declared, the National Trust cannot subsequently sell, mortgage or otherwise dispose of that land. Neither can it be compulsorily purchased except by resolution of both Houses of Parliament. This has proved to be very attractive to donors who know that the National Trust's inalienable land will be looked after by it for ever. However it also means that the National Trust must make sure, before declaring any land inalienable, that it will be able to afford to look after it for ever. This usually means that an endowment is needed, to cover the annual overheads and running costs.

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# Appendix 3

## Plan of Beechen Cliff and Adjoining Land



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