

Report of the Strategic Director of Regeneration and Culture to the meeting of Executive to be held on 10th February 2014.

BC

Subject: Petition relating to grouse shooting on Ilkley Moor

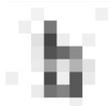
Summary statement:

The report considers the continuation of grouse shooting on Ilkley Moor in the light of a recent petition and the Environment and Waste Management Overview and Scrutiny Committee recommendation made at its meeting held on 30th September 2014.

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Portfolio:
Planning, Transport and Highways

Overview & Scrutiny Area:
Environment and Waste Management



1. SUMMARY

- 1.1 The report considers the agreement to allow grouse shooting on Ilkley Moor in the light of Environment and Waste Management Overview and Scrutiny recommendations made at the meeting held on 30th September 2014. This was in response to a petition submitted to Full Council in July 2014.

2. BACKGROUND

- 2.1 The Environment and Waste Management Overview and Scrutiny Committee considered a petition submitted by the “Ban Bloodsports on Ilkley Moor” campaign at their meeting on 30th September 2014. The petition, received by Full Council in July 2014, requested that the Council end the agreement with the Bingley Moor Partnership, in place since 2008, which allows them to drive and shoot grouse on Council-owned Ilkley Moor up until 2018. After considering the petition and background issues, the Committee recommended that the agreement be allowed to continue to its end date. The actual wording of the decision is as follows: *That it be recommended to the Executive that the shooting agreement be allowed to continue to its end date in 2018.*
- 2.2 This recommendation was referred to Executive Committee where it was resolved, on 16th October 2014, that a further report be presented to a future meeting of the Executive. The Overview and Scrutiny Committee’s full deliberations are set out in their meeting’s minutes and related reports.
- 2.3 The petition was the culmination of a period of lobbying by the Ban Bloodsports on Ilkley Moor campaign which started in early summer 2014 and included comment in the press and on social media – the campaign’s own and the Council’s public web-based comments pages (eg Facebook). It also included protest events on the moor which received some media coverage and disruption of the shoots as they took place during August 2014 to the season’s end in December 2014.
- 2.4 During 2012/13 and prior to the Ban Bloodsports campaign, the Environment and Waste Management Overview and Scrutiny Committee had undertaken a detailed review of the shooting agreement. This was partly in response to lobbying by the Friends of Ilkley Moor, who had altered their previous neutral position on the shoot and now formally oppose it. An additional factor in reviewing the agreement was that the five-year point had been reached in its ten-year term, and so a review was deemed appropriate. At this point in the agreement (post May 2013), a break clause can be activated by either party, which ends the agreement subject to 6 months written notice.
- 2.5 The review considered a wide range of issues related to the shoot – including environmental, economic, and access and public interface related concerns. It concluded that the agreement could continue to its end date, subject to a number of recommendations. A further update report was taken to the E&WM O&S Committee in July 2014, twelve months after the review, to report progress on those recommendations – this was noted.



2.6 As stated previously in this report, the Ban Bloodsports on Ilkley Moor campaign became active almost 12 months after the Scrutiny Review had reached its conclusion. The petition submitted by the campaigners was ultimately received by Full Council in July 2014 and referred to Environment and Waste Management Overview and Scrutiny Committee for consideration at its September 2014 meeting.

2.7 The table below sets out this chain of events:

June 2008	Council signs Sporting Deed for rights to shoot grouse on Ilkley Moor with Bingley Moor Partnership
Feb-July 2013	Environment and Waste Management Overview and Scrutiny Committee undertakes review of the sporting deed
July 2013	Review concludes that deed may continue, subject to a number of recommendations
September 2013	Review report noted by Executive Committee
July 2014	12 month update report outlining progress on recommendations taken to Environment and Waste Management Overview and Scrutiny Committee and noted
July 2014	Petition submitted by “Ban Bloodsports on Ilkley Moor” campaign – received by Full Council and referred to Environment and Waste Management Overview and Scrutiny Committee
September 2014	Environment and Waste Management Overview and Scrutiny Committee consider petition and recommends that the deed continues through to its end date in 2018
October 2014	Above recommendation referred to Executive Committee – further report requested
January 2015	Further report considered by Executive Committee – this document

3. OTHER CONSIDERATIONS

3.1 The agreement document (or “Sporting Rights Deed”) between the Council and the Bingley Moor Partnership (BMP) allows the BMP to drive and shoot grouse on parts of Ilkley Moor. The agreement is limited to the upper parts of the moor (above the 300m contour) and within the boundaries of land owned by Bradford Council. The shoots can take place on up to 8 days per season (which runs from August to December). In practice, the shoots and drives generally take place on neighbouring moors owned by BMP as well as on Ilkley Moor. Dependant upon weather conditions and location of the birds, the drives may only come onto Ilkley Moor for parts of days. It is not usual for a whole days shooting to take place exclusively on Ilkley Moor.

3.2 The Sporting Rights Deed also states the following in respect of the break arrangements (para. 3.2 below, quoted from the deed is most relevant):



3.1 *If at any time during the Term it shall become unlawful or impracticable by reason of legislative restriction to shoot driven grouse or effectively to control vermin predators or disease or effectively carry out other material good moorland management practice in each case by methods which at the date hereof are legal upon the Land then the Grantee shall have the right (to be exercised by the Grantee giving not less than six months notice in writing to the Owner) to determine this deed whereupon this deed shall determine and be of no further force or effect but without affecting the right of either party to take action against the other in respect of any previous breach of the terms of this deed.*

3.2 *Without prejudice to the provisions in clause 3.1 above at any time after 1st May 2013 either party shall have the right on giving not less than 6 months notice in writing to the other to determine this deed whereupon this deed shall determine and be of no further force or effect but without affecting the right of either party to take action against the other in respect of any previous breach of the terms of this deed PROVIDED that the Grantee's right to determine the deed under this clause shall be conditional on the Grantee having paid all rents reserved by this deed and observed and performed all covenants and conditions of this deed.*

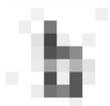
- 3.3 If the Executive wishes to overturn the Overview and Scrutiny Committee's conclusion that the deed should continue to its end date, there is provision to do so within the deed. In considering this course of action, note should be taken of the legal appraisal set out in Section 6 below.
- 3.4 One implication of continuing with the shoot, which would be a "no change" option, is that the anti-shooting campaign may continue, with the associated media coverage and disruption outlined in Section 2 above, possibly being repeated on an annual basis.
- 3.5 If the Committee recommends that the shoot agreement be stopped, apart from the financial implications, the Council would have to be clear in its commitment to continue the management of the moor in line with the existing Higher Level Stewardship agreement and Management Plan, so that the statutory responsibilities associated with the ongoing management of the moor, for conservation and access objectives, were met. The bulk of the management input on the moor is in relation to access and recreational activity, which the Council currently undertakes. Some habitat management work would have to be picked up in the absence of input from the BMP.
- 3.6 The Ban Bloodsports on Ilkley Moor campaign have raised further legal issues (Appendix 2). They assert that the Deed is legally flawed as it contravenes the requirements of the Open Spaces Act 1906 under which the moor is held, and the draft Bradford Local Plan Core Strategy. In summary the campaign argues that the moor is currently suffering environmental damage caused by the management work undertaken under the auspices of the Sporting Rights Deed. The Council's legal appraisal of these concerns is also appended to the report (Appendix 3). For the sake of balance, a letter submitted by the Bingley Moor Partnership to the Environment and Waste Management O&S Committee when it met in September 2014 is also appended (Appendix 4).



- 3.7 The Friends of Ilkley Moor are a large (400+ members), well-funded and key partner to the Council in delivering broad management of Ilkley Moor. They contribute financially as well as practically – even to the extent of employing a project officer who delivers environmental education and interpretation events on the moor. Prior to the review in 2012, the Friends stance on the grouse shooting was neutral. Since then, however, they have revised their position and now support the ending of the Sporting Rights Deed. They have a public statement to that effect posted on their web-site and recently concluded a poll of their members in which 84% voted in support of the Friends position. The main concerns expressed by the Friends which influenced this change, is that they see an inherent conflict between the public right of access and the public's ability to enjoy the Moor, and the interests of the shoot – relating to reduction of public access creating an unwelcoming feel and the pest control carried out, which the Friends feels impacts upon the broad range of species on the moor.
- 3.8 Whatever the outcome of the considerations of the future of the grouse shooting, it is hoped that the Friends will continue to support, financially and practically the management of the moor, although to what extent they do so, will ultimately be their decision. The Countryside and Rights of Way Service is presently reviewing and updating a Management Plan for Ilkley Moor which sets out the management principles for habitat, access and cultural heritage on the moor. This is being done in conjunction with the Friends of Ilkley Moor and reflects the approaches set out in other related documents (such as the Higher Level Stewardship Agreement). It is intended that this will form the basis for future consent for management work on the moor from Natural England.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 Notwithstanding the question of possible future financial support from the Friends of Ilkley Moor, a recommendation to stop the shooting would result in a loss of income to the Countryside and Rights of Way Service budget of up to £10,000pa (with rent review to £12,000pa pending). There would also be a requirement for the Council to maintain its commitment to managing the moor, assisted by financial support from the Friends of Ilkley Moor and other external grant bodies (Heritage Lottery Fund, Natural England grants, Aggregates Levy grants etc.).
- 4.2 The £12,000 fee generated from the shoot accounts for approximately 18% of the income target (£64,000) for Countryside and Rights of Way Service and around 11% of the annual amount allocated from CROW budget for countryside management operations in general (@£104,000).
- 4.3 If the shoot were to continue, the Council would seek to secure its reviewed rental income (up to £12,000pa) and the moorland management input from the Bingley Moor Partnership would continue.



5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1 The main risk in recommending that the shooting agreement be stopped is in ensuring that future commitments to manage the moor in line with statutory requirements will be met. As things stand, and assuming that the Friends of Ilkley Moor continue to provide practical and financial support, it is considered that these commitments can be met within current service resources.
- 5.2 Alternatively, the main risk in continuing with the shooting agreement is the need to respond to potentially prolonged protests and campaigning which is resource intensive, a source of negative publicity and potential disorder on public land when shoots are being actively disrupted.

6. LEGAL APPRAISAL

- 6.1 The report presented to Environment and Waste Management Overview and Scrutiny Committee in September 2014 set out the legal appraisal in relation to consideration of the shooting agreement. The same legal advice applies and is set out in this section.
- 6.2 The land to which the sporting rights apply was acquired by the Council's predecessor, the Local Board of Health for the District of Ilkley, in 1893 on condition that it be preserved as open space. The land is subject to the provisions of the Open Spaces Act 1906 by virtue of section 12 of the Act. The Act requires local authorities to hold and administer open spaces:
- “in trust to allow, and with a view to, the enjoyment thereof by the public as an open space within the meaning of this Act and under proper control and regulation and for no other purpose”
- 6.3 The effect of the decisions of the Court of Appeal in the case of R v Somerset County Council ex parte Fewings and others and of the High Court in the case of R v Sefton MBC ex parte the British Association of Shooting & Conservation Ltd is that a decision on whether to invoke the break clause would have to be founded on an express statutory authority or an authority granted by necessary implication within a statutory power, in this case the Open Spaces Act 1906. Accordingly the only relevant issues to be considered are allowing the enjoyment of the open space by the public and keeping the open space under proper control and regulation. In particular the decision must not be taken on the basis of purely moral or ethical considerations such as the personal views of elected members on grouse shooting.
- 6.4 The further legal issues raised by Ban Bloodsports on Ilkley Moor are considered in Appendix 3.



7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

None

7.2 SUSTAINABILITY IMPLICATIONS

The associated moorland management which occurs on the moor, carried out either by the Council or the BMP, is done with sustainability objectives at its core – in terms of materials used and the overall aim of conserving the natural and semi-natural habitats which exist there for the benefit of biodiversity, public enjoyment and other ecosystem services.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

None

7.4 COMMUNITY SAFETY IMPLICATIONS

There is a minor risk of public disorder if the active disruption on shooting days on the moor continues. A number of shoots have been disrupted this season, although to date, none on Ilkley Moor itself. The police have been involved where breaches of the peace have been alleged. No members of the public, who are not involved in either the anti-shoot protests or members of shooting parties have, to current knowledge, been affected but this cannot be guaranteed on land where the public have a blanket right of access.

7.5 HUMAN RIGHTS ACT

Article 1 of the First Protocol of the Convention of the Protection of Human Rights and Fundamental Freedoms is concerned with the protection of property and provides:

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Sporting Rights are capable of being a possession for the purposes of Article 1 and therefore if there is to be any interference with such rights it must be in the public



interest and in accordance with the law, in this case the applicable law is the Open Spaces Act 1906.

7.6 TRADE UNION

None

7.7 WARD IMPLICATIONS

None

7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS (for reports to Area Committees only)

None

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

9.1 In considering the recommendation from Environment and Waste Management Overview and Scrutiny Committee with regard to the continuation of the sporting deed , the Executive may resolve:

- a) to uphold the recommendation and allow the Sporting Rights Deed to continue to it's end date in 2018
- b) to allow the Sporting Rights Deed to continue to its end date in 2018 subject to a variation which prohibits pest control
- c) to determine the deed subject to 6 months written notice

9.2 A brief summary of pros and cons of these options is set out in Appendix 1.

10. RECOMMENDATIONS

The views of the Executive on the options set out in Section 9 of this report are requested. In the event that Option (a) or (b) is agreed, the Sporting Rights Deed will be monitored and the Council reserves the right to further review when appropriate and particularly if obligations and conditions set out in the Deed are not adhered to.



11. APPENDICES

Appendix 1: table of pros and cons.

Appendix 2: Letter from Ban Bloodsports on Ilkley Moor group

Appendix 3: Legal response

Appendix 4: Letter from Bingley Moor Partnership to Environment and Waste Management Overview and Scrutiny Committee

12. BACKGROUND DOCUMENTS

Previous reports to Environment and Waste Management Overview and Scrutiny Committee:

Document "A", 29 July 2014: 12 MONTH UPDATE REPORT ON REVIEW OF GROUSE SHOOTING LICENCE ON ILKLEY MOOR

Document "F", 16 July 2013: SCRUTINY REVIEW OF ILKLEY MOOR SPORTING RIGHTS DEED

Natural England Consent dated 31st July 2013

E-petition to Government to "Ban driven grouse shooting" at

<http://epetitions.direct.gov.uk/petitions/65627>



APPENDIX 1: Possible impacts of decision

Continue with shooting agreement	Impact
Continued moorland management and presence out of hours from BMP	Positive
Income generation	Positive
Good relationship with BMP as neighbouring landowners	Positive
Good relationship with BMP as partners in joint agri-environment scheme	Positive
Support from national bodies such as Moorland Association, British Association for Shooting and Conservation etc.	Positive
Pest control carried out by the shoot benefits other important moorland birds	Positive
Damaged relationship with Friends of Ilkley Moor who oppose the shoot	Negative
Continued negative publicity and public campaigning on the shoot itself and the associated pest control	Negative
Criticism from some agencies who oppose shooting (Eg RSPB)	Negative
Ethical considerations	Negative/neutral
Perceived impact on public rights of access on moor	Negative
End the shooting agreement	Impact
Loss of moorland management and presence from BMP	Negative/neutral*
Loss of income	Negative
Possible damage to relationship with BMP as neighbouring landowners and partners in joint agri-environment scheme	Negative
Possible criticism for "giving in" to pressure groups	Negative/neutral
Criticism/lobbying from national bodies such as Moorland Association, British Association for Shooting and Conservation etc.	Negative
Loss of pest control benefits for other moorland birds species	Negative/neutral
Improved relationship with Friends of Ilkley Moor who oppose the shoot	Positive
End of negative publicity and public campaigning on the shoot itself and the associated pest control	Positive
End of possible impact on tourism/image of the moor/the Council	Positive
Support from some agencies (RSPB)	Positive
No issues re; perceived impact on rights of access	Positive
No ethical concerns	Positive

*neutral if management continues in house or funded through other grant schemes/Friends group



BY EMAIL

Councillor D Green
Leader of Bradford Council
Bradford Metropolitan District Council

15 January 2015

Dear Councillor Green,

Re: Grouse Shooting on Ilkley Moor

We write to you ahead of the Executive Committee decision on 10 February 2015 concerning whether grouse shooting should be permitted to continue, or not, on Ilkley Moor. Having heard the representations of councillors we are now in a position to formally disclose the outcome we seek on behalf of Ban Bloodsports on Ilkley Moor (BBIM).

BBIM condones The Council's adherence to the ruling in *R. v Somerset County Council ex parte Fewings and others* [1995] WLR 1037, which discounts moral or ethical considerations in the decision making process of local authorities. We consequently contend the Sporting Rights Deed is unlawful as a consequence of its damage to the environment and ecology of Ilkley Moor and a resulted incompatibility with the Council's *Local Plan for the Bradford District*. Such is applied under authority of The Council's obligations to meet its Local Plan and adhere with §10 (a) (b) of the Open Spaces Act 1906, namely to:

(a) hold and administer the open space with a view to the enjoyment thereof by the public as an open space, under proper control and regulation and for no other purpose; and

(b) maintain and keep the open space in a good and decent state.

Environmental Damage

A core element to the management of Ilkley Moor for the purposes of game shooting is to remove all predatory species, such as small mammals and birds, which predate on grouse and grouse eggs. This practice serves to provide an artificially high number of game birds to be shot. These predatory species are an important food source for red and amber listed birds of prey, such as the Red kite (*Milvus milvus*) and Hen harrier (*Circus cyaneus*), which are internationally important and protected under the EC Birds Directive (2009/147/EC)¹. Local records maintained by Bradford Ornithological Group² show recorded sightings of hawks on Ilkley Moor are a rare occurrence and this is reflected in the scientific studies outlined below.

Ilkley Moor is also resident to areas of internationally important blanket bog which are protected under

¹ Annex I, EC Directive 2009/147/EC

² Bradford Ornithological Group [Online] *Latest Bird Sightings 2005 - 2012*
<http://www.bradfordbirding.org/SIGHTINGS/Sighting1.html> [Accessed 14 January 2015]

the EC Habitat Directive (92/43/EEC)³. One such area is Cowper's Cross and Whetstone Gate, which is subject to ongoing habitat restoration in order to reverse the effects of the wildfire in 2006. Photographic evidence provided to Bradford MDC's Countryside & Rights of Way Office⁴ shows the grouse shoot has caused damage to this section of blanket bog by accessing a line of grouse butts to the East of Keighley Road in vehicles. In addition, a drainage ditch has been constructed in order to decrease water volume and has reduced the habitat for protected plant life, such as sphagnum moss. This has a further consequential impact on carbon emissions and flood risk of the region in that blanket bog, and symbiotic plant species such as sphagnum moss, are recognised forms of natural carbon and water capture.

Further, a scientific assessment of species biodiversity was commissioned by the Friends of Ilkley Moor (FOIM)⁵, Bradford MDC's key partners in conservation of the moor, in 2012 in order to assess the impact of management by the shoot. The study examined a square mile of Heber's Moss, an area of blanket bog in the uplands of Ilkley Moor, in order to compare the results with an earlier survey conducted in 2005, before the Sporting Rights were granted. The results concluded there has been an evident reduction in species biodiversity and an abnormally high number of grouse which could be directly attributed to a change in the purpose of management. The outcome is reflected in recent peer reviewed studies, particularly the 2014 EMBER Project⁶ undertaken by the University of Leeds School of Geography. Researchers concluded management techniques used to maintain grouse moors result in a significant decrease in biodiversity (Brown, L.E *et al*; 2014).

In the wider context, The Council has identified a key need to reduce flooding in Wharfedale in its Local Plan⁷ for the Bradford District as a consequence of its impacts on the environment and livelihood. The report correctly identifies run-off water from the moorland as increasing flood risk in the lower areas of the region⁸ and such has been appraised by Professor J David Rhodes CBE FREng, an engineering expert witness heard by Bradford MDC's Regulatory & Appeals Committee in August 2014⁹. The aforementioned drainage ditches constructed as a core element of grouse moor management on Ilkley Moor significantly increase this occurrence in the pursuit of maintaining a dry moorland habitat suitable for enhanced game bird breeding. The consequential decrease in sphagnum moss and damage to blanket bogs further multiplies this risk by removing a primary source of natural water storage.

Regulation and Legislation

Two different types of traps are used on Ilkley Moor in order to remove natural predators as part of routine management in furtherance of artificially increasing the red grouse population. Fenn traps are used to kill small mammals, including weasels, stoats and rodents, and Larsen and ladder traps to capture corvids, such as carrion crows and magpies, which are subsequently dispatched.

The Sporting Rights Deed provides clear guidance in that all codes of practice and legislation must be adhered to in order to conduct trapping in a proper manner^{10 11}. Trapping must remain compliant with *BASC - A Code of Practice; The Code of Good Shooting Practice (2012)* and *Natural England - Live Trapping of Wild Birds Under General License - A Code of Practice (2014)* in order to meet the requirements of the

³ Annex I, EC Directive 92/43/EEC

⁴ Steele, L.A. *Email and photographs entitled 'Ilkley Moor Damage'* (2014)

⁵ Biodiversity survey of Heber's Moss, Ilkley Moor *Friends of Ilkley Moor* (2012)

⁶ Brown, L.E., Holden, J. & Palmer, S.M. *Effects of Moorland Burning on the Ecohydrology of River basins. Key findings from the EMBER project.* University of Leeds (2014)

⁷ § 3.5, Point 13 - Section 3: Spatial Vision, Objectives and Core Policies - Local Plan for the Bradford District: Core Strategy Development Plan Document *Bradford Metropolitan District Council* P.28 (2014)

⁸ § 5.4.142: Planning for Place - Environment - Local Plan... *Bradford Metropolitan District Council* P.242 (2014)

⁹ Hearing of the Regulatory & Appeals Committee relating to 'Land at Bingley Road, Menston' *Bradford Metropolitan District Council* (07 August 2014)

¹⁰ Schedule 2, § 22.2 - Preservation of wildlife - Deed relating to Sporting Rights at Ilkley Moor *Bradford Metropolitan District Council* P.23 (2008)

¹¹ Schedule 2, § 25 - Preservation of wildlife - Deed relating to... *Bradford Metropolitan District Council* Pp.23 (2008)

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Animal Welfare Act 2006 and limit harm. Specifically, '*Natural England - Live Trapping...*' specifies, "traps must be physically inspected when in use at least once every day at intervals of no more than 24 hours...Traps should only be set if you are confident that you will be able to inspect the trap within the required period."¹² Such is mirrored in '*BASC - A Code of Practice...*'.¹³ Gamekeepers servicing The Sporting Rights Deed have self-admittedly not checked traps set on Ilkley Moor on a daily basis, one of the stipulations of the Codes of Practice.

'*Natural England - Live Trapping...*' not only regulates the frequency of inspection for Larsen and ladder traps, but also the locations at which traps can be set¹⁴. The Code of Practice stipulates, "Do not set traps: on or near public rights of way or areas of public access used by persons exercising domestic animals". Ilkley Moor, by virtue of its public ownership and subsequent access rights, is in its entirety an area of public access and one used in the exercising of domestic animals. Any use of Larsen and ladder traps in the predator control of corvids on Ilkley Moor would conclusively result in a non-compliance with the Code of Practice. The latest available annual returns giving the particulars of predators killed on Ilkley Moor specify 45 carrion crows and 20 magpies were trapped in such a way in 2013¹⁵.

The Sporting Rights Deed is further clear that Bradford Metropolitan District Council must be furnished with an annual return giving the particulars of game birds killed during the course of its exercise¹⁶. The stipulation serves to provide an accurate record of the numbers of grouse removed from Ilkley Moor in order to estimate the current population, in furtherance of conservation. Hitherto, this condition has not been met and subsequently no statistical data has been recorded by The Council in order to ensure proper regulation of the red grouse population on Ilkley Moor.

The Decision

Ban Bloodsports on Ilkley Moor seeks an outcome which upholds The Council's legal compliance with the Open Spaces Act 1906 and ensures the execution of its *Local Plan for the Bradford District*. Provided qualitative and quantitative evidence highlights the incompatibilities between The Sporting Rights Deed and this aim. Grouse shooting management techniques have caused harm to the conservation and biodiversity of Ilkley Moor, conflicting with the EU Bird and Habitat Directives and the biodiversity objectives of the Local Plan; the undertaking of trapping and record keeping has not been sufficiently regulated, with a consequential induction of harm; and the construction of drainage ditches has resulted in an increased flood risk in the surrounding region, also contrary to the objectives of the Local Plan. This has resulted beyond reasonable doubt in the open space not being maintained under proper control and regulation and in a good and decent state, which obstructs the core aims of the Local Plan to improve biodiversity and the Wharfedale region.

It is therefore requested:

- 1) An immediate decision is made by the Executive Committee to not renew the Sporting Rights for Ilkley Moor upon expiry on 2 June 2018.
- 2) A council policy is introduced which specifically prohibits the use of public land in the region for the purposes of game shooting as of 2018, in order to provide a layer of protection to the biodiversity objectives of the Local Plan.
- 3) The City Solicitor is instructed to review the Sporting Rights Deed on receipt of legal appraisal supporting an execution of the exit clause.

¹² § 1 - Live Trapping Wild Birds Under General License - A Code of Practice... *Natural England* P.1 (2014)

¹³ § 8 - Predator and pest control - A Code of Good Shooting Practice *BASC* P.11 (2012)

¹⁴ § 2 - Live Trapping Wild Birds Under General License - A Code of Practice... *Natural England* P.1 (2014)

¹⁵ Freedom of Information Request ENQ01088 *Bradford Metropolitan District Council* (2014)

¹⁶ Schedule 2, § 28 - Preservation of wildlife - Deed relating to Sporting Rights at Ilkley Moor *Bradford Metropolitan District Council* P.25 (2008)

We anticipate your decision.

Yours Sincerely,

cc: Cllrs Amir Hussain, Ralph Berry, Imran Hussain, Susan Hinchcliffe, Andrew Thornton, Val Slater.

References

Cases

R. v Somerset County Council ex parte Fewings and others [1995] WLR 1037

Legislation

Animal Welfare Act 2006

EU Directive 92/43/EEC

EU Directive 2009/147/EC

Open Spaces Act 1906

Publications

BASC A Code of Practice: The Code of Good Shooting Practice (2012)

Bradford Metropolitan District Council *Local Plan for the Bradford District: Core Strategy Development Plan Document* (2014)

Bradford Metropolitan District Council *Deed Relating to Sporting Rights at Ilkley Moor* (2008)

Bradford Metropolitan District Council *Freedom of Information Request ENQ01088* (2014)

Bradford Ornithological Group [Online] *Latest Bird Sightings*
<http://www.bradfordbirding.org/SIGHTINGS/Sighting1.html> [Accessed 14 January 2015]

Brown, L.E., Holden, J. & Palmer, S.M. *Effects of Moorland Burning on the Ecohydrology of River basins. Key findings from the EMBER project.* University of Leeds (2014)

Friends of Ilkley Moor *Biodiversity survey of Heber's Moss, Ilkley Moor* (2012)

Natural England *Live Trapping of Wild Birds Under General License - A Code of Practice* (2014)

APPENDIX 3

Legal Appraisal of Issues raised in Appendix 2

1 General

Ban Bloodsports on Ilkley Moor have raised various legal issues in their letters at Appendix 2. The issues may be briefly summarised as follows:

- That the Sporting Rights Deed dated 4 June 2008 is incompatible with the Council's planning policies because of the alleged damage to the environment and ecology of Ilkley Moor due to the exercise of the sporting rights.
- That the Sporting Rights Deed is incompatible with the Council's obligations under section 10 of the Open Spaces Act 1906, which requires the Council to keep the land in a "*good and decent state*".
- That the current use of Ilkley Moor for grouse shooting conflicts with the EU Directives on Birds and Habitats.
- That the Bingley Moor Partnership are failing to comply with the Code of Good Shooting Practice, as required by the Sporting Rights Deed, especially in relation to the use of traps and reporting to the Council the numbers of game birds killed during each Grouse Shooting Season.

The debate about grouse shooting on Ilkley Moor takes place in the context of a wider national debate about grouse shooting. There is a live e-petition on the government's website seeking a ban on driven grouse shooting in England, on the grounds of the impact of grouse shooting on the population of Hen Harriers and other environmental impacts. The response of the Department for the Environment, Food and Rural Affairs to the petition includes the following:

When carried out in accordance with the law, shooting for sport is a legitimate activity, and our position is that people should be free to undertake lawful activities should they wish to do so.

This confirms the government's position that shooting for sport is a lawful activity and that reflects the current legal position.

3 Planning Issues

The use of the land for grouse shooting is a temporary use which would be covered by Part 4 of the Town & Country Planning (General Permitted Development) Order 1995 (as amended). This allows the use of land for any purpose for not more than 28 days in any calendar year. To date no planning enforcement action has been taken in relation to the use of the land for grouse shooting.

4 Open Spaces Act 1906

The Sporting Rights Deed requires the Bingley Moor Partnership:

To exercise the Sporting Rights in such a manner as not to cause damage to the Land, woods, banks, fences, hedges, crops or other property of the Owner or its tenants and in the event of damage occurring the Grantee must pay full

compensation to the Owner or its tenants for any damage caused by such exercise.

Accordingly there is provision to protect the land from any damage which might arise from the use of the land for grouse shooting.

5 EU Directives

The argument is that the activity of grouse shooting, due to the need to protect the game birds and their eggs from other species, has an adverse impact on biodiversity on the land and is in breach of EU Directives on Birds and Habitats.

Grouse Shooting in the Site of Special Scientific Interest takes place subject to a consent issued to the Council by Natural England under the Wildlife and Countryside Act 1981 (as amended). The consent is dated 31 July 2013 and gives consent for the following operations:

- *A maximum of 8 shoots per season to be reviewed on May 2018, to be managed by Bingley Moor Partnership: and*
- *Predator control in accordance with the Wildlife & Countryside act 1981 (as amended).*
- *No management works outwith the agreed Ilkley Moor Management Plan would be implemented.*

The Directives are transposed into UK law principally via the Conservation of Habitats and Species Regulations 2010 (as amended) and the Countryside and Wildlife Act 1981 (as amended) which create various offences in relation to protected species, methods of capturing or killing wild animals and the protection of certain wild plants. To date there has been no caselaw to suggest that properly conducted grouse shooting is incompatible with the Directives and the Council is not aware of any such criminal offences having been committed in relation to grouse shooting on Ilkley Moor.

6 Compliance with the Sporting Rights Deed

It is alleged that the Bingley Moor Partnership are failing to comply with the Code of Good Shooting Practice, as required by the Sporting Rights Deed, in particular in relation to the use of traps. They also allege that the Bingley Moor Partnership are failing to comply with the requirement in the Sporting Rights Deed to report the numbers of game birds killed in the previous grouse shooting season. The current position is that no traps are being used on the land covered by the Sporting Rights Deed. The Council has contacted the Bingley Moor Partnership and is collating the missing reports of game birds killed for the years when shooting took place on Ilkley Moor. It should be noted that in some years, no shooting took place so there would be no detail to report – hence the gap in information for 2008 and 2011.

Bingley Moor Partnership

BY EMAIL

Mr D Jackson
Countyside Rights of Way Manager
Bradford Metropolitan District Council

25 September 2014

Dear Mr Jackson

Environment Waste Management Overview and Scrutiny – 30 September 2014 Consideration of Petition relating to the Ilkley Moor Sporting Rights Lease

I regret I am unable to attend the above committee meeting but the Bingley Moor Partnership will be represented and we would be grateful for an opportunity to speak.

It is, of course, a concern that so soon after the mid-term review of the 2008-2018 lease has been completed, with the recommendations now agreed with yourselves, the Friends of Ilkley Moor and ourselves, and where possible implemented, that the lease has to be looked at again on receipt of a petition from Luke Steele representing Ban Bloodsports On Ilkley Moor (BBIM).

I should outline the very considerable problems that Luke Steele and his organisation have been causing the Bingley Moor Partnership. While he actively objects to the above lease, which I should emphasise not only grants the right to shoot but also to manage and improve the vegetation on Ilkley Moor, he and his colleagues have committed aggravated trespass on at least six shoots carried out in August 2014 on the Bingley Moor Partnership's own land. There has been no disruption to the shooting on Ilkley Moor that has taken place.

Each of his protests included the disruption and obstruction of a legal activity, photography and recording against the wishes of those attending, attempts to aggravate and the photography and intimidation of children. On each day they attended the local police had to be called, using up very considerable police time in a wide moorland area.

In discussions and meetings with West Yorkshire Police, I understand it is agreed that Mr Steele and his colleagues have committed aggravated trespass, a crime under s.68 (1) of the Criminal Justice and Public Order Act 1994 (amended by s. 59 of the Anti-Social Behaviour Act 2003) and that he has been interviewed by the police with his solicitor present. Another of his colleagues had to be warned off the moor by the police for three months. Their activity is by no means a correct use of the Countryside and Rights of Way Act 2000, allowing a right to roam (only) over moorland.

I would very much hope and trust that the committee does not respond to this petition in view of the approach taken by Mr Steele and BBIM, which has also included considerable incorrect and unwarranted postings on the internet, as well as financial losses to ourselves. The Bingley Moor Partnership has entered into very constructive dialogue with Bradford Council and improvements have been made to the 2008 lease. We invest £60,000 of our own funds every year into Ilkley Moor on its own and the very considerable improvements to the vegetation and bird life since 2008, when it was in a very degraded state, are there for all to visit and see and enjoy. Ilkley Moor is now able to harbour red and amber listed birds and continues to meet its designation as a Site of Special Scientific Interest (SSSI), a Special Protection Area (SPA) and a Special Area of Conservation (SAC), which is the highest in Europe. The Bingley Moor Partnership has conserved the heather on Rombalds Moor since 1947 and it continues its year

round conservation work to the highest standard, and entirely within all legislation and guidelines, including pest and predator management to help the vulnerable birds to survive.

The very occasional grouse shooting on Ilkley Moor, always carried out under strict Health & Safety rules, is only a by-product of this work and all the grouse shot are sold as food. We continue to enjoy a very healthy relationship with the Ilkley Moor users as well and would suggest, as agreed earlier this year, that the end of the lease and the Higher Level Stewardship Scheme, both in 2018, is the appropriate time for it to be fully reviewed.

Yours sincerely

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