

Item No. 8	Classification: Open	Date: June 14 2007	MEETING NAME: Major Projects Board (Executive Committee)
Report title:		Establishment of the Aylesbury Trust and the acquisition by the Trust of the William IV public house	
Ward(s) or groups affected:		Faraday Ward Aylesbury NDC Area	
From:		Strategic Director of Major Projects	

RECOMMENDATIONS

1. The Aylesbury Project Delivery Board recommends that the Major Projects Board:
 - i. Agrees to consider further the creation of a loan facility to finance early works on the Aylesbury estate
 - ii. Requests that officers from Major Projects, FMS, NDC and GOL develop a detailed financial agreement, to include a risk assessment, to be reported to a future meeting of this committee
 - iii. Agrees to the establishment of the Aylesbury Trust as outlined in this paper and agree that the Council's representation on the Trust should be one executive member and one ward councillor.
 - iv. Agrees to the proposals for consultation and Governance contained in this report with two key exceptions. Firstly, agree that the Trust nominates one member to the Aylesbury Area Board (rather than two as proposed in the report). Secondly agree that the new physical projects group (a merger between the steering group and the physical environment group) should continue in the role of the current steering group and not become a sub - group of the Trust as the report proposes.
 - v. Notes the proposals for NDC staffing and requests that officers undertake a detailed financial appraisal of the potential costs and any significant HR implications which will be brought back to this board prior to the board or executive committee giving its 'in principle' consent to this element of the report.
 - vi. As accountable body for the Aylesbury NDC, notes the advice of the Head of Property and agrees to consider further the acquisition by the new Trust of the William IV public house on the terms laid out in this report.

BACKGROUND INFORMATION

2. The council's Executive agreed the strategy for the redevelopment of the Aylesbury Estate in September 2005. Since that date a major programme of regeneration has commenced; an Area Action Plan is being developed and RSL partners are being procured for the first 'kick start' site in the SW corner. The Council has worked in close partnership with Aylesbury New Deal for Communities (NDC) project which has provided high levels of support around issues of community engagement/consultation.

3. The NDC is a government funded body which was allocated £56m (£36m capital and £20m revenue) to assist with the regeneration of the Aylesbury estate over 10 years. The NDC has a community led board with two council representatives (cllrs. Thomas and Bates) and is now in its seventh full year of operation with a remaining 2 years and 10 months before its closure. The NDC is currently an un-constituted body and the Council acts as accountable body in the NDC's relationship with its funder, the Government Office for London (GOL).
 - i. Clearly, and in common with virtually every other major NDC scheme in the country, the lifetime of the NDC programme will be outstripped by that of the regeneration programme itself, 15 – 20 years. It is therefore proposed that measures are put in place to secure the significant social investment which has already taken place, and continue to build upon the range of successful social interventions made by the NDC for the lifetime of the programme and beyond. It is also proposed that the new body which is created to replace the NDC should be financially self-sufficient.
 - ii. The NDC has now spent or committed its entire revenue programme but because of the restructuring of the major programme (see above) has a large proportion of its capital budget (£16-20m) uncommitted. In short it is vitally important that this major resource is retained for the benefit of the regeneration programme and it is essential the Council, NDC and GOL agree a clear set of measures to enable this to happen. There is a serious risk that if this doesn't happen the remaining capital will be subject to 'clawback'.

KEY ISSUES FOR CONSIDERATION

LOAN

4. In late 2006 the Strategic Director of Regeneration formally raised with Aylesbury NDC a proposal for the use of up to £20m of NDC funds to assist the Council with the early actions required to kick-start the redevelopment of the Aylesbury - including specifically the acquisition of leasehold interests but other expenditure might include demolition, infrastructure etc. In short the NDC funds will firstly assist the Council with much needed cash flow during the early phases of the programme and then be used to fund projects mutually agreed between the NDC and the council, which the NDC would otherwise not have time to complete. Some of the new facilities would then be owned and managed by the Trust.
5. Discussions with GOL have confirmed categorically that the financial support can only be made in the form of a loan with repayment to the NDC successor body (the Trust) according to an agreed repayment schedule over say 10 years.
6. The proposal is as follows:
 - i. The NDC loan approximately £16.5m to Southwark Council over the next three years. The remainder of the NDC capital has been secured against a range of social infrastructure projects including an acquisition considered later in this report.
 - ii. Southwark Council use the loan to fund the acquisition of leasehold interests in the south- west corner of the estate and other priority areas (which might be approximately 110 properties if they were valued at an average of £150,000) and other essential early infrastructure work.

- iii. A legal agreement (or agreements) is entered into between Southwark Council, the Government Office for London/Dept. Communities and Local Government, and the NDC/New Aylesbury Trust that details the nature of the loan, the purpose to which the funds must be put (that is, the redevelopment of the Aylesbury), the loan repayment schedule (with dates) and details (including interest), and the purpose to which the funds will be put when paid back. Included in this agreement or attached to it will be evidence of the Council budget plan in future years indicating that the repayment schedule can be adhered to and a risk assessment will be undertaken by the council to support the schedule.
 - iv. The Trust will use the funds, when paid back, for the construction of social and community facilities in the redeveloped area and also to support social and community projects (with an emphasis on community re-assurance and community cohesion for young people and the elderly and the development of social enterprises) and the staff team. The social benefits of this investment are self evident and there will be long term financial savings for the Council as there will be a significant subsidy for social provision in the area.
 - v. The Trust will also have the potential to borrow against this loan if it wishes to make acquisitions or fund other activity at a time when it doesn't have sufficient resources to do so (subject to sound financial planning) - which will give a more secure financial footing when agreeing it's early business plans.
7. The proposal has been discussed with all relevant organisations:
- i. Government Office for London - GOL have indicated that they approve the principle of the loan (subject to formal appraisal) to enable the Council to kick-start the redevelopment so long as the funds are returned to the NDC successor body to be used for social and community infrastructure projects.
 - ii. Dept. Communities and Local Government - DCLG have indicated that the above proposal is acceptable to them subject to formal appraisal (without the need for Treasury approval). They have said, though, that they could only confirm that clawback will be withdrawn (that is, there will be no future requirement to give these assets back to government) once they have approved the legal agreement.
 - iii. NDC Board members - informal discussions have taken place with some NDC Board members (in the context of other discussions in other settings) and these have indicated broad support for the proposal (subject of course to formal appraisal) on condition that there is a water-tight legal agreement that clarifies the purpose to which the Council will put the funds and certainty about when they will be paid back.
8. The proposal has the following benefits:
- i. The remaining NDC funds are allocated at an early date ensuring they are safeguarded for the Aylesbury community as originally intended.
 - ii. The funds will enable the redevelopment to happen earlier than it might otherwise do.
 - iii. By happening earlier it will be more cost effective which has the potential to release funds to meet resident priorities that might not otherwise be available.
 - iv. The loan agreement puts the Trust on a much more secure financial footing than it otherwise would be.

- v. This security means the Trust will be in a much better position to achieve its social and economic objectives than it otherwise would be

TRUST

- 9. The NDC in common with most other NDC's has considered the type of legal entity most appropriate as a successor body and agreed to the setting up of a Trust which will be a Company Limited by Guarantee with Charitable Status. The Memorandum and Articles of Association have been agreed and the Company - the New Aylesbury Trust Limited - has now been legally created.
- 10. The purpose of the Trust is:
 - i. The continued delivery of social and economic initiatives in the new Aylesbury neighbourhood - an NDC successor.
 - ii. The development of social and community facilities to support these initiatives - that should have been funded by the NDC but timing of the redevelopment prevented this.
 - iii. To make the community more self-reliant and less dependent on outside assistance (for work, grants and benefits) than it presently is - the long-term aim of the NDC.
 - iv. To provide a vehicle through which residents can continue to engage with and influence the redevelopment and long-term management of the area in the post-NDC era - to build upon the foundations that have been created
- 11. To fulfil this purpose the NDC is proposing that the Trust undertake the following specific tasks:
 - i. To acquire properties in the immediate vicinity of the Aylesbury estate.
 - ii. To use these properties to undertake interim social, community and economic activities that will have an immediate regeneration purpose but that cannot be carried out in the actual NDC area because of the redevelopment.
 - iii. To also seek to generate a revenue from these properties that can be used to support the continuation of the most successful social regeneration projects and the development of new ones (funds permitting).
 - iv. To make a loan to the local authority of NDC capital funds to help kick-start the redevelopment of the area (through leasehold acquisitions and other essential infrastructure work) on the basis that these funds are re-paid to the Trust at a specified date(s) in the future to enable the Trust to fund the development of social and community infrastructure in the area as originally planned.
 - v. To make other investments in the area (like the demolition of the Amersham Centre, for instance) that will assist with the funding and timing of the area's redevelopment.
 - vi. To enter into partnership with other bodies to bring forward community facilities - the planned Info Shop and Community Learning Centre, and possibly including the Community Resource/Healthy Living Centre with the Primary Care Trust, a refurbished Sexual Health Centre with the Brook, and/or the Aylesbury Resource Centre with the Council.

- vii. To also use revenue generated from these activities to fund workers who can continue to assist residents in their discussions and negotiations with the Council, Registered Social Landlords, Developers, and others aimed at ensuring that residents interests continue to be safeguarded.
- viii. To discuss with the Council and the other parties the potential involvement of residents through the Trust in the long-term development vehicle for the area's redevelopment (which could give the Trust the ability to both influence the nature of the development and to benefit financially and socially from the output of this).

The Board of Trustees

12. It has previously been agreed that the Trust will be managed by a 12 person Board of Trustees. It is proposed by the NDC that this Board be constituted as follows:
- i. 4 residents with one each from each of the 4 Tenant and Resident Association areas to be nominated by the residents on the NDC Board (Tony Taitte, as Chair of the NDC Partnership Board, is already one of the founding Directors required to get the company established).
 - ii. iii) 4 agency representatives comprising 2 from the local authority, 1 from the Primary Care Trust (if agreement is reached on a joint development of the Community Resource/Healthy Living Centre), and 1 other that could be one of the Registered Social Landlords, a developer partner, or other organisation with a stake in the area.
 - iii. 4 others with skills and expertise that will be of value to the Trust. Paul Cuttill, as the Finance Champion of the NDC Partnership Board, is already one of the founding Directors required to get the company established). Lord Victor Adebawale (the Aylesbury Ambassador) has said he will consider an offer to join the Trust. Other Trust's that have been established along similar lines to this one have then advertised for individuals with the skills that are otherwise lacking (legal, promotional, development, etc).
 - iv. The NDC proposes that Trustees would be appointed by their respective constituencies or as described above - rather than voted for by the wider community - in order to provide continuity with NDC activity and to ensure that the Trust got off to a good start in it's critical early years.
 - v. Accountability at present will be achieved through the agreed objectives of the Trust and a report back by the Trustees at an Annual Meeting on progress that has been made on achieving them.

The Name for the Trust

13. The legal name for the Trust is "The New Aylesbury Trust Limited". An operating name has been proposed and this is "Creation". It is proposed that this name is adopted as the operating name of the Trust and that it be used on all future publicity and promotional material.

REVIEW OF GOVERNANCE, CONSULTATION AND DELIVERY ARRANGEMENTS

14. The Council and the NDC commissioned this review in the light of the NDC only having three years to go, the decision to establish a Trust as its successor vehicle, the changes that the Council has been making to it's decision-making and delivery arrangements, and the advent of the master-plan work and the consultation and delivery implications of this.

15. The Neighbourhood Renewal Advisor - Joan Toovey - has met with the NDC Director; the Aylesbury Project Director of the Council, Martin Smith; other key members of the NDC Board and associated structures. She has also reviewed documentation associated with the NDC, its constituent bodies, and the Council redevelopment structures.
16. The report covers two main areas - governance and consultation, and delivery and staffing.

GOVERNANCE AND CONSULTATION

17. The report is recommending that the NDC continue with its plans to develop the Trust and with a view that the Trust take over the responsibilities of the existing Partnership Board by April of next year.
18. The rationale behind this is that the NDC programme is now quite small (except for a number of very large capital projects) with only 14 projects this year and less in the final two years of the programme and yet it has spawned an infrastructure with 11 Sub Groups and Working Groups that take up an inordinate amount of time and other resources that could be more effectively directed elsewhere for broader community benefit.
19. It is proposed that the Trust be developed with just three sub-groups - one to oversee physical projects (being a merger of the Physical Environment Group and the Steering Group and therefore including Council Members); one to oversee all the other "People Projects" (taking over the responsibilities of the other Working Groups); and one to oversee Finance, Monitoring and Equalities (an addition to the responsibilities of the existing Finance and Monitoring Group).
20. It is proposed that the Re-Housing Sub-Group be retained (as it is generally agreed to be the most effective grouping) as a Sub-Group of the new Physical Projects Group and that this provide a formal consultation into the Master-plan Neighbourhood team and associated structures. It is proposed that the Trust nominate two people onto the Aylesbury Local Delivery Board in recognition of the partnership agreement between residents and the Council and the loan proposal which is close to agreement.
21. It is proposed that the Trust run two programmes - one being essentially the conclusion of the NDC programme over the ensuing two years; the other being the development of the Trust programme over the coming years (see delivery and staffing below).

DELIVERY AND STAFFING

22. It is suggested that the size of the programme can no longer justify a staff team of the size that it is and suggests that if changes are to be made then they should be made to reflect the needs of the Trust into the future rather than just the relatively short period up to the end of the NDC programme. The council's usual procedures will be followed in order to ensure compliance with statutory procedures and consultation with staff.

ASSESSMENT

23. The governance and consultation changes are generally acceptable in the light of the present size of the programme and the strains the present arrangements place on residents, other partners, staff, and time, financial and other resources. They also seem to make sense in the light of the proposed activities of the Trust and its relationship to the redevelopment, the local authority and the master-plan process. However there are two issues where the Council wishes to amend /further consider the report proposals.

24. Firstly, the proposal to increase the Trust representation on the local delivery board from one to two is a departure from current practice and the board is requested to make a recommendation to the Major Projects board.
25. Secondly, the proposal to merge the Steering group and the Physical Environment group (PEG) is endorsed but the Council believes that the new group should not sit as a sub – group of the new Trust but rather sit between the Council and the Trust in the same way that the current steering group does. In this way it can continue to facilitate formal engagement between the Council and local stakeholder groups on matters principally relating to the physical regeneration programme.
26. It is suggested that all the remaining proposals are implemented within the time-frame indicated by the report.
27. The delivery and staffing proposals reflect the shrinkage in the programme and achieve affordable staffing levels for the Trust if it is to be able to operate within its budgets at the time.
28. There are significant personnel issues raised by this report and the staffing recommendations. The majority of the affected staff are Council employees (15) though 3 of the 6 present Tribal staff in the Delivery team are also affected. A detailed HR response has not been possible in the time available but it will be undertaken and reported to a later meeting. This report should contain detailed proposals for staff consultation and support to supplement activities already undertaken by the NDC management team during what will be a difficult time.
29. Furthermore there may be significant financial implications arising from the staffing issues and as accountable body, the council will need to satisfy itself that every effort has been made to minimise the council's financial liabilities and ensure that the NDC's contribution to these costs is maximised. Furthermore the council will need to ensure that management and administration provisions within the NDC budget are capable of meeting any additional strain created by these proposals. A full financial assessment will be undertaken to address these and any other critical issues and it is understood that the council cannot commit to the staffing proposals until full costs and budgetary provision have been established.
30. At present management and some administration support (6 posts in total) is provided to the NDC via a consultancy contract with Tribal consulting. The costs of this are met from within the NDC's management and administration budget. The contract exists between the accountable body (Southwark Council) and Tribal. The proposals create the opportunity for the Council to formally review this contracting arrangement with Tribal. More specifically, April 1 2008 now provides an appropriate cut-off point for the current contract. Notwithstanding the Council's ongoing accountable body role to ensure appropriate financial management it will be the new Trust which ultimately decides on how it wishes to deploy management resources for the completion of the NDC programme and beyond.

ACQUISITION

31. The committee's approval is being sought to pursue the potential acquisition and refurbishment by the NDC of the William IV public house on Albany rd. Full details are attached at annex A. The Project costs of £1.4m will be wholly funded by the NDC and GOL approval has been obtained. However as accountable body the Council must give its approval to any capital acquisitions by the NDC in excess of £500k. The Council's head of property has been consulted on this matter and his advice is given in the closed report on this agenda.

POLICY IMPLICATIONS

32. The creation of a Trust as a successor vehicle to the NDC is aligned to the Council's wish to promote effective community engagement throughout the regeneration process and promote structures which enable residents to be actively involved in the development and delivery of local services.

RESOURCE IMPLICATIONS

33. The report recommends that the Council undertakes a full assessment of the Trust proposals which will assess the impact on human and financial resources.

FINANCIAL IMPLICATIONS

34. See above.

LEGAL IMPLICATIONS

35. The NDC has taken appropriate legal advice on the creation of the Trust.

CONSULTATION

36. A wide range of consultation has been undertaken using the NDC's normal consultative arrangements.

IDENTIFIED RISKS AND HOW THEY WILL BE MANAGED

37. Risk management will be dealt with as part of the Trust business plan which is being drafted at present.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal & Democratic Services

38. The Director of Legal & Democratic Services ("the DLDS", acting through the Contracts Section) notes the content of this report, and in particular, paragraphs 5 to 9 which set out the details of the proposed loan by the NDC to the Council out of the NDC's capital funds.
39. In fulfilling its role as the "Accountable Body" for the purposes of the funding which the NDC receives from the Government Office for London, the Council is responsible for ensuring that such funding is applied only for purposes which are prescribed by the terms of the legal agreement between itself and GOL (or for which GOL's express consent has been obtained in advance), and therefore it is imperative that the legal agreements entered into by the GOL, CLG, the proposed new Trust and the Council are both precise and clear as to the matters indicated in paragraph 7 (iii). Similarly, in the light of paragraph 8 (iii) the Council must ensure that it obtains CLG's approval of the content of those legal agreements at the earliest opportunity in order to eliminate the risk of funding "clawback". The DLDS will co-ordinate the provision of appropriate legal advice and assistance in this respect.
40. The DLDS also advises that, as part of the various changes to the Council Constitution which were agreed by Council Assembly on 23rd May 2007 Part 3E of the Constitution sets out the functions and powers of the Major Projects Board. The recommendations set out in paragraph 1 may be approved by the Major Projects Board provided the Board is satisfied that the proposals do not have an effect outside the financial parameter for the project set by the executive.

41. In order for the Trust to acquire the William IV public house, the trust instrument for the Aylesbury Trust will need to contain a power to acquire property. Also, the Trust will need the ability to loan.

Finance Director

42. The recommendations in paragraph 1 will need to be subject to a full consideration of potential financial implications. Should the strategies for the NDC loan and adoption of the new Aylesbury Trust be supported in principle, then further detailed financial analysis will be carried out. These financial implications will be considered in full when the reports are presented to the Major Projects Board and/or executive as appropriate.

REASONS FOR URGENCY

43. It is essential that the programme of transition from NDC to Trust commences immediately to ensure that all necessary measures are taken to ensure a timely and effective transition in April 2008. Furthermore the acquisition of William iv public house needs to be completed as soon as possible to ensure the NDC's capital programme is fully utilised in support of much needed local improvements and avoid any risk of clawback.

REASONS FOR LATENESS

44. The proposals have required extensive internal consultation and amendment.

BACKGROUND PAPERS

Background Papers	Held At	Contact

AUDIT TRAIL

Lead Officer	Stephen Mc Donald – Strategic Director of Major Projects		
Report Author	Martin Smith Aylesbury Director		
Version	Final		
Dated	Wednesday, 13 June 2007		
Key Decision?	Yes	If yes, date appeared on forward plan	January 2006
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES			
Officer Title	Comments Sought	Comments included	
Director of Legal & Democratic Services	yes	Yes	
Finance Director	yes	Yes	
Date final report sent to Constitutional Support Services			12 June 2007