

<b>Item No.</b> 10.	<b>Classification:</b> Open	<b>Date:</b> 17 May 2011	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Creation Trust Business Case	
<b>Ward(s) or groups affected:</b>		Faraday	
<b>Cabinet Member:</b>		Councillor Richard Livingstone, Finance, Resources and Community Safety	

## **FOREWORD - COUNCILLOR RICHARD LIVINGSTONE, CABINET MEMBER FOR FINANCE, RESOURCES AND COMMUNITY SAFETY**

The Creation Trust was established in 2009 to lead on social regeneration on the Aylesbury Estate. A new Director was appointed six months ago and it submitted a business plan to the council on 11 March 2011.

This report asks Cabinet to approve payment to the Creation Trust for the current quarter and to approve a funding allocation for the organisation for the next four years subject to a funding agreement. It also asks the Leader to delegate to me the responsibility of agreeing that funding agreement.

### **RECOMMENDATIONS**

#### **Recommendations for the Cabinet**

1. To approve a grant funding payment of £62,500 to New Aylesbury Trust Ltd. "Creation Trust" on the basis of Creation Trust's Business Plan for 2011/12.
2. To approve grant funding of up to a maximum of £937,500 to be paid to the Creation Trust in quarterly tranches of £62,500 subject to the terms of a 4 year funding agreement signed in accordance with the principles set out in paragraph 19.

#### **Recommendation for the Leader of the Council**

3. To delegate the responsibility for agreeing a 4 year funding agreement between the council and Creation Trust to the Cabinet Member for Finance, Resources and Community Safety, within the principles set out in paragraph 19.

### **BACKGROUND INFORMATION**

4. The Creation Trust (a company limited by guarantee and whose formal name is New Aylesbury Trust Ltd.) is the successor body to the Aylesbury NDC and the Aylesbury Steering Group. The NDC, which was managed by a community led board, was established in 1999 to help transform the lives of residents of the Aylesbury Estate for a period of 10 years.

5. The council's Major Projects Board, at its meeting on 27 January 2009, agreed that, in return for up to £18 million New Deal for Communities (NDC) capital funding for leaseholder buy-outs and improvements to Burgess Park, the council would:
  - (a) Bring forward the development of the Amersham site including social, community and other non-residential facilities (up to 2,500 m<sup>2</sup>) to be held in trust by the Creation Trust, for which the Creation Trust would be granted a long-lease at a peppercorn rent.
  - (b) Provide revenue support (totalling £1.25 million) to the Creation Trust, in accordance with an approved business plan for Creation's activities.
6. On 10 February 2009, an agreement was signed between Southwark Council, the Aylesbury New Deal for Communities and Creation Trust. This Memorandum of Agreement formally set out the party's intention to collaborate in the manner set out in the council's Major Project Report, which formed a schedule to the agreement. This Memorandum of Agreement was then used by the ANDC to apply formally for the funding approval of the Government Office for London (GOL).
7. On 27 February 2009, GOL approved the ANDC's funding application. In giving their approval, GOL noted that the council's commitment to providing community spaces and support for the Creation Trust formed a key part of their decision to approve the project. As with all GOL funds, in the event that there is a default in the commitment to the project and its delivery, which cannot otherwise be resolved, the funds can be clawed back.
8. On 19 October 2010, the council approved the Trust's first year business plan (2010/2011), and agreed to enter into a 1 year funding agreement, with a total funding commitment of £250,000. This funding agreement ended in March 2011, and the total commitment of £250,000 has been paid to the Creation Trust.
9. In reviewing the Trust's first year business plan, the council in October 2010, noted that it fully supported the aims and objectives of Creation Trust, however, it emphasised that as a steward of public funds and within the context of the outcome from the government's Comprehensive Spending Review (CSR 2010), it must be assured that Creation Trust's business projects (a) deliver real and positive social benefits on the Aylesbury Estate; and (b) do not duplicate other public services provided in the Aylesbury Area.
10. For this reason, it was considered imprudent for the council to provide any guarantees of continued funding beyond 2010/11, and that future funding would be conditional upon a revised business plan and funding request for Cabinet to approve annually.
11. The report of 19 October 2010, also noted that details for the rental arrangements for the social, community and other non-residential facilities had not been finalised, and that no budgetary provision had been made to cover any costs incurred by the council as a result of a non-market rental rate.

12. On February 28 2011, the council's cabinet agreed the next steps for the regeneration of the Aylesbury Estate. The report commented on the importance of strong partnerships with residents, businesses, service providers, private sector developers, housing associations and national government.

## **KEY ISSUES FOR CONSIDERATION**

### **Review of 2011/12 business plan**

13. The council received the 2011/12 business plan from Creation on 11 March 2011. The Business Plan sets out the main objectives and activity areas of work that will be undertaken by the Trust covering their six objectives focusing on the twin themes of People and Place. An executive summary of the plan is provided at Appendix 1.
14. The business plan has been reviewed by officers from the Finance and Regeneration department. This review has concluded that the business plan:
  - (a) Is a significantly stronger business plan than the previous 2010/11 business plan, with more robust financial projections;
  - (b) Demonstrates a clear understanding and commitment that their activities must provide added value to existing services within the Aylesbury Estate;
  - (c) Includes a focus for this year on developing tighter selection and monitoring of projects so as to ensure that they are providing effective outcomes and are delivering value for money; and
  - (d) Includes a focus of bringing in additional sources of funding to the grant funding from the council to ensure that the organisation is financially sustainable following the end of the funding payments from the council.
15. Following submission of the business plan, further discussions have taken place with the newly appointed Director of Creation Trust, to agree an action plan for 2011/12. This action plan includes objectives relating to: (a) organisational development for the Trust; (b) organisational development support to be provided by the council (c) support provided by the Trust to the council relating to redevelopment activities; and (d) partnership activities where the Trust and the council need to work in close partnership to secure the regeneration vision.
16. On the basis of the review of Creation's Business Plan for 2011/12, it is recommended that the Cabinet approve the release of a tranche of grant funding of £62,500 to Creation Trust for 2011/12.

### **Funding agreement**

17. It is recommended that the council enter into a 4 year funding agreement with the Creation Trust, and that the Leader delegate the responsibility for approving such an agreement to the Cabinet Member for Finance, Resources and Community Safety. The council would seek to enter into this agreement prior to 30 June 2011.
18. One of the significant components of the funding agreement is that it will facilitate the mechanism for the release of grant funding for the period up to 2015 when any commitment to continue to provide financial support ceases.

19. It is recommended that Cabinet approve grant funding of up to a maximum of £937,500 be paid to the Creation Trust in quarterly tranches of £62,500 subject to the terms of a 4 year funding agreement signed in accordance with the following principles:
- Shared vision – the two parties would acknowledge (a) the shared commitment to transforming the Aylesbury estate into a thriving neighbourhood through delivering physical, social and economic change; and (b) the shared vision for the physical redevelopment of the Aylesbury Estate as established in the Area Action Plan. This can be summarised as “to deliver new homes in a new neighbourhood, with a range of tenure and ownership options that are affordable for local residents; a mixed community, with provision for families, elderly and the vulnerable; excellent schools, improved transport and community facilities, and new businesses; high quality architecture and great streets, squares and parks; sustainable and safe.”
  - Roles of the parties – the agreement would outline the different and complementary roles of the two parties and establish a shared commitment to work in mutual co-operation to further the shared aims, objectives and overall vision for the regeneration.
  - Revenue support – the agreement would set out the profile of revenue support (i.e. grant funding) to be paid to Creation Trust by the council, subject to (a) satisfactory performance, and (b) general conditions.
  - Community space – the agreement would restate the council’s previous commitment to provide Creation Trust with up to 2,500m<sup>2</sup> of space for community purposes at a peppercorn rent. Both parties will signal the shared objective of delivering such space within a viable package of redevelopment, and their intention to work together to identify a suitable interim solution pending such a viable development opportunity. The agreement will establish that while the council will forgo rent at a market rate for property in its ownership, Creation Trust will be required to cover any actual costs incurred (including utilities and maintenance costs). The funding agreement will not identify the location of this space or any more detailed terms, which would be defined in a subsequent lease or license, as appropriate.
  - Performance assessment – the agreement will set out a performance assessment regime, based on an annual report followed by an agreed annual action plan and a bi-annual monitoring mechanism. The agreement will also set out mechanisms to deal with poor performance or areas for improvement, with the ultimate sanctions being (a) non-payment and/or claw-back of the grant funding; and (b) termination of property leases.
  - General conditions – the council’s standard terms and conditions relating to such areas as equality and safeguarding will be incorporated together with a number of other conditions that are outlined in principle in Appendix 2.
  - End of agreement – the agreement will make it clear that upon termination of the agreement, the council is not liable for any further payments of grant funding to the Creation Trust. However, it will also include a mechanism for the council to work with the Trust to develop cooperation mechanisms to be implemented following the end of the agreement.

## **Community impact statement**

20. It is anticipated that the approval of the recommendations within this report will have a significant and positive impact on local people. The council's ability to support Creation Trust in the next four years will assist the Trust in its delivery of key programmes providing important services to the community. These have been developed not only to compliment those services currently provided by the council but will also facilitate access to a wider and far reaching range of stakeholders.

## **Resource implications**

21. The new business plan prepared by the Creation Trust is reliant on grant income from the council up to £250,000 per annum for four years (totalling £1,000,000) starting in financial year 2011/12. A sum of £250,000 has already been paid in financial year 2010/11 in support of the business plan for that year. The payment of these sums, up to a total maximum of £1,250,000 starting in financial year 2010/11 was an in principle recommendation of 27 January 2009 report put before the Major Projects Board.
22. Funding will be subject to a grant agreement covering the duration of the funding window from 1 April 2011 and which will outline the amount, duration and conditions of funding. It will also record the performance monitoring and business plan review arrangements to which the council and Trust will agree to trigger funding.
23. For the purposes of the decisions outlined in this report budget provision has been identified to fund the first £62,500 tranche proposed within current allocations for financial year 2011/12 subject to the business plan being approved by the cabinet. For the remaining £937,500, resources have been identified for payments to be made in quarterly tranches of £62,500, subject to (a) a funding agreement being signed; (b) satisfactory performance by Creation Trust; and (c) the general conditions set out in Appendix 2, subject to approval of this report by the Cabinet.
24. The 27 January 2009 report to the Major Projects Board also noted rental arrangements for community facilities to be transferred to the Trust; however, this proposal had not been finalised and no budgetary provision had at that time been identified. Where the allocation of council funding is being used by Creation Trust to meet annual running or other property costs incurred by the council, the council will only pay for such costs within the agreed £250,000 annual allocation and not make any other or duplicate additional payments to cover these costs. Once the final and/or any interim location of the community facilities have been identified, they will be subject to a license or lease arrangement, as appropriate.
25. The council intends to provide the Creation Trust with a measure of staff time support where such capacity exists whilst the Trust's own staffing structures become established. This includes up to 0.5 days per month from the council's Finance Department contained within existing council budget provisions, to assist in reviewing and monitoring Creation Trust's business plan and operations. Support provided from other departments will be subject to agreement between the Creation Trust and relevant service heads, capacity and availability of staff.

## **Consultation**

26. There has been on-going consultation with the Director of Creation Trust regarding the Business Plan and the development of a new Funding Agreement.
27. The council will be working in partnership with Creation to improve the level of participation in future consultation activities and capacity of some residents to engage with complex issues related to regeneration.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Communities, Law & Governance**

28. This report seeks the approval of the Cabinet to an initial payment to Creation Trust of £62,500, and seeks a delegation from the Leader to allow the Cabinet Member for Finance, Resources and Community Safety to agree the Funding Agreement with Creation Trust, thereby allowing further payments to be made to them over a 4 year term.
29. Section 2 of the Local Government Act 2000 enables the council to do anything which it considers likely to bring about the economic, environmental and social well-being of an area. The regeneration of the Aylesbury Estate is a key priority for the council (as noted in its corporate plan), and as the objectives of the Funding Agreement are compatible with those key priorities, the approval of this funding will assist the council in delivering its vision for this area.
30. Officers from the contracts team in Communities, Law and Governance will assist in the agreement and drafting of the Funding Agreement, in line with the principles noted in appendix 2. Any payments beyond the initial payment of £62,500 will be subject to the terms of the Funding Agreement being finalised with Creation Trust, and subject to a separate agreement by the Cabinet Member for Finance, Resources and Community Safety.

### **Finance Director**

31. Provision of funding to the Creation Trust will assist it in realising its business plan on the Aylesbury Estate during its formative years. Such funding is to be subject to conditions, including annual review and approval of the Trust's business plan by the council, framed in an agreement for the funding term. In meeting these conditions the Trust will have the opportunity to clearly demonstrate its performance and how it proposes to add value for the regeneration of the estate over the funding term. The amount shown in the agreement will be the maximum level up to which the council will fund under that agreement.
32. As the permanent location of the Trust is yet to be determined, the financial implications of that decision will need to be the subject of a separate future report.
33. Resource implications of providing any council staff time to support the Trust will be agreed and monitored by relevant department heads and budget holders.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
New Deal for Communities (NDC) Neighbourhood Regeneration and Implementation Collaboration Agreement	Major Projects Board, January 27 2009	Inez Cornwell 0207 525 0395
Creation Trust – Approval of Finance to Support its Business Case for 2011/12	Cabinet, 19 October 2010	Inez Cornwell 0207 525 0395
Aylesbury Regeneration – Next Steps	Cabinet, 28 February 2011	Inez Cornwell 0207 525 0395

## APPENDICES

No.	Title
Appendix 1	Creation Trust Business Plan 2011/12 Executive Summary
Appendix 2	Funding agreement - General Conditions

<b>Cabinet Member</b>	Councillor Richard Livingstone, Finance, Resources and Community Safety.	
<b>Lead Officer</b>	Eleanor Kelly, Deputy Chief Executive	
<b>Report Author</b>	Sara Waller, Aylesbury Project Director	
<b>Version</b>	Final	
<b>Dated</b>	5 May 2011	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional/Community Council/Scrutiny Team</b>	5 May 2011	