


London Borough of Hammersmith & Fulham CABINET 4 DECEMBER 2017		
SANDS END COMMUNITY TRUST		
Report of the Cabinet Member for Economic Development and Regeneration - Councillor Andrew Jones and the Cabinet Member for Health and Adult Social Care – Councillor Ben Coleman		
Open report A separate report on the exempt part of the Cabinet agenda provides financial and legal information.		
Classification - For Decision Key Decision: YES		
Wards Affected: Sands End		
Accountable Executive Director: Jo Rowlands, Lead Director for Regeneration, Planning, and Housing Services		
Report Author: Yvonne Thomson, Special Projects		Contact Details: Tel: 020 8753 6069 E-mail: yvonne.thomson@lbhf.gov.uk

1. EXECUTIVE SUMMARY

- 1.1 This report requests approval for the creation of a Community Trust to oversee the operations of the Sands End Arts and Community Centre, in line with the Leaders Urgency Report of February 2017, regarding the rebuilding of the centre.
- 1.2 The report describes the options for a community organisation and the cost of setting one up.
- 1.2 A Community Trust has been recommended as the best structure, by officers, due to the robust governance management processes involved and ease of access to grant. There are minimal disadvantages with the creation of this organisation for LBH&F and the community itself. The report sets out the next steps to register the Charitable Trust with the Charities Commission, recruit trustees, produce a Business Plan and put together a lease agreement for the buildings.

2. RECOMMENDATIONS

- 2.1. To approve the establishment of a Community Trust to govern the Sands End Arts and Community Centre.
- 2.2. That authority be delegated to the Lead Director for Regeneration, Planning, and Housing Services, in consultation with the Cabinet Member for Economic Development and Regeneration and the Cabinet Member for Health and Adult Social Care, to take decisions associated with the establishment of the Community Trust and agreement of the Trust Business Plan.
- 2.3. That authority be delegated to the Lead Director for Regeneration, Planning, and Housing Services in consultation with the Director of Law, the Cabinet Member for Economic Development and Regeneration and the Cabinet Member for Health and Adult Social Care, to draw up and approve the Community Trust legal documents.

3. REASONS FOR DECISION

- 3.1. The driver for this decision is the council's commitment to the delivery of this community asset for the use of all Sands End residents, in perpetuity (and that this meets the agreement contained within the contract between the developer, Tideway, and LBH&F).
- 3.2. The Leaders Urgency Report of February 2017, approved the delivery of a sustainable community run multi-purpose community centre. This report now progresses the delivery of the governance model for the Sands End Arts and Community Centre.

4. INTRODUCTION AND BACKGROUND

- 4.1. The Council wishes to ensure the long-term availability and sustainability of community-based assets and it recognises that:
 - Dynamic and well-run community buildings can be the bedrock for local communities; housing a wealth of services, support and facilities upon which neighbourhoods can develop and thrive and local citizenship and engagement can be strengthened;
 - Third sector organisations and charities can access funding, donations and expertise which are not available to local authorities and which can open opportunities and build community resilience.
- 4.2. The report seeks approval to establish a Community Trust in line with the decisions of the Leaders Urgency Report of February 2017, which approved the delivery of a sustainable community run multi-purpose community centre.

- 4.3. The Council's aim is for a community managed and run organisation to be formed that represents all sectors of the community and will run the operations of the new centre, following its construction.
- 4.4. The community asset itself would continue to remain in the ownership of LBHF as outlined in the example Heads of terms contained in Appendix 1 (set out in the exempt part of the Cabinet agenda).
- 4.5. LBH&F has committed to replacing the Sands End Community Centre on the site of the existing Clancarty Lodge Depot in South Park, Fulham.
- 4.6. The Council has worked with residents in the development of the design proposals and carried out stakeholder and full community consultation on the design proposals.
- 4.7. Following negotiations between Tideway and the Council, Tideway has agreed to commit £2m towards the development of the new community arts centre. The grant commitment for the £2m contribution has been signed and agreed and the council has also secured £1.6M S106 funding from the Chelsea Football Club stadium development. Funding to deliver this initiative is therefore £3.6M.
- 4.8. Work is underway to design and construct the new centre. The Planning application was submitted for approval on 13th October 2017 and should be presented for approval at the 5th December Planning Committee. Start on site is anticipated on February 2018, subject to Planning approval, with completion in August 2019.

5. PROPOSAL AND ISSUES

- 5.1. **The proposal to develop a Community Trust**
- 5.2. The recommended option for the future management of the Arts and Community Centre is a Community Trust: a charitable organisation, registered with the Charities Commission. Alternative options are considered in Section 6.
- 5.3. Trustees of the Trust will be selected in line with a skills matrix, which is currently being developed covering the range of skills required to undertake the governance and provide strategic oversight of the centre.
- 5.4. LBH&F would have a representative on the Trustee Board: a councillor.
- 5.5. The council will employ a community trust co-ordinator to establish the Trust, appoint Trustees and work with the Trustees to develop the Business Plan and associated funding streams. The cost of the co-ordinator will be funded by the project budget.
- 5.6. The Council will ensure that the Community and Arts centre and community trust address the local community needs and are genuinely representative of the local community by including requirements within the

lease, approving the trust business plan and through its role as a trustee on the board.

- 5.7. This report seeks delegated authority for officers to establish the trust, complete the necessary legal documentation and agree the trust business plan for the Arts and Community Centre.
- 5.8. Approval of the lease terms for the centre will be subject to a further cabinet report. An example Heads of Terms is included in Appendix 1 (set out in the exempt part of the Cabinet agenda).
- 5.9. It is expected that the construction costs, including design, project management and site reconstruction will cost £3.1M. Therefore, £500k from the project budget will be available for fit out and provide initial operating costs for the Community Trust, for a 3-5-year period, to ensure the delivery of a community owned sustainable business model.

Item	Amount
Internal fit out	£150,000
Year 1 subsidy	£100,000
Year 2 subsidy	£100,000
Year 3 subsidy	£75,000
Year 4 subsidy	£50,000
Year 5 subsidy	£25,000
Year 6 subsidy	£0
Total	£500,000

6. OPTIONS AND ANALYSIS OF OPTIONS

- 6.1. Officers explored the options of Community Trust and Community Interest Company. An overview, with pros and cons of each option are listed below:

6.2. Community Trust

A charitable trust is usually governed by a trust deed which sets out the objects of the trust, names the trustees and provides for the administration of the trust. The trust is registered with the Charity Commission and governed by them.

Advantages	Disadvantages
<ul style="list-style-type: none"> • Continuity –When new trustees are needed, they are appointed by the existing trustees. • Confidentiality – the deliberations of trustees are usually private. Trustees are answerable for their conduct only to the Charity Commission and the courts. • Cost – a trust is cheap to set up and run. There are no annual fees to be paid as there are in a company structure. • Raising Funds – Access to charitable sources of funding such as grants are open to Trusts. • Gift Aid – providing an additional 20% on any donations to the Trust • Robust governance framework 	<ul style="list-style-type: none"> • Inflexibility – to change objects you must be applied to Charities Commission. • New trustees - when new trustees are appointed any assets must be transferred to new trustee names.

6.3 Community Interest Company

The Community Interest Company (CIC) was introduced in 2007 as a new corporate structure for non-charitable social economy enterprises that want to use their profits and assets for the public good. The CIC may be a company limited by guarantee, a private company limited by shares or a public limited company limited by shares and is subject to company legislation. CIC's will have to register with Companies House:

Advantages	Disadvantages
<ul style="list-style-type: none"> • Flexibility – there is power in the Companies Act 2006 to alter both the objects of a company and the regulations which govern administrative matters • Limited liability – Members and officers of the company are protected by this limited liability of the company in respect of contracts they make on behalf of the company. 	<ul style="list-style-type: none"> • Funding access – Cannot access many charitable funding streams. • No access to gift aid • Governance – light touch regulation • No Trustees • Fewer reporting and administrative requirements

- 6.4 By not establishing a community organisation and LBH&F running the centre itself, this would break the covenants of the legal agreement between Tideway and LBH&F and would be in breach of the funding agreement. It would also work against the community development principles established by LBH&F and approved earlier this year.

7. CONSULTATION

- 7.1. Consultation with residents, councillors and internal council departments has taken place on the project through stakeholder workshops and public exhibitions. These took place on the 12th, 13th and 16th of September. The Council has approved the procurement approach and use of the design brief to procure an architect and lead consultant for the physical asset. Officers have also assessed the alternatives models and have recommended the development of a Community Trust for the centre.

8. EQUALITY IMPLICATIONS

- 8.1. Delivery of the Community Trust will focus resources on all groups represented in the Sands End Ward, including those of all genders, ethnic backgrounds and those in poverty or experiencing worklessness, with the aim of reducing deprivation and inequality across the ward.

9. LEGAL IMPLICATIONS

- 9.1 Creation of a Trust:
The general comments in this report about the options, strengths, and weaknesses for governance of the community centre are confirmed. A further risk to be noted in connection with community based trust organisations is securing replacement trustees after the initial trustees leave office. The trust deed should therefore include robust mechanisms for the appointment of new trustees including if necessary council appointees to ensure trust assets are not left unmanaged.

Implications completed by: Andre Jaskowiak, Solicitor, Shared Legal Services 0207 361 2756

10. FINANCIAL AND RESOURCES IMPLICATIONS

- 10.1. The costs of establishing and registering the Community Trust are expected to be £1,500.
- 10.2. Of the £1.6m Section 106 funding that the Council has secured from Chelsea Football Club, (referred to in para 4.9 and 5.7), up to £0.5M of this can be utilised to cover the revenue costs of both the fit out and operational cost of the arts and community centre.
- 10.3. This will allow for fit out costs and some running cost subsidy in the initial years, however ultimately the Community Trust will need to be self-supporting from grant and other income. If this does not happen this would become a budget pressure for the Council in its MTFS plan. Finance

therefore recommend that a full business plan for the new organisation should be prepared as part of the set up and that consideration should be given as to how to ensure the Community Trust will be a viable organisation going forward.

10.4. The £1,500 for establishing and registering the Trust will be funded from the Section 106 agreement.

10.5. **S106 Implications**

10.6. A s106 agreement was entered as part of the proposal for the redevelopment of Chelsea's ground, Stamford Bridge, which required the payment of £2m towards the delivery of community facilities.

10.7. These funds have been paid to the Council and are available for use on this project.

10.8. **Comments completed by Peter Kemp, Planning Change Manager, ext. 6970**

10.9. **Implications verified/completed by: Danny Rochford, Head of Finance, 020 8753 4023.**

11. IMPLICATIONS FOR BUSINESS

11.1. The Community Trust will ensure that economic and community benefits will be clearly identified and detailed in their Business Plan. This will be monitored on a quarterly basis by the Community Trust and reported back to Members on a regular basis.

11.2. The Community Trust Action Plan will include SMART targets relating to social value, local economic and community benefit. This will include in particular, support for the Council's enterprise programme and support for small businesses through LBH&F's 'Brilliant for Business' events.

11.3. **Implications verified/completed by: Nicki Burgess, Economic Development Learning & Skills. Telephone 020 8753 1698**

12. RISK MANAGEMENT

12.1 The Council will employ and manage a Community Trust Co-ordinator to work with the Community Trust to facilitate the creation of a viable Business Plan.

12.2 Funding will be allocated, as set out above to ensure the successful transition from inception into a viable business venture for The Community trust.

12.3 Interest from local community members has already taken place to ensure that there will be full and diverse representation of all the Sand End community is on the Trustee Board.

12.4 The forming of a Community Trust contributes to the management of risk in relation to the needs and expectations of the local community.

12.5 **Implications verified/completed by: Michael Sloniowski, Principal Consultant (Risk Management). Telephone, 020 8753 2587**

13. PROCUREMENT AND IT STRATEGY IMPLICATIONS

13.1 This report contains no procurement or commercial implications as it relates to the establishment of a Community Trust.

13.2 **Implications verified/completed by: Alan Parry, Procurement Consultant. Telephone 020 8753 2571**

13.3 It is recognised that insurance for the Community Trust will be required. Once Cabinet approval has been received to establish the Community Trust full liaison will take place between LBH&F Insurance Department and the Community Trust itself, to ensure the full protection of both the LBH&F Trustee representative and the Trust.

13.4 **Implications verified/completed by: Ray Chitty, Head of Insurance Service, Tel & Mob: 07739315565**

LOCAL GOVERNMENT ACT 2000

LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	None		

LIST OF APPENDICES:

Appendix 1 Examples Heads of Terms - Lease Agreement (set out in the exempt part of the Cabinet agenda)

Appendix 2 Risk Analysis (set out in the exempt part of the Cabinet agenda)