



**Executive**  
19 October 2009

**Report from the Director of  
Policy and Regeneration**

Wards Affected:  
Kilburn

**NDC Succession Strategy and South Kilburn  
Neighbourhood Trust Business Plan**

Forward Plan Ref: PRU-0910-7

**Appendix 1 is not for publication**

**1.0 Summary**

- 1.1 The Executive previously considered and approved reports in November and December 2008, setting out proposals to establish the South Kilburn Neighbourhood Trust (SKNT) as part of the NDC Succession Strategy. In March 2009 the executive approved the sale of two Council sites in Carlton Vale to SKNT, on the basis of an “overage” agreement, for the development of 50 homes for Affordable and Intermediate housing. In July 2009 The Executive considered a further report on South Kilburn which included more detailed proposals for the NDC Succession Strategy and were informed of the Communities and Local Government requirements in relation to signing off NDC Succession Strategies.
- 1.2 This report and the appendices comprise the comprehensive NDC Succession Strategy for approval by LB Brent, as required by CLG Guidance Notes 44 and 44a, including a business plan for South Kilburn Neighbourhood Trust. The report also seeks further approvals in relation to the sale of the “Texaco” site and the potential site for the Healthy Living Centre in support of the SKNT Business Plan.

**2.0 Recommendations**

- 2.1 To approve the key elements of the comprehensive NDC Succession Strategy as outlined in this report and appendices; this complies with CLG Guidance Notes 44 and 44a, and has been approved by South Kilburn Partnership Board, see Appendix 2 attached.
- 2.2 To approve an amendment to the terms of the “overage” agreement with South Kilburn Neighbourhood Trust in relation to the sites at 58 Peel Precinct as referred to in paragraph 3.8 below and Appendix 1.

- 2.3 To agree in principle to the transfer of the proposed Healthy Living Centre site in Peel Precinct to the South Kilburn Neighbourhood Trust at nil consideration, subject to a further report to The Executive from the Directors of Finance and Policy and Regeneration, setting out the detailed terms of the proposed disposal.
- 2.4 To approve the South Kilburn neighbourhood Trust Business Plan as attached in Appendix 3

### **3.0 Detail**

- 3.1 As explained in the report to the July 2009 Executive in order to comply with government (CLG) requirements in relation to succession arrangements for the New Deal for Communities programmes a comprehensive succession strategy and business plan for SKNT will need to be submitted to GoL and CLG by the end of October 2009. The Succession Strategy must be approved by the Accountable Body (LB Brent) and the key partners before submission to CLG. Following submission to CLG the Succession Strategy will be appraised by a panel of specialists as part of the approval process and any perceived omissions or issues with the business plan will be referred back for further consideration. The basic terms of the Succession Strategy were approved by the South Kilburn Partnership Board at their meeting on the 28<sup>th</sup> July and the report is attached as appendix 1.

#### **SKNT Business Plan**

- 3.2 At their meeting in July 2009 The Executive noted the establishment of the South Kilburn Neighbourhood Trust (SKNT) as a key component of the succession strategy for South Kilburn new Deal for Communities and noted the various elements for SKNT's future vision and business plan which would be brought before members for approval in September 2009. In order to inform the business plan process the Trust Board asked The Executive to note the following as key components of the future vision for the role of The Trust:
- SKNT works in partnership with those agencies delivering the Master Plan to commission social and economic regeneration projects to build capacity in the local community to protect past investment and future sustainability.
  - SKNT has a small staff team (directly employed or seconded) to service and support the South Kilburn Partnership Board and its Committees beyond the end of New Deal for Communities funding in March 2011.
  - SKNT identify opportunities to contribute to the delivery of the Master Plan by utilising its capital resources, likely to be between £1.5 - £4.5m in the period until 2011, in partnership with LB Brent.
  - SKNT to raise grant funding from a range of funding bodies and charitable trusts to support the commissioning of regeneration projects.
  - SKNT to potentially play a role in the delivery of a Healthy Living Centre in South Kilburn, including the provision of some "community space" in the building. This has been a long held aspiration of the local community

who see the Healthy Living Centre as an essential “legacy” from the NDC programme.

- SKNT to play a key role in developing the voluntary and community sector in South Kilburn, primarily through the management of the “Fusion” fund on behalf of South Kilburn Partnership.
- 3.3 The SKNT Board has built on this “vision” in developing a detailed business plan which is attached at Appendix 3. The business plan was approved by the SKNT Board on 9<sup>th</sup> September subject to some minor revisions which have been made to the attached draft. The business plan includes a narrative identifying the opportunities and challenges in South Kilburn; the vision and strategic objectives for The Trust; current and future project areas; risk strategy; and a five year cash flow. The financial spreadsheets show that SKNT can be financially viable into the medium term and should be able to retain the capital receipts for future investment in South Kilburn.
- 3.4 The Risk Analysis identifies ten risks as requiring on-going review and management but in each case there are actions identified to mitigate these risks. One of these risks is that the PCT does not proceed with the Healthy Living Centre and the mitigation for this risk is to use the site for an alternative use that can generate an income stream. It is possible that, in the event of the HLC not proceeding, the review of the Master Plan for Peel Precinct might suggest a use for the site that is not appropriate for SKNT as it does not generate a sufficient income stream; in this event it is proposed that the Council transfer an alternative site to SKNT that will generate the income stream required. There are two assumptions built into the business plan that require specific approval from The Executive at this stage before submission to CLG; one relates to the Healthy Living Centre proposal and the other to the development of the site at Castle Vale.

### **Healthy Living Centre**

- 3.5 Any NDC “succession vehicle” will require an income stream to cover core costs which are difficult to fund through the usual grant giving organisations that prefer to fund project activity. In most cases the succession vehicle acquires an asset, usually with NDC funding, that generates an income stream in perpetuity; this is recognised by CLG who will exempt the asset from “clawback” provisions as part of approving the succession strategy. For some months there have been officer discussions about how to identify an “asset” that could give SKNT an income stream into the long term to support core costs and the development of the Healthy Living Centre has been identified as the best opportunity.
- 3.6 The provision of a Healthy Living Centre in South Kilburn has been high on the list of priorities for the local community and since the development of the first proposals in 2004 it has been seen as a potential NDC legacy project for the community in South Kilburn. The GPs from the four local practices have joined together and retained Assura as their development partner to develop a proposal and business plan for a healthy living centre in Peel Precinct; this has the support of Brent NHS (PCT). The site identified is owned by the Local Authority and currently occupied by the South Kilburn Partnership team. The

Local Council can support the long term sustainability of the SKNT by granting a long lease of the site at nil consideration to enable SKNT to lease it to Assura and receive an annual ground rent. The initial estimates in the absence of a formal valuation indicate that SKNT would receive an annual payment of c. £100k and it is this figure that is built into the business plan. At this stage The Executive is being asked to give an “in principle” decision to this arrangement; until there is a valuation of the site the specific financial transaction cannot be agreed. An “in principle” decision, to transfer this site will give sufficient comfort to submit the business plan to CLG as part of the South Kilburn NDC succession strategy.

### **Sale of the Site at Carlton Vale**

3.7 In March 2009 the Executive agreed the following recommendations:

*“That the Council either (a) enters into an agreement with South Kilburn Neighbourhood Trust to dispose of the two sites, identified on the plans in Appendix 1, to an RSL or other agreed purchaser at a price determined by the Head of Property and Asset Management, or (b) disposes of the two sites to South Kilburn Neighbourhood Trust for nil consideration on the basis of an “overage” agreement as detailed in paragraph 4 below, and that in either case nomination rights are provided in favour of the Council.*

*That the decision on whether to proceed under (a) or (b) above and the approval of the detailed terms of the sale agreement is delegated to The Borough Solicitor and the Director of Finance and Corporate Services.*

*That any capital receipt received by the Council from the disposal of these sites be used to support the delivery of the Masterplan for South Kilburn*

*To note that Government Office for London and CLG have approved the use of NDC funding for the acquisition of the Texaco site by the South Kilburn Neighbourhood Trust.”*

3.8 In practice, whilst an agreement to transfer the two Council owned sites to SKNT has been concluded they have not actually been transferred to SKNT as there has been a difficulty in the Council proving title to some small areas of land in Peel Precinct to the satisfaction of the Land Registry. This is in the process of being resolved. The terms of the sale of the assembled site involved an “overage” agreement which was explained in the March Executive report as follows:

*“The newly formed South Kilburn Neighbourhood Trust (SKNT) has successfully negotiated with Crossier Properties to acquire their site based on a site appraisal and valuation for affordable housing and has successfully bid for New Deal for Communities capital grant to fund the acquisition. The proposal has also been approved by The Government Office for London and CLG as required in the NDC scheme of delegation. This is on the basis*

*that the Council contributes its two sites to create a larger area (together with the Crossiers' site) for affordable housing. In light of the benefits to the Council of 46 units of affordable housing, and the requirement from GoL that the Council contributes its two sites, it is intended that the Council will enter into a binding agreement with SKNT to transfer its sites to an RSL or other purchaser agreed by the parties or to transfer its sites at this stage direct to SKNT. Under the latter arrangement, it is proposed that the Council dispose of their two sites to the SKNT for nil consideration, but subject to an "overage" agreement in the sale contract."*

Officers now recommend that the terms of this overage agreement be amended in accordance with the revised terms set out in Appendix 1 which explains the reasons for this proposed change..

#### **4.0 Financial Implications**

- 4.1 There are a number of financial implications for the Council in relation to the recommendations in this report and these are identified in the paragraphs below. Potentially the most significant of these relates to the CLG approval of the overall NDC succession strategy. It is clear in CLG Guidance note 44 that in making NDC Grant allocations over the last three years the Accountable Body has been aware that these allocations were conditional on submitting a succession strategy for CLG approval that is "fit for purpose". The key elements of the Succession Strategy presented in this report and appendices meets the CLG criteria but the consequences of not having a CLG approved strategy in place before the end of the NDC programme could potentially involve repayment of NDC Grant and "clawback" of NDC Grant used to purchase assets.
- 4.2 The SKNT business Plan shows that this new "legacy" vehicle can be financially sustainable and continue to make a significant contribution to the regeneration of South Kilburn for the foreseeable future. Key elements of the business plan include capital receipts for the sale of the "Texaco site" of £1.3m and £2.9m for repayment of the NDC grant used to buy out leaseholders in Marshall House to kick start the physical regeneration programme. The interest from these receipts will initially be used to support revenue costs with the capital being reinvested in South Kilburn over the next five years. The Risk Strategy incorporated in the business plan, see para 3.4, is robust and identifies the key financial and reputational risks with mitigating actions. A CLG requirement is that any "legacy" vehicle must be financially viable and therefore this condition is met.
- 4.3 Appendix 1 explains the reasons for adopting an "overage" agreement in relation to the sale of the Texaco site that protected, as far as possible, the SKNT capital receipt of £1.3m. Adopting this approach rather than a 60:40 split could reduce the potential capital receipt for the Council, for example if the site is sold for a net receipt of £1,6m the Council would receive £640k on the basis of a 60:40 split but only £300k on the basis of the recommendation in this report. However, the SKNT capital receipt will be used to further the regeneration of South Kilburn and therefore in practice the resources available for South Kilburn will not be reduced by adopting the proposal in this report.

4.4 The transfer of the site for the Healthy Living Centre to SKNT for nil consideration will result in the Council waiving the right to a capital receipt; or part of a receipt if not all the value of the site is passed to SKNT. At the time of writing this report there has been no formal valuation of the site so at this stage it is the principle of the land transfer that is the subject of the recommendation in this report. The ground rent generated from the lease of this site is critical to the financial sustainability of SKNT as it makes a major contribution to core costs and enables the organisation to make a significant contribution to the regeneration of South Kilburn. Without this income stream it is likely that SKNT would have to use capital receipts, not just the interest from the receipts, to fund revenue costs which would reduce the capital available to reinvest in the physical regeneration and eventually erode the financial base of the organisation. It should be noted that SKNT will be able to lever in significant external funding to support the regeneration of South Kilburn and from 2010/11 it is estimated that this will average c. £150k / annum. The "loss" of the capital receipt for the Council is likely to be more than offset by this additional funding and the contribution SKNT makes to the neighbourhood management and regeneration of the South Kilburn area. It should be seen as an investment in SKNT for the long term benefit of South Kilburn rather than a cost.

## **5.0 Legal Implications**

- 5.1 Under section 2 of the Local Government Act 2000, the Council has the power to do anything which is likely to promote or improve the economic, social or environmental wellbeing of the whole or any part of its area. It is considered that the establishment of the successor body falls within this power. In exercising this power, the Council has to have regard to its Community Plan. A critical role of any successor body will be to align the resources it generates with the priorities set out in the Community Plan, in particular focussing on employment, health and well being, a safe place and a lively place.
- 5.2 The Council has the power under section 123 of the Local Government Act 1972 to dispose of any land that it owns. Accordingly, it has the power to transfer land to the successor body if so desired. However, where the disposal is a transfer of the freehold or grant of a lease for more than 7 years, the Council must obtain the best consideration that is reasonably obtainable unless the consent of the Secretary of State is obtained. The Secretary of State has issued a general consent which allows local authorities to dispose of a property without obtaining his or her specific consent, where the Council is of the opinion that the disposal will help to secure the promotion or improvement of the economic, social or environmental wellbeing of their area and the difference between the price paid to the Council and the open market value of the land does not exceed £2million. Again, regard must be had to the Community Plan if appropriate. Accordingly, if the Council wishes to transfer land to the successor body at below market value it would either have to comply with this general consent or obtain the Secretary of State's specific consent.
- 5.3 It is now anticipated that the Council will not receive any overage payment from the two sites at 58 Peel Precinct. However, since the undervalue to the disposal will not exceed £2m, the general consent can be relied on provided



that members consider that the disposal will promote the social, environmental or economic wellbeing of the Council's area or part of its area. It is considered that this does apply in this case for the same reasons as set out in the report of 16 March 2009 i.e. that the benefits of obtaining nomination rights on new properties, the scope for decanting, and the payment to SKNT in order to take forward its succession role will clearly help to promote the social, environmental or economic wellbeing of the South Kilburn area.

## **6.0 Diversity Implications**

6.1 The population of South Kilburn still remains relatively deprived despite the last eight years of NDC funded programmes. There have been some major improvements relative to the wider Borough but much remains to be done. The recent MORI survey showed the significant changes in the demography of the population including the significant increases in the African Caribbean and Asian households with 46% of the adult population not speaking English as their first language and around 20% of the households having lived in South Kilburn for less than two years. The recent economic recession and increasing levels of unemployment, particularly amongst the 16-24 year old age group will present new challenges.

6.2 This report proposes that we continue to develop specific initiatives and interventions in South Kilburn to build on the work of the NDC and protect the CLG and Council investment over the last ten years. The beneficiaries of this continuing programme will include women, the disabled and BME communities who are over represented in South Kilburn compared to the Borough average.

## **7.0 Staffing/Accommodation Implications (if appropriate)**

7.1 There are no staffing and accommodation implications arising from the recommendations in this report.

## **8.0 Background Papers**

## **9.0 Contact Officers**

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