

**COPELAND COMMUNITY INITIATIVE FUND**

**EXECUTIVE MEMBER:** Leader: Councillor Elaine Woodburn

**LEAD OFFICER:** Fergus McMorrow. Director of Development

**REPORT AUTHOR:** Fergus McMorrow. Director of Development

**Summary and Recommendation:**

This report seeks confirmation from the Executive that they support the form of the organisational vehicle being established to manage a community fund proposed to be established in recognition of the presence of the Low Level Waste Repository in Copeland.

It is recommended that the Executive

1. Agree, in principle to the nature of the partnership body now being proposed.
2. Agree to be the accountable body for the fund
3. Delegate agreement of the final details of the proposal to the Director of Development in consultation with Corporate Team and the Leader.
4. Note the position regarding legal appointments.

**1. INTRODUCTION**

1.1 In December last year the Council considered a report on this topic and agreed, in principle, to a Community Interest Company (CIC) being established to manage the community funding being derived from planning obligations associated with the extension of the Low Level waste repository in Copeland. It was agreed that finalizing detailed arrangements would be delegated.

1.2 The report made it clear that further investigations into the tax implications would be necessary before a final decision could be reached. Tax advice has been taken and has revealed that a CIC would not be a tax efficient vehicle for a fund of this nature. The long term nature of the fund will mean the funding will not necessarily be immediately disbursed and investing all or part of the funding is likely to be an integral part of the management strategy. The CIC will have no tax exempt status and any earnings will be taxable. This will result in very significant amounts being handed back to the exchequer and not available for community uses.

1.3 The wording of the Section 106 agreement allowed for the potential of reviewing the management vehicle. The wording in the agreement makes it

clear that the funding will be transferred to a CIC for management unless the three parties agree an alternative management vehicle.

1.4 Consideration has been given to every kind of management vehicle. This has included a charitable trust which would have tax advantages but would have limited flexibility in delivering its socio economic objectives. It should be noted that expenditure will be bounded by the content of the current NDA Socio Economic Strategy.

## **2. PROPOSAL**

2.1 Investigations have concluded that the most efficient way of managing the funding would be for the Local Authority to directly enter into a contract with the NDA which would set out in detail governance arrangements for fund management. Continued funding would be dependant on adherence to the terms of the contract. The funding received would then fall within the Councils accounts and would receive the tax advantages of local authority expenditure. The arrangement would be similar to many regeneration funding agreements with government bodies. Copeland Borough Council will be the accountable body.

2.2. The responsibility for actually managing the funding and awarding grants or loans would fall to a partnership body prescribed within the contract. The make up of the partnership Board would be similar to any board that would have been set up for an incorporated body such as a CIC.

2.3 Final negotiations on detailed governance arrangements are taking place. However the main feature of the current proposal is that there will be a board of seven which will include two representatives from Copeland B C, two from Cumbria County Council, one from the NDA and two independents.

2.4 The NDA representative will have ultimate responsibility for determining that funding allocations meet the requirements of the current NDA socio economic strategy. This is a requirement of the funding. We are happy that, as long as this stipulation is only tied to the known current strategy and not future unknown versions, there is sufficient flexibility for the Board to respond to local needs over time. It is likely that the Board will have to 'have regard' to, but is not bound by, future changes to the strategy.

2.5 This approach has been supported, in principle, by DBRR. The final arrangements are still subject to their final agreement.

2.6 The target date for establishing the fund arrangements is 1<sup>st</sup> August.

2.7 In addition to major tax saving for the local community, this approach minimises regulators costs as the activity will be regulated alongside the Councils existing regulations processes.

2.8 The draft legal agreement is available to be viewed in the members room.

### **3. FINANCIAL AND HUMAN RESOURCES IMPLICATIONS (INCLUDING SOURCES OF FINANCE)**

- 3.1 The proposal will provide clear and significant benefits for the people of Copeland. The current proposals would remove the need the approximately 30% of the fund's income to be returned to the exchequer through corporation tax. This will have a major beneficial impact on the long term value of the Fund. The Councils costs in administering on behalf of the partnership as Accountable Body would be reimbursed. In view of economies of scale this is likely to result in reduced administration costs against the Fund having to secure the service separately. The fund would have the opportunity to review such costs and ensure it was getting best value.
- 3.2 We have received excellent specialist legal advice from Trowers and Hamlins Solicitors who we appointed to advise us on the best vehicle to manage the fund. This appointment was carried out within the standard contract standing order delegations. Since then the NDA requested that Trowers and Hamlins urgently continue their work to finalise the legal contract and partnership arrangements on behalf of all parties. This was on the understanding that the NDA would fund the extra work required. If any further implications from this arise for the Council a further report will be brought back to the Executive.
- 3.3 The Accountable Body needs to be satisfied that it can comply with the terms and conditions of the scheme before accepting it. If sufficient staffing resources are not available, there is a risk that the Authority is unable to establish effective administrative and financial systems, including proper arrangements to prevent and detect fraud. If governance and reporting arrangements are not in place to monitor compliance with the terms and conditions, there is a risk that expenditure may be ineligible. This would be detrimental to the grant funded projects and to the reputation of the Council as the Accountable Body. There is also a financial risk in that, if the ineligible expenditure cannot be recovered from the project organisation, then the Council, as Accountable Body, would be liable to repay the ineligible amount into the Community Initiative Fund. Poor governance arrangements may also impact upon future applications for funding. In view of the size and nature of this initiative fund, the Accountable Body role will require an initial estimated minimum of 1 full time equivalent accountancy officer. This will be confirmed once the governance arrangements have been agreed. This post will need to be fully financed from the initiative, as there should be no financial impact on the Council's General Fund.

### **4. IMPACT ON CORPORATE PLAN**

- 4.1 Delivers priority objective in the Corporate Plan.

#### **List of Appendices**

None

#### **List of Background Documents:**

Report to Council 27<sup>th</sup> August 2005 re LLWR  
 Report to Executive 18<sup>th</sup> December 2007  
 Section 106 Agreement associated with Planning Permission for Vault 9 at the  
 Low Level Waste Repository

**List of Consultees:**

Corporate Team  
 Leader of the Opposition

**CHECKLIST FOR DEALING WITH KEY ISSUES**

Please confirm against the issue if the key issues below have been addressed. This can be by either a short narrative or quoting the paragraph number in the report in which it has been covered.

Impact on Crime and Disorder	The use of the funding may be applied to indirectly support his priority once established
Impact on Sustainability	The proposed criteria allow a direct contribution to this objective. Sustainability is a core driver behind the use of the fund
Impact on Rural Proofing	The use of the fund can make a direct contribution towards rural quality of life.
Health and Safety Implications	The use of the fund may make a direct contribution in this area
Impact on Equality and Diversity Issues	The fund may potentially make an indirect contribution in this area
Children and Young Persons Implications	The fund will have the ability to support educational initiatives and other projects that would benefit young people
Human Rights Act Implications	None
s.151 issues	The proposed venture presents a unique opportunity for Council to enable the people of Copeland to benefit from a significant injection of cash in furtherance of its socio, economic and environmental policies. There is no doubt that the setting up of a Community Interest Fund would not only enable the local authority to influence the development of the company but also it would reap the benefits of a growing company.  The interest earned on the cash receipts should generate a sustainable income stream for the foreseeable future however the financial challenge that faces the proposed "vehicle" is planning well ahead to ensure benefits maximization through holding a diverse investment portfolio.
Legal issues	Further legal advice will be needed to ensure the company is formed in the best way possible for Copeland and the Council

Please say if this report will require the making of a Key Decision    NO

