

# Agenda Item

**Executive Board**

**31 October, 2007**

**Karime Hassan / Tracey Guiry**



## **The creation of an independent Company and Board as part of the governance arrangements for the Exmouth and Seaton Visitor Gateway Centres**

### **Summary**

This report outlines the current development needs of the Exmouth and Seaton visitor centres, two attractions which are being developed as part of the area regeneration plans for the towns. Both Exmouth and Seaton visitor centre projects are developing to the point where business critical decisions need to be considered. These decisions relate to key partnerships, fundraising, content and design, all of which will have a significant impact, both on the funding bodies who are supporting the developments (EDDC, DCC, Exmouth Town Council, Seaton Town Council, South West Regional Development Agency) and on the successful financial delivery and operational quality of the centres. It is proposed that delivery should be achieved by the establishment of a Company limited by Guarantee which will be facilitated by the Council, who shall have representation on the board, but the company will be tasked to carry out the projects independently of the Council

### **Recommendation**

**1 Approval is given to the recruitment of external Solicitors, specialising in the formation of Companies for Charitable purposes, and that tenders are sought in accordance with Standing Orders.**

**2 That the Company so formed shall be a single company responsible for promoting both projects, the detail being subject to legal advice**

**3. That the Corporate Director – Environment in consultation with the Portfolio Holder for Strategic Planning and Regeneration shall be given delegated authority to approve the appointment of the Solicitors and to set up a project team to oversee the formation of the Company and the appointment of Board Member**

**4. That the Council shall, following advice, advertise for Board Members to be included in the initial board and carry out the objectives of the Company.**

### **a) Reasons for Recommendation**

To approve the business case to form an Independent Company to manage the responsibility for the Exmouth and Seaton Visitor Centres. These arrangements once in place will supersede the existing Interim Project Management Group which has been managing issues relating to the two Visitor Centres for funding partners and key stakeholders.

## **b) Alternative Options**

Locum Consulting Ltd (visitor centre development specialists) were engaged in August 2006 to undertake an options appraisal of all potential Governance models. This resulted in broad agreement to test the assumption that a charitable trust approach would be the most appropriate way forward in Governance and management terms. As detailed above, professional services will be engaged with the support of EDDC to review all options and advices on the most suitable solution. See Appendix A – East Devon Visitor Centres – Governance and Management: Notes of a meeting of the IPMG Core funders’ group on 6 September 2006 and Appendix B – East Devon Visitor Centres – Governance and Management, Exec summary, November 2006”

## **c) Risk Considerations**

The development of the two projects is gathering momentum and so formal governance and decision making arrangements are now urgently required to take on the responsibilities of decision making for their successful delivery. In the absence of an Independent Company, there will be no such framework for taking on these responsibilities. This could put both projects at risk.

## **d) Policy and Budgetary Considerations**

The recommendation meets the Council’s Corporate Plan policy for delivering both regeneration schemes in Exmouth and Seaton. The funding partners (East Devon DC, Exmouth TC, Devon CC, SWRDA & Seaton TC) have an allocated budget to take forward the project development of both Visitor Centres which is managed by the recently appointed Project Development Manager. The cost setting up the independent company is yet to be determined but is expected to be in the region of £20-£30,000. The current budget available for the project is £92,000 (which is available to draw down 50% match funding from SWRDA).

## **e) Date for Review of Decision**

Not applicable

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## **1 Main Body of the Report**

### **1. Business Case background**

Both Exmouth and Seaton visitor centre projects are fast arriving at a stage where decisions need to be considered which will have a significant impact on the financial and operational stability of the projects. There are many examples in the market place where cultural organizations and visitor attractions are failing to sustain their operations (see for example At-Bristol, Sheffield Music Centre, The Earth Centre, Think Tank), even though they are critically acclaimed and provide an excellent service to their communities.

This process began a feasibility study conducted by Locum Consulting which provided,

- an options appraisal and paper by Locum consulting in August 2006
- A three-hour facilitation exercise with the Interim Project management core funders’ group to discuss options for governance and management of the centres - 6 September 06
- A final options paper produced by Locum Consulting, November 06 which was discussed by the Interim Project Manager’s Group (IPMG – including all community, agency, public and private stakeholders), after which a recommendation was reached to move forward with:
  - o Charitable status
  - o Stakeholder engagement and trustee representation to include private and public membership
  - o Charitable trading extensions

Please see background paper “Appendix A – East Devon Visitor Centres – Governance and Management, Exec summary, November 2006” for the executive summary to the final options paper produced by Locum Consulting referred to above, and “Appendix B – East Devon Visitor Centres – Governance and Management, Exec summary, November 2006” for details of the feasibility study and subsequent discussions on Board constitution and governance.

## 2. Company formation and Board size

To achieve and maintain commercial sustainability it is proposed that a charitable company limited by guarantee is set up. This process began with an options appraisal by Locum consulting in 2006 – after which the decision was made to pursue charitable status. It is proposed to engage professional services to establish the Charitable Company. The project manager will work closely with the internal legal team at EDDC to ensure this process is managed to achieve best practice and best value for money and it is recommended that a project team be set up under the Chairmanship of the Corporate director – Environment to manage the appointment of legal advisors, to take their reports and manage the formation of the company. Once formed the company will be an independent legal entity governed by its own Memorandum and Articles of Association. It is proposed, subject to advice that there be a Board membership in the region of 15 members at the initial stage. This number will ensure the Company remains focused and manageable around the key issues of development. We would anticipate that the Company would be focussed towards the commercial sustainability of the visitor centres, though it would be crucial to maintain representation from the key funding partners (EDDC, DCC, Exmouth Town Council, Seaton Town Council, SWRDA). We therefore propose that the Board be made up of five key partners (33%) and 10 business partners (67%). We would aim for a Board of 15 in the first instance – but would remain flexible up to 18 Board members should our recruitment process bring forward exceptional candidates. The size of the Board and representation on it would be subject to advice from the legal appointees who would also assist in the appointment of initial Board Members

## 3. Key Skills required of the Board

It is expected that the Exmouth and Seaton visitor centres will not receive on-going or revenue subsidy from public coffers, and it is essential that the centres sustain enough income to cover their own operational costs. It is therefore crucial that a Board of Trustees is established who have the skills commensurate with operating a large, community-based and culturally grounded business.

We propose to recruit a Board;

- to have the appropriate skills and qualifications to operate the business from a sound commercial footing.
- on the basis of performing a business critical task including; legal knowledge, financial acumen, marketing and business operations, commercial services, visitor services experience, scientific standing, stakeholder links (that is Local Authority, funding bodies and so on to encourage future support) and the ability to attract high profile funds/funders/supporters.
- to fully understand the responsibilities associated with a working and active Board
- to be able to manage the Operating company in a proactive and steering capacity
- to scrutinize business decisions, employ rigorous due diligence, and ensure the fiscal safety of the organization.
- to be able to quickly understand business decisions and financial information
- to maintain strong working relationships with the CEO, executive staff and operating staff.
- to balance the often competing needs of commercial realism with community and stakeholder needs.
- to appoint a Chief Executive Office, executive staff and operating staff

#### 4. Recruitment Process

To attract the right quality and calibre of Board members we would propose an open recruitment process whereby a Board is constituted through competition and advertisement across the region, together with Board members sought from key stakeholder networks and contacts. The Board will be recruited on the basis of skills and qualities identified through the 'skills matrix' work undertaken by the project development manager and that of comparable projects/Boards, and with the advice and assistance of the legal advisors

The recruitment process will ensure,

- of the 15 available Board places, there will be seats allocated to the key funding partners who have an ongoing interest in the success of these projects, and to enable them to protect and support their interests. We would reserve 5 seats on the Board for this process – whilst remaining flexible to include more Board members should exceptional circumstances or candidates arise. These representational seats will be secured as part of the memorandum and articles of association.
- The Board members provided by the funding partners will not necessarily need to fulfil a job role in terms of skills. The funding members positions are to protect the best interests of their constituencies – though we would endeavour to secure representatives who have an empathy with the aims of the project and who would be in a position to support its activities in as active a way as their time permits
- all Board 'job descriptions' will be formalized
- Board director responsibilities and policies will be outlined
- prospective members will be offered training in how to fulfil their responsibilities
- that the Board will operate under memorandum and articles which call for regular reviews as to the qualities and skills needed of its members – allowing re-recruitment at key milestones if that is felt to be appropriate and as the project progresses towards completion.

#### **Legal Implications**

The detail of the new company, including its composition so that its income and expenditure are not legally part of the Council's, will be subject to the advice of consultants

#### **Financial Implications**

All financial implications are currently within existing budget approval.

#### **Consultation on Reports to the Executive**

Consultation with the Interim Project Management Group (made up of key stakeholders from EDDC, DCC, Exmouth Town Council, Seaton Town Council, SWRDA, WHS Jurassic Coast Team) has resulted in agreement with the proposals contained in the paper.

Further consultation with the community led Exmouth Project Promotion Group and the Seaton Visitor Centre Trust has resulted in agreement in principle that Board recruitment should go ahead, with further consultation to be undertaken to agree Board make-up following the recruitment stage (that is Short-listing and identification of Board members will continue to be a collaborative process under the management of EDDC and the core funders' group).

#### **Background Papers**

- Appendix A – "East Devon Visitor Centres – Governance and Management: Notes of a meeting of the IPMG Core funders' group on 6 September 2006"
- Appendix B – "East Devon Visitor Centres – Governance and Management, Exec summary, November 2006"

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