# **SCRUTINY COMMITTEE**

Friday, 5th December, 2014

2.00 pm

Darent Room, Sessions House, County Hall, Maidstone





#### **AGENDA**

# **SCRUTINY COMMITTEE**

Friday, 5th December, 2014, at 2.00 pm Ask for: Joel Cook
Darent Room, Sessions House, County Hall, Telephone: 03000 416892

Maidstone

# Membership

Conservative (6): Mr R J Parry (Chairman), Mr J E Scholes (Vice-Chairman),

Mr E E C Hotson, Mr A J King, MBE, Mr L B Ridings, MBE and

Mrs P A V Stockell

UKIP (2) Mr H Birkby and Mr R A Latchford, OBE

Labour (2) Mr G Cowan and Mr R Truelove

Liberal Democrat (1): Mrs T Dean, MBE

Church Mr D Brunning, Mr Q Roper and Mr A Tear

Representatives (3):

Parent Governor (2): Mr P Garten and Mr G Lawrie

Tea/coffee will be available 15 minutes before the start of the meeting

County Councillors who are not Members of the Committee but who wish to ask questions at the meeting are asked to notify the Chairman of their questions in advance.

# **Webcasting Notice**

Please note: this meeting may be filmed for the live or subsequent broadcast via the Council's internet site or by any member of the public or press present. The Chairman will confirm if all or part of the meeting is to be filmed by the Council

By entering into this room you are consenting to being filmed. If you do not wish to have your image captured please let the Clerk know immediately.

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#### **UNRESTRICTED ITEMS**

(During these items the meeting is likely to be open to the public)

# A - Committee Business

- A1 Introduction/Webcast Announcement
- A2 Substitutes
- A3 Declarations of Interests by Members in items on the Agenda for this Meeting
- A4 Minutes of the meeting held on 21st October 2014 (Pages 5 8)
  - B Any items called-in
- B1 Decision 14/00133 Approval of Equity Investment from the TIGER Fund (Pages 9 162)
  - C Any items placed on the agenda by any Member of the Council for discussion

# **EXEMPT ITEMS**

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Peter Sass Head of Democratic Services (01622) 694002

# Thursday, 27 November 2014

Timing of items as shown above is approximate and subject to change.

#### **KENT COUNTY COUNCIL**

# **SCRUTINY COMMITTEE**

MINUTES of a meeting of the Scrutiny Committee held in the Darent Room, Sessions House, County Hall, Maidstone on Tuesday, 21 October 2014.

PRESENT: Mr R J Parry (Chairman), Mr J E Scholes (Vice-Chairman), Mr M Baldock, Mr H Birkby, Mr R H Bird, Mr G Cowan, Mr E E C Hotson, Mr A J King, MBE, Mr L B Ridings, MBE, Mr D Smyth and Mrs P A V Stockell

IN ATTENDANCE: Ms A Carruthers (Transport Strategy - Delivery Manager), Mr P Crick (Director Environment, Planning & Enforcement), Mr J Cook (Scrutiny Research Officer), Ms D Fitch (Democratic Services Manager (Council)), Mr F Qadir (Principal Transport Planner - Delivery) and Mr K Tilson (Finance Business Partner - Customer & Communities)

#### **UNRESTRICTED ITEMS**

# 60. Minutes of the meeting held on 25 September 2014 (Item A4)

RESOLVED that the minutes of the meeting held on 25 September 2014 are correctly recorded and that they be signed by the Chairman as a correct record.

#### D - Items for discussion

# 61. Lorry Park Network (Phase 1) (Item D1)

- (1) This item had been placed on the agenda for discussion by the Chairman and Spokesmen. Circulated with the agenda was detailed information on the project including the responses from the Environment & Transport directorate to questions raised in relation to the decision to endorse the Lorry Park Network (Phase 1) project.
- (2) Mr Crick introduced the item by outlining that the project had arisen as a result of the identified need for Lorry parking provision which was detailed in the Growth Without Gridlock KCC Strategy. The method of delivery had changed over time in line with reduced resources and updated demand models but the main issues it sought to address remained the same; reduce disruption from Operation Stack and to alleviate the anti-social behaviour linked with HGVs parking inappropriately in residential and industrial areas. He continued by explaining that the M20 had been identified as the priority due to evidence of the traffic flow of HGVs being primarily along the M20 / A20 corridor. Furthermore, Mr Crick stated that a detailed Commercial Assessment had been undertaken to evaluate whether a KCC developed Lorry Park Network would be a viable business decision, providing a return on investment and remaining affordable.
- (3) On being asked to clarify the financial position of the project, Mr Tilson explained that KCC's Treasury Policy was to ensure best value was obtained and that all financing options should be considered and that only the most appropriate

and the most beneficial to the authority should be pursued. He stated that the £12.7million loan (Public Works Loan fund) that had been secured for the delivery of this project had been declared – and approved by Full Council - in the Medium Term Financial Plan (MTFP) in February 2014 to ensure all protocols had been followed and that this was a viable option to fund the project. It is/was not however a definitive stance on how the project would be funded. This loan has not been drawn down, nor a formal loan agreement entered in to, but was presented as a viable option due to the favourable interest rate and high anticipated return on investment. Its presence in the MTFP gave the authority to use the secured finance if required but a future decision would be made on how the scheme was to be funded This is completely separate to the authority's current stance on Treasury, whereby due to the level of cash reserves currently held that, at this moment in time, KCC would look to borrow/lend internally and not utilise external funding. That stance is reviewed weekly and therefore the two issues are not mutually exclusive. One is having the relevant authorities in place to fund a specific scheme, the other is the current stance that KCC may not choose this route as it has funds internally that could be used, albeit they still need to be paid back so it is not free funds.

- (4) Ms Carruthers summarised the process used for the assessment of potential sites. She gave a brief overview of each of the shortlist sites, detailing their positives and negatives. She then gave a summary of the viability assessment conducted by KCC. Survey work had been undertaken with HGV drivers and Lorry Park providers to collect anecdotal and qualitative data. It was shown that some providers regularly turned away many HGVs every night due to insufficient capacity. A demand assessment had been carried out using data from the Department for Transport (DfT) traffic projections and Channel Crossing information on international traffic flow. The combined data resulted in a projection that showed that the demand for lorry parking in Kent was due to treble by 2060. Ms Carruthers also mentioned that other factors should be considered such as the impending Sulphur emission regulation that may impact on HGV driver behaviour but had not been included in the modelling work".
- (5) In relation to HGV Levy income which came into force on 1 April 2014, Ms Carruthers explained that the DfT had expected to raise £23million annually but in the first four months, the Levy had raised £17million. This indicates a much higher rate of HGV activity and road use than anticipated, increasing the need for Lorry Parking.
- (6) Ms Carruthers explained that a detailed Commercial Assessment had been conducted on the 8 shortlisted sites to gauge the likely return on investment. The M20 and M2 were considered but 80% of HGV flow was on the M20, with only 20% using the M2. The assessment indicated a 23% rate of return over 40 year's loan period for the Westenhanger site, based on the long term financial assessment model.
- (7) Ms Carruthers stressed that the costs for the project were still variable and subject to change depending on circumstances and more detailed work. She stated that safeguards had been built into the process to ensure that Members would be alerted if the funding situation or expected return on investment were projected to be unfavourable.
- (8) In relation to the project not featuring in Shepway Districts Local Plan Ms Carruthers explained that this Local Plan had been agreed before the preferred

option of the Westenhanger site had been identified. However, the Local Plan Core Strategy was a very strategic document that outlined area wide growth plans and expectations but did not dictate how such growth was to be delivered. She stated that the project team would therefore ensure that they worked closely with the District Council as the Local Plan moves through its more detailed stages.

- (9) Officers answer questions from Members which included the following:
  - In relation to the £12.7million that had been secured to finance the project, Mr Tilson explained that the funding had been secured, as evidenced in the Budget and the MTFP, but had not yet been taken up formally and no monies had been drawn down. The borrowing approval that is reflected in the MTFP had been reflected in the report to the Cabinet Committee, so this was not in contradiction to a separate statement on Treasury Policy whereby KCC would, at this moment in time, be unlikely to borrow externally to fund future projects.
  - Reference was made by a Member to the statement that had been made at full Council which suggested that no KCC projects would be funded with externally borrowed finance. The above statement remains true as due to the level of cash reserves, the Public Works Loan Board funding may not be used but was included in the report as as an option for this project and perhaps the statement could have been worded better but that is certainly was not incorrect or inaccurate which was the question/statement posed by the member as the statement is most certainly factually correct
  - A Member asked why sites outside of KCC's area, such as Clackett Lane and Thurrock had not been considered as possible options. Ms Carruthers stated that there was work being carried out on Lorry Parking in Thurrock by another Council and that KCC had no control over the provision of lorry parking at Clackett Lane. She emphasised that engagement with HGV drivers had shown that there was high demand for Lorry Parking in Kent as drivers wanted to be able to stop close to the Channel Crossing. She did accept that consideration of wider national activity on Lorry parking was important and stated that the project board had taken this into account.
  - A Member expressed concern that while this project had strategic merit, it would have significant local implications and raised questions about the wider need for savings, balanced against investing a substantial sum of money in one project. Ms Carruthers explained that while the private sector was interested in providing lorry parking, there were other areas of business attracting more growth. This provided an opportunity for KCC to provide a much needed service and to recoup its investment. The assessment models did take into account the private sector as a potential competitor and still showed this as a viable project for KCC.
  - In relation to a question on enforcement in relation to lorry parking in residential and industrial areas, Ms Carruthers explained that all parking enforcement had been devolved to District Councils. Discussions had been held with District Councils and the Police which indicated that enforcement work would be conditional on the provision of appropriate parking to move HGVs to when they were parking inappropriately.
  - A Member suggested that one way of addressing the enforcement and usage
    of the Lorry Park to prevent ant- social and on street lorry parking was to
    include the cost of parking and facilities in the price of the Crossing ticket.
    This would mean companies paid for the Lorry Park use and there would be

- no disincentive for lorry drivers to park elsewhere. Ms Carruthers agreed to examine this suggestion.
- A Member highlighted the benefits of the European system of free parking for HGV drivers with charges only levied for services like showers and food. The Officers explained that this system was entirely subsidised by the respective European governments and no government funding was available for these facilities in the UK.
- Ms Carruthers clarified that each of the site assessments had been carried out on an individual basis and took into consideration all other competing provision and relevant circumstance known about at the time.
- Ms Carruthers explained that further commercial analysis would be conducted should the Lorry Park Network expand to a second site. This future assessment would be able to adequately model the demand and financial viability of a second KCC run site.
- A Member expressed concern that the M20 attracted a far greater weight of HGV traffic than the M2 and suggested that this was partly due to poor signage at the M25 junction. This resulted in increased disruption in Dover due to the excess traffic from the M20 having to traverse the main town rather than arriving at the docks direct as they would from the A2. Ms Carruthers explained that most traffic was directed to the M20 from the M25 as the road infrastructure was better than the M2.
- All Members agreed that more should be done to secure some of the HGV Levy revenue from Central government to mitigate the detrimental effects of HGV's passing through Kent.
- (10) RESOLVED that the officers be thanked for attending the meeting and that the comments made by Members be noted.

By: Joel Cook – Scrutiny Research Officer

To: Scrutiny Committee – 5<sup>th</sup> December 2014

Subject: Call-in of Decision 14/00133 – Approval of Equity Investment from TIGER

Fund

Summary: This report outlines the background of the decision, the reasons why this

item has been called in to the Scrutiny Committee and details the supporting documentation provided, noting the presence of exempt

materials.

# 1. Background

1.1 The call in relates to the 19<sup>th</sup> November decision taken by Mark Dance, Cabinet Member for Economic Development, to approve equity investment of £1.17million from the TIGER fund in a private company.

- 1.2 The purpose of the TIGER fund is to assist businesses in creating higher value employment through innovative projects. More information on the purpose of the TIGER programme is included in the Executive Decision covering report.
- 1.2 The decision to approve the equity investment was taken in accordance with statutory requirements for a key decision because the sum to be invested exceeded £1,000,000.
- 1.3 The proposed decision was published in the 6 October edition of the FED.
- 1.3 The proposed decision of the Cabinet Member for Economic Development to approve the investment was published on 3<sup>rd</sup> November 2014. The period for comments and questions was extended from 12<sup>th</sup> November to 19<sup>th</sup>
- 1.4 Prior to Mr Dance's decision, the application for TIGER funding was reviewed by the North Kent Approval Panel which received presentations from the applicant and a report from an independent assessor. The North Kent Approval Panel is an advisory group that makes formal recommendations to the Cabinet Member as per the Governance arrangements agreed by the Department for Business, Innovation and Skills. Details of the Panel's recommendation may be found in the exempt appendices.
- 1.5 The Cabinet Member's decision to approve the investment was taken on the 19<sup>th</sup> November and set for implementation on the 27<sup>th</sup> of November but the call-in has now placed the implementation on hold pending consideration by the Scrutiny Committee.

# 2. Scrutiny Interest

- 2.1 The Call-in request was submitted on the 25<sup>th</sup> November and accepted on the 26<sup>th</sup> after due consideration by the Head of Democratic Services.
- 2.2 The Key issues raised by members in the call-in request were;
  - The adequacy and accuracy of documentation originally provided
  - The restricted access to supplementary documents
  - The influence of the TIGER panel and its links with applicants
  - The degree to which KCC has commissioned external opinions from qualified consultants
  - The degree to which the queries raised by the consultants have been addressed
  - The apparent discrepancy between the treatment of this award and future equity based awards proposals for Expansion East Kent (EEK) provided to the Governance and Audit Committee
- 2.3 The call-in relates to the recent approval of an investment from the fund and commercially sensitive information relevant to the company in question, which is exempt from publication. The call-in also references the general governance arrangements of the TIGER Fund. Information which relates to these concerns can be published. Examples that do not impinge on the exempt information of the recent applicant are:
  - ➤ the membership of the TIGER Panels in light of their role in recommending decisions to the Cabinet Member,
  - how the North Kent Approval Panel considers Independent assessor risk assessments.
  - how the TIGER governance structure appears in comparison to other Regional Growth Fund models.
- 2.4 Provided for the Committee's consideration are an Executive Decision Covering Report recommending the approval of the equity investment, the formal Record of Decision and a number of detailed exempt appendices (commercially sensitive). Further information may be provided in the form of supplementary reports when they become available.
- 2.5 The committee should consider wider principles relating to the TIGER Fund and Regional growth Fund governance in relation to 14/00133 if it is necessary to determine whether it is satisfied that the decision has been properly taken.
- 2.5 Mark Dance, the Cabinet Member for Economic Development, has been invited to attend the Scrutiny Committee, supported by David Smith (Director of Economic Development) and Jacqui Ward (Regional Growth Fund Programme Manager)

# 3. Recommendation

- 3.1 The Committee must decide whether to;
  - Make no comment
  - Express comments but not require reconsideration of the decision
  - Require implementation of the decision to be postponed pending reconsideration of the matter by the decision maker in the light of the Committee's comments
  - Require implementation of the decision to be postponed pending reconsideration of the matter by the full Council (only if the decision is found to be contrary to the Policy Framework or Budget)



#### **Executive Decision**

From: Director of Economic Development, David Smith

To: Cabinet Member for Economic Development, Mark Dance

Decision No: 14/00133

Subject: Approval of Equity Investment from the TIGER Fund

# **Key decision**

Equity Investment value is over £1million

Classification: Unrestricted with exempt appendices

Appendices exempt from publication under paragraph 3 of schedule 12A of the Local Government Act 1972 "Information relating to the financial or business affairs of any particular person (including the

authority holding that information)."

Past Pathway of Paper: North Kent Approval Panel

Electoral Division: North Kent

**Summary**: To seek endorsement of the recommendations of the North Kent Approval Panel, and formal agreement to approve an Equity Investment application to the TIGER this.

# Recommendation(s):

It is recommended that the Cabinet Member agree to implement the recommendation of the North Kent Approval Panel and grant an equity investment to the Company set out in the exempt report, subject to the conditions also contained therein, of £1,174.072million from the TIGER Fund.

# 1. Introduction

1.1 The TIGER programme aims to provide financial support to businesses seeking to invest in projects that will create higher-value employment through the development of new products, services and processes. TIGER seeks to respond to the gap in economic outcomes between the Thames Gateway and the South East's other growth areas by providing targeted funding to companies where this will secure additional private sector finance and support the sustainable job creation. Should this application be successful it will have been deemed to meet the aims of the project.

Geographically, the programme focuses on North Kent (Dartford, Gravesham, Medway and Swale) with the addition of Thurrock.

# 2. Financial Implications

- 2.1 Although the decision involves the purchase of shares to the value of £1.174. 072m, if agreed, there is no financial impact for Kent County Council as the TIGER Fund monies were allocated as the result of a successful bid to the Regional Growth Fund and ring-fenced for the TIGER project only.
- 2.2 Furthermore the award is in the form of equity investment and all monies will be recovered from the applicant and will be set out in the terms and conditions of the equity agreement.

# 3. Bold Steps for Kent and Policy Framework

3.1 TIGER helps to secure two of the main aims of the Council's medium term strategy, Bold Steps for Kent by tackling disadvantage and helping the Kent economy to grow.

#### 4. The Report

- 4.1 An application from a business eligible to apply according to the criteria set out in the TIGER Fund has been received. The applicant is seeking to secure equity investment to the value of £1,174.072m.
- 4.2 The application has been subject to an independent appraisal from PWC and the consequent report has been considered by the North Kent Approval Panel in line with the governance of the TIGER Fund as agreed by the Department for Business, Innovation and Skills.
- 4.3 The Panel also received a presentation from the business owners, and had an opportunity to put questions and receive answers.
- 4.4 The Panel has recommended that the equity investment be approved.

#### 5. Governance:

- 5.1 The Equity Investment application has been considered by the appropriate advisory body in line with the TIGER fund governance requirements, approved by the Department for Business, Innovation and skills and agreed by Cabinet member decision; the North Kent Approval Panel. The advisory body has recommended that the equity investment be accepted. Relevant documentation is attached; it is exempt from publication in accordance with Paragraph 3 of Part 1 Schedule 12a of the Local Government Act 1972.
- 5.2 All members have been given the opportunity to comment on the proposed decision before it was taken by the Cabinet Member. Any comments received will be given due regard by the Cabinet Member when taking the decision and will be published as part of the Record of Decision or accompanying documentation.
- 5.3 The Growth, Economic Development and Communities Cabinet Committee will receive, as part of its regular updates, information pertaining to this and other grants, loans and equity investment made and performance against targets.
- 5.4 The Executive Scheme of Delegation for Officers set out in Appendix 2 Part 4 of the Constitution (and the directorate schemes of sub-delegation made thereunder)

provides the governance pathway for the implementation of this decision by officers. In this instance, Director of Economic Development (on behalf of the Corporate Director of Growth, Environment and Transport) will be the lead officer seeking to ensure that all such steps as are necessary to implement the decision.

#### 5. Conclusions

- 5.1 The North Kent Approval Panel has recommended that the proposal be fully funded, with the following conditions:
  - All jobs to be maintained within the TIGER area
  - External advice to be taken on the valuation and proposed share allocation.
  - KCC officers to negotiate a share allocation of around 10% and the detail to be brought back to the panel.
  - All legal costs to be covered by the company
- 5.2 Officers consider that all the conditions have been met and evidence is attached.
- 5.3 The equity investment is considered to meet the criteria for approval and as such will support sustainable job creation in North Kent.

#### 6. Recommendation(s):

The Cabinet Member is asked to: agree to implement the recommendation of the North Kent Approval Panel and grant an equity investment to the Company set out in the exempt report, subject to the conditions also contained therein, of £1,174.042million from the TIGER Fund.

#### Governance:

The Executive Scheme of Delegation for Officers set out in Appendix 2 Part 4 of the Constitution (and the directorate schemes of sub-delegation made thereunder) provides the governance pathway for the implementation of this decision by officers. In this instance, the Director of Economic Development (on behalf of the Corporate Director for Growth, Environment and Transport) will take all such steps as are necessary to implement the decision.

# 7. Background Documents

7.1 All documentation relevant to the decision maker is included as appendices to this report

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Appendix - UNRESTRICTED – Proposed Record of Decision
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Appendix 1 – EXEMPT - Independent Appraisal Report

Appendix 2 – EXEMPT – Company presentation

Appendix 3 – EXEMPT - Notes from the meeting of the NKAP (Advisory Panel)

Appendix 4 – EXEMPT - Signed form - acknowledgement of recommendations

Appendix 5 – EXEMPT – Condition satisfaction

Appendix 6 – EXEMPT – Condition Satisfaction

Appendix 7 – EXEMPT – Condition Satisfaction

Appendix 8 – EXEMPT – Condition Satisfaction

# 8. Contact details

Lead officer:
Jacqui Ward
RGF Programme Manager
<u>Jacqui.Ward@kent.gov.uk</u>
01622 694437

Lead officer: Lorna
Wilkinson
Principle Regeneration and
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Lead Director:
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# KENT COUNTY COUNCIL - RECORD OF DECISION

#### **DECISION TAKEN BY**

Mark Dance
Cabinet Member for Economic Development

DECISION NO. 14/00133

Unrestricted

**Key decision – Financial criteria exceeded** 

**Subject: TIGER Loan approval** 

# Decision:

As Cabinet Member for Economic Development, I agree to implement the recommendation of the North Kent Approval Panel and grant a loan to the Company set out in the exempt report, subject to the conditions also contained therein, of £1,174,072 from the TIGER Fund.

#### Governance:

The Executive Scheme of Delegation for Officers set out in Appendix 2 Part 4 of the Constitution (and the directorate schemes of sub-delegation made thereunder) provides the governance pathway for the implementation of this decision by officers. In this instance, Director of Economic Development (on behalf of the Corporate Director Growth Environment & Transport) will be the lead officer seeking to ensure that all such steps as are necessary to implement the decision.

# Reason(s) for decision

This equity investment will enable the company to whom it is granted to buy market share, which will in turn help to accelerate growth and traction for their products and services; employ additional highly experienced and specialised big data staff; aid in the deployment of their own tech hub and scale the business beyond the launch stage. Digital Contact is an emerging technology start-up focussed on big data. The company has developed an engine that captures and curates tweets, blogs and news within a specified sector, to produce predictions relevant to that market. This is a proposal for equity investment opportunity. Big data is a new area, and Digital Contact are very much first movers in their own target sector.

# **Cabinet Committee recommendations and other consultation**

The Equity Investment application has been considered by the appropriate advisory body in line with the TIGER fund governance requirements, approved by the Department for Business, Innovation and skills and agreed by Cabinet member decision; the North Kent Approval Panel. The advisory body has recommended that the equity investment be accepted.

All members have been given the opportunity to comment on the proposed decision before it was taken by the Cabinet Member. As a result of this opportunity a meeting was held between officers and Mr Bird and Mr Clark and various correspondence followed including comments from Mrs Dean. Members who commented were concerned about the governance arrangements in place for the approval of grants and loans from the scheme and sought various assurances in relation to the soundness of the investment and mitigation of areas of risk highlighted in the independent appraisal report. One further document was provided, to which the Cabinet Member also had access and this is published as an exempt document titled 'Further due diligence'. All members have access to the exempt documents that accompany this decision.

The Growth, Economic Development and Communities Cabinet Committee will receive, as part of its regular updates, information pertaining to grants, loans and equity investment made and performance against targets.

# Any alternatives considered:

Full consideration of the application was given. The Panel received a report from an independent consultant, prepared based on the original application of the Company. The Cabinet Member further considered this information and new information provided to satisfy conditions recommended by the approval panel, when taking the decision.

Page 17

Any interest declared when the decision was taken and an Officer: None	y dispensation granted by the Proper
Signed	Date



