

From: Barbara Cooper, Director of Economic Development
Rebecca Spore, Director of Property¹

To: Mr Paul Carter, Leader of the Council

[The Leader of the Council is asked to take the decision owing to the potential for conflict of interest arising from the Cabinet Member for Economic Development's representation on the EKO LLP management committee].

Date: 9th May 2014

Decision No: 14/00053

Subject: Changes to current funding arrangements to support the re-profiling of the County Council's outstanding loan to East Kent Opportunities Limited Liability Partnership (EKO LLP). In particular, an amendment to the funding arrangement for the Eurokent Spine Road as originally set out in the decision to enter into a joint venture agreement with Thanet District Council and the resultant arrangements for the establishment of the LLP.

Classification: Unrestricted

1. Background

1.1 On 16 March 2007, a decision was taken by the Leader of the Council to:

- (i) commit in principle to enter into a joint venture vehicle incorporating the County Council's landholdings at Manston Park and Eurokent, Thanet, and Thanet District Council's landholdings at Eurokent; and
- (ii) authorise the Managing Director of Environment & Regeneration to negotiate, agree terms and execute any necessary documents including a Collaboration Agreement and Joint Venture Agreement (subsequently titled the 'Members' Agreement'), and determine the precise nature of the vehicle, on behalf of the County Council.

1.2 The Members' Agreement was put into place in August 2008, and is the formal agreement bringing together the two members of the East Kent Opportunities Limited Liability Partnership (EKO), namely, Kent County Council and Thanet District Council.

1.3 The report seeking the decision specifically referred to dependency of the successful development of the Eurokent site upon the construction of a new access road across it, which would also act as a by-pass for the existing Haine Road. The estimated value of the road at that time was £5.45m, with the exception of a contribution of £0.5m to be made from the European Regional Development Fund in relation to the development by (the former) SEEDA of commercial starter business units. KCC undertook to forward fund the road on the understanding that this would

ultimately be repaid by EKO, including any borrowing costs. The road scheme was opened in November 2008, and has benefitted the local area since that time in providing relief to the original Haine Road and improved access to Marlow Academy and the two adjacent business unit facilities.

- 1.4 Further loans of up to £500k from KCC's Regeneration Fund to support the planning application for Eurokent and operational activity and £95k from each partner were endorsed in a decision by the Leader of the Council in June 2010. In light of the slower than anticipated progress with the planning application, partly due to the economic climate and the complexity of the sites it was also agreed to re-profile the road loan with a revised repayment date of end of March 2014.
- 1.5 Whilst significant progress has been made since then, the company is not in a position to make full repayment of the loans as explained below.

2. Current Position of EKO

2.1.1 Eurokent

- 2.1.1 A mixed use outline planning application for the Eurokent site was jointly submitted by EKO and Rosefarm Estates (owners of the northern part of the site) to the Local Planning Authority in October 2011. In October 2013 the LPA's planning committee refused the application on the grounds of the housing element being non-compliant with the Local Plan. The applicants have lodged an appeal with the National Planning Inspectorate under Section 78 of the Town and Country Planning Act 1990 (as amended), on the basis of encouraging advice from Queen's Counsel, and in accordance with the Government's National Planning Policy Framework where there is emphasis on the need for new homes and in the knowledge that the local planning authority has an emerging new Local Plan.
- 2.1.2 The appeal has subsequently been 'recovered' by the Secretary of State for Local Government who will appoint an inspector to assist him in determining the appeal. Success would mean that EKO would be in a position to begin marketing sites in early phased development later in Summer 2014.
- 2.1.3 In the meantime, EKO is accommodating the development of the new Laleham Gap Special School at Eurokent. This is being pursued by KCC Property Group with Government funding and includes a land swap agreement which means that EKO will ultimately acquire the existing school site in Cliftonville for residential development. Thus providing a future income stream for EKO outside of the development of the original EKO sites.

2.2 Manston Business Park

- 2.2.1 Manston Business Park has also seen an increase in activity with the sale of one plot to facilitate expansion plans for an existing major

occupier. These works are almost complete.

- 2.2.2 A second plot is under development with a company moving into Kent from the West Country and creating local jobs. This includes company HQ and operations facilities, as well as additional light industrial units for hire on flexible terms by other businesses.
- 2.2.3 Several other live enquiries are being pursued and the level of interest has increased considerably over the past 12 months.

3. Finance

- 3.1 It is anticipated that income from sales at Manston, along with remaining Regeneration Fund loan will ensure the continued effective operation of the partnership for the coming year as well as meeting anticipated costs associated with the Eurokent Planning Appeal process. In light of the ongoing delay in achieving planning approval EKO has not been in a position to repay the Eurokent Spine Road costs currently standing at £5,396,622.53 plus approx. £140,000 interest for 2013/14 nor the Regeneration Fund loan that currently stands at £429,296.49 in full by the end of March 2014.
- 3.2 Thanet District Council has, however, expressed a recent desire to share the borrowing commitment for the Eurokent Spine Road loan with KCC going forward. This would mean that whilst the full debt would remain with EKO, KCC could look to recoup 50% of the debt owing from TDC.
- 3.3 The proposals listed above are in accordance with the Members' Agreement as follows:

"Members shall assist the LLP in procuring such additional funds as the LLP may require from time to time to conduct the Business. Such assistance shall take such form as shall be mutually agreeable to the Members and, unless otherwise agreed, any commitments undertaken by the Members with respect thereto shall be undertaken on a simultaneous basis, shall be in proportions equal to the Members' Profit Percentages at the time the commitment in question is agreed to be undertaken and shall be upon matching terms respectively. Members' loans may be made to the LLP by any or all of the Members on such terms as to repayment, interest (subject to a limit of 2% over the base rate of the LLP Bank from time to time in force) and otherwise as may be agreed between the Management Committee and the Members(s) making the loans".

- 3.4 It is then proposed that the date for repayment of the remaining outstanding sums in respect of the Eurokent Spine Road loan and the Regeneration Fund be extended for a further three years to the end of 2016/17 financial year but with the requirement that repayment is made, in part or in full, at the earliest opportunity as land sales at both Manston and Eurokent are achieved, and plans for the development of the

vacated Lalaham Gap School site are progressed by EKO and once operational costs are covered. Details of the revised payment arrangements will be agreed between the Director of Economic Development, the Director of Finance and EKO LLP and revisions incorporated in the Members' Agreement in consultation with the Director of Law and Governance.

4. Resource Implications for KCC

- 4.1 With a direct interest in the overall success of EKO and the regeneration ambitions it was set up to address over the medium to long term, the revised funding profile will facilitate the continued work of the partnership and ensure benefit from the investment to-date in the two sites.
- 4.2 Whilst 50% of the debt will now be shared with TDC, a delay in repayment of the remaining Spine Road costs means that KCC's capacity to invest in other property opportunities may therefore be compromised. In recognition of that continuing opportunity cost and the longer term risk that KCC will incur by extending the repayment arrangements, it is proposed that interest continues to be applied to the outstanding loan.
- 4.3 EKO will revise its business plan once the outcome of the Planning Appeal is known in late Summer 2014. In the meantime, the LLP continues to market the Manston Business Park site, support the development of the Lalaham Gap School, prepare the vacated school site for future marketing for housing and anticipate interest in the Eurokent site.

5. Conclusion

- 5.1 Despite the economic downturn and the challenge of bringing together and developing two sites in a complimentary way the need for good quality employment space and family housing remains very important for the Thanet economy. There is now activity in terms of sales, ongoing interest and a current planning appeal that indicate a level of progress that has not previously been experienced by EKO for the two sites in question.
- 5.2 The proposed re-profiling of the outstanding loans as defined in section 3 above will ensure that EKO is able to build upon current momentum and be best placed to move forward on the development of both sites and especially Eurokent once the appeal is determined. The current requirement to re-profile funding and raise loans is as anticipated when the Members' Agreement was established and in accordance with its provisions.

6. Recommendations

The Leader of the Council is requested to:

- (1) agree that the Eurokent Spine Road costs, estimated at £5.4m plus interest, be equally shared with Thanet District Council going forward; and
- (2) for the remaining sum and that owing to the outstanding loans for Eurokent Spine Road and from the Regeneration Fund to be fully repaid by East Kent Opportunities LLP before by the end of the 2016-2017 financial year or sooner if the LLP's income stream support it

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 Growth, Environment & Transport) will take all such steps as are necessary to implement the decision, including determination of the detailed arrangements of the repayments schedule for the Eurokent Spine Road costs with Thanet District Council and East Kent Opportunities LLP.

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² The Director of Property and the Head of Regeneration Projects are KCC-nominated Management Committee Members of East Kent Opportunities LLP