

**By:** Barbara Cooper, Director of Economic Development  
David Lewis, Director of Property<sup>2</sup>

**To:** Mr Paul Carter, Leader of the Council

**Date:** June 2010

**Subject:** Funding arrangements to support the re-profiling of East Kent Opportunities Limited Liability Partnership (LLP) and 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) 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.

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.

- (2) 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 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.

## **2. Current Position**

- (1) Manston Park, which consists of 40 acres of developable land, is currently zoned within the Local Plan for industrial/commercial uses. EKO is in negotiations for the sale of two separate plots of land. This strategy of the sale

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<sup>2</sup> The Director of Property is a KCC-nominated Management Committee Member of East Kent Opportunities LLP

of land is in line with EKO's policy to encourage regeneration and job creation where possible.

(2) At the Eurokent site, EKO holds around 40 acres of land and is pursuing the submission of a planning application for a mixed use development, working with an adjoining landowner, based on an agreed and widely consulted upon Masterplan.

(3) EKO's budgets for 2009-10 and 2010-2011 have been set by the Partnership based upon a re-profiling of funding as a result of slower than anticipated progress in light of the economic climate and the complexity of the sites involved. They include:

- (i) the provision of short term loans of £95k from each partner
- (ii) the submission of an application for a longer term loan facility of £500k to KCC's Regeneration Fund to be drawn down when appropriate, and
- (iii) a proposal to put back repayment of costs for the Eurokent Spine Road construction.

(4) The proposals listed in (3) 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".*

(5) A loan facility request is currently being considered by KCC's Regeneration Board sub-group and is proposed on the basis that it would be drawn upon as and when required to enable continuation of essential business and in particular to ensure progress with submission of the planning application. If agreed, interest would be applied at a rate calculated on monthly rests at the rate at which KCC can borrow similar sums from time to time.

(6) With specific reference to the Eurokent Spine Road the Members' Agreement states:

*"The LLP shall reimburse to KCC the costs...not later than two years after the date of this Agreement or on such other terms and timescale as may be set out in the Business Plan to be agreed between the parties. Such costs are estimated at £5,400,000 but this estimate shall not limit the sums that may be claimed by KCC from the LLP in respect of the*

*Eurokent Spine Road. In addition the LLP shall pay interest to KCC on the costs incurred, calculated on monthly rests at the rate at which KCC can borrow similar sums from time to time, from the date the costs were incurred to the date of payment”.*

(7) It is proposed that repayment of the costs be rescheduled to be paid in full before the end of the 2013-2014 financial year, during which time it would continue to accrue interest. Details of the revised payment arrangements will be agreed between the Director of Economic Development and EKO and revisions incorporated in the Members’ Agreement in consultation with the Director of Law and Governance.

### **3. Resource Implications for KCC**

(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.

(2) A delay in repayment of the Spine Road costs from EKO to PEF1 means that KCC’s capacity to invest in other property opportunities may therefore be compromised. In recognition of that opportunity cost and the longer term risk that KCC will incur by extending the repayment arrangements, it is proposed that the interest rate applied is above cost and would accord with the Members’ Agreement as detailed in paragraph 2(4) above.

(3) The overall impact of the economic downturn and interest against repayments and loans applied for has been taken into consideration in the revised draft business plan for EKO. However, because of its commercial content this detail is contained in a separate schedule which is except under the provisions of the Local Government Act 1972. It is recognised that this is based on current land values and may be subject to change and potentially improvement over the coming years as the market recovers. It is currently being further refined as the Eurokent planning application is finalised but illustrates the projected position based on a conservative estimate of the land values. It does not put a value on the overall regenerative gain which is the overarching aim of the Partnership.

### **4. Conclusion**

(1) The Members’ Agreement for EKO established that:

*”the LLP continue for an initial period of at least 10 years. After the fifth anniversary of the date of the Agreement there will be a review with a view to deciding whether to extend the 10 year period and/or to recast the objectives”.*

(2) The LLP is still well within the review timeframe and the objectives of bringing forward these two key sites in Thanet, delivering new homes, employment space and wider regeneration benefits, remains appropriate and achievable. The recent economic climate has slowed progress but sales on strategic sites at Manston and the process for submitting the planning

application for Eurokent, based on the master-planning work are in progress. In order for EKO to maintain momentum and be best placed as the wider economic situation improves it is considered appropriate to continue to maintain the operational capacity of the partnership and the partnership's budget has been set accordingly. 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.

## 5. Recommendations

The Leader is requested to:

- (1) endorse the short term loan of £95,000 to East Kent Opportunities Limited Liability Partnership to be repaid during 2010-2011;
- (2) agree that the Eurokent Spine Road costs, estimated at £5.4m plus interest, to be fully repaid by EKO before the end of the 2013-2014 financial year; and
- (3) agree that the Director of Economic Development, in consultation with the Director of Law & Governance, determines the detailed arrangements of the repayments schedule for the Eurokent Spine Road costs with East Kent Opportunities LLP.

## Background Papers

Appendix 1, Record of Decision to Enter into a Joint Venture dated 16 March 2007,

Appendix 2, supporting report, and

**The attached schedule referred to in paragraph 3(3) is exempt, not for publication under paragraph 3 of Schedule 12a to the Local Government Act 1972 (as amended)**

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