SEVENOAKS DISTRICT COUNCIL

FINANCE ADVISORY GROUP

02 November 2011 at 9.30 am in the

AGENDA

Membership:

Chairman: Cllr. Cllr. B Ramsey

Cllr. Mrs A Firth, Cllr. M Fittock, Cllr. J Grint, Cllr. P McGarvey and Cllr. J Scholey

1.	**Apologies for absence**	
2.	**Notes of meeting of the Group held on 27 July 2011**	**(Pages 1 - 4)**
3.	**Declarations of Interest**	
4.	**Matters Arising including actions from last meeting**	**(Pages 5 - 6)** *Tricia Marshall*
5.	**Referrals from Performance & Governance Committee:** Performance Monitoring: LPI DS 002 – Total Trading Account Position (27.09.11)	**(Pages 7 - 8)**
6.	**Building Control Budget (circulated separately)**	*Richard Wilson*
7.	**Kent and Medway Investment Fund**	**(Pages 9 - 102)** *Lesley Bowles*
8.	**Financial Results 2011/12 - to the end of September 2011**	**(Pages 103 - 136)** *Adrian Rowbotham*
9.	**Financial Performance Indicators 2011/12 - to the end of September 2011**	**(Pages 137 - 144)** *Adrian Rowbotham*
10.	**Investment Strategy Update**	**(Pages 145 - 150)** *Roy Parsons*
11.	**Forward Programme**	**(Pages 151 - 152)**
12.	**Any Other Business**	

Please note: The date of the next meeting is 25 January 2012.

Members wishing to obtain factual information on above items are asked to enquire of the appropriate Director or Contact Officer before the meeting

FINANCE ADVISORY GROUP

Minutes of the meeting of the Finance Advisory Group held on 27 July 2011 commencing at 9.30 am

Present: Cllr. B Ramsey (Chairman)

Cllr. Mrs A Firth, Cllr. M Fittock, Cllr. J Grint, Cllr. P McGarvey and Cllr. J Scholey

12. APOLOGIES FOR ABSENCE

There were no apologies for absence.

13. NOTES OF PREVIOUS MEETING

The notes of the meeting of 15 June 2011 were agreed as a correct record.

14. DECLARATIONS OF INTEREST

There were no declarations of interest.

15. MATTERS ARISING INCLUDING ACTIONS FROM LAST MEETING

The responses to the actions were noted.

16. INVESTMENT STRATEGY UPDATE

The Principal Accountant explained that the report updated Members on treasury activity for the first quarter of the financial year. Changes in the CIPFA Code of Practice on Treasury Management in the Public Services meant that regular reports would be presented to Members to enable them to have an informed view of the Council's treasury operations. The annual report was due to be reported to the Performance and Governance Committee following the annual audit of the Council's accounts. The Principal Accountant also noted the developments with regard to Landsbanki as outlined in the report.

Following a query, the Principal Accountant advised that Sector, the Council's treasury advisors, had developed a system where credit default swaps were used to indicate a financial institution's standing amongst its peers. This system supplemented the data on credit ratings to provide up to date information on the institutions to which the Council loaned money. It was hoped that this system was more responsive to market sentiment than using credit ratings alone.

Action 1: Members requested that a formal review of agencies like Sector be carried out once during every four year council term to ensure the quality of the information they provided.

For the benefit of new Members, the Principal Accountant explained the Council's situation with regard to the Icelandic bank investment. Current advice was that the Council would recover 95% of the funds, but this was dependent on the eventual outcome of the Appeal still to be heard in Iceland.
Resolved: That the update on treasury activity in the first quarter of 2011/12 be noted.

17. DRAFT STATEMENT OF ACCOUNTS 2010/11

The Finance Manager explained that the Provisional Outturn figures and carry forward requests had been reported to the last meeting of the Group. Some of the carry forward requests had been rejected by Cabinet and as such the end of year favourable outturn position had been amended to £590,000. He also explained that the Council was now required to compile the Statement of Accounts in line with International Financial Reporting Standards (IFRS). The Finance Manager noted the changes to the classification and valuation methodology of fixed assets and leases. He also noted the balance sheet on page 45 of the report which showed a positive bottom line. This was due to changes in the IAS19 valuation of the pension fund. It was also highlighted that the Statement of Accounts contained a number of new statements, notes and tables.

The Finance Manager also explained that the external audit was currently in progress and that the final audited accounts would be presented to the Performance and Governance Committee in September 2011. As this was the first year of preparing the accounts under IFRS, it was to be expected that some amendments would arise from the audit process.
Members shared the Officers' disappointment with the new reporting requirements. They felt the accounts were not user friendly and longer than necessary.

Action 2: The Finance Manager undertook to provide Members with a reconciliation of the Monitoring Report figures to those in the Statement of Accounts.

Members were pleased that changes to the Pensions Interest Costs would be highlighted as a separate line in the final version of the Accounts.
A Member felt it would be helpful to have some high level financial historical trend information and it was suggested that this could be incorporated into the budget setting papers.

Action 3: Following a query, the Finance Manager undertook to provide Members with CIPFAs definition of the word "derecognition" as outlined on page 69 of the report.

Action 4: In response to a query, the Finance Manager undertook to inform Members of the amount of Section 106 and Affordable Housing contributions in the Statement of Accounts.

Members thanked the Finance Manager for all his hard work in producing the Accounts, particularly given the onerous reporting requirements this year.
Resolved: That the Draft Statutory Statement of Accounts attached as an Appendix the report be noted.

18. FINANCIAL RESULTS 2011/12 - TO THE END OF JUNE 2011

The Finance Manager explained that three months into the financial year the results showed an overall favourable variance of £139,000 and an overspend of £182,000 was forecast for the year. Heads of Service were currently investigating ways to address the forecast overspend and therefore keep within budget. One good news item was that the income from Swanley Market had risen. The Finance Manager also highlighted the risk areas outlined in the report.

Members noted that savings related to partnership working would not be realised until later in the financial year.

Following a Member’s concern, the Head of Finance and Human Resources explained the process that Heads of Service and Management Team followed to keep net expenditure within budget. It was expected that when the Finance Advisory Group considered the September results, they would also be able to see the plans that had been put in place to bring the budget back in to balance.

Resolved: That the Financial Results 2011/12 to the end of June 2011 be noted.

19. FINANCIAL PERFORMANCE INDICATORS 2011/12 - TO THE END OF JUNE 2011

Due to a printing error, the Finance Manager tabled an updated version of the tables. He noted that investment returns were slightly higher than anticipated and that Sundry Debtors over 61 days was above target.
Action 5: In response to Members’ comments, the Finance Manager undertook to change the wording “monthly cash balance” to “monthly investment balance”.

It was noted that the variance in monthly employee costs was related to the use of casual staff.

In response to a query, the Head of Finance and Human Resources assured Members that Officers always encouraged residents to pay Council Tax by direct debit. The target for this was shared between the District Council and its partnership authority, Dartford Borough Council.

Resolved: That the Financial Performance Indicators 2011/12 to the end of June 2011 be noted.

20. FORWARD PROGRAMME

- The Chairman noted that the Performance and Governance Committee had been interested in establishing a sub-group to investigate property disposal. He suggested that the Finance Advisory Group were well placed to consider property disposals in the first instance. Members felt that it was important to consider the financial viability and social circumstances of property disposal and that the Group should consider these items before they were passed to the Performance and Governance Committee for consideration. They felt this approach would streamline the process and discussion at that Committee.

- Members requested that, in future, Officers try to avoid setting meetings during school holidays.

  Action 6: The Group requested that the date of the next meeting be changed as it fell within schools half term.

- An item relating to Building Control was scheduled for the next meeting of the Group. Members requested that they be informed of how Building Control and Development Control worked with each other at Tunbridge Wells Borough Council, the Council's Development Services partnership authority. They also requested an update on cost savings, the market in general and how eco friendly initiatives were being achieved.

21. ANY OTHER BUSINESS

No other business was discussed.

Informative: The next meeting of the Group has been rescheduled for 2 November 2011.

THE MEETING WAS CONCLUDED AT 11.00 am

Chairman

ACTION SHEET - Actions from the previous meeting

ACTIONS FROM 27.07.11			
Action	**Description**	**Status and last updated**	**Contact Officer**
ACTION 1	Members requested that a formal review of agencies like Sector be carried out once during every four year council term to ensure the quality of the information they provided.	The matter is still being investigated. The Officer hopes to report within the next financial year.	Roy Parsons Ext: 7204
ACTION 2	The Finance Manager undertook to provide Members with a reconciliation of the Monitoring Report figures to those in the Statement of Accounts.	Response sent via email on 05.09.11.	Adrian Rowbotham Ext: 7153
ACTION 3	Following a query, the Finance Manager undertook to provide Members with CIPFAs definition of the word “derecognition” as outlined on page 69 of the report.	Response sent via email on 05.09.11.	Adrian Rowbotham Ext: 7153

ACTION 4	In response to a query, the Finance Manager undertook to inform Members of the amount of Section 106 and Affordable Housing contributions in the Statement of Accounts.	Response sent via email on 05.09.11.	Adrian Rowbotham Ext: 7153
ACTION 5	In response to Members' comments, the Finance Manager undertook to change the wording "monthly cash balance" to "monthly investment balance".	Noted.	Adrian Rowbotham Ext: 7153
ACTION 6	The Group requested that the date of the next meeting be changed as it fell within schools half term.	The next meeting of the Group has been rescheduled for 2 November 2011.	

MATTERS REFERRED BY PERFORMANCE AND GOVERNANCE COMMITTEE

Performance Monitoring: LPI DS 002 – Total Trading Account Position
(Performance and Governance Committee – 27 September 2011)

The Chairman, with the agreement of the Committee, brought consideration of this item forward on the agenda. Members' attention was brought to the paper tabled at the meeting which reported the Services Select Committee Performance Indicators (PIs) for August 2011/12, and the Deputy Chief Executive and Director of Corporate Resources referred Members to the changes from the July information contained in the agenda.

A Member was concerned that the target set for LPI DC 004 seemed a little tough and asked whether it was management aspiration or a historical figure. In response, the Deputy Chief Executive and Director of Corporate Resources advised that in general targets were set with reference to historical performance, feedback, requests from Portfolio Holders, and where resources allowed, an aspiration to perform in the top quartile of national performance. In general they were quite tough to give Service Managers something to aspire to. It was noted that this was an overall performance indicator and did not differentiate between delegated and committee decisions. The Portfolio Holder for Planning and Improvement advised the Committee that lessons had been learnt and more comprehensive reasons for refusal were being formulated whenever applications were turned down within the Green Belt.

The Head of Environmental and Operational Services was asked whether it would be appropriate to increase the charges for collection of trade waste and cesspool emptying, whether it was a legal duty to provide these services, and whether it was profitable enough to continue. In response he explained that charges were put up annually, there was only a legal duty to provide the service if it was requested – but that it could be delegated to contractors, and that it was profitable and helped to offset other costs. The Leader of the Council advised that it gave a degree of flexibility to matters such as household waste collections, and allowed more effective use of labour. Members agreed that the issues would benefit from a more in depth review by the Finance Advisory Group.

Members considered red indicators for Housing Benefits and agreed to refer this for further consideration to the next meeting of Services Select Committee, along with the September figures. Members discussed the difficulties in recruiting experienced Benefits Assessors.

Concern was expressed at the possible dangers of having targets that were reliant on third party action and out of the Council's control.

Resolved: That:

(i) the contents of the report be noted;

(ii) LPI DS 002 –be referred to the Finance Advisory Group for further consideration; and

(iii) LPI HB 001, 002, 005 & 006 be referred to Services Select Committee for further consideration.

FINANCE ADVISORY GROUP – 2 NOVEMBER 2011

KENT AND MEDWAY INVESTMENT FUND

Report of the:	Deputy Chief Executive and Corporate Resources Director
Also considered by:	Cabinet – 3 November 2011
Status:	For consideration

Executive Summary: District and Borough Councils in the County have been approached by Kent County Council to take part in a proposed Kent and Medway Investment Fund. The proposal is aimed at providing an investment opportunity for all councils in the County at the same time as ensuring a supply of funding for development and attracting development to the County.

Taking part in the next phase of the development of the proposed Fund would require from the Council a non-refundable contribution of £25,000. This phase will involve agreeing an investment strategy and partnership structure. After this phase, the Council would be invited to make an investment contribution of £2million in cash or property. The investment period would be 10 years. A Fund Manager would be appointed to run the Fund, ensuring the maximum return for investors.

This report may support the Key Aims of Value for Money and the Community Plan priority 'A thriving economy'.

Portfolio Holder	Cllr. Ramsay, Finance Portfolio Holder
Head of Service	Head of Finance and Human Resources –Tricia Marshall
	Head of Community Development – Lesley Bowles

Recommendation: Members views are sought.

Background

1 Kent County Council is seeking support from District Councils to create a Kent and Medway Investment Fund (KMIF).

2 The County Council has appointed consultants CBRE to develop proposals based on experience of setting up an 'Evergreen Fund' in the North West of England. The CBRE feasibility study is attached at Appendix A and a summary is given on page 6 of the appendix. Answers to Frequently Asked Questions are attached at Appendix B.

Introduction

3 The primary purpose of the proposed fund is to enable regeneration. The KMIF would provide a commercial market return on investments.

4 The KMIF would be structured as a fund with an independent professional fund manager appointed to deliver an investment strategy agreed by the partners. The investment strategy would set out the objectives of the fund, determine the rate of return and risk profile as well as the type of investment the Fund Manager makes.

5 Projects for investment would be selected not only on the basis of a sound business case but also for the regeneration benefits that they will deliver. At the moment, it is understood that applications for funding will only be considered in districts where the district or borough council is an investor.

6 The Fund would be set up for an initial ten year term with the option for partners to agree to extend the fund for a further ten years.

7 The County Council is inviting all district and borough councils to be part of the scheme and has indicated that other investors, e.g. the Kent Pension Fund and the Homes and Communities Agency may also wish to be involved.

8 In order to take part in the scheme each district is being asked to commit £25,000 to enable the next stage of work to take place. Kent County Council will contribute up to £500,000 and Medway Council £50,000. This stage will involve drawing up the investment strategy and the terms of the partnership. This sum is not refundable.

9 Following the next stage of work, district councils will be invited to invest a very significant amount in the Fund. The amount currently being discussed is £2million per district, which can be contributed in cash or in property.

10 All district and borough councils in Kent have been invited to take part in an asset review, conducted by CBRE, to help assess whether they wish to use assets rather than cash as their investment.

11 Another option may be to take part in the subsequent phase of the scheme, which would be the full investment stage. At that stage an equalisation payment would have to be paid in order to compensate original partners for their higher level of risk. It is not known at this stage what size of payment this might be.

12 In essence, the KMIF proposal could have the ability to provide district councils with regeneration and/or financial returns.

Regeneration objectives

13 The consultants' study identifies that the Fund needs to deliver regeneration outputs to Kent and Medway. The regeneration that is achieved will depend upon a series of quantifiable outputs that will be used as an important part of

the project selection mechanism. These might include for example the number of jobs or the number of affordable housing units created.

14 Different parts of the County will have different priorities for these quantifiable outputs and these will be set as part of the next phase of the development of the fund.

15 Although it is possible that local regeneration projects could benefit from the fund, there is no guarantee of this. The Fund Manager's role will be to ensure that the schemes that best meet the objectives and, most importantly, those that are fully worked up, achievable and offer the best returns, are funded. The purpose of the Fund is not to provide gap funding for schemes that would otherwise fail.

Key Implications

Financial

16 Should Members wish to consider taking part in the scheme, it would be necessary to make a £25,000 contribution which is non-refundable. Following this, Investment in the Fund will require a contribution of £2 million in cash or property assets the ownership of these assets would then pass on to the fund. Rates of return will depend on the level of risk adopted as part of the investment strategy. It has been suggested that these could be as high as 10%. However, if a lower level of risk is decided upon, rates could be much lower.

17 Under the Council's current Investment Strategy, lending is restricted to counterparties based in either the UK or the EU, satisfying the credit rating matrix supplied by Sector, the Council's investment advisers. The minimum acceptable long term credit rating is AA- or better. Investments are currently in place for a maximum of one year, although in the current climate new investments are being placed for no longer than three months.

18 No more than £5m is placed with any single counterparty, increased to £6m including call accounts. A maximum of 25% of the total fund is be lent to any single counterparty or counterparties in the same group. Current investment rates with institutions on our lending list vary between 1.65% and 2.1% for one year. Looking at some low or non rated building societies (that fall outside the current Strategy) rates are around 2.0% to 2.2%.

19 Should the Council wish to pursue this beyond the feasibility stage and in recognition of the fact that the KMIF is not credit rated and that the lending would be in excess of one year, the Investment Strategy would need to be amended by full Council in order to invest in the Fund.

Legal, Human Rights etc.

20 The Feasibility Report recommends that the KMIF is established through a limited partnership. Appendix C is a copy of a report written by Kent County

Council Officers. Page 7 of Appendix C sets out the legal implications. However, if Members wish to pursue the proposal further, it would be necessary for Officers to obtain the Council's own legal advice.

Resource (non-financial)

21 It would be possible to invest in the Fund using property assets instead of cash. The CBRE property review report is attached at Appendix D. This has just been received from Kent County Council and the Property Manager is in the process of reviewing its findings and these should be tabled at the meeting.

Value For Money and Asset Management

22 It is not possible to assess value for money until more information is known about the investment strategy and what sort of yield is anticipated. It is hoped that once the feasibility study has been completed, more detailed information to enable decision making will be available.

Equality

23 There are no equality issues associated with this report.

Community Impact

24 There may be some positive community impact associated with the scheme. For example, in the right circumstances the Fund could lever in funding for housing or regeneration. However this cannot be measured in advance.

Conclusions

25 The proposed purpose of the Kent & Medway Investment Fund is to enable development and lever private finance across the area at a time when it is difficult for developers to attract investment funding. At the same time it is intended to provide an investment opportunity for local authorities.

26 In terms of the investment opportunity, the level of return is dependent upon the risk profile that partners decide upon in drafting the proposed investment strategy as well as the success of the projects in the development pipeline.

23 The scheme falls outside the District Council's own Investment Strategy as it stands at the moment.

24 The regeneration benefits to this District will be dependent upon the regeneration outcomes decided in the next phase of the development of the Fund. However, Members should note that although the Council would be keen to move forward projects in the District, there is no guarantee that any of the projects accepted for funding will be in this District.

Item No. 7

Risk Assessment Statement

Risk associated with the £25,000 investment in the next stage	**Mitigation**
The Council cannot be assured that there is value in investing £25,000 in the next phase of the project.	It may be possible to enter the Fund at a later stage once the investment strategy is set, although there would be financial penalties associated with this.
If the Council does not take part in the next phase, it will not be able to influence the regeneration outputs which may then favour other parts of the County.	
If the Council does not take part in the investigation phase of the project, and subsequently does not invest in the Fund, developments in the District may not be able to access the Fund and the Council may be criticised for this.	Because of high property values in the District it may be easier for developments in the District to be funded by private funders than is experienced elsewhere in the County.
If the Council does not investigate investment in the scheme, it may miss the opportunity to benefit from a higher rate of interest on its investments.	The Council's investment policy has been extremely sound and subject to minimal risk.

Note: if, after the next phase, there was a proposal to invest in the scheme, a full risk assessment would be carried out as part of the decision-making process.

Sources of Information: Appendices A, B & C

Contact Officer(s): Lesley Bowles, ext 7335

DR. PAV RAMEWAL
DEPUTY CHIEF EXECUTIVE & CORPORATE RESOURCES DIRECTOR

FINAL 19 JULY 2011

KENT & MEDWAY INVESTMENT FUND

Stage 1 Feasibility Report

Private & Confidential

June 2011

Pinsent Masons

CBRE
CB RICHARD ELLIS

CONTENTS

Executive Summary

Kent & Medway Investment Fund (KMIF) – Why?

In recent history, assistance and resource (both intellectual and financial) has been provided by central government through means such as the Local Development Agencies and the Homes and Communities Agency to assist local authorities in delivering strategic frameworks. By and large, this is now not available and local authorities are required to source their own intellectual resources and deliver projects using their own initiative.

In recognising that a cohesive approach will be required to deliver Kent's Strategic Framework, *Unlocking Kent's Potential*, Kent County Council has instructed CBRE to develop the concept of a Kent wide fund. The principle is that the fund will be seeded with Local Authority assets and funds, and used as a vehicle both to lever private sector finance, either at a fund or project level, and to make best use of available central government funding streams and initiatives such as Regional Growth Fund, New Homes Bonus and Business Rate Retention.

It is the hope that the fund will joined by most authorities within Kent. The union of the authorities will not only encourage a wider recognition of the regenerative benefits of development across the County, but also creates a critical mass of projects, access to projects and finance, which makes it of a size that becomes of interest to the wider market. This pooling of resources will allow a more efficient resourcing structure and ensure the region can access top quality advice in a cost efficient manner.

The following is an executive summary of how the fund may look (subject to agreement by all potential Partners during the next phase.)

What is it?

The KMIF will be structured as a fund, with an independent professional Fund Manager appointed to deliver an Investment Strategy agreed by the Partners. This Investment Strategy will set out the objectives of the fund, determine the rate of return and risk profile that the fund targets, as well as the type of investment the Fund Manager makes.

The KMIF will be required to invest in line with State Aid regulations and therefore will be investing at a market rate. It will aim to deliver a commercial return to its investors. The KMIF is not about gap funding, but assisting projects that may require a more considered financing solution than the market can offer on its own.

KMIF investments may be in the form of debt, equity or guarantee, and may take first or subordinated security (which will affect the rate of return).

Projects for investment will be selected not only on the basis of a sound business case, but also for the regenerative benefits that they will deliver for the region.

The fund is expected to have an initial life of 10 years, with capital and potentially returns above a certain level being retained by the fund for reinvestment during this period (an 'evergreen' fund).

It is hoped the fund will be seeded with between £20m and £30m by local authorities, any further capital that the Kent Pension Fund may wish to invest and central government funding through one of the many current initiatives.

Structure

It is recommended that the fund is set up as an English Limited Partnership. The Partners would be made up of the Borough Councils, Kent County Council and Medway Council.

There is also interest from the Kent Pension Fund in becoming a Partner, and the structure would allow them and any private sector investor that may wish to join in the future to do so (subject to the agreement of existing partners).

It is envisaged that all partners will be required to invest a minimum sum, and all Partners will have equal voting rights, with returns to Partners equalised on a pro rata basis dependent upon the value of their initial investment.

The partners will agree between them the Investment Strategy, and divest power of investment under the terms of that strategy to the Fund Manager. The Fund Manager will manage the fund on a day-to-day basis, with the assistance of fund lawyers and a fund administrator.

New Partners may join the fund at specified points during its life with the agreement of all Partners.

Benefits of the KMIF

In occupying a position in the funding market that banks and the private sector have retracted from, or reduced their capacity within, the KMIF will leverage a considerable amount of additional development money in Kent.

Because projects will need to be viable, a return will be created from investment by the fund. In addition, projects will need to accord with the Investment Strategy, which will ensure that they deliver beneficial outputs to the region.

These benefits are only made possible by a cohesive approach driven by a group of authorities, resulting in a critical mass that then becomes attractive to institutional investors; whether they will wish to invest at project or fund level, access to the funds that they have available will open up.

Potential Partner Interest to Date

CBRE and Kent County Council have held discussions with all Borough Councils and Medway Council to discuss the principles of the KMIF. The overwhelming majority have shown interest in being involved in developing the concept further. The Kent Pension Fund has also been involved in discussions.

Structural Recommendations

Pinsent Masons has been appointed to provide advice on the legal structuring of the fund, and has worked with CBRE in preparing a series of recommendations for the fund. The executive summary for these is provided as a quick reference table on the following pages.

Fund Summary

KEY RECOMMENDATIONS	KEY RATIONALE
OVERVIEW	
The Fund will initially be formed of Councils within Kent and Medway	To provide a cohesive approach to development and investment across the region. It will be possible (by agreement) for private sector investors to join in the future
The Fund will be managed by an independent professional Fund Manager	To provide a politically independent approach to implementing the aims of the fund and to give confidence to other potential investors
Investments will be made independently by the Fund Manager in line with an Investment Strategy agreed by the investors	To provide the Fund Manager with a pre agreed set of criteria that can be used to make investments without requiring ratification each time, thus reducing red tape
The Fund will lend on market terms and will address the funding gap rather than the viability gap	This is required by State Aid regulations
The Fund will target specific outputs (such as jobs etc) as well as financial returns	To ensure value for risk taken by investors
The Fund will be seeded by cash and assets that can be developed in line with the Investment Strategy	To avoid the fund becoming filled by inappropriate assets where a value cannot be derived
During the life of the Fund, capital would be recycled and reinvested by the Fund	To provide a certain minimum period of investment and maximise the scalability of the Fund
MEMBERSHIP	
Partners will join the Fund in formal stages or "closings" (timings to be agreed)	This will enable the Fund to grow incrementally and capitalise on additional investment offers
Size of partnership on first close will be optimised	This gives the Fund manager certainty over available funds and will help stabilise the Fund earlier
Incoming Partners joining at a later date will pay an equalisation payment	This will create a level playing field amongst the Partners as those joining on second or subsequent close will be joining a Fund with a different risk profile
LEGAL STRUCTURE	
The Fund will be a Limited Partnership	Due to its tax transparency for both the local authority Partners and other non-tax paying Partners such as institutional investors; avoiding tax leakage Flexibility in the way returns are distributed Familiar vehicle: commonly used in the private investment market
REGULATORY	

The local authority partners will likely rely on a mix of powers to participate in and (if applicable) transfer land to the Fund (structured as a limited partnership) or projects/investments	The Well-Being power (potentially combined with investment and incidental powers) will likely be available in so far as well-being is the primary purpose for involvement in the Fund (notwithstanding that a return is generated)
The decision on the powers being relied on will be a local authority one and each authority may decide to use a different combination of powers	After the introduction of the Localism Bill, investment and incidental powers may be available. Alternatively the local authority partners could participate in the Fund through an intermediary company
The Fund can be set up with the local authority partners (and local authority pension fund) without a competitive procurement	Establishment of the Fund will be an investment rather than a procurement of works, goods or services
Any private sector investor should be selected through some form of competitive process	If the investment opportunity is to be limited, some form of competition should be held to avoid any distortion of competition
If an investment involves the procurement of works, goods and/or services sufficient to create a Public Contract it's selection will need to comply with the Procurement Rules	On balance, the Fund is likely to be a contracting authority
FUNDING AND RETURNS	
The Fund will be funded initially by its Partners , as well as applying for central government funding	The Fund will require some cash liquidity
Total commitments will not be drawn down on day one but Partners will enter into a contractual arrangement to make funding available for draw down by the Fund manager on a project by project basis	It would be financially inefficient for contributions to be made in advance of need. However, the manager will need certainty of funding
GOVERNANCE	
The Partners will each have equal voting and control rights (based on a minimum funding contribution)	Voting rights weighted to investment would require a more complex governance structure and would not reflect that the local authority Partners have aligned policy objectives which go beyond simply protecting their investment
Most Limited Partner decisions will be taken by simple majority vote but some will require a 75% majority	Simple majority vote prevents a small proportion of the Partners from prohibiting the passing of resolutions which have majority support. A 75% threshold is usual for fundamental matters which go to the value or nature of a Partner's investment (i.e. minority shareholder protection matters).
The Fund will need to be managed by an FSA regulated organisation	The involvement of an FSA authorised entity will provide comfort regarding the proper management of the Fund's affairs
The General Partner and manager will form part of the same tax group (as opposed to the General Partner being an SPV owned by the Partners)	This will have VAT savings on Fund management costs and would reduce time commitments on the Partners

PROJECTS	
The Fund will be a holding fund which will invest in a series of project vehicles (which themselves will invest downstream)	Legal and financial ring fencing of projects Ability to leverage debt against specific assets Allows the Fund to increase its portfolio incrementally Flexibility for diversity of investment Ability to realise investment through disposals. Increases attractiveness to project co-investors
The Fund will invest in accordance with agreed parameters set out in an Investment Strategy. This will be supported by a project pipeline	This provides a framework within which the manager can operate the Fund and allows the Partners to step back from day to day operations
Each project will have its own robust governance arrangements	It is key that project vehicles have jurisdiction to determine how their schemes/projects are delivered; this would not fall within the remit of the General Partner / Manager
The Fund will usually invest on normal commercial terms. If it (or certain Partners) wishes to invest on non market terms or provide grant funding this will need to be through a state aid compliant route	The Fund will invest with a view to making returns for reinvestment and, ultimately, distribution to the Partners
EXIT	
The Fund will be set up for an initial ten year term (with the option for the Partners to agree to extend the Fund for a further 10 years)	Ten years enables the manager to take a medium to long term view to investments which is essential to drive returns and recycle funds. The Partners have the flexibility to extend the Fund if it has a viable pipeline
Limited Partners will not be entitled to withdraw from the Fund but will be able to realise their investment early through a disposal of their interest	The ability of the Limited Partners to withdraw at will would create an unstable Fund. The manager would not have certainty over available funds and private sector investors would be discouraged
The Partners would have the option of agreeing an early winding up	Allows Partners to realise their investment if the Fund is successful in its early years

Agenda Item 7

Section 1 – Introduction

KENT & MEDWAY INVESTMENT FUND (KMIF)

Kent is exploring options to create an investment and delivery vehicle of scale that will help drive economic growth and prosperity across the County.

A strategic framework has already been set in the context of *Unlocking Kent's Potential*. The framework sets out five key challenges that need to be addressed:-

1. Building a new relationship with Kent business;
2. Unlocking talent to support the Kent economy;
3. Embracing a growing and changing population;
4. Building homes and communities; and
5. Delivering growth without transport gridlock.

There is also a cross-cutting theme of meeting climate challenge and sustainability objectives that runs across all of the five areas.

This report therefore develops the proposition for the KMIF outlined in the earlier Scoping Paper (dated February 2011), to assist proactively in delivering projects that meet some of these challenges over the short to medium term. In the same way that the County, Medway and Districts have to come together to agree strategic positions on the regeneration framework and most recently, the housing strategy, a similar alignment behind the proposition for an Investment Fund will also realise the greatest potential benefit.

Background

In recent history, support and resource (including financial) has been provided by central government through means such as the Local Development Agencies and the Homes and Communities Agency to assist local authorities in delivering strategic frameworks. By and large, this is now not available and local authorities are required to source their own intellectual resources and deliver projects using their own initiative.

A number of local authorities have been looking at the potential to set up delivery vehicles often structured as Local Asset Backed Vehicles (LABV). The purpose of these vehicles is to attract and leverage private sector expertise and investment to address specific, often development-focused objectives. However, with the credit crunch and subsequent recession, the historical structure of these delivery vehicles has been questioned. In the current climate transferring land or assets into a vehicle at day one, may mean that a public authority might not achieve the 'best consideration reasonably obtainable' for the disposal of its assets. Combined with this market issue, development finance is now harder and more expensive to secure and whilst equity is available, it is expensive and requires a high return.

CBRE has worked up a model for an investment fund with Kent County Council, presented in this report, which addresses the issues and provides a credible alternative. Whilst the fund may have a LABV arm, it is different from a LABV in that it will be able to make investments in a wide variety of projects in different ways, including debt and equity through cash. It will create a return that can be recycled into other investments, and will invest in line with a strategy that will have a broader remit than the delivery of specific projects.

Section 1 – Introduction

Proposal

Kent and Medway are exploring the potential to create a fund that can invest and also harness the benefits of scale that could be realised through a combination of local authorities working together in partnership to set up and deliver a Kent and Medway wide investment fund.

Whilst this report deals with the scope of potential options and issues to be considered, it is important that the Investment Fund can be set up quickly to capitalise on potential public funding streams, initially the second round of bidding to the Regional Growth Fund, but later to reflect the potential for pooled New Homes Bonus funding and localisation of business rates, all of which will offer opportunity.

The fund will also be in a position to capitalise on the development opportunities presented on council owned assets, in particular those identified through the Total Place initiative.

The intention is that the capital within the fund will be recycled, harnessing assets and capital that can be reused again and again to deliver Kent's strategic framework.

Review of Meetings

Since the Scoping Paper, a number of meetings have been held. Initially these have been introductory meetings to explore the basis of the fund with Chief Executives. The meetings have generally been positive in tone, with all potential partners expressing an interest in working through the concept further. As a follow up to discussions with the Chief Executives, meetings have been held with property and regeneration departments to explore potential projects that may make up the early investments of the fund. A number of these have been discussed in detail later in the report, to investigate how the fund might help the delivery of them. The following local authorities and interested parties have been visited:

Kent CC
Dartford
Gravesham
Medway
Swale
Canterbury
Thanet
Dover
Shepway
Ashford
Maidstone
Tunbridge Wells
East Kent Spatial Development Company

How the Fund has Evolved Since Scoping Paper

Following a competitive procurement process, Pinsent Masons has been appointed by KCC as legal adviser for this stage of developing the concept of the fund. With the benefit of

Section 1 – Introduction

Pinsent Masons's advice, we have now reached a position to advise the most appropriate outline structure of fund. Pinsent Masons has developed a comprehensive paper on governance structure, which is included within this report.

There remain a number of governance questions that are a matter of how the participating Partners will wish the fund to be run, and these will need to be worked through over the next stage of the fund development by Partner representatives.

Following the scoping paper, progress has been made on collecting information on projects that may be presented across the County, and an understanding of the work that will be required on project pipeline has been formed.

Report Structure

This report deals with the overall concept and aims of the fund, and then looks more closely at the particular issues that arise in trying to deliver it. Recommendations for solutions are made, with detailed rationale behind these recommendations. The next stage of the work will be to take these recommendations to a steering group made up of representatives of all partners.

Whilst the concept of the fund is well developed, and generally accepted as an appropriate approach, the recommendations are open to be further developed or adapted by the partners in conjunction with the proposed Fund Manager.

Overview of the Fund

The aim of the KMIF is to optimise the economic and regeneration benefits from the funding made available by the partners – leveraging, but not supplanting lines of private finance for projects that would otherwise be available – whilst providing an appropriate commercial market level return on the funds invested. The fund is not designed to offer any gap funding for unviable schemes.

This policy will ensure that the funds available provide the best value in terms of outputs across the County. On this basis, the fund will only invest in circumstances where its intervention can enable qualifying projects to proceed in circumstances where this would not be the case if purely privately financed.

In this way, the intention is to leverage the benefits of the Kent fund investment as far as possible – applying funding which is complementary to private sector senior debt and equity.

There may be exceptions to this, where the fund has opportunities to invest in good local projects that will provide a strong return, where this will assist and strengthen the track record.

It is open to the fund to invest in equity and debt, both senior and mezzanine, in line with an investment strategy that is to be mutually agreed by Partners. In practice this would mean the fund either owning a share of development projects, or lending to them either in a position where it takes a high risk position (suitably remunerated), or a low risk position with a lesser return.

By necessity, the fund will operate within the framework of the EU State Aid Regulations, the implication of which is that any investments must be made at a market commensurate rate, or in accordance with a State Aid approved scheme.

Section 1 – Introduction

The rate of interest, security and other terms and conditions for each project will be assessed on an independent basis according to the circumstances of each scheme. As it is envisaged the Fund will be established with a considerable element of public sector funding, the lending terms will be established having regard to legal advice to ensure State Aid compliance.

Section 2 – Membership

MEMBERSHIP

In order for the fund to be inclusive across the region, but also to retain the ability to allow private sector investors to join if appropriate in the future, the membership structure, investment mechanism and partnership model need careful consideration from the start. It is essential also that these elements of the fund are equitable and fair, but at the same time measures taken to address this don't result in an unwieldy vehicle. The following recommendations (which will be developed over the next stage) have been made by Pinsent Masons to enable this.

Objectives

It is intended that the Fund will be a public/private Fund with the initial participants ("**Partners**") being local authorities across the Kent region and potentially the Kent Pension Fund. The structure needs to retain the ability to admit additional investors at future point(s) or "closings" to enable the Fund to expand and exploit opportunities to increase available funding.

Ideally all local authority participants will join the Fund at day one. If they are not all in a position to do so, there will be an equalisation mechanism to reflect that Partners joining subsequently will be investing in a Fund with a different risk profile and to ensure that the founder Partners are not in an adverse position for joining the Fund at first close.

Recommendations

Staged formal closings: Partners will join the Fund in formal, pre-determined stages or "closings". Founder Partners will join the Fund on "first close" (shortly after set up). Following this, new Partners will be able to join (provided they fulfil certain gateway criteria) and existing Partners will be entitled to increase the amount of their investment at formal closings. Potential Partners will apply for admission by invitation or application following a "call for Partners". New Partners will only be admitted to the Fund with the approval of 75% of the existing Partners (in terms of number rather than investment size) or such other threshold as may be agreed and set out in the Fund's constitutional documents. Partnership size will not be limited.

Size of partnership on first close will be optimised: Notwithstanding the potential for additional Partners to join on subsequent closings, the Fund will seek to maximise the number of Partners on first close.

Gateway criteria: Incoming Partners will be required to commit a certain level of funding (the "**Base Amount**"), subscribe to the Partnership Agreement and make an equalisation payment (see below). New Partners (outside of formal closings) will only be brought in following the exercise or waiver of existing Partner pre-emption rights. Incoming Partners not conforming to the Gateway Criteria would require the approval of existing Partners.

Equalisation payment: In addition to committing to pay the Base Amount, Partners joining on second close (or any Partners increasing the amount of their investment) will commit to paying:-

a. their investment commitment (which will be at least the Base Amount); plus
b. the amount by which the value of the Fund has increased since day one pro rated to the amount of that Partner's investment commitments (expressed through the following formula:-

Section 2 – Membership

Investment commitment of incoming Partner= £10m

Total investments [(excluding incoming Partner)] = £200m

Value of Fund on day 1 = £200m

Value of Fund at relevant close = £300m

Amount payable = (300 – 200) x (10/200) = £5m]; plus

c. A risk payment should be considered, to be agreed between the partners but possibly 1 to 3% of the investment commitment, to account for the de risked profile of the fund;

d. an amount equal to the set up costs of the Fund pro rated to the incoming Partner's commitment (to be equalised amongst the existing Partners);

Amendments to legal documents on subsequent closings: As part of the investment package negotiated with incoming Partners, there may be negotiated amendments to the legal documentation or the structure of the Fund. Any such amendments would need to be approved by the existing Partners in accordance with the normal decision making mechanisms.

Rationale

Staged formal closings

a. Enables the Fund to grow incrementally.

b. Enables the Fund to capitalise on additional investment offers.

Periodic Closings (timings to be agreed)

a. Provides sufficient time for the Fund to establish and market itself to increase appetite for further investment.

b. Allows for the Fund to become more established; meaning it is a more attractive proposition to potential second close investors.

c. Formal set closes (rather than ad hoc admissions to the Fund) give the Fund manager certainty over the funds available for investment and Partners certainty over the size of the Fund and their control over it.

Maximising the number of partners on first close

a. (Subject to timing) may allow local authority Partners to participate relying on current statutory powers (see vires, section 12 below).

b. Gives the Fund manager more certainty over funds available for investment.

c. Will help stabilise the Fund earlier.

Equalisation payment

a. To create a level playing field amongst the Partners to reflect that those joining on second or subsequent close will be joining a Fund with a different risk profile.

b. The investment proposal still needs to be attractive to Partners joining on second or subsequent close. The equalisation payment is a way of levelling the playing field at the outset and may be more attractive to those joining on subsequent closings

Section 2 – Membership

than other mechanisms such as reduced returns (pro rata to investment) or reduced voting rights for the duration of their participation.

Section 2 – Membership

FUNDING PROFILE

Recommendation

The Fund will be funded initially by the Partners (through cash and/or asset contributions). The Partners will have a commitment to contribute a minimum amount (the Base Amount as referred to above) but will be entitled to commit amounts above this. Returns will be pro rata to amounts committed (whether or not actually drawn down). The Partners will therefore not have equal funding commitments but will still have equal control and voting rights.

Where assets are approved by the Fund as appropriate contributions towards "project" delivery (such as a brownfield site or property for re-development) in line with the Investment Strategy, Partners may be able to contribute the Base Amount through the transfer of these assets into the structure. In such circumstances, it is more likely that such assets will be transferred direct to project vehicles rather than the Fund itself (see section 9; Seeding the Fund).

Partners will not be entitled to cancel undrawn commitments.

The Partners will not contribute all (if any) funding on day one. Instead, as investments / projects are identified, appraised and brought forwards (in accordance with the Investment Strategy) the Fund will draw down funding from each of the Partners in proportions pro rata to their total funding commitment. Each Limited Partner will invest in the Fund's entire portfolio (i.e. there will be no "excused investor" provisions).

Other public and private sector co-investment will be sought at Fund and/or project / investment level. The terms of any public grant funding (such as Regional Growth Fund funding) will need to be complied with. This may, for example, require such funds to be ring fenced and allocated for specific purposes.

Rationale

It would be financially inefficient for Partners to contribute funds to the Fund in advance of need. However, the Partners will enter into a legally binding commitment on admission to the Fund to commit a specified amount of funding.

GROUP STRUCTURE

Recommendation

The Fund will be a holding fund which will invest in a series of project vehicles (which themselves will invest downstream) or direct into projects. Investments in projects could be structured as equity, mezzanine or debt finance. For example, it would be possible for the Fund to:

a. establish wholly owned vehicles and/or invest in public private or public public vehicles set up for different investment purposes (such as infrastructure delivery, LABVs, rental funds) and with different risk profiles;

b. Invest in projects as identified above whether existing or new.

The Fund may seek to invest alongside third party / private investment where this is forthcoming or direct in its own right. Where the Fund invests, unless there is an available state aid approved scheme or exemption, the funding should be provided on pari passu

Section 2 – Membership

terms (where in conjunction with third parties) or on market terms (where direct in its own right) to ensure there is no unlawful state aid. (See Section 12 State Aid below).

Limited Partners could co-invest direct into project vehicles to encourage the Fund to adopt schemes in which they have a particular interest. Some projects may involve public assets (e.g. for redevelopment or infrastructure delivery). Where a local authority Partner is transferring an asset to a project vehicle, the transfer documents will need to include appropriate protections and controls for the local authority. However, any such controls will need to be reviewed from a public procurement perspective to establish whether the obligations on the project vehicle are sufficient to create a Public Contract for the purposes of the EU and UK public procurement rules[1] (the "**Procurement Rules**").

The preferred legal vehicle for project vehicles will likely be determined by the most tax efficient structure and the vires analysis (see vires, Section 12 below). The tax profile of any co-investors will be relevant here (see tax, Section 12 below).

Each investment / project will need to have in place its own robust governance arrangements. Requirements will be set out in the Fund's Investment Strategy and evidence of this would (amongst others) be a pre-condition to Fund investment. It is key that project vehicles would have jurisdiction to determine how their schemes/projects are delivered; this would not fall within the remit of the General Partner / Manager (although the Fund will require the Manager / General Partner to monitor compliance with the term's of the Fund's investment).

Rationale

Legal and financial ring fencing of projects; including the ability to leverage debt against specific assets.

Allows the Fund to increase its portfolio incrementally.

Flexibility for diversity of investment.

Ability to realise investment through disposals.

Increases attractiveness to co-investors (allows for investment in one project rather than the Fund's entire portfolio).

PREFERRED PARTNERSHIP MODEL

Recommendations

There are a number of available legal structures that could work here. Section 11 sets out the key features of each of these vehicles and their advantages and disadvantages. However the preferred option is to structure the Fund as a Limited Partnership. In this type of structure, the Partners are de-facto shareholders. There are two types of partners; limited partners (with limited liability) and at least one General Partner (with unlimited liability for the debts of the partnership). Therefore, in the Kent Investment Fund, the Partners would

[1] Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public services contracts, as implemented in England and Wales by The Public Contracts Regulations 2006, S.I. 2006 No. 5

Section 2 – Membership

participate as Limited Partners. The General Partner would have a nominal investment interest in the Fund (typically this is set around 0.1% -1%).

To retain limited liability, the limited partners cannot be involved in day to day fund management- this will be delegated to the General Partner who will have management control. Provided the limited liability of the partners remains in tact, their financial risk in relation to the Fund would be ring fenced to the amount of their investment commitment.

The General Partner will have actual authority as the agent of the Fund to bind the Limited Partners in arrangements that are within the ordinary course of the Fund's business.

The Fund will need to be operated by an FSA authorised entity. If the General Partner is not so authorised, the Fund will also need to engage a separate Fund manager to which the General Partner will delegate the majority of its functions.

The identity of the General Partner (and therefore whether or not there will be a separate Fund manager) will be dictated by the tax analysis. The three principal options here are set out below.

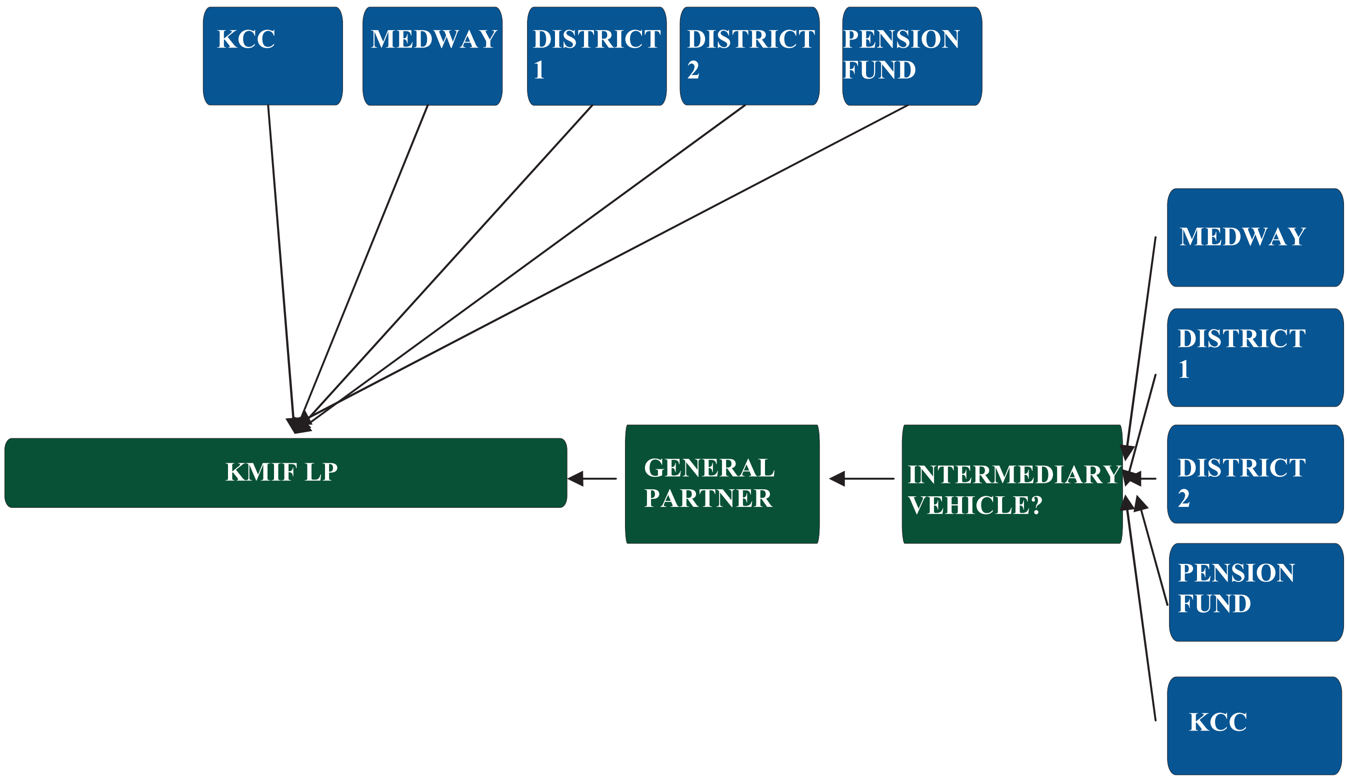
a. **Option 1: General Partner a special purpose vehicle established by the Partners.** The Partners in the Fund would also be shareholders of the General Partner (possibly through an intermediary vehicle). The General Partner could be set up as a company limited by shares (to afford its shareholders limited liability). The benefit of this option would be increased Partner involvement in the Fund governance arrangements. However, this option would add an additional layer of governance and complexity and would increase Partner time commitments. Additional decisions would need to be taken around General Partner membership and decision making. Care would be needed to avoid the arrangements becoming unwieldy and to reassure any private sector investors that the General Partner would not impede the investment process / Fund operations. In practice, the General Partner would delegate the majority of its functions to the professional Fund manager for operational efficiency. This delegation of functions also has the advantage of reducing Partner time commitments to the Fund. This is depicted as **Option 1** below.

b. **Option 2: General Partner to be the Fund manager** (or a member of its tax Group) for tax purposes (see tax analysis at section 12). In this option, although the Limited Partners would not would be directly involved in General Partner decision making, they would have a contractual nexus with the General Partner through the Partnership Agreement which would ensure appropriate governance mechanisms around operating the Fund were in place. A Partner review panel could also be established to give the Partners additional visibility over the performance of the General Partner (see "Review Panel" below). Further, under Option 1, the majority of the General Partner's functions would be delegated to the Fund manager in any event. This is depicted as **Option 2** below.

c. **Option 3: General Partner a local authority special purpose vehicle initially with the option to replace this with the Fund manager in future.** For timing purposes, the General Partner could initially be a special purpose vehicle established by the Partners (as Option 1). At a later date (e.g. after the Fund manager has been identified) the initial General Partner could be replaced by the Fund manager (or member of its tax group) (as Option 2).

Section 2 – Membership

OPTION 1: LIMITED PARTNERS ARE SHAREHOLDERS IN THE GP



OPTION 2:THE GP IS A MEMBER OF THE MANAGER'S TAX GROUP

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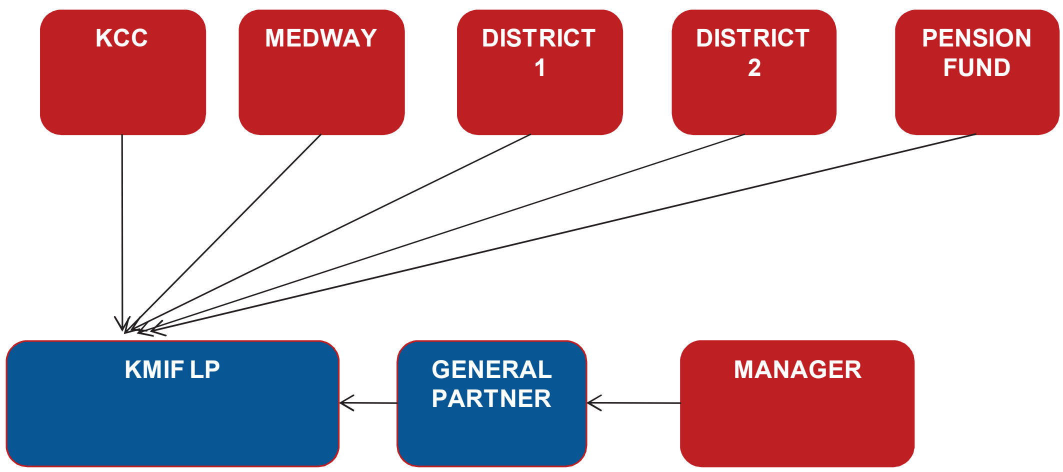


Rationale

Section 2 – Membership

Limited Partnerships are well recognised investment models in both the private and public sector (used on the Evergreen Urban Development Fund structure, by One NorthEast on its property investment joint venture with Langtree (On Site North East) and on emda's Blueprint) and is the preferred model here because:-

1. the Limited Partnership structure is transparent for tax purposes meaning the local authority Partners (and other non-tax paying Partners) will not suffer tax leakage;
2. the preference is for a single holding Fund structure (rather than other investors at the holding fund level participating or co-investing through a parallel fund structure). Therefore the structure must be attractive to co-investors. The Limited Partnership structure allows certain other tax exempt investors (such as pension funds) to retain their tax exempt status in the context of property investment whereas other structures (e.g. limited liability partnerships) do not;
3. the Partners would have the flexibility to take out returns if agreed (not necessarily in proportion to invested commitments / capital);
4. the Partners could structure their interests separate from the management structure;
5. it would provide a robust governance regime.

	Limited Partnership	Limited Liability Partnership	Company limited by shares	Company limited by guarantee
Tax	Tax transparent (tax exempt investors receive full benefit of exempt status)	Not tax efficient for certain tax exempt investors	Subject to corporation tax (tax leakage for tax exempt investors)	Subject to corporation tax (tax leakage for tax exempt investors)
Returns	Flexibility in the way returns are distributed			Difficult to make returns to the members
Market familiarity	Familiar vehicle: commonly used in the private investment market			Unfamiliar vehicle to the private investment market: more commonly used for by the public sector as a structure to undertake economic and social investment activity

It should be noted that the Limited Partnership structure is more complex than other structures due to:-

a. the requirement for an additional entity (the General Partner);
b. the Limited Partnership itself not being a separate entity and unable to itself enter into contracts, borrow money and hold property (this would be effected through the General Partner by a trust arrangement); and

Section 2 – Membership

c. more complex entry and exit arrangements: interests require assignment.

However, the market has well recognised responses to deal with the additional complexity of the Limited Partnership structure.

The requirement for the Fund to be attractive to the Kent Pension Fund means that the Limited Partnership structure is by far the preferred model; the tax benefits it offers far outweigh the challenges of the additional complexity.

Establishing the General Partner as a special purpose vehicle owned by the Partners (as Option 1 above) would appear to have the benefit to the Partners of retaining additional control over the Fund. However, in practice, the General Partner would delegate its functions to the professional Fund manager in any case. The appointment of a General Partner and manager forming part of the same tax group (as Option 2 above) would be VAT efficient (see tax, Section 12 below). The Limited Partners would have a contractual nexus with the General Partner through the Partnership Agreement which would ensure appropriate governance mechanisms were in place.

Section 3 – Fund Governance Structure

The governance, including decision making forums of the fund, will require buy in from all Partners to ensure maximum engagement and to deliver the cohesive approach to development across the region that is at the core of the KMIF concept. Pinsent Masons has provided the following recommendations, which will be subject to review over the next stage.

DECISION MAKING PANEL

Recommendation: There will be two (if GP is also manager) or three decision making forums within the Fund: the Limited Partners, the General Partner and the Fund manager. Decisions reserved for the Limited Partners will be limited as far as possible with the day to day management of the Fund being delegated to the General Partner and the Manager (where different).

Rationale: The General Partner and Manager (if different) need the freedom to take management and investment decisions without constant referral back to the Partners. There are also liability and FSA regulatory implications for Limited Partners becoming involved in day to day management. The Limited Partners will have the reassurance that the General Partner and Manager (if different) will only be authorised to act within the parameters of the Investment Strategy (approved by the local authority Limited Partners).

FUND PARTICIPANTS

Recommendation: The Partners will each have equal voting and control rights (irrespective of the level of their funding commitment and whether they joined on first or subsequent close). This will include usual "shareholder" protection rights such as reporting and audit rights, appointments to any Review Panel (see "Review Panel" below) and ability to remove the General Partner or manager). Most Limited Partner decisions will be taken by simple majority vote but some will require a 75% majority such as:-

a. the right to remove the General Partner or manager (non-default) and

b. amendments to the Investment Strategy (this will need to be approved by at least three quarters of the Limited Partners);

c. Limited Partner exits (other than through a disposal to an associate (a group company in the case of a private sector Limited Partner or another public body in the case of the public sector);

d. Admissions to the Fund;

It would be possible for the voting structure to be reviewed and adjusted on second close (e.g. to meet the demands of incoming investors), however, a default position would be needed in the case of failure to agree. Alternatively, incoming investors could be granted additional / different rights under Side Letter arrangements.

Rationale: Voting rights weighted to investment would require a more complex governance structure. Although this is common in private sector funds, it does not reflect that the local authority Partners have aligned policy objectives which go beyond simply protecting their investment. If Partners joining on second close had different (lesser) voting rights, again this would be a more complex structure and wouldn't reflect the equalisation mechanism in place to "level the playing field".

REVIEW PANEL

Section 3 – Fund Governance Structure

Recommendations

If the General Partner of the Fund is to be a third party (e.g. the Fund manager), to give the Partners additional visibility over Fund operations, a Review Panel could be established (consisting of individuals appointed by the Limited Partners) to act as a check on the performance of the General Partner (if the manager) / Manager. The Panel would review performance as required (but at least annually), consider any potential conflicts, and would have the ability to recommend removal of the General Partner / Manager to the Limited Partners.

Panel members would have no formal responsibilities or liabilities in relation to the Fund and would not have any formal decision making powers. Instead, the Panel would review investments (retrospectively) against the Investment Strategy to ensure that the Fund had taken the correct advice and that the economic outputs of investments are in line with the Fund's objectives. The ultimate decision to invest would remain with the General Partner / Manager.

Membership of the Review Panel should be limited to avoid it becoming an unwieldy forum. The size will likely depend on the number of Limited Partners. An independent Chair could be appointed to facilitate focussed scrutiny of the Fund's affairs.

Rationale

It is important that any such Panel does not have involvement in the day to day management of the Fund – this must be carried out by the General Partner or Manager (if different) as a regulated entity. In addition, such involvement could cause appointing Limited Partners to lose their limited liability status. It is also important that the General Partner /Manager has the ability to make investments decisions in a timely manner without constant referral to the Review Panel.

FUND MANAGER

Recommendation: The Fund will (through a competitive process) appoint a manager (or the General Partner will be) responsible for the day to day activities of the Fund including establishing appropriate governance arrangements and internal controls to safeguard the Fund's monies and investment portfolio. The General Partner / manager will have an internal Investment Committee responsible for:-

a. Portfolio management
    i. Project selection
    ii. Lending
    iii. Monitoring
b. Fund management
    i. Monitoring performance
    ii. Resourcing and managing reporting requirements and audit requirements
    iii. Reporting to the Limited Partners

There would be a management agreement between the Fund and the manager with appropriate recourse for the Fund in the event of the manager's failure to perform. Through this arrangement, the Partners retain some control over the Fund's activities (although this will fall short of involvement in day to day operations).

Section 3 – Fund Governance Structure

Recommendation: Unless the General Partner will be an entity authorised under the FSA to manage the Fund, the Fund will need to be managed by a regulated organisation (engaged at arms length). FSA authorisation comes with principles-based obligations including acting with due care, skill and diligence, acting with integrity and the observation of proper standards of market conduct. Therefore, the involvement of an FSA authorised entity in the structure will provide the Partners with comfort over the proper management of the Fund's affairs.

Recommendation: The Manager may appoint other consultants to assist with the day to day operating of the Fund (such as a Fund Administrator to carry out more administrative and reporting functions).

Section 4 – Governance at Project Level

It is essential that a clear differentiation between the fund manager and any management of individual projects is drawn. The Fund Manager's role will be to invest funds in suitable projects that meet the investment strategy, and to monitor compliance with the terms, but not to manage the projects themselves. The recommendations below provided by Pinsent Masons set out how project level governance may work.

GOVERNANCE AT PROJECT LEVEL

Each project vehicle would have its own governance structure. The structure would be determined by the ownership structure of the project (i.e. whether the project is a wholly owned subsidiary of the Fund or a joint venture between the Fund and a co-investor).

However, irrespective of the ownership structure, it is envisaged that each project would have its own governance structure in the usual way. It would not fall within the remit of the General Partner / Manager to determine how schemes/projects are delivered (although the Fund will require the Manager / General Partner to monitor compliance with the terms of the Fund's investment).

INVESTMENT STRATEGY AND PROJECT PIPELINE

Recommendations

Adoption: The Fund will invest in accordance with agreed parameters set out in an Investment Strategy (see section 6, Investment Strategy). The Investment Strategy will be the keystone document governing how schemes for potential funding are identified, how terms of investment are agreed and funding implemented. The Investment Strategy will be adopted on establishment. This document is steered by the local authority Partners; the Fund Manager will not have any influence over it and will simply see that it is implemented. On second close, the Investment Strategy could be updated and re-ratified to reflect the interests and objectives of incoming Limited Partners.

The project pipeline development and selection process is described in section 7 of the report, and will form the basis of how projects that meet the Investment Strategy criteria are selected for investment.

Amendments to the Investment Strategy: The Investment Strategy will have firm underpinning principles but will be flexible to adapt to changing policy drivers (intended for exceptional circumstances). There will be a clear mechanism for proposing and adopting amendments to/revised versions of the policy. Any local authority (but no other) Limited Partner may propose amendments to the Investment Strategy at set reviews (to be of a frequency as the Partners agree prior to Fund set up). Partners will also have the flexibility to call for a review of the Investment Strategy outside of these set reviews on the recommendation of the Review Panel, the manager's Investment Committee and/or due to some other extenuating circumstance (to be exercised in exceptional cases) to enable quick response to market changes. Amendments will only be adopted if approved by the local authority Limited Partners as set out above (see Decision Making).

Amendments to the pipeline: The project pipeline will be constantly evolving as investments are identified, appraised and either taken forward or aborted. The pipeline will also need to adapt according to market conditions and policy priorities of the Partners. The pipeline will be developed as set out in section 7.

Rationale

Section 4 – Governance at Project Level

The Limited Partners are asked to take a medium term view to investments. Staged reviews of the Investment Strategy achieves balance between flexibility to adapt to changing circumstances (market conditions and policy drivers) whilst giving the General Partner / manager and private sector investors certainty over the investment portfolio. It also allows for the achievement of output targets and results to be taken into account on the review date.

POTENTIAL PROJECTS

Recommendation: One of the potential projects identified as priorities for the Fund is a LABV (public private local asset backed vehicle). The LABV could be established to, for example, deliver regeneration schemes and/or provide asset management and/or Fund project appraisal services. The Fund's LABV partner would be procured on behalf of the Fund by a nominated lead Partner or the Fund's development function. Alternatively, there may be potential for East Kent Spatial Development Company (or other regeneration vehicles) to provide the appropriate resource and expertise. For the procurement implications of the Fund procuring an LABV partner see section 11.

Rationale: Key benefits of setting up such a delivery vehicle through the Fund structure are the ability to exploit economies of scale to:-

(potentially) increase value for money;

make participation in the LABV structure available to local authority Partners who, of themselves, could not otherwise develop a viable LABV business case.

RETURNS

Recommendations

It is proposed that during the life of the Fund, returns (or part of returns) would be recycled and reinvested by the Fund in accordance with its Investment Strategy (rather than being distributed to the Partners).

At the end of the Fund's life, the General Partner would pay the Limited Partners a return on their investment (similar to a dividend) pro rata to the amount of their total commitment as set out in the Partnership Agreement.

The returns policy may need to be reviewed at the request of incoming investors to allow for (for example) annual distributions. If this was the case, the Fund would need the right to re-draw amounts returned to Partners resulting from e.g. short term investments, aborted investments or bridging finance support.

Section 5 – Outputs

OUTPUTS

Whilst the fund needs to make a commercial return on investments, it also needs to deliver valuable regeneration outputs to Kent and Medway rather than simply facilitating ad hoc development across the region. There needs to be a series of quantifiable outputs that can be targeted in order to deliver this. These will then be used as an important part of the project selection mechanism, and will ensure that best value is delivered against measurable criterion.

The outputs are likely to consist of a targeted total across the region; however there may be room to negotiate separate target areas to ensure that funds are invested on a geographically equitable basis. For example a certain number of jobs may be the main deliverable for East Kent region, whereas Medway might be affordable housing. In practical terms, splitting the targets into more than 2 or 3 separate regions will be difficult.

The actual target categories and numbers will need to be worked up during the fund development, and will require input from all Partners. The targets are likely to be based upon pre existing policies for the region.

Whilst it may be aspirational to aim for the highest possible number of outputs, it must be remembered that the fund must still be able to make a return to keep investors content and to maintain the potential for a private sector investor to join at fund level; therefore an achievable set of outputs per £ invested should be agreed in an attempt to find this balance.

The output targets will then feed in to the project selection process and also the pricing structure.

Example outputs that may be considered are as follows:

Output	Measurable
Jobs created (consider industry specifics or job types; are some more preferable than others etc?)	No. Jobs
Brownfield land regenerated	Ha
Affordable housing units (consider against policies)	No. units
Private sale/private rent housing units (consider against policy)	No. units
Carbon footprint reductions	Not sure if this would be quantifiable/desirable etc
Space created at BREEAM 'excellent' level	Sq ft
Derelict space converted/regenerated/improved	Sq ft

Section 6 – Investment Strategy

INVESTMENT STRATEGY

The Investment Strategy, as explored previously, will be the tool by which the Partners divest investment decisions to the Fund Manager and General Partner. The Investment Strategy will consider a number of factors and is expected to cover the following:

- Foreword – this will outline the objectives of the fund, and give a point of reference for what the more specific elements of the strategy are striving to achieve. This section will reference the strategic frameworks of the region (including the 5 key challenges) and will set the context for the fund. It will provide a central view on the delivery of the fund that will have been developed by all partners and therefore be a useful tool to refer back to when changes to the Investment Strategy are made.
- Basis for Investment – detailing where state Aid compliance will be required, the fund's position on debt/equity, and senior or mezzanine, and how leverage will be achieved.
- Deal Sourcing – the discussions to date around project and investment sourcing have been exploring the involvement of either an internal or external development resource, and the role of project sponsors in bringing projects to the fund. This section will provide clarity on this.
- Investment Sourcing – how funding external to the local authorities will be sourced.
- Investment Process – this section will describe the process of investment, dealing with due diligence, loan underwriting, loan servicing, the role of the investment committee and key personnel.
- Investment Policy – this will contain a strategic policy, such as the fund life period, investment return objectives (eg minimum hurdle rates), outputs, phases of investment and reinvestment, and policy for cash held.
- Terms of Project Funding – Loan Underwriting Criteria. This will usually include the below:
  - Sponsor/Borrower; track record, financial status, equity availability
  - Project; construction process, planning status, rationale, details of timelines, exit strategy
  - Project Team; main contractors and their financial condition, contract details, warranties and duties of care; other financiers
  - Scheme Viability; development appraisal, financial analysis and interdependence of other borrowing, best/worst case scenario analysis.
- Lending Rate Scoring Process – This will usually include a table as shown under the 'pricing approach' section.
- Fund Restrictions and Limits – Detailing any sector or project restrictions, gearing limits, reinvestment periods, geographic limits and prohibited assets.
- Winding Up Provisions – How the fund will be wound up at close, including whether developments are carried for a period after closure before liquidating.

The Level of Commercial Return

The target level of commercial return for the fund will be set by the Investment Strategy. Because all investments will need to be made on a market rate basis or other State Aid exempt or approved scheme, the level of return that the fund will provide for the investors

Section 6 – Investment Strategy

will predominantly be dependent upon the risk level that the Partners decide they are happy with. This is because the market will always price the risk significantly ahead of any other outputs that may be delivered.

This means that the fund should always provide a level of return close to market rate for the agreed risk, but also give the Fund Manager the freedom to value the outputs of each project when pricing the loan and therefore encourage the delivery of these outputs.

Pricing Approach

The pricing approach below shows how the type of investment the fund might make could be priced. This shows the importance that outputs can be given in comparison to the other factors that a Fund Manager may consider when pricing a loan. The weighting could be varied, but it would potentially be undesirable to increase the Employment and Regeneration section to greater than, say 35%. The table is indicative, and would ultimately need to be cross checked against the rate available in the market to ensure State Aid compliance (or proxy rates, as to be strictly in line with strategy it may be the case that market lending is not to be displaced, therefore there would be no market rate.)

This process will allow a suitable balance between financial and regeneration objectives to be met.

AREA	CONSIDERATIONS (BUT NOT LIMITED TO)	SCORE (1 - 5)	WEIGHTING	WEIGHTED SCORE
Employment and Regeneration (pre agreed outputs, see 'outputs' section)	Output numbers in required areas Ability for urban regeneration with a specific focus on support for entrepreneurship, local employment generation and community economic development. Brownfield site regeneration. Geographic and sector balance (end user job creation). Timing and ability to recycle loan into additional regeneration and job creating projects		35%	
Sponsor	Experience generally and specifically relating to the proposed project. Integrity of the borrower. Resource capability, quality and commitment. How many other projects are being undertaken and what is the time line of these. Financial status and analysis of key balance sheet, P&L and cash ratios.		20%	
Construction & Market Characteristics	Location – development being delivered into a liquid market with good tenant demand. Building quality – suitability for end users, BREEAM rating etc. Project Team - Quality of the project team, including the main and sub contractors. Availabilities of warranties and duties of care for the team. Type of building contract being employed.		25%	
Structure	How the capital structure is split between equity, mezzanine and senior. Attachment and detachment points for the mezzanine How will equity be invested – pari passu/up front? The Inter-creditor and the rights of the mezzanine lender - Step-in clause etc		20%	

Section 6 – Investment Strategy

	How are the returns to mezzanine derived? – Upfront fee, current pay, coupon rolled up to maturity, back end fee/profit share/warrants.
Total	

WEIGHTED SCORE	REQUIRED IRR
1 - 2	low
> 2 - 3	medium
>3 - 4	high
>4	very high

Current Returns on Investments

The table below is a broad indication of market terms available for these types of projects. Naturally the actual returns will vary a great deal from project to project. Whilst the fund will not necessarily be lending on the same terms, and may be investing in an area that the market has failed (and therefore there will be no direct comparables), this gives an idea of the type of returns that may currently be achieved across the risk spectrum.

The type of project that may fit in the lower risk end of the spectrum could be a development of new council office accommodation, and therefore with an occupier, with the council in a joint venture with the developer using its covenant to reduce the debt level. The project may be funded with say 45% equity from elsewhere, with the fund taking a senior debt position and therefore first call on any repayment in the event of default.

A high risk type of investment may be a heavily speculative office scheme, owned by a Special Purpose Vehicle (SPV) with no covenant, where the fund lends a subordinated or mezzanine slice of debt. In this instance in the case of default the fund would be the last lender to receives money back, and there are no funds in the SPV to repay the debt.

LOAN LEVEL	INVESTMENT		DEVELOPMENT	
	Max Loan to Value	Total Return*	Max Loan to Value	Total Return*
Senior Debt	65%	4.82%	55%	6.82%
Mezzanine~	80%	15%	75%	18%

Source: CBRE Real Estate Finance, Debt Origination Team

** Total return for senior debt calculated at LIBOR+ Fees+ Applicable margin. Mezzanine returns are an assumed 'all-in' return requirement.*

~ Indicative mezzanine returns based on 65-80% LTV and 55-75% LTC slice above senior level debt.

Issues Surrounding Appropriate Levels of Return for Fund

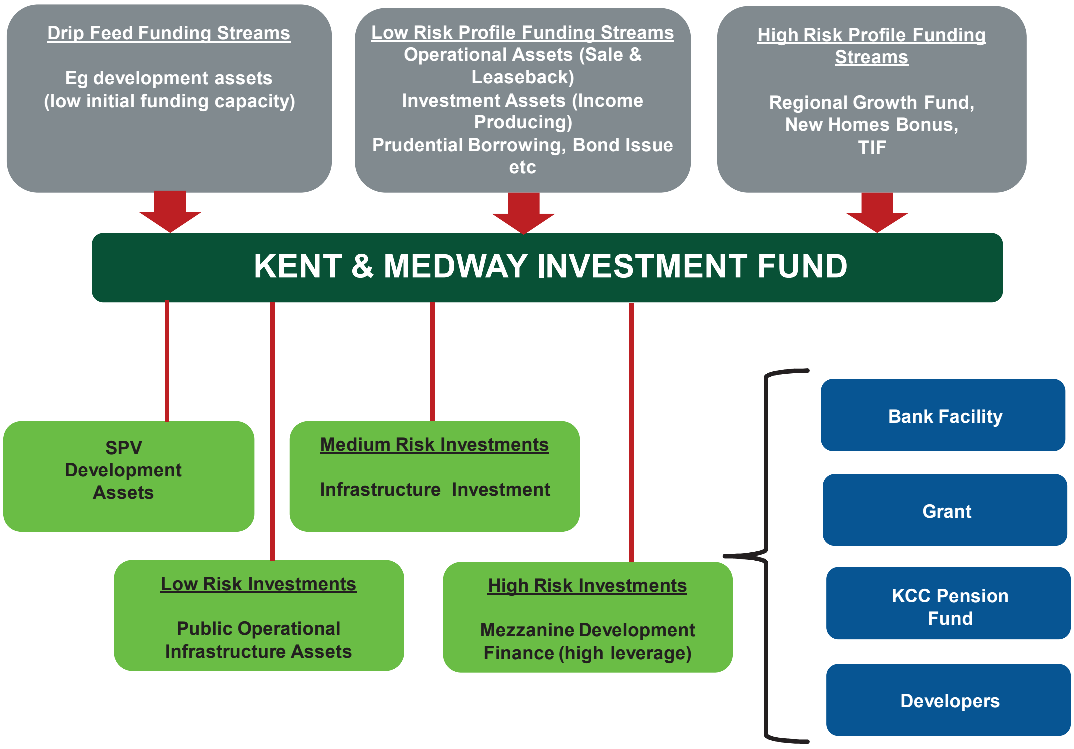
Whilst one of the aims of the fund will be to make a commercial return on investments, the source of funding will need to be clear when considering the level of returns that should be aimed for. For example, if all seed funding is derived from repayable loans, investments in high return projects would mean that the Partner is constantly exposed to a higher risk of not receiving the initial stake back, and therefore not being able to repay the loan. This of

Section 6 – Investment Strategy

course needs to be balanced out with receiving a high enough return to cover interest payments on the original loan.

In a scenario where capital used to seed the fund is likely to cause less risk to the partner if it isn't repaid, it may be appropriate to invest this is higher risk investments as the returns will be better.

Therefore once the basket of assets and capital to be used to seed the fund is confirmed, the Partners will then need to seek advice on the suitable risk profile for the fund. The Fund Manager will then be able to select investments to try and achieve this profile. This is illustrated in the green boxes in the diagram below.



Without an idea of the approach to risk by all potential partners, and indeed a better view of projects, it is not possible to forecast returns at this stage. Neither is it possible to benchmark returns against any other fund, as this is a unique proposal and returns will be driven by the collective requirements of several individual authorities.

Section 7 – Project Pipeline Development and Selection Process

Introduction

This section sets out the mechanism for which potential projects can be selected and evaluated to be put forward for first round investment by the fund. This process will be subject to further development through partner working groups.

The establishment of the criteria is based on a requirement to be:

- Transparent and equitable
- Relatively easy to apply
- Commercial
- Sensitive to regeneration outputs
- Compliant with the fund's investment strategy
- A framework to maximise overall beneficial impact of the fund to the Kent region

The assessment criteria will evolve once the initial investments have been made, for future investments in the fund in line with the Investment Strategy (which is expected to change over time).

The Process

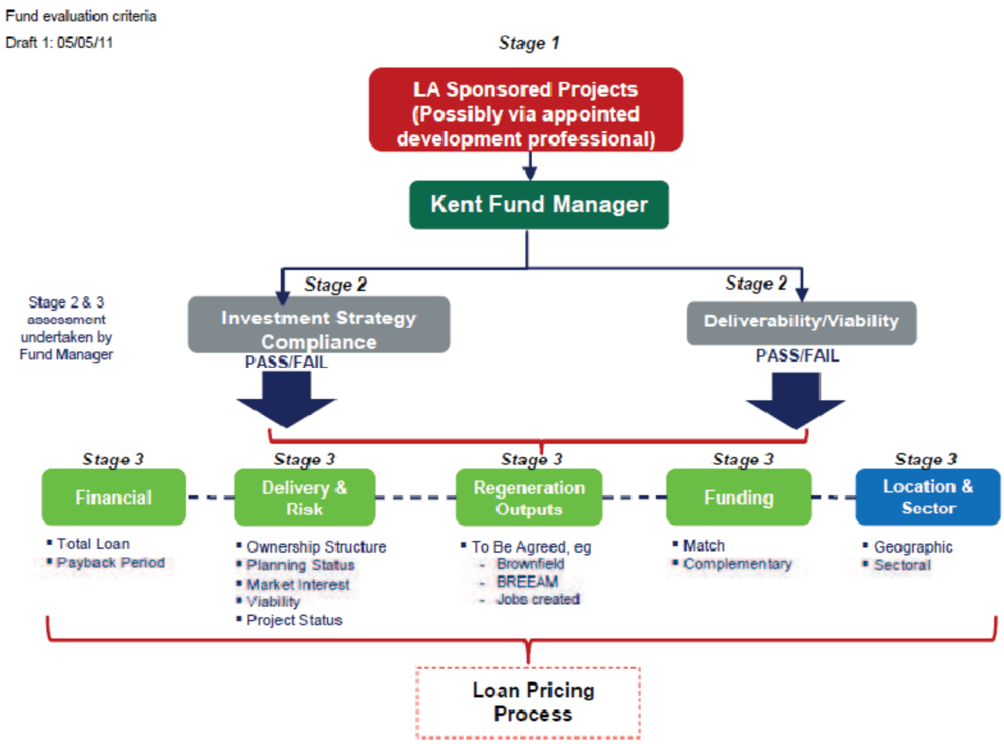
It is recommended that the project selection and evaluation process will be undertaken over 3 stages:

Stage 1 (Pipeline Development) requires Local Authorities to propose potential suitable projects for investment (which may follow the call for projects).

Stages 2 and 3 are the evaluation process undertaken by the Fund Manager and signed off by the General Partner.

Agenda Item 7

Section 7 – Project Pipeline Development and Selection Process



Stage One – Pipeline Development

Once the initial pipeline has been developed, it will become the responsibility of the partners (either individually or through a combined approach) to continue to develop this. It is likely that local authorities will use tools such as local authority asset management strategies and call for projects (to the public and private sectors) to undertake this.

Local authorities are invited to put forward projects for funding in accordance with KMIF investment criteria. These may be private or public sector projects and the Partner need not necessarily be involved in them, but will be a 'sponsor'. Once the investment strategy is completed, this will form the guidance that Partners will follow to determine whether the projects are likely to be appropriate.

This stage is designed to provide an opportunity for stakeholders to reflect local priorities in deciding which projects to put forward.

In order for projects to be developed to a stage that the fund will be able to make an investment decision, considerable work will be required. Partners will need to discuss whether individual member organisations will carry out this work, or whether a central resource should be employed, at cost to the individual projects, to provide this.

Stage Two

This is a pass/fail sifting process based on the information put forward within the Stage 1 proformas. This will be undertaken by the fund manager.

The Stage 2 sift comprises two tests:-

Pinsent Masons

CBRE CB RICHARD ELLIS

Section 7 – Project Pipeline Development and Selection Process

1. **Additionality** – will investment in the project create additional investment in the Kent & Medway region? [note that some investments may be made on a purely commercial basis to cross subsidise risk on other projects]

- No displacement of other funding streams
- Additional outputs which would not otherwise be generated
- Acceleration of the delivery of outputs

2. **Financial viability and deliverability** – can the project be implemented within the appropriate timeframe and is it financially viable with the proposed intervention?

Stage Three

Stage three involves ranking projects against each other through a scoring mechanism applying the assessment process set out below.

CB Richard Ellis has created an assessment model which considers risk weighted cost against regeneration outputs.

This provides a transparent, equitable and easy to apply approach to ranking each project which can easily be audited.

The Stage 3 evaluation process works as follows:

1. **Gross Cost**

- Considers amount of loan multiplied by the period it is lent for
- Also considers lead in period for stage 1 projects (ie the period of time money is earmarked for a project during which it cannot be used elsewhere – 'non utilisation')
- The result is a time weighted opportunity cost

2. **Risk Weighting**

- The risk and deliverability will be measured using an agreed matrix
- This acts as a multiplier, where very low risk projects have a multiplier of 1 and high risk have a multiplier of 1.5
- This is applied to the 'Gross Cost'
- The result is a risk and time weighted cost

3. **Regeneration Outputs**

- In order to compare projects, outputs have been turned into 'Regeneration Points' that can be compared like for like
- The total outputs delivered by each project can be turned into points, with each point being 1% of the target. This then gives equal importance to each regeneration target.
- Say the result is one Regeneration point equals 0.98 Ha; 29.2 jobs; 980 sq m BREEAM space
- Each project is then assessed against the above measures.

4. **Cost/Regeneration Point**

- The time and risk weighted cost is then divided by Regeneration Points

Section 7 – Project Pipeline Development and Selection Process

- The result is a cost per Regeneration Point ratio, and this provides a basis for comparison of value of the projects

Below a worked example can be seen. Here project 1 represents better value to the fund at 4.3/Regeneration Point as opposed to 6.6/Regeneration Point.

	PROJECT 1	PROJECT 2
Lead in period	0.5 year	1 year
Loan Period	2 years	3 years
Principle Sum	£8m	£11m
Risk Weighting	1.3	1.5
Risk & Time Weighted Total	*(0.5+2)*8*1.3* 26	*(1+3)*11*1.5* 66
Regeneration Points	6	10
Cost/Regeneration Point	*(26/6)* 4.3/Point	(66/10) 6.6/Point

Stage 3 concludes with an overall numerical priority assessment of the value of each project based on value for money.

[This template and accompanying matrix is subject to final agreement of the proposed weighting mechanism, in particular the risk weighting]

Following Stage 3, full due diligence and underwriting will be commenced. This will include detailed financial and output appraisals. The process to be followed will be developed and described in the Investment Process section of the Investment Strategy (see section 6; Investment Strategy).

Section 8 – Indicative Projects

CBRE has met with many of the Councils in Kent to discuss which projects they are aware of that may be early wins for the fund. At this stage, the list of projects is indicative. These projects have not been selected as confirmed projects, and neither has the opportunity for further projects to be put to the fund been passed.

Given the level of information available, we suggest an official call for projects is made during the next stage. This will also give the opportunity to get a better view of what private sector projects there might be for the fund to invest in.

These projects have simply been chosen as samples, which can be used to demonstrate how the fund might be used in the early stages. Before any projects are actually presented to the fund, selection criteria will need to be developed, and projects prioritised using this.

The previous section of this report (section 7) deals with selection criteria.

Partners Visited

The following potential Partners have been visited to date to discuss projects:

East Kent Spatial Development Company
Gravesham
Dartford
Kent CC
Swale
Medway
Dover
Maidstone
Thanet
Canterbury
Ashford
Tunbridge Wells
Shepway

This list is not exhaustive. Visits will continue to be undertaken and should any further suitable projects that could be used to illustrate different approaches be forthcoming, these may be developed.

These meetings have generally been with heads of property, economic development or regeneration, following referral by Chief Executives after initial Fund briefing meetings.

The list will be constantly changing and updated by the partners during the course of the fund.

Project Criteria

CBRE has been looking for 'quick win' projects, which will be required to both kick start the fund and created an early track record.

The types of projects that CBRE has been looking for, for the quick wins (the fund will inevitably become more diverse over time), are those that would commence within the next

Section 8 – Indicative Projects

say year to two years. These must be viable projects, or if they need gap funding they have this allocated from elsewhere, as the fund must make a viable return for all partners.

Importantly these projects may be private or public sector, and as quick win projects it is unlikely that the fund will own or manage them. The fund will simply make a decision on whether the investment's risk profile and potential outputs are in line with the investment strategy. If so, then either equity or debt finance (to be agreed during fund set up) will be provided. There will be limited interference from the fund in the project, with the exception of monitoring to ensure that funds are being expended as agreed before each tranche of debt is made available.

Quick win projects should be deliverable quickly, and so have planning consent, usually a developer on board, a worked up scheme with a reasonable chance of an exit for the fund at the end of the term of the loan. Any project sponsor should consider when putting projects forwards that it must be attractive for other Partners to invest in, which *inter alia* they will be asked to do through the fund.

Although project criteria will be developed further with Partner involvement, along with the Investment Strategy, it is suggested that at this stage the above criteria is used to explain the type of projects that the fund may be able to assist during the early phases of the fund.

Progress to Date

Progress to date has been varied, with some potential partners having more early deliverable projects than others. It has become clear across the region that the level of insight into private sector projects, and involvement in delivery of private sector projects is varied.

Project Categories

We believe that a number of types of projects should be explored through this process, and these can be broadly grouped as follows:

Low Risk, Low Return Investments

Such as Public Sector accommodation etc.

Medium Risk, Medium Return Investments

Such as infrastructure funded using Tax Increment Finance.

High Risk, High Return Investments

Mezzanine investments.

Development Assets

To be developed through an SPV.

Housing Rental

There is the possibility of the KMIF using assets in some kind of joint venture to encourage housing delivery.

To date a number of projects have been identified that fall within these categories. Below is an illustration of projects identified during meetings to illustrate the type of investments that may be suitable. These are used to illustrate the type of solution the Fund may be able to

Section 8 – Indicative Projects

deliver for them. It should be noted that this list does not infer which specific projects the fund may invest in, nor does it preclude any projects not mentioned.

Low Risk, Low Return Investments

Dartford Borough Council Civic Centre

Currently DBC are fairly far advanced with negotiations with Network Rail and SEEDA to marketing a development proposal at Station Mound on which their offices sit. Whilst they may be able to fund some of the development of new offices with the proceeds of the sale, they may not be able to fund all of it, or the opportunity cost may be prohibitive. Use of the fund could be an alternative to the Council entering into a PPP or similar, and would be a good, reliable long term investment for the fund. Whilst the fund's evergreen nature should mean it is considered as a rotating fund, the presence of a number of long term, low risk investments such as this may add a stability that makes the fund attractive to the institutional market in the future, and allow other higher risk/return investments elsewhere.

Medium Risk, Medium Return Investments

International House, Ashford

International House is one of the SEEDA assets that is currently being disposed of. It is currently unclear how the disposal will work, but on the assumption that it remains within the public sector, and under the control of either Ashford Council or Kent County Council, it is likely to provide an investment opportunity.

The scheme we have seen most recently requires the existing building to be demolished or vacated prior to any works being undertaken on the site; this is a costly solution as income from the existing tenants will be lost, and potentially those tenants will end up occupying elsewhere. It may be possible however for this delivery to be re engineered, and development within the curtilege to start whilst the tenants remain in place. This would then allow a decant into the new offices, thereby retaining rents and vacating International House.

Subject to a development proposal and further progressed scheme, this sort of project could potentially be funded by the KMIF, allowing a more structured development approach through providing early bridging finance. The rate and risk will vary considerably depending upon whose covenant is used in the borrowing and what the scheme actually looks like.

The Bridge District Centre, Dartford

The basic premise is that Taylor Wimpey will come to the maximum number of houses they can build without a district centre (2 doctors, one dentist and some local retail space), but seem to be dragging their heals at delivering it. Meetings with the developer would be required to take this any further, but the district centre seems a viable scheme, which isn't being delivered. The fund could lend to a developer to deliver this, perhaps backed with a rental guarantee from Taylor Wimpey for a period of years, and the exit would be sale to the market in say year 3 – 5 when the units are fully let.

Watermill Wharf, Chatham

This is a redevelopment of 4 railway arches, to be made into business start up units (smart, clean uses). The scheme is in fact not market viable, but it is lettable. Medway feel that it may be possible to include the cost of developing these as a s106 requirement to the site

Section 8 – Indicative Projects

next door (Stroud Riverside), which they own and will be marketing in due course. Therefore the fund could make a loan for the start up units to be developed, releasing business space, regenerating a small area and potentially creating jobs, and the Council could guarantee the loan repayment, until such point that their development land is sold off where a bullet payment is made to the fund by the Council, with the Council being repaid through the s.106.

Eco-refurbishment Fund

The Energy Saving Trust has developed a Public Private Partnership financing and delivery model to enable local authorities to work with the incoming Green Deal legislation.

There is an opportunity to roll this model out across Kent. The model is predicated upon retrofitting private sector housing stock, and recovering the cost through a fixed cost on energy bills (the total is required to be lower than it would have been prior to the retrofit.)

There is a possibility for the fund to enter this as an equity partner, a senior debt funder or a mezzanine funder. At present, the model is being considered across a number of authorities, with Birmingham City Council having completed a business case and due to procure a deliver partner during this summer.

The average return (if an investor takes the entire debt position, as Birmingham CC is considering doing) is forecast to be c.6.5%. The project is scaleable and returns improve through economy of scale.

High Risk, High Return Investments

St James's Street, Dover

St James's Street in Dover is an area in the town centre, currently with an obsolete tower block, a car park and other minor uses occupying it. There is an existing planning consent for a scheme that is now undeliverable, but a new application will be submitted this summer, with a result expected around Christmas.

The revised scheme will be mixed use, with a hotel and restaurant focus. Currently Dover Council own c.70% of the land, and have a development partner, Bond City Developments. At present it is understood that occupiers have been found for the hotel and several restaurants and a number of retail units.

Some bank funding is available for the scheme, which we have been told is viable, however before works can start some further land assembly is required. It is anticipated that the fund could lend money for the purchase of the required land, subject to alignment with the investment strategy, against the covenant of the Council and the scheme could refinance the money once there are further prelets. Using the Council's covenant will move this project from a high risk investment to a lower risk investment, depending who has first call on the security.

Development/Infrastructure Package

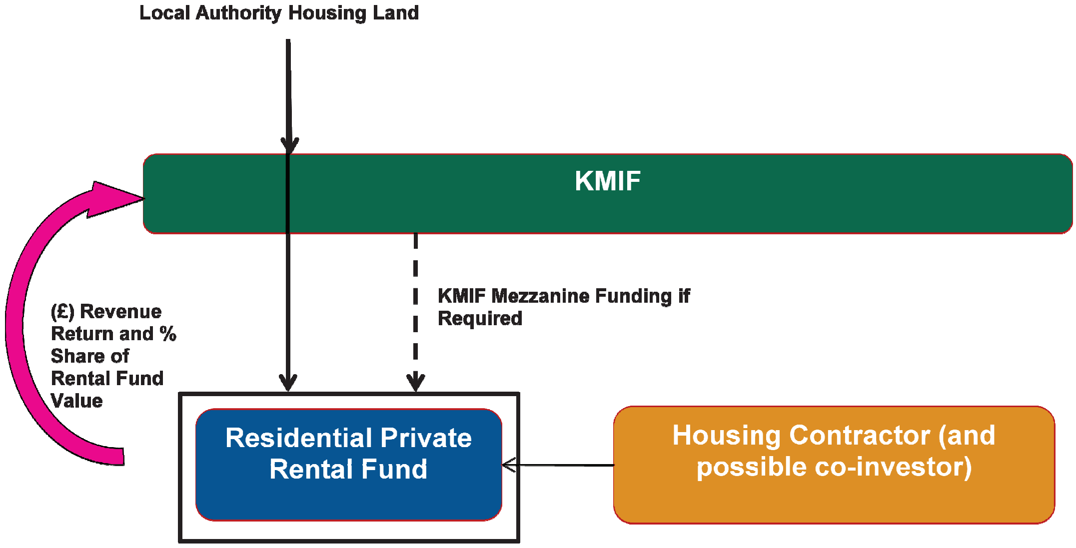
There is also the potential to provide some sort of funding agreement, pre agreed, where a District may be selling land that needs improving. For example, one end of Stroud Riverside is not being delivered by the market (we are told, and the Fund Manager would need to confirm this), as it requires forward funding of say £3m to build a new river wall. Perhaps these types of sites could be sold with the benefit of a pre agreed funding arrangement, with the District's covenant backing it, and in exchange retain a value of the site that can be

Section 8 – Indicative Projects

sold either when the defences are completed or later in the development. This would accelerate housing delivery.

Housing Rental

Through our meetings with local authorities, there is interest amongst some of them in stimulating investment in new private rented stock. It would be possible for the KMIF to invest either directly in new residential units where a developer is promoting a private rental fund or, alternatively through a public sector sponsored proposal that could be structured as follows:



Local authorities in strong locations for a rental product could identify their own sites for development of a potential rental product. Again by taking a portfolio approach, sufficient scale could be achieved across Kent to make it attractive enough for a housing contractor to take a reduced return. In addition to participating local authorities investing their land as equity in the fund, the KMIF may then also want to consider a direct investment into the fund in return for a rental return and the prospect of capital growth. The level of return for such an equity investment would usually be approximately 5% - 6% net of voids, running costs, etc.

The advantage of this structure is that the KMIF would help stimulate a large number of quality private rented units that would be in areas where there is strong rental demand as well as potentially strong capital growth opportunities. Through the fund investing in assets where the local authority itself also has a land interest there is a mutuality of benefit.

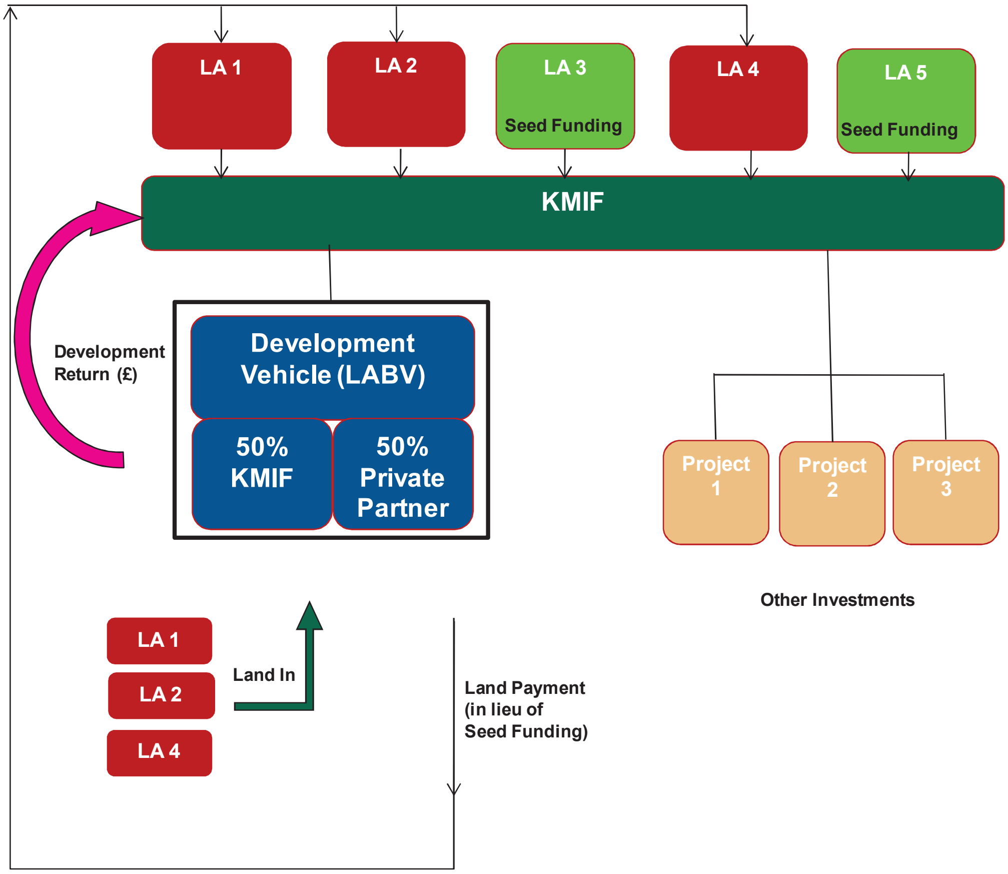
SPV/LABV Development Assets

Further thinking on some type of SPV for development assets – could potentially include SEEDA assets.

Based upon our discussions with local authorities across Kent, a number of publicly owned development assets have been identified. Indeed, some of the local authorities we met with have considered creating a SPV, to realise the development potential of their assets. In some cases the value of the assets has not been sufficient to justify the creation of such a vehicle by an individual local authority. The concept of being able to pool assets to achieve the benefits of a LABV has in principle, been positively received. To achieve the necessary scale we consider a special purpose vehicle/local asset backed vehicle could be created to

Section 8 – Indicative Projects

act as the development vehicle through which the development value in the KMIF Partners' land assets could be realised. A potential structure for this is shown in the diagram below.



A local asset backed vehicle is often structured as a Limited Liability Partnership in which the public and private sector control the development company through a 'deadlock' structure i.e. each party controls 50% of the interest. The LABV is usually seen as an attractive form of vehicle because the private partner obtains access to a pipeline of development projects and benefits from a public partnership where there is a general alignment of interest between the public and private partner.

From the public sector's perspective, such a vehicle provides resourcing and expertise to enable development assets to be worked up and brought forward for development. Because there is some risk sharing and assets are dealt with on a more arm's length basis through the development vehicle, the private sector partner is usually willing to proceed on the basis of an agreed development management fee with the commensurate profit realised from the development then being split on a 50/50 basis with the public sector.

In the proposal outlined above, the return and attraction to the KMIF would be 50% of the development returns through the vehicle as well as potentially a return on any debt that might be provided to the vehicle. In the example provided outline above, if the value of the undeveloped land assets was say £100m with a projected gross development value (post development) of say £300m the return to the KMIF through its 50% ownership in the LABV would be as follows:

Half of the profit at 15% of development costs (say £200m) = £30m

Split 50/50 i.e. £15m + the original value of the land = £100m.

Section 8 – Indicative Projects

Total say £115m

These figures are simplistic and provided for purely illustrative purposes.

Section 9 – How the Fund could be Seeded

The Fund will require working capital and therefore will need to be endowed with either an asset base or other funding stream.

The fund is likely to be seeded from 2 sources; realisation of the value of Partner assets and other availability of funds, potentially made available by central government.

PROPERTY ASSETS

The property assets could broadly be categorised as:-

Partners' Property Assets

- Operational assets;
- Non-operational income producing investment assets; and
- Development assets

Clearly these have different characteristics and the mix and balance between the asset pools will need to be understood before a detailed structure and investment strategy is created.

How Capital can be Realised from Property Assets

It is open for Partners to decide how they will create cash from assets they wish to dedicate to the fund. The first decision however is whether the Partner will transfer the asset to the fund, for the fund to derive value, or whether they will keep control of the asset and derive the value themselves, and simply transfer cash to the fund.

The latter is a cleaner method (and more tax efficient in SDLT terms, as described in section 11) that will ensure Partners can keep control of their assets; however there is the understanding that the Partners may not have the resources to do this.

If the fund is expected to perform these functions this will need to be resourced, either through a sub contractor to the fund (which could be the same firm as the fund manager), or through a sub contractor to the partners; this role could either be resourced externally using an established development practice, or internally using officers or a company such as East Kent Spatial Development Company.

The use of assets will be dependent upon the individual authority's asset management strategy, and can be illustrated as below:

Operational Assets

Any operational asset may be used to provide a capital sum. This is likely to take the form of a sale and leaseback, which could either be by way of the sale of a lease for a fixed period, or outright sale of the freehold, both with the occupier paying a rent. It would seem appropriate for Partners to deal with this themselves, allowing them control over the terms of the agreement. Alternatively the fund could affect this through a back to back agreement with a third party. This would not necessarily require the fund to take ownership at any point, however either the freehold ownership or long lease would no longer be with the Partner and a rental would need to be paid.

Non Operational Income Producing Assets

Non operational, income producing assets dedicated to the fund may be dealt with in a number of ways.

Section 9 – How the Fund could be Seeded

The asset may simply be sold as an investment sale, and the cash transferred. Whether the fund undertakes this, or whether the Partner does so is a matter of administration, however it is likely to be more efficient if the partner deals with this.

Alternatively, the asset may be held, and a capital sum raised against the income by way of a mortgage. Either the ownership may be transferred to the Fund, and the Fund undertakes this work, or the local authority retains control, borrows the money and then puts cash into the fund.

Development Assets

Development assets will be treated in one of two ways; either they may be developed as projects, with the fund receiving value from the finished development through either equity retention, or sale of the completed development, or the assets will simply be sold for best consideration. Again, the Partner could perform these functions if they wish to retain control, or the fund could do so.

The proportion of development assets dedicated to the fund compared to cash and other more liquid assets will determine what amount of the development assets will need to be sold, and what proportion could be held and developed out by the fund.

There appear to be a number of development assets identified by the various local authorities we have met. The opportunity exists therefore to pool these potential development assets into a development vehicle. The advantage of this is that taken collectively as a portfolio of assets, there may be sufficient scale to warrant establishing a developing 'special purchase vehicle' such as 'a local asset backed vehicle'. In isolation, an individual local authority may have insufficient scale or value of assets to justify the establishment of such a vehicle.

Our recommendation is that an option is explored whereby the KMIF holds the 50% stake in the asset backed vehicle, usually structured as a Limited Liability Partnership. By pooling development assets in this way, the fund would be able to benefit from the returns made by the SPV and therefore this structure could be the primary vehicle through which the value of public sector development assets is realised.

How Assets Will be Valued into the Fund

Assets coming into the fund, with the exception of development assets, will be valued on the realisation of the capital value. This is likely to vary from the book value of the assets, and Partners should be aware of this.

Potential development assets, providing they meet the specified project selection criteria, would need to be valued on the basis of their existing use value. This would enable the SPV to capture the uplift in value that is created through enhancing the site through planning, infrastructure investment, or other form of pre-development or risk mitigation work. In the likely event that partners to the KMIF did not all contribute assets of an equal value, a payment or commitment would be required from the remaining partners.

Timing for Release of Seed Funds

The fund manager will have a better idea of the proposed cashflow requirements of the fund nearer the launch. Clearly there is little point in liquidating assets on day one if there is limited call on funds until say year 2. This will lead to a situation where Partners will need to commit assets, perhaps by restriction on title, but will not be required to liquidate them

Section 9 – How the Fund could be Seeded

until the capital is to be invested. An equitable system of call down of these asset liquidations will need to be devised through the working up of the finer details of the fund.

Equitable Return on Assets

Whilst the fund is primarily a regeneration fund, it will also deliver a market rate of return (commensurate to the agreed risk profile) on investment. As explained elsewhere in this report, the basis for investment is that a minimum amount of investment will be required and that funds above this will attract a coupon. This is intended to ensure that all partners will be financially rewarded in line with the success of the fund. This is dealt with in more depth elsewhere in the report.

In terms of return on investment to the Partner's region, this will be governed by the Investment Strategy as it is developed and the project selection process, also dealt with elsewhere in the report.

OTHER FUNDING STREAMS

Other potential funding streams, at present, may include the following, although these are liable to vary through the life of the fund:

- Regional Growth Fund
- New Homes Bonus
- Business Rate Retention through Tax Increment Financing (TIF)
- Prudential Borrowing

Regional Growth Fund (RGF)

There is the potential for RGF monies to be managed through KCC and invested in projects which meet the RGF criteria of delivering private sector employment outputs, supporting sustainable private sector enterprise and alleviating public sector dependency.

Specifically within the Fund's model or approach, it is the intention that the RGF money would address any inherent viability gap within projects that would otherwise prevent them from being investable by the Fund (subject to State Aid rules). This structure facilitates a wider range of projects to meet the Fund's investment criteria, and thus enables a greater level of private sector investment to be leveraged which would otherwise not have been applicable to these projects. Securing RGF for this programme will as such ultimately deliver greater levels of development and consequent employment creation.

Any return on the Fund investment in the respective projects would be recycled back into other projects, with the process allowing for perpetuating development throughout the programme area.

It is Kent's intention to invest RGF monies in a programme of investments allied to sustainable employment growth which would otherwise not be commercially viable in their present form.

New Homes Bonus (NHB)

The Partners may wish to consider drip feeding New Homes Bonus payments that are created by developments delivered through the fund, or a percentage of total NHB payments across their area. On the basis that the fund promotes developments that may not otherwise be delivered, this NHB is exactly a bonus.

Section 9 – How the Fund could be Seeded

Business Rate Retention through Tax Increment Financing (TIF)

Although the legal infrastructure to use TIF within England is not yet in place, it is widely recognised that it is likely to be within the next 2 years. TIF schemes are already in place in Scotland, and provide an opportunity to forward fund an infrastructure project, whilst retaining part of the uplift in business rates.

This provides both an opportunity to capitalise forecast future uplift to release capital, and also an opportunity to invest in the infrastructure itself. It may be that the cost of relevant infrastructure projects are excessive for the fund in its current form, however tackling such a project may present an excellent opportunity for private sector tie in.

TIF projects thus far in Scotland have been predicated upon the LA borrowing money to fund the infrastructure, and not investment from the private sector.

Section 10 – Next Steps

Once the concept of a KMIF has been approved by sufficient potential partners, and these partners are committed, considerable further work will be required. At this stage, it is recommended that the partners are asked to commit to the fund by contributing to the financial cost of the work required to take forward the next stage of development work.

The next step is for the concept to be presented to a special meeting of the Kent Joint Chief Executives. Should the concept be approved, a process of developing the fund to a stage where it can be launched will need to be instigated. This will require the procurement of an adviser with legal support.

An interim governance structure for this stage will need to be developed, which ideally will mirror the Partnership structure once the fund is set up. Two groups should be set up to ensure prompt delivery of the fund; a steering group and a working group.

The steering group should be made up of high level representatives (preferably chief executives) from each potential partner. Depending upon the timescales to get the fund up and running, this group may be required to meet either weekly or fortnightly, along with the consultant assisting in developing the fund. The steering group will oversee the high level development of the fund, fed into by the working group.

The working group will need to work on the following three main workstreams:

- Development of Investment Strategy
- Development of Project Pipeline
- Development of Governance Structure

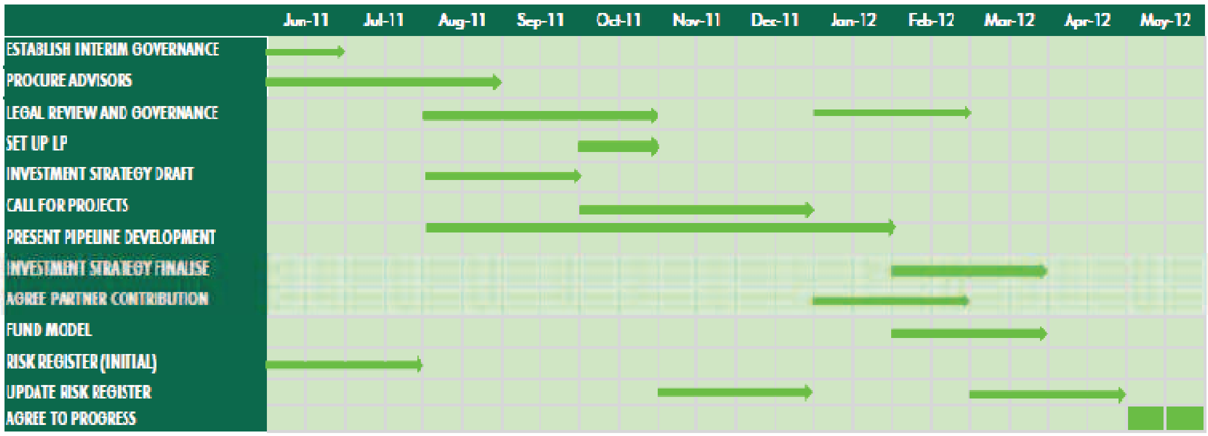
The working group is expected to be made up of relevant officers from each authority. Input from more than one officer in order to cover different disciplines may be required.

At the end of this stage of the fund's development, it is expected that the following will be delivered. This will ensure that all parties are bought into the fund and following the completion of the documents, setting up the fund will be as simple as possible.

- Committed assets. This will require partners to identify how they propose to seed their share of the fund, and letters agreeing to commit those assets.
- A developed pipeline, with projects that are ready for loan underwriting/loan pricing. This will involve a call for projects as well as further working through projects with individual authorities. This will be run in parallel with the resource that is proposed to take on pipeline development for the life of the fund.
- A settled Investment Strategy will be produced once assets are committed and potential projects are identified; this will enable the adviser to guide the potential investors through a process of assessing the level of risk that may be appropriate, alongside agreement on outputs that will be encouraged through this.
- An agreed form of Partnership Agreement. This will require the governance structure to be fully agreed between partners, and for fund lawyers to prepare the documentation.
- An agreed form of Fund Manager/General Partner Agreement. It is suggested that the proposed Fund Manager is involved in this stage.
- Register of risks.

Section 10 – Next Steps

Indicative Timeline for Next Steps



Section 11 – Vires, Procurement, Tax and State Aid

VIRES – EXTRACT FROM 'KENT INESTMENT FUND STRUCTURE NOTE' PREPARED BY PINSENT MASONS

Executive Summary

Local authority Members in the fund will need to identify powers enabling them to establish the Fund and then continue to participate as an investor and (if applicable) transfer assets to it.

The powers available will depend in part on the timing of implementation of the Localism Bill and the orders made under it. However, the local authority Members will likely rely on a mix of powers to participate in and (if applicable) transfer land to the Fund or projects/investments. The decision on the powers being relied on will be a local authority one and each authority may decide to use a different combination of powers

In terms of local authority participation in the Fund (structured as an LLP) prior to the implementation of the Localism Bill, the Well-Being power (potentially combined with investment and incidental powers) will likely be available in so far as well-being is the primary purpose for involvement in the Fund (notwithstanding that a return is generated). After the introduction of the Localism Bill, investment and incidental powers may be available. Alternatively the local authority partners could participate in the Fund through an intermediary company

Power to establish and participate in the fund

Section 2 Local Government Act 2000 ("**Well-Being Power**") - as a power of first resort. Reliance upon it however can only be short term, since the Localism Bill will disapply this provision in England once the general power of competence becomes law.

This will potentially be available to local authority Members in so far as:-

1. Participation in the fund is primarily in pursuance of social, economic or environmental objectives for the benefit and well-being of its area or part of an area or person resident or present in the area. Also for the benefit of an area or person outside its area if it is likely to achieve a well-being objective within the area.
2. The local authority has duly and reasonably formed and recorded its opinion that its participation is likely to directly promote and improve the social, environmental or economic well-being of its area.
3. The local authority has had regard to its Sustainable Community Strategy and set out an indication of how the proposals relate to the strategy and align with it
4. The local authority has had regard to the Guidance published by the Secretary of State on use of Well-Being Powers (the "Guidance") and that the participation in the fund is consistent with it.
5. The local authority has considered the limitations on the use of the well-being power set out in Section 3 Local Government Act 2000 (LGA 2000) and concluded that they do not prevent its use in these circumstances i.e. the Council is not:
   a. doing anything which it is unable to do by virtue of any prohibition, restriction or limitation on its powers which is contained in any enactment whenever passed or made;
   b. raising money - whether by "precepts, borrowing or otherwise"; or

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c. doing something which the Secretary of State has prevented by specific order.

Sections 1 and 12 Local Government Act 2003 – ("Borrowing and Investment Powers")

Section 1 gives local authorities power to borrow and section 12 a separate power to invest, in each case for any purpose relevant to their functions under any enactment or for the purposes of the prudent management of its financial affairs.

Borrowing

A local authority may not borrow if to do so would breach the affordable borrowing limit it has set or is imposed by the Secretary of State. At the present time there is no national limit set by the Secretary of State and so the local authority Members only need address the issues in relation to the requirements in relation to the limit they have determined they can afford to borrow.

At the centre of the new prudential borrowing system is the obligation for authorities to determine and keep under review the amount that they can afford to borrow. It is for each authority to set its own 'prudential limit' in accordance with the detailed rules that are prescribed by the Secretary of State.

The Prudential Code to which local authorities must now have regard is published by CIPFA (The Chartered Institute of Public Finance and Accountancy). In addition regulations require that they must have regard to proper accounting practices, including The Statement of Recommended Practice: Code of Practice on Local Authority Accounting in the UK (SORP) and the Best Value Accounting Code of Practice – both also published by CIPFA.

The key objectives of the Prudential Code are to ensure, within a clear framework, that capital investment plans are affordable, prudent and sustainable and that treasury management decisions are taken in accordance with good professional practice. To demonstrate that local authorities have fulfilled these objectives the Prudential Code sets out detailed indicators that must be taken into account under the following headings:

- Affordability
- Prudence and sustainability
- Value for money
- Stewardship of assets
- Service objectives
- Practicality

Affordability is ultimately determined by a judgement about the acceptable level of Council Tax. In considering affordability the local authorities must pay due regard to risk and uncertainty. Risk analysis and risk management strategies should therefore be taken into account.

In relation to this matter, these issues will also be relevant to the consideration of the local authorities' fiduciary duty ie the need to conduct their administration in a fairly business-like manner with reasonable care, skill and caution, and with a due and alert regard to the interest of the Council Tax payers. However it is in each local authority's discretion to determine what the interests of the Council Tax payers are and how they are best served following its analysis of the relevant costs and benefits.

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In addition, there are proposals to implement a sub cap on HRA borrowings for housing investment (with focus shifting towards self financing models).

Investment

In relation to borrowing to invest, the Government's commentary on the guidance on the use of the investment powers makes it clear that this provision was introduced to remove doubts which persisted under the previous capital finance regime, but reminds authorities that the practice of speculative borrowing purely in order to invest at a profit remains unlawful.[2]

In exercising its powers of investment local authorities must have regard to the statutory guidance issued by the Secretary of State and specified guidance published by CIPFA. A local authority relying on this power as part of the transaction must ensure that this is consistent with its Annual Investment Strategy approved by full Council[3] or that the Strategy is amended to accord with this new proposal.

The guidance provides that local authority investment strategies much first consider **security** (protecting the capital sum from loss) and then **liquidity** (keeping the money readily available when needed). The informal commentary states that the generation of investment income is distinct from these prudential objectives and is therefore not a matter included in the guidance. However it states that this does not mean local authorities are recommended to ignore such potential revenues and once proper levels of security and liquidity are determined, it will then be reasonable to consider what **yield** can be obtained consistent with the priorities of security and liquidity.

There are specific provisions which need to be taken into account with regard to the treatment of various types of investments and it should be noted that Section 12 does not refer to pension fund or trust fund investments which are subject to separate regulatory regimes.

Section III Local Government Act 1972 ("Incidental Power") – in relation to the local authority's functions

Section 111 of the Local Government Act 1972 provides a local authority shall have power to do any thing (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conductive or incidental to, the discharge of any of their functions. However, a local authority does not have the power under this section raise money, whether by means of rates, precepts or borrowing, or lend money except in accordance with the enactments relating to those matters.

The word "functions" embraces all the duties and powers of a local authority; the sum total of the activities Parliament has entrusted to it. Although seemingly wide, the approach to construing this power is often narrow.

A power is not incidental merely because it is convenient or desirable or profitable.

[2] Guidance on Local Government Investments (second edition 11 March 2010) DCLG. This reflects decisions such as the HL in Hazell v Hammersmith & Fulham Council [1992] 2 AC 1

[3] Formulating a plan or strategy for the control of an authority's investments is not an executive matter.

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If an authority could obtain what it needed by means of a simple contract more elaborate arrangements are likely to involve elements which go beyond what was necessary for that limited objective.

The power has been used to form companies and trusts in the past and was the main power relied upon before well-being. Whilst in principle it is possible, in many of the cases this has been held to be ultra vires due to it being found that there was no valid exercise of an underlying power to attach the incidental power or due to the company formation being too remote to be incidental. There was one case however where the creation of a trust was found to be incidental to section 137 LGA 1972 power (the relevant part now repealed) and not an end in itself, nor did it involve any unlawful delegation.[4]

The incidental power cannot be used where the use of the power has become "incidental to the incidental".

Entering into a contract under Section 1 of the 1997 Act is not discharging a function within the meaning of section 111. So whilst a local authority may enter into a contract as an act incidental to performing one of its functions the contract itself is not a function of the authority for the purpose of section 111.

When a power is claimed to be incidental, the provisions of the statute which confer and limit functions must be considered and construed. Where there is an express limited power, then the Courts may look to see additional powers also in express terms rather than allow use of an incidental power.

So for example in a leading case[5] the question was not whether swap transactions were incidental to borrowing but whether swap transactions were incidental to a local authority's borrowing function having regard to the provisions and limitations of the relevant Act regulating that function. Where such provisions provided a comprehensive code, what it did not expressly or impliedly authorise must be taken to be prohibited.

In that case it was concluded that swap transactions were essentially speculative methods of raising money/making a profit in the hope of reducing the burden of interest payable on money already borrowed and increasing the resources of the local authority. They are a separate and distinct activity - a form of diversification. Whilst individual trading corporations and others may speculate as much as they please or consider prudent, a local authority is not a trading or currency or commercial operator with no limit on the method or extent of its borrowing or with powers to speculate. The local authority is a public authority dealing with public moneys, exercising specific powers. In view of the circumscribed power of borrowing conferred by the statute (at that time in particular Schedule 13, Part I of the LGA 1972 Act) interest swap activities could not be treated as incidental to the function of borrowing conferred upon local authorities by the Act. Whilst the legislation has changed, the principle remains the same and is relevant to the considerations for this proposal.

Localism Bill

Clause 1 of the Localism Bill sets out the proposal to introduce a "**general power of competence**" for local authorities. When enacted, this will replace the Well Being Power in England. It is described as a power for a local authority to do "anything that individuals generally may do". In using the power, the local authority may act "in any way whatever",

[4] House of Lords - Manchester City Council v Greater Manchester MCC 78 LGR 560

[5] Hazell v Hammersmith & Fulham Council [1992] 2 AC 1

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whether or not for a commercial purpose, with or without charge and whether or not that action would benefit the local authority, its area or persons resident or present in the area.

The proposed power is subject to statutory parameters (including actions prohibited by other legislation). However, the new power is intended to authorise activities carried out by local authorities for commercial purposes provided they do not relate to charging for services they have a statutory obligation to provide. Significantly the Bill additionally provides "***Where, in exercise of the general power, a local authority does things for a commercial purpose, the authority must do them through a company***."[6] This is defined as a Companies Act company or registered society under the Cooperative and Community Benefits Societies and Credit Unions Act 1965 or the Industrial and Providence Society Act (Northern Ireland) 1969, but not a limited partnership or a limited liability partnership. It is the interpretation of the scope of this limitation that will be critical to as to whether the general power of competence can be relied upon if an LLP or LP structure is necessary. See further below.

Limitations on Well-Being and the General Power of Competence

There has been debate in relation to the ability for local authorities to use an LLP ever since the concept was first created; prior to that there were similar debates with regard to the formation of companies and Limited Partnerships. The position in relation to companies has become more accepted, although of course the **Brent**[7] **Case** demonstrates that such arrangements can still be ultra vires for a variety of complex reasons. There is now of course specific provision for use of a "company"[8] for the purposes of section 95 LGA 2003 (power to do for a commercial purpose anything authorised to do for the purpose of carrying on any ordinary functions) and whilst this has similarities to the provisions contained in the General Power of Competency the situation post the Localism Bill will not be identical to the present powers situation and in our view will be more limited and is likely to mean that the local authorities will have to form a company in order to participate in the investment scheme.

There are now a number of LLPs and LPs in operation and we are aware of a number of leading counsel's opinions which support the use of an LLP and an LP in appropriate circumstances, but there is as yet no case law on this specifically.

The Brent Case also considered the scope of the Well Being Power and the incidental power (section 111) of the London Borough of Brent Council. The case is therefore relevant to considerations for the use of the Well Being Power and an LLP/LP. The Brent Case decision (amongst other things) demonstrates:-

a. that a local authority cannot rely on its Well Being Powers to enter into arrangements to promote its own financial well-being; and
b. that when considering whether a transaction forming part of a larger scheme is intra vires, whilst it is necessary to have regard to the entirety of a scheme, it is also necessary to consider the individual transaction itself is authorised.

Requirements for an LLP or LP

[6] Current clause 4(2)

[7] *Brent London Borough Council v Risk Management Partners Limited [2009] EWCA Civ 4900 (the Supreme Court appeal not proceeding in relation to the vires issues)*

[8] Defined as a company limited by shares or guarantee or an unlimited company or an industrial and provident society.

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For any entity to fulfil the statutory definition of a LLP, or an LP, their respective members must be carrying out a business with a view to a profit. There is no legal definition of "carrying on business" with regard to limited or general partnerships. Section 45 of the Partnership Act 1890 Act defines business as including "every trade, occupation, or profession".

The Law Commission[9] has looked in particular at the definition of the term "business" since there was doubt in some quarters that it covered investment activities. It concluded that the term "business", was sufficiently wide to include investment activities as a commercial venture. The Law Commission in coming to its view referred in particular to the decision in *Smith v Anderson (1880) 15 Ch D 247*. Although it was held, on the particular facts of that case, that a trust formed for the purpose of investment was not carrying on a business, this was on the grounds that the purpose was "once for all investing certain money", rather than "obtaining gain from a repetition of investments." It was accepted that the position would have been different if the "real object of the deed was that the partners should speculate in investments".

On 26 May 1987 the Inland Revenue and the DTI approved a statement on the use of limited partnerships as a vehicle for venture capital investment funds. Since then, limited partnerships have become the standard structure used by venture capitalists not only for United Kingdom funds but also for European funds.

View to a Profit vs Well Being

On the face of it the need for a view to a profit for an LLP or LP creates an appearance of some discord between a council entering into an arrangement under its Well-Being Powers - without the primary purpose of raising money.

There is some help in this from the case of Newstead[10] on the coming into existence of partnerships as it indicates that if a partnership is formed with some other predominant motive but there is also a real (albeit ancillary) profit element then it is permissible to infer that the business itself is still being carried on "with a view to profit" and a partnership can exist.

In relation to LLPs the analysis has been that it is not necessary for a local authority itself to have a view to a profit when it enters into the LLP; rather, the business activities of the LLP must be carried out with a view to a profit. Indeed, there is no statutory requirement for each member of an LLP to share in any profits it generates. The general view taken is that the requirements for a partnership to have a view to a profit do not mean that Section 2 Well-Being Powers cannot be used. There is a difference between the local authorities' purpose in wanting to enter into the arrangement being essentially "non-commercial" and not for the purpose of raising money, and the fact that the activity of the partnership will satisfy the test under partnership legislation of a business and a view to a profit.

The position is similar with regard to LPs, though possibly less certain than for an LLP in that an LP is not a separate corporate body and so the division of intention possibly not so clearly demonstrable, but it should be no difference to a general partnership.

The Secretary of State's guidance on the Well-Being Power also recognises that where an authority uses its powers under Section 2 Local Government Act 2000 to set up a company,

[9] The Law Commission's Consultation Paper No 161 on the Limited Partnership Act 1907

[10] Newstead (Inspector of Taxes) v Frost [1980] 1 WLR 135

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that company (as a separate corporate entity) is not subject to the restrictions provided by Section 3(2) of that Act. In essence, the guidance recognises the separation of the local authority and an entity set up under the Well-Being Power. The guidance also recognises that a local authority may, for example, invest in a local company for the purposes of the economic well-being of its area and that in doing so it may receive a return on its investment (eg a dividend) but that this will not necessarily make the primary intention of the action raising money and so take it outside of well-being. It specifically recognises the concept of the "primary" and "incidental" objectives of an authority as being important in determining what powers are available in such circumstances.

The separate and free-standing power for local authorities to carry out commercial activities in relation to functions under the Sections 95 of the LGA 2000 ("Trading Power") only through a "company" does not, we believe, act as a prohibition to the local authorities' use of the Well-Being Power through participation in LLPs or LPs. The Government's guidance on the trading power makes it clear that it considers that the Well Being Power can be used as the basis of the function for which to use the Trading Power.

The guidance is set out below:[11]

As a result of section 95 of the Act, activities under section 2(1) of the 2000 Act, such as the provision of goods and services can now be traded, that is made available at a commercial rate in connection with a well-being purpose. An activity undertaken in connection with the exercise of the well-being function is to be regarded as something which local authorities are 'authorised to do for the purpose of carrying on any of their ordinary functions' (see section 95(1)(a) of the Act). The authorisation to trade conferred by the Trading Order amounts to an entirely separate free-standing and specific primary power which can be used in conjunction with the well-being power. There is no basis for regarding the restrictions on raising money provided in section 3(2) of the 2000 Act as having any application to the exercise of the trading power for the following reasons:

• the effect of the prohibition on raising money in section 3(2) is to prevent local authorities from using the well-being power primarily to raise money – in short, 'revenue raising' or commercial purposes' are not purposes which in themselves fall within the scope of the section 2(1) well-being power; however

• Section 95 trading is a separate power which authorises 'function-related' commercial activities and so may be exercised in conjunction with an activity or service whose primary purpose is to achieve the promotion of well-being.

Conclusion on power to establish and participate in the fund

Combination of Powers

The principle of combining powers also applies to this proposal in as much as the local authority is acting as an investor in the Fund set up as an LP. The LP would require a business to be carried on with a view to a profit. Whilst the Well-being power may give the local authorities power to enter into an LP for their wider regeneration purposes, there may be concern about the exercise of those powers if it is ever seen as raising money as a primary purpose. However the local authorities have power under Section 12 of the LGA

1. [11] Government Guidance in relation to Section 95 and 96 Local Government Act 2003 April 2007

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2003 to invest for any purpose relevant to its functions under any enactment. Arguably using its investment power combined with the well-being function should allow the local authorities to participate in the LP with the purpose of achieving well-being outcomes (ie not trading) and at the same time satisfy the LP's needs to be a business with a view to a profit.

After the Localism Bill

After the enactment of the Localism Bill, a local authority in England will no longer have the Well-Being power to rely on for its continued participation in an LP.

If an authority looked to rely up on the general power of competence it is may need to do so through a company and not a partnership.

Unlike the Well-Being power the provision, the provisions relating to the general power contain the express limitation with regard to the exercise of the general power for a commercial purpose. In the current clause 4(2) it is not defined by nature nor extent of the activities. Therefore this may suggest that any action which has any element of a commercial purpose could be construed as overriding or taking precedence over other purposes and there is no suggestion for example, that the commercial purpose must be the primary purpose (and therefore a partnership could be used if the primary purpose was other than for a commercial purpose). This would have to be implied by the Courts.

Andrew Stunell[12] in the House of Commons has stated that it is not the intention for the drafting to change the current position of local authorities in relation to commercial and non-commercial operations. However he has made it clear that "*The underlying point here is that local authorities and their trading arms have to be on a level playing field with the private and commercial sector in both a positive and negative way. They should not be at a disadvantage, but they should not have an outstanding advantage. Taxation is a particular issue. It is right to carry forward the requirement that such bodies should be companies and trading as such. A mutual [or co-operative] can trade as a company and, if appropriate, it pays tax and so on*."

It may be possible to undertake the direct involvement in an LP through the use of other powers and not to use the general power at all. In particular it would seem that it might be possible to use the investment power in section 12 LGA 2003 combined with section 111 LGA 1972. If that was to be the case the local authority would either have to identify the functions for which the investment was relevant (which could not be the general power) or be able to demonstrate that it was for the purposes of the prudent management of its financial affairs. In either case, provided a Court took the view that the investment power was a "function" for section 111, it may be possible to argue that the use of an LP was calculated to facilitate, or is conductive or incidental to that investment. There are clearly issues however around the reliance on section 111 and it may be that the local authorities take the view that it will take the least risk approach and use the general power through a company.

If the Localism Bill precludes local authority participation in a limited partnership directly, the structure could be remodelled as set out below. The Fund would remain a limited partnership (and therefore remain attractive to tax exempt investors. The local authority Members would participate through special purpose vehicles (or existing vehicles) set up as companies limited by shares (CLS) ("**Intermediary Vehicles**"). As a CLS is subject to

[12] Parliamentary under Secretary CLG

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corporation tax, the key disadvantage to the local authority Members would be the additional tax layer.

The local authority Members could either participate through one (**Option 3**) or individual Intermediary Vehicles (**Option 4**). We would recommend Option 4. Option 3 is structurally simpler but an additional shareholders' agreement would be needed to regulate the relationship between the local authority shareholders and additional analysis would be required regarding the decision making as between the Intermediary Vehicle and other Members in the Fund (e.g. the Kent Pension Fund).

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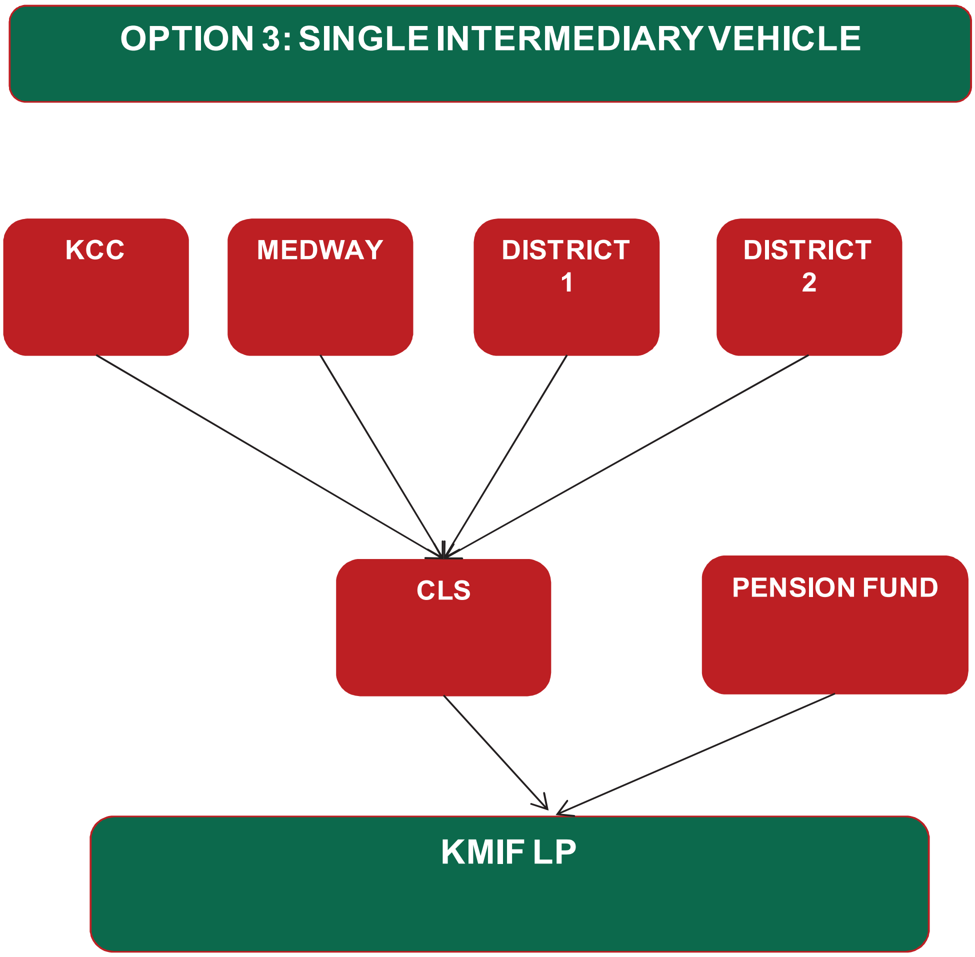
OPTION 3: SINGLE INTERMEDIARY VEHICLE



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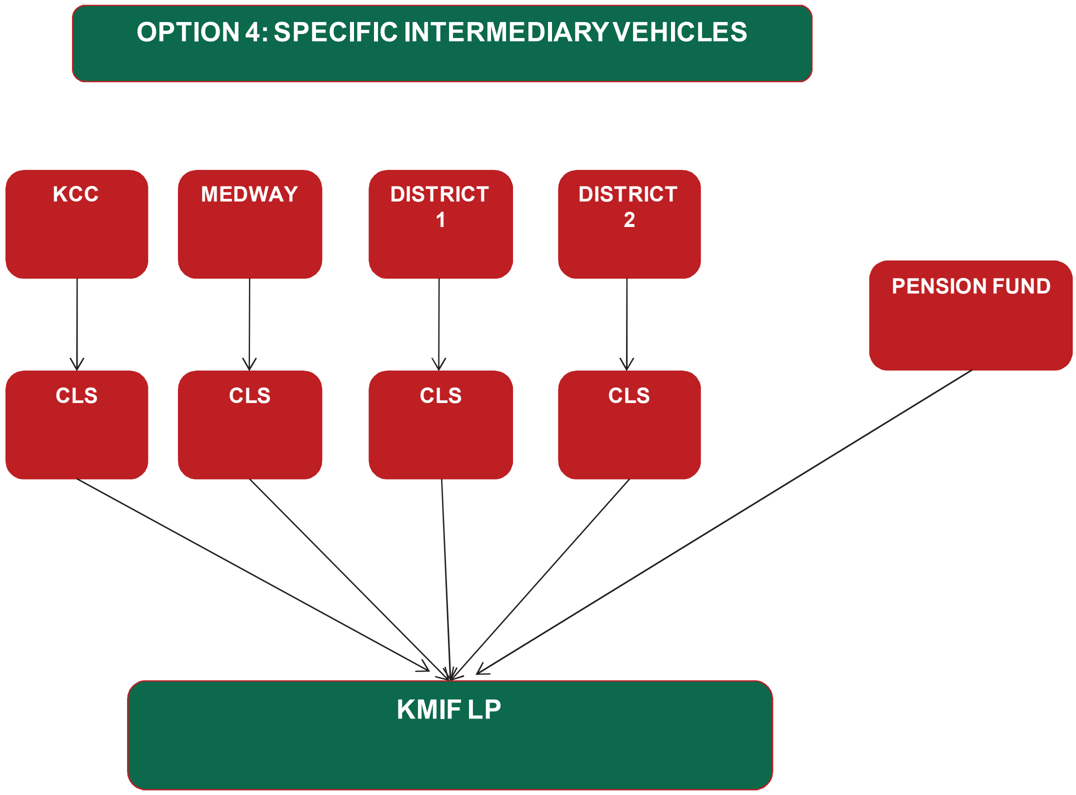
OPTION 4: LA SPECIFIC INTERMEDIARY VEHICLES



Land transfer powers

Power to Dispose of Non-Housing Land - Section 123 Local Government Act 1972. On the transfer of any land to the Fund (or more likely project subsidiaries) a local authority will have an obligation to receive the "best consideration that can reasonably be obtained" for their land and will need to receive independent expert valuation advice to confirm that the consideration proposals represent best consideration. Under the General Disposal Consent 2003 local authorities are able to dispose of land for less than best consideration if they consider that this will achieve the promotion or improvement of economic, social or environmental well-being of their area:-

a. subject to a maximum undervalue of £2m; and
b. provided the disposal is State aid compliant; and
c. if it is satisfied that the land is not held as housing land under the planning acts[13].

Housing Land Powers - Part II of the Housing Act 1985 (esp. Section 32): Under this local authorities are able to dispose of housing land (with the consent of the Secretary of State under Section 32 of the Housing Act 1985 which[14] provides power to dispose of land held

[13] i.e. held under powers which permit it to be disposed of under the terms of the 1972 Act. The consent does not apply to disposals of land held under section 233 of the Town and Country Planning Act 1990 (land held for planning purposes) nor does it apply to land held for housing purposes under the Housing Act 1995.

[14] without prejudice to the provisions of the Right to Buy

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for housing purposes and for the provision of facilities connected with housing. The Secretary of State has issued a General Consent (E3.1) which would apply here provided that the best consideration reasonably obtainable is received (see above).

Section 24 and 25 Local Government Act 1988- The local authorities will need to obtain the Secretary of States consent under Section 25 Local Government Act 1988 ("section 25" consent) to exercise the power under section 24 (Financial Assistance) see below. A local authority will also need section 25 consent if it wishes to use any other powers (including Well Being Powers or general power of competence) for the purposes set out in section 24. If it does not, the transaction will be void.

In addition to this however a local authority will need Section 25 consent if it uses the power in Section 24 or any other power for those purposes of or in connection with the matters listed in Section 24 to provide any person with a "gratuitous benefit" which can include disposal of land at less than best consideration.

General consents were issued in December 2010 in relation to section 25.

Power to Dispose of Land - Section 233 Town and Country Planning Act 1990: This gives local authorities power to dispose of land held for planning purposes in such manner and on such terms as seem expedient in order to secure the best use of the land or the proper planning purposes. SOS consent needed if disposal for a consideration less than the best that can reasonably be obtained. No General Consents.

Power to provide member loans

If the Fund is to invest in schemes involving the delivery of privately let housing, one of the powers LHA's *may* need to rely on is the power conferred by Section 24 Local Government Act 1988 (the "**Act**") (Power to Provide Financial Assistance for Privately Let Housing).

Financial assistance for the purposes of the Sections 24 and 25 of the Act includes the provision of financial assistance to any person "*for the purposes of, or in connection with the.....construction, ...maintenance or management......of any property......intended to be privately let as housing accommodation*" or agreeing to provide such financial assistance.

Financial assistance includes the provision of a grant or loan. (Subject to certain exemptions) to exercise this power, LHA's need the consent of the Secretary of State under Section 25 of the Act ("**S25 Consent**").

CIL collection: Under the Community Infrastructure Levy Regulations certain "charging" authorities are entitled to levy CIL payments on the grant of planning permission for development in their area. The money can be used to fund a wide range of infrastructure that is needed as a result of development (including transport, flood defence and public realm schemes). Charging authorities are able to pool CIL payments to support the delivery of larger 'sub-regional infrastructure' projects provided they are satisfied that this would support the development of their own area.

TIF borrowings: There is no current statutory power although there are proposals to introduce a power to borrow against anticipated business rates.

REGULATORY ISSUES

The Fund will be a collective investment scheme for the purposes of section 235 of the Financial Services and Markets Act 2000 (FSMA). Accordingly, the Fund will need to be operated by an FSA authorised entity.

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STATE AID

Recommendations

The default position is that the Fund will invest on terms on which a reasonable investor would invest in normal market conditions (i.e in accordance with the "Market Economy Investor Principle" or "MEIP"). There may be circumstances in which the Fund (or certain Partners) wishes to invest on softer terms (or provide grant funding (such as RGF) to projects which could amount to State aid. Where this is the case, the Fund will need to provide aid through an approved scheme or exemption (e,g, pursuant to the provision of Services of General Economic Interest or general infrastructure funding). Section 11 sets out the relevant routes for providing lawful aid.

Where the Fund intends to invest in accordance with the MEIP:-

a. If investing alongside a private investor (whether on a debt or equity basis), funding should be provided on pari passu terms;

b. If the Fund is the sole investor (or where third party investment is structured differently (i.e. as debt or equity)), where the Fund is providing debt finance, MEIP terms can be benchmarked by reference to EU Reference Rates and where the Fund is investing equity, there are now a number of market comparators which can be referenced.

Limited Partners who are public bodies will need to invest in the Fund (whether through the contribution of cash and/or assets (at Fund or project level) in a state aid compliant manner. The analysis above applies equally here. Any land assets transferring will need to comply with the State Aid Sale of Land Guidelines.

Any public grant funding of the Fund (for example RGF funds) will also need to be provided in a state aid compliant manner. Again the analysis above applies here. In addition, it may be possible to argue that the Fund would be considered acting as an intermediary fund for the transfer of investment / funding to projects and as such will not be deemed a beneficiary of aid for the purposes of the State aid regime. This is consistent with Community Guidelines on State aid to Promote Risk Capital Investments in Small and Medium Sized Enterprises (the "SME Capital Investment Guidelines").

Where project vehicles are wholly owned by the Fund, dependant on Fund membership, their assets may be deemed public assets (in which case the state aid rules will apply to downstream investments).

PROCUREMENT

Summary

The procurement issues (in the regulatory sense) associated with the Fund structure can be split into two levels:-

(a) The establishment of the Fund (i.e. procurement of the Fund by the Partners)

(b) Procurements made by the Fund (i.e. its investments and Fund manager)

The position can be summarised as follows (see also detailed analysis below):-

(a) The establishment of the Fund: The Fund can be set up with the local authority partners (and local authority pension fund) outside of the procurement rules. Any private sector investor should be selected through some form of competitive process.

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(b) The investments made by the Fund: On balance, the Fund is likely to be a contracting authority. If an investment involves the procurement of works, goods and/or services sufficient to create a Public Contract then it's selection will need to comply with the Procurement Rules.

(c) Appointment of the Fund manager by the Fund: Irrespective of whether the Fund is itself a contracting authority, the General Partner /Fund manager will be competitively procured. This could be carried out by the Partners (or a nominated lead partner) prior to the set up of the Fund.

Establishment of the Fund

The fund can be set up outside of the Public Contracts Regulations 2006 (i.e. its Members would not need to run a procurement under these rules to participate in the fund) as the Members will be investing in the Fund rather than procuring any works, goods or services from it. A watching brief will be needed over the terms of any land transfers or other arrangements to ensure that they don't incur terms sufficient to create a Public Contract.

Since LGPS regional funds[15] are not separate from the local authority which administers them (the administration of the scheme is simply a function of that local authority) the analysis above is not affected by the participation of the Kent Pension Fund as a Member (i.e. it would not need to be procured by the local authority Members). There are certain additional statutory restrictions in relation to pension fund money, but other than these our understanding is that the pension funds should be able to invest without there being any need to run a procurement process.

Where however private sector partners are to be invited to join the LP and the opportunity to do so is to be limited, the public sector bodies should consider an appropriate means of selecting these bodies and to hold some form of competition for this purpose if the opportunity to participate may distort competition.

Investments

It needs to be considered whether the Fund is a contracting authority for the purposes of the Procurement Rules. The Fund, as an LP, is not a separate entity and so it will not come under the category of a "corporation or group of individuals appointed to act together" under the definition of a body governed by public law[16]. It is however likely to fall within the group of contracting authorities who are defined as "an association of or formed by one or more" contracting authorities or bodies governed by public law[17]. If this is the case, to the extent it does procure any works, goods and/or services, it will need to comply with EU and UK public procurement rules15[18] (the "Procurement Rules").

The General Partner, as a separate corporate body, will need to consider whether it is a contracting authority under the definition of a body governed by public law (covering issues such as the membership, control and funding structure). Our view at the present time is that

[15] With a couple of exceptions London Pension Fund Authority and the South Yorkshire Pension Funds Authority which are bodies specifically established to administer certain funds

[16] Regulation 3(1)(w) Public Contract Regulations 2006

[17] Regulation 3(1)(x) Public Contract Regulations 2006

[18] Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public services contracts, as implemented in England and Wales by The Public Contracts Regulations 2006, S1. 2006 No. 5

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it is more likely than not to be found to fall within this definition. If this is the case, to the extent it does procure any works, goods and/or services, it will need to comply with the Procurement Rules (although it is more likely that any procurements will be made by the Fund (acting through the General Partner) not on the General Partner's own behalf.

Even if the Fund and/or the General Partner was not regarded as a body governed by public law it would need to consider if it might be equated to a public body bound by the general treaty obligations (even if not the full Procurement Rules). If it is judged to be an undertaking effectively controlled by the state or another public body and it does not compete in the market, then it may be caught.[19] If it is judged to be an undertaking effectively controlled by the state or another public body and it does not compete in the market, then it may be caught.

When selecting projects for investment, even if the Fund is a contracting authority, it is unlikely that it will be procuring any works, goods and/or services sufficient to create a Public Contract for the purposes of the Procurement Rules. However, the Fund (or the General Partner/manager on its behalf) will need to review this as part of the investment appraisal process.

In any event, there should be a transparent process for the selection of projects such as a "call for projects" similar to the call for grant applicants as would normally operate on grant funding schemes.

Fund management function / other advisory services

Irrespective of whether the Fund is itself a contracting authority, it will need a procurement policy to ensure value for money. This could include obtaining a number of quotes for spend above a specified threshold.

The General Partner /Fund manager will be procured competitively. This could be carried out by the Partners (or a nominated lead partner) prior to the set up of the Fund. The provision of Financial Services is a Part A service under the full requirements of the Public Contracts Regulations 2006, though this does not apply to financial services in connection with the issue, purchase, sale or transfer of securities or other financial instruments in particular transactions by the contracting authorities to raise money or capital or central bank services.[20] Financial Services includes the services provided by fund managers.

TAX

SDLT may be reduced where a limited partner transfers land to the Fund (assuming it is a limited partnership) or, possibly, a subsidiary limited partnership owned by the Fund. In brief, SDLT would not be payable on that part of the value that corresponds to the limited partner's continuing interest. This is however subject to clawback if certain events happen including in relation to the transfer of value out of the limited partnership.

As a Limited Partnership, the Fund will be treated as tax transparent and will not itself be subject to tax on income and gains. Instead, the individual partners would be subject to tax on such income and gains under their usual regime (meaning that local authority and pension fund partners will benefit from their tax exempt status).

[19] This follows the case C-91/08 which concerned a joint venture awarded a services concession contract

[20] Regulation 6((2)(h)

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Any Intermediary Vehicle established by the limited partners (which is not itself transparent for tax purposes) would be subject to the normal corporation tax regime.

The fee charged by the Fund manager will be VATable. The Fund's main activities will be to provide funding to projects. This is a VAT exempt activity. Therefore the fund will not be able to recover VAT paid on these fees; the impact on the financial modelling is not negligible. The VAT chargeable may be reduced by either:-

a. Structuring the Fund so that the General Partner acts as Fund manager (or the General Partner and the manager are in the same VAT group); or

b. Contractual arrangements under which the manager agrees to provide investment services to the Limited Partners and the Fund agrees to provide payment services to the Limited Partners (payment of the Manager's fees on their behalf). Invoices must be addressed to the Limited Partners and it would be helpful (though not necessarily essential) if the Fund charged the Limited Partners a small fee for its payment agency services (VAT exempt) and issue invoices for this. However, such structures have been used in tax avoidance structures to effectively recover input VAT costs in circumstances where (HMRC believe) they should not do so. Although the scenario here is different, HMRC may view the arrangements with suspicion and may argue that the true supply of management services is to the Fund not its limited partners.

The above analysis should be reviewed and possibly refined once the commercial position is agreed.

Investment activities

The outline tax summary in this note assumes that the activities of the Fund will be property investment for tax purposes, and not treated as property dealing or trading where a different analysis may apply, particularly for pension fund investors if the Fund carries on dealing/trading activities.

MEMBERS JOINING AND LEAVING

Capital gains

For any tax paying limited partners, capital gains (or losses) may arise on changes in profit shares in a limited partnership Fund where there has been a previous revaluation of the Fund's assets. As a limited partnership Fund is transparent for tax purposes, no taxable gains or losses would arise to tax exempt limited partners. A change in profit shares would occur when new partners join so taxable partners could be subject to a liability on capital gains where a new Member joins and assets have been revalued.

SDLT

SDLT may arise on (1) a partner joining or leaving the partnership where the limited partnership Fund has directly, or possibly indirectly through an intermediate partnership, an interest in property; or (2) on a partner transferring all or part of its interest in such a partnership; and

Where the rules applying to SDLT on contributions of land by partners to partnerships apply (see paragraph 17.1.2), a reduction on SDLT on contribution may be clawed back where the partner obtains payment or value from the partnership within three years of contribution.

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CLASSIFICATION

Subject to the ultimate membership and control structure, the Fund will likely fall onto the overall public sector balance sheet. However, this is usually only an issue where there would be any lending in the Fund which would count towards public sector aggregate borrowing.

The makeup and control of any decision making body (such as any Advisory Committee) will also impact on consolidation of the Fund to the public sector balance sheet.

This is a financial (rather than legal) issue and may need to be looked at by financial advisers.

ACCOUNTING TREATMENT

Under IFRS and IAS, it is likely that each of the Limited Partners will account for their interest in the Fund as an interest in a joint venture or associate (rather than e.g. a subsidiary). Again this is a financial (rather than legal) issue and may need to be looked at by financial advisers.

APPENDICES

Appendix 1- Legal Vehicle Comparison

LEGAL VEHICLE COMPARISON

LIMITED PARTNERSHIP

Key features

The Partners would be de-facto shareholders.

More complex structure than other vehicles: consisting of limited partners (with limited liability) and a general partner (with unlimited liability).

Limited liability for limited partners: The Partners would be limited partners. To retain limited liability, they cannot be involved in day to day fund management.

Transfers of interests may be subject to stamp duty up to 4%. If the Partners are to take a medium to long term view over the investment this is less of an issue.

Flexible basis for profit distributions (e.g. not necessarily in proportion to invested capital).

Tax transparent, so non-taxpayers (such as the local authority Partners and any pension fund investors) do not suffer tax leakage.

The ability to structure Partners' interests separate from the management structure.

Vehicle familiar to the private investment market

The LP is not a separate entity so cannot itself can enter into contracts, borrow money and hold property (effected usually through the General Partner by a trust arrangement on behalf of the limited partners).

More complex entry and exit arrangements: interests require assignment. Again, this is less of an issue of the Partners are to take a medium to long term view to investment.

Conclusion: Recommended due to tax efficiency, market acceptance and flexibility of profit distribution arrangements.

LIMITED LIABILITY PARTNERSHIP (LLP)

Key features

The Partners would be de-facto shareholders.

There must be at least two designated members responsible for the corporate compliance of the LLP. If two Partners did not volunteer for this role, each Partner could be a designated member.

The liability of the Partners is limited.

Flexibility – some features of a partnership and some features of a company. The governance structure can be flexible to reflect the requirements of the Partners and will be created through the constitutional and corporate documentation. Common vehicle for property development companies.

Low complexity- no complex company law requirements.

Transfers of interests may be subject to stamp duty up to 4%. This is less of an issue of the Partners are to take a medium to long term view to investment.

Appendix 1 - Legal Vehicle Comparison

Tax transparent, so non-taxpayers such as the local authority Partners do not suffer tax leakage. Some tax exempt investors (pension funds) lose tax exemption.

The ability to structure Partners' interests separate from the management structure.

Initially concerns over vires issues of local authority participation but becoming increasingly recognised by and used by the public sector.

The LLP itself can enter into contracts, borrow money and hold property.

Easy entry and exit capability to the Partners.

Conclusion: Not recommended due to tax inefficiency for certain tax exempt investors.

COMPANY LIMITED BY GUARANTEE (CLG)

Key features

The Partners would be de-facto shareholders.

The liability of the Partners is limited. Each Partner will contribute a nominal amount of capital (for example £1).

Low complexity.

The ability to structure Partners' interests separate from the management structure.

Recognised by the public sector as a structure to undertake economic and social investment activity (e.g. adopted by the East Midlands Development Agency for the Jessica East Midlands Urban Development Fund). However the key drivers for using the CLG structure was independence of management and no requirement for the members to take out returns.

The CLG itself can enter into contracts, borrow money and hold property.

The CLG structure provides easy entry and exit capability to the Partners. This is less of an advantage if the Members envisage remaining in the Fund long term.

As CLGs are not for profit organisations, they lend themselves to this kind of scheme where the purpose of the fund is not to generate profit and distribute to the Partners. A CLG is therefore not an appropriate structure for the Fund.

CLGs pay corporation tax and therefore this vehicle would not be tax efficient for the Local Authority Partners or any potential pension fund investor.

An asset lock mechanism can be drafted for in the constitutional documentation (i.e. to prohibit the Partners from agreeing to dispose of Fund assets) although the constitutional documents could equally be amended by the Partners to remove the lock.

Conclusion: Not recommended due to tax inefficiency and difficulty around making distributions.

COMPANY LIMITED BY SHARES (CLS)

Key features

Familiar vehicle to both the public and private sector.

Low complexity.

Appendix 1- Legal Vehicle Comparison

The participants would each be shareholders.

The liability of the shareholders is limited. Each shareholder could contribute a nominal amount of capital (for example £1).

Stamp duty is payable on transfers of interests at 0.5%. This low tax liability is less of a benefit if the Partners envisage participating in the Fund over the long term.

Returns are directly linked to risk taken (i.e. capital contributed) - which is not the current intention for the Fund. Although it should be noted that funding could be structured through long term loans rather than capital.

Can be converted to a CLG (although there would be no apparent benefit of this based on current proposals for the Fund).

CLSs pay corporation tax and therefore this vehicle would not be tax efficient for the Local Authority Partners or any potential pension fund investor.

The ability to structure Partners' interests separate from the management structure to a degree but Local Authority directors may have a conflict of interest.

The CLS itself can enter into contracts, borrow money and hold property.

The CLS structure provides easy entry and exit capability to the shareholders. This is less of an advantage if the Partners envisage remaining in the Fund long term.

An asset lock mechanism can be drafted for in the constitutional documentation (i.e. to prohibit the shareholders from agreeing to dispose of Fund assets) although the constitutional documents could equally be amended by the shareholders to remove the lock.

Conclusion: Not recommended due to tax inefficiency.

Appendix 2 – State Aid Compliant Funding Routes

STATE AID COMPLIANT FUNDING ROUTES

RELEVANT STATE AID COMPLIANT SCHEMES

The table below sets out a summary of the most relevant State aid compliant mechanisms or schemes potentially available for any public support provided by the Fund.

STATE AID SCHEME/MECHANISM	WHAT RELEVANT COSTS CAN BE COVERED?	WHAT PERCENTAGE OR AMOUNT OF THOSE COSTS CAN BE COVERED?
Services of General Economic Interest *Altmark* ruling *or* SGEI Decision	Compensation for the costs of providing social housing eg: ▪ construction of social housing units ▪ clearance of sites on which social housing to be constructed ▪ site acquisition	Unlimited.
Support for Land Remediation Dereliction Aid Grant (Valid until 31 December 2013)	Cost of all remediation work undertaken towards bringing contaminated, brownfield or derelict land back into new use. A reasonable level of profit may be included for certain types of land.	Up to 100% of the eligible costs of the work required less the increase in the value of the land after remediation. Must be the minimum amount necessary to bring the land up to a condition where it is suitable for any new use.
General Infrastructure Works	Investment in general infrastructure works provided for general public use rather than for a dedicated purpose or beneficiary. Examples: ▪ streets and pathways ▪ public spaces ▪ water-ways ▪ schools ▪ improvement of public transport infrastructure or road networks ▪ public amenities ▪ waste treatment facilities and sewage collection	Unlimited.
Housing Gap Funding (Valid until 31 December 2013)	Grants for providing dwellings for sale or market rent (ie owner occupation or private rent) in order to meet the difference between cost and value. Grants can be provided for new build, conversion, adaptation and/or sub-division projects which contribute to: ▪ strategies for regenerating neighbourhoods, particularly where they are characterised by a limited supply, tenure or range of good quality homes; and ▪ the provision of owner/occupation and/or market rented housing at affordable prices in pressured market areas where access for lower income households and key workers is constrained.	Grant must not be more than: ▪ the gap between eligible costs and the sales value of the houses on completion as determined by an independent Chartered Surveyor *and* ▪ 60% of project costs *and* ▪ the minimum necessary to allow the project to proceed.
English Property Scheme Regional Investment and Employment Aid (Valid until 2013)	Grant for the bespoke and speculative development of premises and buildings for business, industrial and commercial purposes by the private sector. Covers both the construction of new buildings and the renovation and conversion of existing buildings. Mixed use schemes can only be supported where the residential element forms a minor part of the overall project eg less than 10%.	15% of eligible costs until 31.12.13. If the Fund can be deemed to be an SME this is increased to 35% or 25% thereafter until 31.12.13. Aid awarded must not be greater than the gap between the total eligible costs and the estimated market value on completion. The aid awarded to

Appendix 2 – State Aid Compliant Funding Routes

	Eligible costs include: ■ Purchase of land and/or property at market value ■ Professional fees (legal expenses, design fees etc) ■ Site investigation and preparation, remediation and decontamination ■ Provision of infrastructure and landscaping ■ Construction or refurbishment of buildings ■ Extra cost for meeting environmental standards above UK building Regulations ■ Planning obligations ■ Initial investment costs ■ Irrecoverable VAT ■ Finance charges taking account of any savings due to grant provision Support can also be given for services to support a property development project without charge or at lower than cost. The aid is the difference between the cost of the services and the amount charged.	be the lower of the gap or the aid intensity. The aid recipient must contribute at least 25% of eligible project costs (either through its own resources or by external financing), in a form which is free of any public support. If the investment is to be in capital assets with eligible costs above EUR 50 million then the grant would need to be notified individually to the Commission for clearance *if* the total amount of aid from all sources exceeds a certain figure. What that figure is depends on when the investment was being made and whether Fund is an SME.
English Property Scheme Environmental Aid (Valid until 2013)	Grant for the bespoke and speculative development of premises and buildings for business, industrial and commercial purposes by the private sector. Covers both the construction of new buildings and the renovation and conversion of existing buildings. Costs of investment in environmental protection measures: ■ to deliver environmentally friendly buildings above (or in the absence of) applicable UK/EC standards ■ to provide for energy saving measures ■ for investment in high-efficiency cogeneration plant ■ for the promotion of energy from renewable energy sources	Between 20% to 80% of the extra costs necessary to achieve the energy efficient measure as compared to a standard or reference investment, depending on the measure being implemented. Investment must be notified if it exceeds EUR7.5 million per undertaking per investment project.
English Property Scheme SME Investment and Employment Aid (Valid until 2013)	Grant for the bespoke and speculative development of premises and buildings for business, industrial and commercial purposes by the private sector. Covers both the construction of new buildings and the renovation and conversion of existing buildings. Costs of investment in: ■ tangible assets or intangible assets *or* ■ estimated wage costs of employment directly created by the investment project, calculated over a period of two years.	20% of eligible costs if Fund is a small enterprise 10% of eligible costs if Fund is a medium enterprise

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Kent and Medway Investment Fund
Frequently Asked Questions

KCC has appointed CBRE and Pinsent Masons to develop proposals for a Kent and Medway Investment Fund. The KMIF model was presented to a special meeting of Kent Joint Chief Executives in July alongside proposals to take forward the development and set up of the fund in partnership with local authorities.

KMIF is a revolving fund providing finance to unlock regeneration and economic development across Kent. It will invest on commercial terms in both public and private sector led projects that deliver regeneration outcomes. Through shared local authority resource commitments it aims to lever significant private sector investment.

The following 'frequently asked questions' have been prepared to assist Kent borough and district partners with internal decision making processes.

Rationale

Q. How will KMIF provide added value for local authority partners over and above alternative LABV arrangements and / or investment in individual projects?

A. Through local authorities working in partnership, KMIF will provide a critical mass of projects and access to recycled funds that could not be achieved by each local authority working in isolation. Crucially, the proposed structure creates the potential for attracting a much broader mix of private sector investment – including institutional investors – that individual projects are unlikely to be able to access.

Q. What is the justification for local authorities locking away investment over 10 years?

It is proposed that investments will be locked in for the life of the Fund to maximise benefits. The benefit to local authority partners is the potential for investment in regeneration projects in their area. Funds could be recycled up to 3 times over the 10 year period increasing the opportunity for all authorities to benefit. At the end of the Fund's life the partners will be paid a return on their investment.

Governance

Q. Are membership rights determined by the level of investment made by a local authority?

A. No. The current proposals are for an equal partnership, subject to each partner meeting a minimum investment. Any additional investment over this level will however attract a commensurate rate of return.

Q. What is the General Partner and what are the options for local authorities in its governance?

A. To retain their limited liability status, the Limited Partners cannot be involved in the day to day management and operation of the Fund. The General Partner is therefore part of the governance arrangements to protect the interests of the local authorities.

There are two main options for the local authority partners to consider in respect of the General Partner – the partners form a special purpose vehicle to act as the General Partner; or a General Manager is appointed to also be the Fund Manager. Both options ensure limited liability status is retained. The distinction between them is differing levels of involvement in the management of the Fund. Appointing a General Manager to act as a Fund Manager provides a more arms length arrangement for local authority partners regarding day to day operations, which could potentially make KMIF more attractive from a private sector investor perspective. In practice the approach taken could embrace both options with a special purpose vehicle being created by the partners to act as General Managers in the early days of KMIF being established, and this role then transitioning to the Fund Manager at a later date.

Investment & Return

Q. What level of investment will the local authority partners need to make?
A. Based on the experience of setting up the North West Evergreen Fund, the KMIF will need to be seeded with cash and assets totalling £20m to £30m in value from the local authority partners. It is suggested that each partner authority will contribute around £2m in cash or equivalent assets to seed the fund. The precise level of investment will be determined through the next stage of developing KMIF and is dependant upon the number of committed founding partners as well other potential investment such as the Kent Pension Fund.

Q. How will the local authorities raise the £2m?
A. It is for each local authority to decide how they contribute towards seeding the fund and whether this is through cash or equivalent value in assets. Cash contributions are the most straightforward and tax efficient means of seeding the Fund. The proposed KMIF model includes a LABV arm as a mechanism for utilising local authority assets within the Fund (as an alternative to cash) where there is a delivery strategy for these assets capable of providing a viable project.

Q. When will local authority partners need to commit their contribution to the Fund?
A. Commitments will need to be in place before the Fund is ready to be launched. Drawdown of funds will be phased as projects become ready for investment and are brought forward from the pipeline.

Q. What level of return can the local authority partners expect to achieve on their investment in the Fund?
The level of return is dependant upon the risk profile the partners chose to invest in, as defined by the Investment Strategy. It is also dependant upon the pipeline of projects coming forward and subsequent investment portfolio. It is therefore difficult to predict the level of return expected this stage; however a higher risk strategy might deliver a 12% return before costs and a lower risk strategy deliver up to 8 % before costs. The key added benefit is the delivery of regeneration outputs from this investment.

Running Costs

Q. What are the ongoing running costs and how will these be met?
A. Running costs are estimated to be in the region of £500k p.a. based on Evergreen. Once the Fund is fully operational these costs will be met through project fees and investment returns once they become available. In the short term these costs would need to be met by the local authority partners.

Project Pipeline

Q. What type of projects would the fund support?
A. It is proposed that KMIF will support both public and private sector led projects that are have difficulty in obtaining finance from traditional sources but are otherwise commercially viable (with KMIF investment) and which also deliver against regeneration targets. The Investment Strategy, which defines investment priorities and guides the Fund Manager, is agreed by the KMIF partners.

Q. Who decides which project receive funding and in what order?
A. Investments are made by an independent Fund Manager in accordance with the Investment Strategy. Only those projects supported by the local authority in which they fall will be considered for investment. Projects that fulfil the investment criteria and are ready to be delivered will be supported first. Where more than one project is 'investment ready' the project scoring the highest against weighted investment criteria (and therefore offers greatest benefit to the Fund and the partners) will receive funding first.

Q. Can a member of the KMIF partnership specify which project its funding contribution is invested in?
A. No. Partners investing at fund level commit to the Investment Strategy and the full investment portfolio.

Q. Is there scope to ring-fence investment to geographical areas?
A. Evergreen is made up of two pools – one specifically for Greater Manchester and one for Cheshire, Cumbria and Lancashire. The potential for replicating this approach, based for example on an East / West split, could be explored further through the next stage of developing KMIF.

Q. What reassurances are there that projects will be funded in each of the local authority partners' areas and when can they expect to see investments made?
A. Investments will be made according to the availability of suitable projects and the timing of investment is therefore dependant on the project pipeline. The proposed KMIF model in its current format does not however undertake project development and delivery. The founding partners will therefore need to consider whether they want to jointly fund a shared project development resource to provide additional capacity for the local authority partners to help bring forward viable projects.

Q. Will KMIF assist in indentifying development opportunities and developing project strategies?
A. No. The model proposed is for an investment, not development, vehicle. If a separate shared project development resource is established (or existing regeneration vehicles utilised) then it will undertake this role.

Development & Set up of KMIF

Q. What is included in the next stage of work, how much will it cost and how long will it take?
The next stage of work will focus on three key elements: the Investment Strategy; governance arrangements (including Vires and a review of legal issues); and the project pipeline. It will flesh out the proposals and take KMIF forward to the point of being ready to launch. It is expected to cost around £650,000. Borough and District partners are being asked to contribute £25,000 each, with KCC to fund the remainder up to £500,000. The development stage will take 9 – 12 months to complete.

Q. How will consultants be appointed to support the next stage of work?
It is proposed that the next stage is openly procured as a single package. Due to the value of the contract, it will be subject to OJEU. The tender brief and specification will be developed by KCC Regeneration and Economy working with local authority partners. Project governance arrangements will be established with partners to agree and oversee the procurement and delivery of this work.

Q. How is the Fund Manager appointed?
A. Procurement of the KMIF development will need to include specialist fund management advice. This could be the same Fund Manager who will run the Fund on behalf of the KMIF partnership once it is established. Alternatively, the Fund Manager that will take forward delivery of the KMIF could be procured separately at the Fund set up stage. The approach to be taken will be agreed by the partners.

Item No. 7 - Appendix C

By: Adele Harrison, Regeneration Manager, Kent County Council

To: Kent Joint Chief Executives, 21st June 2011

Subject: Kent & Medway Investment Fund

Classification: Unrestricted

This report to Kent Joint Chief Executives provides a summary of the findings and key issues from a feasibility analysis undertaken to explore the potential for a Kent and Medway Investment Fund. It outlines how the model could operate and is seeking the support of Medway and Kent District and Borough Councils to take forward the development and set up of the KMIF.

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1. Recommendations

It is recommended that Kent Joint Chief Executives agree to proceed with the next stage of work to develop and set up the Kent and Medway Investment Fund, accepting that:

- Partners wishing to engage in the next stage jointly contribute the following amounts towards the development costs: KCC up to £500,000; Medway £50,000; Borough / District Councils £25,000, subject to each authority's own internal approval processes.

2. Introduction

The report is seeking Kent Joint Chief Executives' 'in principle' support for the proposal to create a Kent and Medway Investment Fund and approval to proceed to the next stage of work focused on the development and set up of the Fund.

CBRE has been appointed by KCC to develop proposals for a Kent and Medway Investment Fund. An initial Scoping Paper was produced in February which introduced the concept of an Investment Fund based on experience of setting up an 'Evergreen Fund' in the North West. A Feasibility Report has now been produced by CBRE setting out in more detail how a Kent and Medway Investment Fund could operate and is attached at Appendix 1. This paper to Kent Joint Chief Executives highlights the key issues and considerations for local authority partners and sets out the next steps for taking forward the development and set up of a Kent and Medway Investment Fund

Following circulation of the Scoping Paper, KCC and CBRE met with the Chief Executives of Medway and all Borough and District councils who expressed an initial interest. The purpose of these meetings was to introduce the KMIF concept and explore the extent to which it could deliver against a range of aspirations. The response from these meetings has been positive with ten of the twelve Districts indicating that they would like to be involved in working through the concept further.

This feasibility stage is intended to outline an investment fund model for Kent and also identify, and make recommendations on, specific issues that will need to be addressed in setting up the Fund. The next stage will be to establish formal project governance arrangements, involving Medway, Borough and District partners to take forward the development of the KMIF and agree the more detailed aspects of the structure and operation.

Objectives

3. The Kent and Medway Investment Fund aims to unlock regeneration and development by using local authority assets and funds to lever significant private sector investment. It will generate returns to be reinvested in a revolving fund in order to maximise benefits.

The KMIF is underpinned by three key objectives:

- To continue to deliver economic growth in a context of reduced central and local government funding streams;
- To maximise value towards this from local authority owned assets and support the delivery of asset management strategies that assist regeneration.
- To lever and unlock significant private sector investment across Kent.

The primary purpose of KMIF is to enable regeneration through shared resource commitments. It is not an asset management vehicle, nor is it focused on providing a source of income generation for the local authority partners.

Rationale and Approach

4. Finance markets have changed significantly in recent years with a severe contraction of bank lending following the global financial crisis. This has had a direct impact on national and local property markets which in turn is constraining private sector led development. KMIF will unlock development and optimise economic benefits by utilising local authority cash and assets to leverage private finance that would otherwise not be available. It provides a direct response to current constraints on public sector funding and offers an alternative approach to traditional grant funding streams by maximising the efficient and effective use of local authority owned assets.

KMIF will provide a commercial market return on investments and is not intended to provide gap funding. It is therefore targeting projects that are marginal to the market – in other words, it does not supplant existing private finance but instead offers an alternative source of finance to enable projects to become viable. It will provide finance for both public and private sector led projects that deliver against regeneration outputs.

The model outlined in the Feasibility Report proposes the creation of a local authority led partnership that will pool cash and assets to create a Fund. The partnership agrees an Investment Strategy that determines how the Fund will be invested, including output targets, level of risk, and rate of return on investment. Only projects that meet the criteria set out in the Investment Strategy will be supported by the Fund. The partnership appoints an independent, professional Fund Manager to deliver the Investment Strategy. Investments may be in the form of debt, equity or guarantee and returns will be recycled back into the Fund for reinvestment. The model also makes provision for the local authority partners to achieve economies of scale and lever investment against pooled assets through a Local Asset Backed Vehicle established within the KMIF structure.

KMIF will harness the benefits of scale that can be realised through local authorities working in partnership. It is hoped that KMIF will be joined by most authorities within Kent to create a critical mass of projects and access to finance which makes it a size that becomes of interest to the private sector. Based on the experience of setting up the North West Evergreen Fund, the KMIF will need to be seeded with cash and assets totalling £20m to £30m in value from the local authority partners.

Key issues

5.i Governance

In order to remain attractive to the market it is important that the structure of KMIF is as simple and transparent as possible, whilst protecting the interests of the public sector partners. The Feasibility Report recommends that the KMIF is established through a Limited Partnership as the simplest and most tax efficient structure that is also widely recognised by the market and would therefore be attractive to potential investors. An analysis of the alternative options considered is provided within the Feasibility Report.

In order to operate KMIF through a Limited Partnership structure (within which partners have limited liability) a General Partner (with unlimited liability) will also need to be established. To retain their limited liability status, the Limited Partners cannot be involved in the day to day management and operation of the Fund, and this is delegated to the General Partner. The Fund is then managed in accordance with the Investment Strategy defined by the local authority partners.

There are two main options (within a LP structure) in respect of the General Partner arrangement:

1. the partners form a special purpose vehicle to act as the General Partner. A separate Fund Manager is then appointed and managed by the General Partner. This option offers the partners greater involvement in the operation of Fund by creating an additional layer of governance. The General Partner can then determine the extent to which it delegates responsibilities to the Fund Manager.
2. A General Partner is appointed by the Limited Partnership to also be the Fund Manager. Although this is a more arms length option for the partners (as the partners would not be involved in the General Partner decision making), they retain control over the General Partner/ Fund Manager through the Partnership Agreement and Investment Strategy. A review panel could be established to give the partners additional visibility over the performance of the General Partner.

The founding partners will need to consider and agree the extent to which they want to be involved in the day to day management of the fund; balancing the need for appropriate scrutiny and control to protect their interest whilst ensuring structures do not become unnecessarily complex and remain attractive to the market. In practice the approach could be a combination of the two options above. KMIF could initially be established with a SPV General Manager (option 1) and then transition to option 2 at a later date. This decision will need to be taken jointly with the local authority partners as part of the fund development stage.

The objective is for all local authority participants to join KMIF at set up. The more local authority partners involved at the outset then the greater the initial financial resource that the Fund can call upon. Entry will be allowed at a later stage although penalties will need to apply to reflect: the initial setup costs; any increase in the value of the Fund; the reduced risk associated with late entry. All partners will be required to invest a minimum sum to secure equal voting rights. Partners may choose to increase their investment either at Fund or project level and returns will be on a pro-rata basis. Any additional investment will not impact on voting rights, which remain equal.

5.ii Seeding the fund

In order to make finance available for projects, the Fund must be seeded with a mix of local authority cash and assets. It is not, however, intended to be a vehicle for holding local authority owned assets and partners will need to be selective in identifying the most appropriate assets to invest in the Fund. The Fund will complement existing local authority asset management strategies by providing a mechanism for extracting value from key sites/ premises at Fund level (through a Local Asset Backed Vehicle) as well as making funding available for development projects.

Although some local authorities have been successful in establishing Local Asset Backed Vehicles (LABVs), there may be insufficient scale in many areas for each District to take this approach individually. Moreover, the KMIF structure builds upon the LABV arrangement by being capable of leveraging a much broader mix of institutional finance at the Fund and project levels.

5iii Project Pipeline

In developing proposals for the KMIF an initial potential project list has been drawn up. These are exclusively public sector led projects. Private sector led projects will equally be eligible to access the Fund providing they fulfil the investment criteria. Further projects will be identified through an open call.

Although several projects have been identified for investment by the Fund, development of the project pipeline will be a key element of the next stage of work. The level of return achieved by the Fund is dependent upon the quality and spread of the investment portfolio and therefore the range of projects coming forward. The Feasibility Report highlights the need for appropriate capacity to support and develop pipeline projects to ensure they are investment-ready. Each partner authority will be able to promote or ‘sponsor’ projects for inclusion in the Fund pipeline, however whether they also retain individual responsibility for project development or whether this is resourced collectively will need to be determined at the next stage of work.

5.iv Regional Growth Fund

A programme based bid to the Regional Growth Fund (RGF), Round 2 is currently being prepared for the KMIF. An Expression of Interest has been submitted and the full bid will need to be prepared by the end of June. If successful, RGF funds will be used to complement KMIF investment and bring forward additional projects that otherwise would not meet KMIF criteria. The KMIF can only invest in commercially viable projects. RGF will therefore be used to bridge any viability gap enabling projects to access KMIF.

Due to the RGF qualifying criteria it will not be possible to bid for additional funds to be used Kent wide. Instead, the RGF funding will be geographically targeted towards those Districts with lower employment levels and higher dependency on public sector employment. Typically projects in these areas are often less likely to be economically viable for KMIF support without additional funding due to the nature of the property markets. RGF will therefore augment KMIF and help balance the portfolio of investment in regeneration across Kent.

It is important to recognise that the prospect of a successful bid for KMIF may however be limited. RGF is a highly competitive process with criteria which clearly favours northern regions with greater employment dependency on the public sector. This is evidenced from the experience of Round 1 and the fact that only one bid was awarded in the South East. Although RGF would increase the investment capacity of KMIF, the proposed model is not dependant on RGF.

Item No. 7 - Appendix C

Financial Implications

6 If there is commitment to take forward the KMIF there are three funding streams required to develop and implement KMIF with financial implications for local authority partners:

i. KMIF development costs (including setting up the governance structure)
ii. Seeding the Fund
iii. Running costs

i. KMIF Development Costs
Funding will be required to take forward the development and set up of the KMIF at a cost of around £650,000. It is proposed that the Borough and District partners are asked to contribute £25,000 each towards these costs, Medway contribute £50,000 and KCC fund the remainder, up to £500,000. Contributions will be subject to partners' internal approval processes.

ii. Local Authority contribution to Seeding the Fund
KCC will need to determine how it will make its contribution to seeding the fund based on its availability of cash and appropriate assets. Local authority partners can either commit assets as a contribution to seeding the Fund or derive the value themselves and release cash to the Fund. The latter is more tax efficient and allows authorities to retain control of their assets. It is expected that local authority partners' investment in the Fund will be informed by existing asset management and collaboration strategies.

The financial commitment to seeding the Fund will not need to be made until the Fund is ready to be established, following further development work at the next stage. The level of investment required will be dependant upon the number of local authority partners. Assuming a minimum of ten partners commit to setting up the Fund it is anticipated that each partner will be asked to make a contribution in the region of £2m - £3m. Although the financial commitments will need to be in place, funds will only be drawn down from the partners to the Fund as projects are brought forward for investment.

It is intended that in order to maximise the value and return on the Fund there will be a financial lock in period for the lifetime of the Fund, expected to be for a 10 year period. The founding partners may want to consider making provision for dividend payouts, subject to the performance of the Fund. At this stage it is not possible to estimate the level of return that could be achieved by the Fund. The return is entirely dependent on the risk profile partners choose to invest in which will be defined in the Investment Strategy. It is also subject to the development of the pipeline and timing of investments. There are no benchmarks available from the North West Evergreen Fund as this has only recently been established.

iii. Running Costs

Running costs, based on the North West Evergreen Fund, will be in the region of £500,000 per annum including legal fees, administration and fund management costs. This figure could vary depending on the precise structure and approach adopted in Kent. It could also be considerably less in the initial years as the Fund Manager costs could be charged as a percentage of the value of the Fund. These costs could be met from a combinations of sources: contributions from partners; fees charged to the projects (through the loan); and returns to the fund (once these become available).

Legal Implications

7. Pinsent Masons were appointed by KCC to work alongside CBRE and provide legal advice on the emerging proposals, with a specific focus on the Fund governance structure, Vires and State Aid implications. A full analysis of these issues is provided in the appended report.

7.i Vires

The legal analysis concludes that Well-Being Powers under the Local Government Act allow local authority partners to establish and participate in the proposed KMIF based on the current model and concept. Well Being Powers apply providing the primary purpose of the fund is to deliver regeneration outcomes and not to raise money (except possibly as a beneficial side effect). These powers will be replaced by a general power of competence under the Localism Bill, which is expected to be enacted in late autumn, and which may serve to limit tax exemptions currently in place. The provisions currently proposed under the Localism Bill will require authorities to trade through a company structure, ruling out the use of a Limited Partnership for the purpose of the KMIF. Tax exemptions under the LP structure will no longer be available, therefore increasing the operating costs of the KMIF and impacting on its financial viability. In order to guard against this and create flexibility for the future operation of the KMIF, it is possible to create a shell KMIF partnership by October in advance of the Localism Bill.

7.ii State Aid

KMIF is based on the principle that it will invest according to market rates and therefore will not contravene state aid rules. There may be circumstances where it would be beneficial to invest on less commercial terms to achieve regeneration outcomes and this will be possible in geographic areas where exemptions apply (specifically the East Kent Assisted Area)

Item No. 7 - Appendix C

Next steps , Phasing & Procurement

8. The feasibility stage of work has focused on the fund concept, how it could operate and the key decisions that will need to be made in setting up the KMIF. This report asks Chief Executives whether they support the concept in principle and whether they want to jointly take forward the development and set up of KMIF. Providing sufficient Districts signal an interest, they will be asked to contribute to the financial cost of the next stage of work (as outlined under section 4).

The next stage will comprise three main work streams:

- Development of the Investment Strategy
- Development of the Project Pipeline
- Development of the Governance Structure

Due to the inter-dependencies between the different elements and to also achieve better value for money, it is proposed that the KMIF development stage will therefore be openly procured as a single package. Breakpoints will be built into the work programme around key decision gateways in order to manage the potential risk and exposure to KCC and partners. It is important to note that CBRE and Pinsent Masons are not advising on the specification for this second stage of work to prevent a conflict of interest arising should they wish to submit a tender. The tender brief and specification will be developed by KCC Regeneration and Economy working with the local authority partners. The local authority partners jointly taking forward this next stage of work will collectively agree the procurement process, specification and phasing of work.

An indicative timetable is attached at Appendix 2. This is intended to outline the principle work-streams for the next stage of work. This will be developed in more detail following the appointment of consultancy support.

Procurement of the KMIF development will need to include specialist fund management advice. This could possibly be the same Fund Manager who will run the Fund on behalf of the KMIF partnership once it is established. This single appointment would ensure continuity of advice from development stage through to implementation and the partners could still retain the right not to proceed with the Fund by inserting an appropriate breakpoint after the development stage. Alternatively, the Fund Manager that will take forward delivery of the KMIF could be procured separately at the Fund set up stage. The appointment of the Fund Manager in both scenarios could be limited to an initial two year fixed period to allow partners to retain flexibility while the Fund is being established. The partners will in any case have the power to remove the Fund Manager in the event that performance targets are not achieved.

Based on the experience and timescales for setting up the North West Evergreen Fund, it is anticipated that the development stage will take a minimum of nine months to complete. An interim project governance structure, involving the District partners interested in taking forward the Fund, will be established to oversee the procurement and delivery of the development stage. This governance structure will comprise a Steering Group (with senior representation) to oversee strategic decisions, and a Working Group reporting into it. A key output from the development stage could be the creation of a shell Limited Partnership by October in anticipation of the Localism Bill (as noted in section 7) and to ensure flexibility is retained in determining the most appropriate delivery structures.

Consultation and Communication

9. KCC Regeneration and Economy has led the development of KMIF proposals but has been supported by a working group involving representation from SEEDA, Medway and KCC cross directorate expertise from Legal, Finance and Property. Meetings have also been held with ten Districts who expressed an interest in the KMIF concept to explore how the proposed model could deliver against their aspirations.

KCC colleagues in Legal , Finance and Property have provided some initial comments on the Feasibility Report and raised a number of points that will need to be addressed during the next stage of work. These comments are listed in the table below and are intended to provide an indication of some of the issues and the relevant work stream. This list is by no means exhaustive and it is expected that local authority partners will have other concerns that need to be addressed through the development work. An outline timetable for progressing the work-streams is attached at appendix 2.

	Issue	**Stage / work-stream at which it will be addressed**
Governance	Voting and control rights. Mechanisms to prevent viable proposals from being blocked	Legal review Investment Strategy
	Level of control afforded by the General Partner. Whether it is more difficult to remove the Fund Manager if they are also the General Partner.	Legal review
Outcomes	How market return is balanced against regeneration priorities	Investment Strategy

Procurement	Whether Fund Manager is procured at Fund development stage or whether FM is appointed after Investment Strategy is written and fund is ready to be implemented	Establish interim governance and procure advisors.
Seeding the Fund	Approach and basis for valuing assets.	Agree partner contributions
Financial Implications	How the annual running costs will be met.	Legal review and governance
	Financial modelling to determine anticipated level of return and sensitivity analysis	Financial modelling
Project Pipeline	Process for identifying new projects and private sector input	Call for projects

Discussions with SEEDA and HCA are ongoing regarding the future of the Kent and Medway portfolio of assets and liabilities. At this stage it is anticipated that the proposed HCA Stewardship arrangements and KMIF could operate in parallel, with KMIF providing the finance for projects brought forward under the Stewardship portfolio.

Initial soft market testing suggests there is private sector interest for KMIF. Skanska, Denne and Aviva have all expressed an interest and invited further discussions. The Kent Pension Fund has also indicated that they could be willing to invest between £10m - £20m and has requested that the proposals be presented to the Superannuation Fund Committee.

It is accepted that any commitment to the development of KMIF by local authority partners may need to go through internal sign off arrangements. The Kent Joint Chief Executives may want to advise whether they would like the Feasibility Report, findings and recommendations to be presented to Kent Forum.

Risk Management

10. In committing to the next stage of developing the KMIF, local authority partners are making financial commitments towards the cost of this work (as outlined in section 6). These would be abortive costs if it was decided not to proceed with the set up stage.

It is important to note that agreement to proceed with the development and set up stage does not equate to a ten year financial commitment to the KMIF. The precise level of investment required from each partner to seed the fund will need to be determined through the next stage of work.

The limited partnership structure ensures that the risk to the local authorities is limited to their investment as KMIF would not in itself be raising debt. The proposals make provision for partners to exit from KMIF providing they sell their stake (which admittedly may not be easy in the early years). All partners can collectively agree to close KMIF at any time.

There is potential risk that the proposed call for projects could raise expectation and this would need to be carefully managed in terms of how this was presented to the market.

Conclusion

11. The KMIF concept offers an innovative alternative to delivering strategic and large scale regeneration in a way that is attractive to the market and capable of levering significant investment. It complements and builds upon existing local authority asset management strategies. It provides a means of unlocking development and delivering against regeneration targets against a backdrop of reduced public sector spending.

The Feasibility Report outlines how the KMIF could operate and identifies the specific issues that will need to be agreed by partners in order for it to be set up. The Kent Joint Chief Executives are asked whether they are supportive of taking forward the fund concept. Providing there is sufficient support, a project governance structure will then be established along with a project budget to progress the development and set up stage.

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Budget Monitoring Sheets for September 2011

Contents

BUDGET MONITORING - Strategic Commentary - As at 30 September 2011

Overall Financial Position

1. Six months into the year the results to date show an overall favourable variance of £31,000, a reduction when compared with the previous month.

2. The year-end position is forecast to be £60,000 better than budget; an improvement on the previous month.

Key Issues for the year to date

3. **Income** – investment income is performing above target and is forecast to be better than budgeted at the year-end. This is due to higher than estimated balances and slightly higher rates being achieved, and a favourable forecast is shown to reflect this improved position.

4. Looking at the other main income sources, the position remains difficult. Car Park income has continued its trend of adverse monthly variances and is now showing a small adverse variance. Building Control, Land Charges, Development Control and On-street Parking continue to show adverse variances.

5. Community Development external funding is ahead of profile, contributing to the favourable variance at present, but this will not have any impact on the year-end results.

6. **Pay costs** – the favourable trend has continued and the underspend for the year to date is now £191,000. Almost all services are showing a small underspend; in some cases these are offset by agency staff costs, but there are a number of favourable variances forecast for year-end.

7. **Other** – Direct Services' results show an adverse variance of £66,000, due to increased fuel and waste disposal costs.

Year End Forecast

8. Following a review by Heads of Service, the year-end position is forecast to be £60,000 better than budget, a significant improvement when compared with the previous month. Adverse variances have been forecast to reflect the fact that some savings from partnership working are not expected to be achieved for the full year and for variable income sources such as Building Control and On-street parking. Favourable variances has been forecast for investment income and against some salary budgets.

Risk areas

9. The current economic situation continues to have a real and potential impact on the Council's finances:

- property related income such as Development Control, Building Control, Land Charges and Capital Receipts remain vulnerable and parking income is also struggling ;
- the Benefits workload is continuing at a higher level than before the recession (30% increase in work volumes between May and August), which is having an impact on processing times (though an action plan is in place to improve performance);
- Council Tax collection rates, though currently in line with the previous year, could be affected by increased unemployment and squeezed household incomes; and
- diesel prices continue at a high level and the financial impact seen in the last financial year is continuing.

10. Staff turnover remains relatively low. This has a positive impact on service delivery but puts at risk the achievement of the vacant post saving in future years. Conversely, in some specialist areas, experienced staff are proving difficult to recruit and so temporary staff are being used to cover vacancies. Where appropriate, apprenticeships are being considered to increase the pool of trained staff.

11. Planned savings through the generation of income, particularly from new partnership working, remain risk areas for the current and for future years. However, on a positive note, the Building Control Manager partnership with Tonbridge and Malling Borough Council is now in place and the business case for the Environmental Health partnership with Dartford Borough Council is progressing through the Member approval process at both councils.

Contacts:

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Tricia Marshall	Head of Finance and HR	ext 7205
Adrian Rowbotham	Finance Manager	ext 7153

Community Development – September 2011 Commentary

Service	Variance to date £'000 (Minus is bad news)	Forecast Annual Variance £000	Explanation of variance and action planned (including changes from previous month)
Community Development Service Provisions	6	15	This is additional income to the Council from sale of Community Safety and health services to other Districts.
STAG Community Arts Centre	25		Invoice from the Stag for quarter ending 30th September not received until 3rd October.
Tourism	13		Invoice for Tourism services awaited.
Partnership – Child (Ext Funded)	14		External funding received in advance. Will be zero at year end.
Partnership – Home Office (Ext Funded)	43		External funding for whole year received in advance. Will be zero at year end.
Cumulative Salaries – Ext Funded	-11		Additional external income will offset this additional externally funded expenditure and this will be zero at the year end.
Capital – Local Strategic Partnership	-10		This relates to externally funded capital projects bid for during the year. The cost to the Council is nil at year end and the funds have already been received by the Council but are held in a different budget.
Capital – Parish Projects	28		Currently, there are two village hall projects that will possibly come forward during this financial year totalling up to £20K.

Future Issues/Risk Areas

Head of Community Development
October 2011

ITEM 1
(3)

Development Services – September 2011 Commentary

Service	Variance to date £'000 (Minus is bad news)	Forecast Annual Variance £000	Explanation of variance and action planned (including changes from previous month)
Local Development Framework	40	5	The variance is in part due to a variation from the profiled budget in the payment of grants to external bodies for which we expect to receive payment requests this year. There is also a variation in the salaries budget due to delay in filling a vacant post.
Planning – Dev. Control	20	3	Several staff worked reduced hours. Vacancy not filled at start of year. Planning Application Fee Income is consistent with the profiled budget but S106 and pre-application income is below expectation at present.
Cumulative Salaries	55	58	Several staff worked reduced hours. Vacancy not filled at start of year. Variance is also due to the trial arrangement for the Planning Services Manager post.

Future Issues/Risk Areas

Head of Development Services
October 2011

ITEM 1
(4)

Environmental & Operational Services – September 2011 Commentary

Service	Variance to date £'000 (Minus is bad news)	Forecast Annual Variance £000	Explanation of variance and action planned (including changes from previous month)
Building Control	-50	-41	Income £45,000 below budget profile for statutory work. Forecast total income for year £430,000 against an income budget of £480,000. Estimated £30,000 savings on structural checking budget. Budget includes income of £34,000 for sharing Building Control Manager with Tonbridge and Malling Borough Council on a 50:50 basis. This arrangement commenced on 3rd October 2011, (£21,000 shortfall).
CCTV	-13	-30	Budget contains £48,000 unidentified income, including contribution from Kent Police which will not be received. Savings on transmission costs.
Clean Air	18		£20,000 for use of Consultants profiled to have been spent, but will be spent later in the year.
On-Street Parking	-52	-25	Income £22,000 below profile due mainly to day tickets and penalty charge notices.
Licensing Partnership Hub (Trading)	12		*Position shown for information only. Any year-end variances are subject to decision by members of the Licensing Partnership.*
Licensing Regime	-23	-30	Budget contains £30,000 (profile £15,000) for bringing two new partners into the Licensing Partnership – new partners not yet identified.
Parks & Recreation Grounds	-21	-20	Budget contains additional £20,000 income from Hollybush Bowls Club for rent to reflect actual cost of maintaining Bowls Green, (or the transfer of the Green with full maintenance liability). Negotiations underway and transfer agreed, in principle, but not to take effect until April 2012. Other additional costs offset by savings on Estate Management Grounds and Parks Rural budgets.
Parks – Rural	18	20	Small savings over a wide range of budget headings.
Public Health	-31	-70	Budget contains £100,000 savings for implementation of shared working arrangements with Dartford Borough Council, (£8,333/month). Implementation will not be achieved until April 2012. Some savings achieved on this budget by not filling vacant posts pending shared working agreement. £13,600 income is outstanding from Dartford Borough Council for Shared Environmental Health Management agreement.
Refuse Collection	32	30	Income above profile for recycling credits received in respect of fourth quarter in 2010/11 that were not booked back into old year, (actual income received higher than estimated income to be booked back). First quarter recycling income for 2011/12 now received.

ITEM 1
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Service	Variance to date £'000 (Minus is bad news)	Forecast Annual Variance £000	Explanation of variance and action planned (including changes from previous month)
Street Naming	6	10	Income for charging exceeding budgets.
Support – Direct Services	15		Savings on internal printing and mobile phones to be investigated. Savings on training, but courses need to be delivered for driver and Health and Safety training.
Taxis	16		Income higher than profile due to driver licence income to be spread over three financial years.
Cumulative Salaries – Operational Services	41		Savings on Direct Services salaries reflected in trading accounts, offset by expenditure on agency staff to maintain services.
Cumulative Salaries – Environmental Health	16	30	Savings on salaries reflected in Environmental Health Service Budgets.
Cumulative Salaries – Parking & Amenity Services	16	25	One Civil Enforcement Officer post not filled and to be deleted from the establishment. Reflected in service budgets for car parks and on-street parking.
Capital – Playground Improvements	19		Work on playground in Edenbridge, confirmation of external funding now received, to match Council budget for this project. Order now placed for works to commence.
Capital – Vehicle Purchases	270		Delays on new vehicle deliveries. Vehicle replacement programme will be achieved within overall budget. Any in year underspends are carried forward into the vehicle replacement fund.
Direct Services – Trading Accounts	-65	-23	Surplus at end of September is £51,000 against profiled surplus of £117,000. Diesel costs £17,000 over budget. Latest diesel cost at £1.12 per litre. Higher than budgeted cost for disposal of trade waste and cesspools.

Future Issues/Risk Areas

Head of Environmental & Operational Services
October 2011

ITEM 1
(6)

Finance & Human Resources – September 2011 Commentary

Service	Variance to date £'000 (Minus is bad news)	Forecast Annual Variance £000	Explanation of variance and action planned (including changes from previous month)
AMF Argyle Road	11		Timing difference only, no impact expected on year end.
AMF Leisure	-24		Timing difference only, no impact expected on year end.
AMF Support & Salaries	10		Underspend on IT costs. Investigating whether profile is correct.
Dartford Partnership Hub (SDC Costs)	-41		All costs for Revenues, Benefits, Audit and Fraud partnership with Dartford BC now shown together. Expenditure across both authorities on these services being combined and balance due from DBC calculated.
Estates Management – Buildings	-17		Timing difference only, no impact expected on year end.
Markets	40	85	Additional income obtained, reflected in forecast.
Members	10	10	Slightly below budget on Members' allowances. Forecast amended accordingly.
Revenues & Benefits Partnership	-185		These are the implementation costs for the project that are to be shared 50:50 with DBC and funded from reserves.
Admin Expenses – Finance	12		Keeping under review but no revised forecast at this stage.
Support – Central Offices	8	18	Forecast reflects likely underspend on electricity costs (£10k) plus income from Moat Housing for use of the building from 1 December 2011 (£8k).
Support – Contact Centre	31		Currently operating below establishment with lower graded staff, also transfer required from this code, which will reduce the underspend. Investigating the use of apprentices to maintain service delivery levels so forecast unchanged at present.
Support – Finance Function	22	10	Forecast reflects current underspend on pay costs. Forecast variance does not reflect full underspend due to possible need to buy in extra resources to deliver on key projects.
Support – Local Offices	-25		Swanley Town Council paid for local office contract for Oct to March. To amend profile accordingly.
Support – Property Function	18	12	Reflects underspend on pay costs in current year (part of saving already planned for future years).

Service	Variance to date £'000 (Minus is bad news)	Forecast Annual Variance £000	Explanation of variance and action planned (including changes from previous month)
Cumulative Salaries	51	22	Underspends across a number of headings, reflected in comments above.
Capital – Sevenoaks Town Centre	67		Timing of expenditure under this head is difficult to forecast; no expenditure for the year to date.

Future Issues/Risk Areas

Head of Finance & Human Resources
October 2011

Housing & Communications – September 2011 Commentary

Service	Variance to date £'000 (Minus is bad news)	Forecast Annual Variance £000	Explanation of variance and action planned (including changes from previous month)
Private Sector Housing	8	14	A Housing Standards Officer now undertakes the Climate Change work (post amalgamated making corporate savings).
Cumulative Salaries	-15	-13	Agency workers employed in Social Housing due to Officers leaving and sickness. Cost met from external funding.
Cumulative Salaries – Ext Funded	2	4	Savings made from original Climate Change Officer post.
Capital – Improvement Grants	185		It is difficult to predict when works will be completed. Bottom line is correct.
Capital – WKHA Adaps for Disabled	-45		It is difficult to predict when works will be completed. Bottom line is correct.
Capital – RHPCG 10-11 SDC	-15		External funding and nil cost to SDC.
Capital – Hever Road Gypsy Site	-166		As above, it is external funding. However, there has been a delay in the completion of the works at the Hever Road site at the moment due the residents concerns about electricity charges. SDC, on their behalf, is trying to have the tariff reduced. It is hoped works will resume as soon as possible.
Capital-Hever Road Gypsy Site – Bomb Disposal	-10		External funding and nil cost to SDC.

Future Issues/Risk Areas

Head of Housing & Communications
October 2011

ITEM 1
(9)

IT & Facilities Management – September 2011 Commentary

Service	Variance to date £'000 (Minus is bad news)	Forecast Annual Variance £000	Explanation of variance and action planned (including changes from previous month)
AMF IT	-89		Invoice for replacement PC's received in October, contrary to profile. End of year position as per budget.
Support – Central Offices – Facilities	11		Small underspends across multiple codes, end of year position as per budget.
Support – General Admin	20		Currently re-negotiating telephone contracts and minor underspends on corporate postage vs profile.
Support – IT	47		Awaiting DR invoice, new scanner purchased in October not September as per profile.

Future Issues/Risk Areas

Head of IT & Facilities Management
October 2011

ITEM 1
(10)

Legal & Democratic Services – September 2011 Commentary

Service	Variance to date £'000 (Minus is bad news)	Forecast Annual Variance £000	Explanation of variance and action planned (including changes from previous month)
Action & Development	-17		Adverse variance is related to a 50% contribution to the Consultants engaged for the Environmental Health shared service work with Dartford BC and legal fees and costs relating to a Planning Appeal at Amherst Hill. An Action & Development Reserve is in place from which monies will be drawn down at year end for any overspend this year.
Corporate Management	27	50	Performance Award Contingency budget has been re-profiled since last month. The positive variance is due to a current underspend against profile on Audit Fees with some invoices not yet received. It is forecast that Audit Fees will be £50k lower than first anticipated and this is reflected in a revised forecast for that budget line. There are no other significant variances in the Corporate Management budget.
Corporate Savings	9	-41	Vacant Posts savings target for 2011/12 has been met for the year and the forecast amended accordingly. However adverse variance of £41k remains across the Corporate Savings budget with one-off savings targets currently a high risk.
Elections	10		Cash will be drawn down from the reserve earmarked for district elections when the exact costs are known.
Support – Legal Function	-28	-25	Unlikely to receive full amount against income budget for S106 work of £30k. Now expecting similar income levels to 2010/11 of £5k. Market conditions not conducive to raising income from S106 agreements.
Cumulative Salaries	40	40	Underspend on salaries, offsetting non receipt of income from sharing staff with Tonbridge and Malling (Legal) and Maidstone (Democratic Services).

Future Issues/Risk Areas

Income from land charges searches (budget of £185k) remains a very high risk area. National legal action now underway in relation to Personal Search companies recouping monies expended under previous legislation.

Head of Legal & Democratic Services
October 2011

2. Overall Summary

SEPTEMBER 11 - Final

	Period	Period	Period	Period	Y-T-D	Y-T-D	Y-T-D	Y-T-D	Annual	Annual	Annual	2010/11
	Budget	Actual	Variance	Variance	Budget	Actual	Variance	Variance	Budget	Forecast (including Accruals)	Variance	Actual
	£'000	£'000	£'000	%	£'000	£'000	£'000	%	£'000	£'000	£'000	£'000
Community and Planning												
Community Development	115	61	54	46.9	558	453	105	18.9	1,154	1,139	15	887
Development Services	105	99	6	6.1	699	628	71	10.2	1,380	1,378	2	1,672
Environmental and Operations	156	194	- 38	-24.0	1,522	1,567	- 44	-2.9	2,870	3,016	- 146	3,979
Housing and Communications	41	52	- 11	-25.6	509	483	27	5.2	926	912	14	1,014
Total Community and Planning	**419**	**406**	12	2.9	**3,289**	**3,130**	159	4.8	**6,329**	**6,444**	- 115	**7,552**
Corporate Resources												
Finance and Human Resources	390	434	- 44	-11.1	2,393	2,528	- 135	-5.6	4,761	4,626	135	5,589
IT and Facilities Management	119	182	- 63	-53.1	796	804	- 8	-1.0	1,655	1,655	-	1,704
Legal and Democratic Services	109	109	- 0	-0.2	640	634	7	1.0	1,368	1,384	- 16	1,564
Total Corporate Resources	**618**	**725**	- 107	-17.3	**3,829**	**3,965**	- 136	-3.6	**7,783**	**7,664**	119	**8,857**
NET EXPENDITURE (1)	**1,037**	**1,132**	- 95	-9.1	**7,118**	**7,095**	23	0.3	**14,112**	**14,108**	4	**16,409**
Adjustments to reconcile to Amount to be met from Reserves												
Removal of Asset Maintenance Variance	-	61	- 61	-	-	- 24	24	-	-	-	-	72
Direct Services Trading Accounts	- 14	- 8	- 6	- 42.9	- 117	- 51	- 66	- 56.4	- 74	- 51	- 23	- 17
Capital charges outside General Fund	- 4	- 4	- 0	- 0.0	- 24	- 24	- 0	- 0.0	- 47	- 47	-	- 47
Support Services outside General Fund	- 16	- 16	- 0	- 0.1	- 98	- 98	0	0.1	- 220	- 220	-	- 216
Redundancy Costs - all	-	-	-	-	-	15	- 15	-	-	-	-	244
NET EXPENDITURE (2)	1,002	1,165	- 162	-16.2	6,879	6,913	- 34	- 0.5	13,771	13,790	- 19	16,445
Government Grant	- 428	- 428	-	0.0	- 2,571	- 2,571	-	-	- 5,141	- 5,141	-	- 6,348
Council Tax Requirement - SDC	- 767	- 767	-	0.0	- 4,600	- 4,600	-	-	- 9,199	- 9,199	-	- 9,172
NET EXPENDITURE (3)	**- 193**	**- 30**	**- 162**	**84.2**	**- 291**	**- 257**	**- 34**	**- 11.7**	**- 569**	**- 550**	**- 19**	**925**
Summary including investment income												
Net Expenditure	*- 193*	*- 30*	*- 162*	*84*	*- 291*	*- 257*	*- 34*	*- 11.7*	*- 569*	*- 550*	*- 19*	925
Investment Impairment	-	-	-	-	-	-	-	-	-	-	-	-
Interest and Investment Income	*- 16*	*- 27*	*10*	*-64.0*	*- 85*	*- 151*	*65*	*76.5*	*- 153*	*- 232*	*79*	- 335
Overall total	*- 209*	*- 57*	*- 152*	*20*	*- 376*	*- 408*	*31*	*65*	*- 722*	*- 781*	*60*	*590*
Planned appropriation (from)/to Reserves									722	722	-	-
Supplementary appropriation from Reserves									-	-	-	-
												- 171
Surplus									-	*- 59*	*60*	*419*

3. Net Service Expenditure for each Head of Service - analysed by Budget area

SEPTEMBER 11 - Final

Community Development	Period Budget £'000	Period Actual £'000	Period Variance £'000	Period Variance %	Y-T-D Budget £'000	Y-T-D Actual £'000	Y-T-D Variance £'000	Y-T-D Variance %	Annual Budget £'000	Annual Forecast (including Accruals) £'000	Annual Variance £'000	2010/11 Actual £'000
SDC Funded												
8 to 12 project	2	- 6	8	406.8	11	10	1	7.5	23	23	-	23
Arts Development	0	0	- 0	-	0	0	0	-	- 0	- 0	-	5
All Weather Pitch	- 0	- 0	- 0	-	- 1	- 1	0	8.2	- 2	- 2	-	- 2
Community Activity	-	0	- 0	-	-	0	- 0	-	-	-	-	-
Community Development Service Provisions	-	-	-	-	-	- 6	6	-	-	- 15	15	- 12
Community Safety	16	17	- 1	- 6.4	101	94	6	6.3	201	201	-	167
The Community Plan	4	4	0	9.7	27	24	3	11.5	55	55	-	51
Economic Development	3	3	0	0.4	24	30	- 6	- 24.1	41	41	-	19
Grants to Organisations	1	1	0	1.4	180	179	1	0.3	186	186	-	225
Health Improvements	3	4	- 0	- 6.6	20	20	- 0	- 0.5	39	39	-	50
Leisure Contract	8	8	- 0	- 0.4	130	128	3	2.0	330	330	-	446
Leisure Development	-	-	-	-	10	10	0	2.4	22	22	-	20
Administrative Expenses - Community Dev.	1	0	1	55.6	6	4	2	33.1	13	13	-	13
Sporting Services	-	-	-	-	-	- 0	0	-	-	-	-	- 364
STAG Community Arts Centre	25	-	25	100.0	75	50	25	33.3	100	100	-	100
Sustainability	1	1	0	0.2	8	8	0	2.8	17	17	-	22
Tourism	15	1	14	96.6	39	27	13	31.9	53	53	-	39
West Kent Partnership	2	2	- 0	- 2.0	- 7	- 7	- 0	- 3.5	0	0	-	-
Youth	6	5	1	23.3	38	33	5	11.9	76	76	-	84
Total Community Development (SDC Funded)	88	40	48	54.6	662	605	57	8.7	1,154	1,139	15	886
Externally Funded												
Partnership - Child	-	9	- 9	-	-	- 14	14	-	0	0	-	-
Partnership - Home Off	9	1	7	86.3	- 31	- 74	43	141.9	- 0	- 0	-	-
Choosing Health WK PCT	19	0	18	97.5	- 73	- 67	- 7	- 9.2	0	0	-	-
Falls Prevention	-	6	- 6	-	-	- 1	1	-	-	-	-	-
PCT Initiatives	-	-	-	-	-	- 1	1	-	-	-	-	-
Local Strategic Partnership	-	5	- 5	-	-	5	- 5	-	-	-	-	-
Total Community Development (Ext Funded)	27	21	6	22.4	- 104	- 152	48	46.2	0	0	-	-
Total Community Development	**115**	**61**	**54**	**46.9**	**558**	**453**	**105**	**18.9**	**1,154**	**1,139**	**15**	**886**

3. Net Service Expenditure for each Head of Service - analysed by Budget area

SEPTEMBER 11 - Final

Development Services	Period Budget £'000	Period Actual £'000	Period Variance £'000	Period Variance %	Y-T-D Budget £'000	Y-T-D Actual £'000	Y-T-D Variance £'000	Y-T-D Variance %	Annual Budget £'000	Annual Forecast (including Accruals) £'000	Annual Variance £'000	2010/11 Actual £'000
Bridleways / Footpath Diversions	0	0	0	-	1	1	0	0.3	2	2	-	2
Conservation	4	4	0	1.6	23	23	0	2.0	47	47	-	75
Local Development Framework	32	31	1	3.3	199	159	40	19.9	446	441	5	488
LDF Expenditure	-	1	- 1	-	-	1	- 1	-	-	-	-	-
Planning - Appeals	12	5	7	57.1	78	74	4	4.5	151	161	- 10	187
Planning - Counter	- 0	- 0	- 0	-	- 0	- 0	- 0	-	- 1	- 1	-	-
Planning - Dev. Control	34	37	- 3	- 10.1	253	234	20	7.8	446	443	3	606
Planning - Enforcement	21	20	1	6.1	131	126	4	3.1	258	254	4	281
Administrative Expenses - Development Control	3	1	1	42.8	14	10	4	31.3	30	30	-	34
Administrative Expenses - Policy and Env.	-	- 0	0	-	-	- 0	0	-	-	-	-	1
Total Development Services	**105**	**99**	**6**	**6.1**	**699**	**628**	**71**	**10.2**	**1,380**	**1,378**	**2**	**1,674**

3. Net Service Expenditure for each Head of Service - analysed by Budget area

SEPTEMBER 11 - Final

Environmental and Operational Services	Period Budget £'000	Period Actual £'000	Period Variance £'000	Period Variance %	Y-T-D Budget £'000	Y-T-D Actual £'000	Y-T-D Variance £'000	Y-T-D Variance %	Annual Budget £'000	Annual Forecast (including Accruals) £'000	Annual Variance £'000	2010/11 Actual £'000
Asset Maintenance Car Parks	1	-	1	100.0	4	-	4	100.0	8	8	-	-
Asset Maintenance CCTV	1	1	0	43.4	5	2	4	68.7	11	11	-	15
Asset Maintenance Countryside	0	1	- 1	-	3	4	- 1	- 39.4	6	6	-	3
Asset Maintenance Direct Services	2	7	- 5	- 262.7	11	8	3	29.8	22	22	-	31
Asset Maintenance Playgrounds	1	-	1	100.0	7	1	5	81.2	13	13	-	-
Asset Maintenance Public Toilets	1	1	- 0	- 9.9	7	1	6	79.1	14	14	-	6
Building Control	- 13	- 9	- 4	- 31.2	- 80	- 30	- 50	- 62.3	- 123	- 82	- 41	- 38
Car Parks	- 159	- 155	- 4	- 2.7	- 788	- 784	- 4	- 0.5	- 1,554	- 1,564	10	- 1,475
CCTV	12	16	- 5	- 38.1	138	151	- 13	- 9.5	230	260	- 30	264
Civil Protection	1	0	1	74.8	6	5	1	22.9	11	11	-	41
Clean Air	7	6	1	13.6	72	55	18	24.3	116	116	-	100
Contaminated Land	4	4	0	8.8	25	23	2	8.9	51	51	-	49
Dangerous Structures	2	1	1	34.6	11	11	- 0	- 3.8	22	22	-	20
On-Street Parking	- 26	2	- 28	- 107.7	- 174	- 123	- 52	- 29.7	- 347	- 322	- 25	- 222
Emergency	5	5	0	7.4	29	28	1	4.8	59	59	-	56
EstMan - Grounds	8	14	- 6	- 80.8	45	44	1	2.6	91	91	-	78
Licensing Health	4	4	0	3.3	24	26	- 2	- 7.8	35	35	-	31
Licensing Partnership Members	-	-	-	-	-	-	-	-	-	-	-	-
Licensing Partnership Hub (Trading)	0	- 3	3	-	- 1	- 13	12	1,946.2	-	-	-	-
Licensing Regime	- 7	- 0	- 7	- 97.0	13	36	- 23	- 181.9	3	33	- 30	49
Minibus	1	-	1	100.0	4	1	4	86.9	9	9	-	333
Noise Control	7	7	- 0	- 1.3	42	40	1	3.4	88	88	-	90
Parks and Rec.Grds	8	11	- 3	- 30.9	40	61	- 21	- 51.4	88	108	- 20	131
Parks - Rural	9	3	6	70.1	51	33	18	35.8	81	61	20	107
Pest Control	-	-	-	-	- 0	-	- 0	-	- 0	- 0	-	4
Public Health	32	26	6	19.9	196	226	- 31	- 15.8	390	460	- 70	541
Public Transport Support	0	0	0	-	1	1	0	15.9	1	1	-	1
Refuse Collection	147	144	3	1.9	1,128	1,096	32	2.8	2,155	2,125	30	2,134
Administrative Expenses - Building Control	1	0	1	82.7	4	4	0	5.0	8	8	-	9
Administrative Expenses - Community Director	1	1	1	48.0	7	4	3	44.9	14	14	-	13
Administrative Expenses - Direct Services	-	0	- 0	-	-	0	- 0	-	-	-	-	-
Administrative Expenses - Health	2	1	1	48.2	11	8	3	25.8	23	23	-	16
Administrative Expenses - Transport	1	0	0	57.4	4	2	2	47.0	9	9	-	4
Street Naming	1	1	0	14.0	6	1	6	89.8	13	3	10	6
Street Cleansing	98	100	- 2	- 1.6	613	620	- 6	- 1.0	1,224	1,224	-	1,399
Support - Direct Services	4	4	0	5.4	24	9	15	62.4	49	49	-	40

Support - Health and Safety	1	1	1	43.3	8	6	2	26.7	16	16	-	54
Taxis	- 2	- 3	1	21.0	- 7	- 23	16	236.7	- 14	- 14	-	- 19
Air Quality (Ext Funded)	-	-	-	-	-	-	-	-	-	-	-	-
Public Conveniences	2	5	- 3	- 174.0	32	32	- 1	- 2.3	49	49	-	107
Total Environmental and Operational Services	**156**	**194**	**- 38**	**- 24.0**	**1,522**	**1,567**	**- 44**	**- 2.9**	**2,870**	**3,016**	**- 146**	**3,978**

3. Net Service Expenditure for each Head of Service - analysed by Budget area

SEPTEMBER 11 - Final

Finance and Human Resources	Period Budget £'000	Period Actual £'000	Period Variance £'000	Period Variance %	Y-T-D Budget £'000	Y-T-D Actual £'000	Y-T-D Variance £'000	Y-T-D Variance %	Annual Budget £'000	Annual Forecast (including Accruals) £'000	Annual Variance £'000	2010/11 Actual £'000
Asset Maintenance Argyle Road	4	15	- 11	- 250.8	25	15	11	41.5	51	51	-	38
Asset Maintenance Other Corporate Properties	3	-	3	100.0	15	18	- 3	- 18.6	30	30	-	48
Asset Maintenance Leisure	13	21	- 8	- 60.8	77	101	- 24	- 31.5	153	153	-	209
Asset Maintenance Sewage Treatment Plants	1	-	1	100.0	5	1	4	84.1	10	10	-	3
Asset Maintenance Support & Salaries	9	7	3	29.7	57	47	10	17.6	114	114	-	120
Benefits Admin	-	6	- 6	-	-	6	- 6	-	- 150	- 150	-	833
Benefits Grants	- 56	- 56	0	0.0	- 345	- 345	0	0.0	- 659	- 659	-	- 659
Bus Station	1	0	1	76.3	6	3	3	42.9	12	12	-	21
Civic Expenses	0	0	- 0	-	13	7	6	45.1	14	14	-	39
Concessionary Fares	-	2	- 2	-	-	2	- 2	-	-	-	-	433
Dartford Partnership Hub (SDC costs)	166	128	37	22.4	832	872	- 41	- 4.9	1,587	1,587	-	222
EstMan - Buildings	- 12	- 11	- 1	- 6.9	- 29	- 13	- 17	- 57.0	- 92	- 92	-	- 26
Housing Advances	0	-	0	-	2	3	- 1	- 59.6	4	4	-	5
Housing Premises	0	- 2	2	-	- 11	- 7	- 4	- 39.4	- 10	- 10	-	34
Local Tax	- 17	- 13	- 4	- 22.0	- 88	- 86	- 3	- 2.9	- 392	- 392	-	224
Markets	- 18	- 23	5	30.7	- 92	- 132	40	44.0	- 194	- 279	85	- 191
Members	31	26	5	16.8	164	154	10	6.2	342	332	10	321
Misc. Finance	132	146	- 14	- 10.4	718	713	6	0.8	2,031	2,031	-	1,927
Revenues and Benefits Partnership	-	27	- 27	-	-	185	- 185	-	-	-	-	119
Administrative Expenses - Corporate Director	0	1	- 0	-	2	2	0	3.2	5	5	-	6
Administrative Expenses - Chief Executive	2	1	1	46.9	9	4	6	61.9	19	19	-	8
Administrative Expenses - Finance	3	- 1	5	142.5	19	6	12	66.4	38	38	-	36
Administrative Expenses - Personnel	1	0	1	84.7	6	7	- 1	- 16.5	13	13	-	10
Administrative Expenses - Property	0	-	0	-	2	1	1	52.9	4	4	-	3
Support - Central Offices	17	37	- 20	- 113.0	310	303	8	2.4	411	393	18	409
Support - Contact Centre	40	35	4	11.1	238	207	31	13.1	496	496	-	438
Support - Exchequer and Procurement	11	11	0	3.7	66	64	2	3.1	120	120	-	122
Support - Finance Function	16	12	4	23.4	96	74	22	23.4	231	221	10	180
Support - General Admin	11	10	1	6.2	79	82	- 3	- 4.3	144	144	-	215
Support - Local Offices	0	23	- 22	-	24	49	- 25	- 105.6	48	48	-	49
Support - Nursery	-	-	-	-	-	1	- 1	-	-	-	-	3
Support - Personnel	13	16	- 3	- 24.9	96	104	- 8	- 8.1	185	185	-	214
Support - Property Function	9	6	3	34.2	53	35	18	34.7	107	95	12	76
Treasury Management	8	11	- 3	- 39.7	43	45	- 2	- 3.6	88	88	-	98
Total Finance and Human Resources	**390**	**434**	**- 44**	**- 11.1**	**2,393**	**2,528**	**- 135**	**- 5.6**	**4,761**	**4,626**	**135**	**5,587**

3. Net Service Expenditure for each Head of Service - analysed by Budget area

SEPTEMBER 11 - Final	Period Budget	Period Actual	Period Variance	Period Variance	Y-T-D Budget	Y-T-D Actual	Y-T-D Variance	Y-T-D Variance	Annual Budget	Annual Forecast (including Accruals)	Annual Variance	2010/11 Actual
Housing and Communications	£'000	£'000	£'000	%	£'000	£'000	£'000	%	£'000	£'000	£'000	£'000
Consultation and Surveys	2	-	2	100.0	8	-	8	100.0	17	17	-	22
Energy Efficiency	- 8	2	- 9	- 123.7	12	4	7	64.0	4	4	-	26
External Comms	7	6	1	7.9	60	52	9	14.6	127	127	-	127
Gypsy Sites	- 2	- 3	1	41.7	- 7	- 5	- 1	- 21.1	- 14	- 14	-	- 2
Home Improvement Agency (prev. Care and Repair)	-	-	-	-	39	39	0	1.2	39	39	-	57
Homeless	9	17	- 9	- 96.8	52	58	- 6	- 12.0	119	119	-	123
Housing	20	24	- 4	- 17.6	224	225	- 1	- 0.5	388	388	-	408
Housing Initiatives	2	0	1	84.4	10	6	4	37.9	20	20	-	8
Housing Option - Trailblazer	- 4	- 2	- 2	- 59.2	- 0	4	- 5	-	0	0	-	-
Needs and Stock Surveys	-	-	-	-	-	-	-	-	15	15	-	15
KCC Loan Scheme	-	- 0	0	-	-	- 0	0	-	-	-	-	-
Private Sector Housing	16	13	3	18.5	96	88	8	8.3	192	178	14	214
Administrative Expenses - Housing	1	1	0	4.2	6	9	- 3	- 50.0	13	13	-	22
Support - General Admin	-	- 0	0	-	-	- 7	7	-	-	-	-	- 11
Homelessness Funding	- 1	- 7	6	429.8	7	7	-	0.0	0	0	-	-
Leader Programme	0	0	- 0	-	2	2	- 0	- 0.6	5	5	-	5
Total Housing and Communications	**41**	**52**	**- 11**	**- 25.6**	**509**	**483**	**27**	**5.2**	**926**	**912**	**14**	**1,014**

3. Net Service Expenditure for each Head of Service - analysed by Budget area

SEPTEMBER 11 - Final

IT & Facilities Management	Period Budget £'000	Period Actual £'000	Period Variance £'000	Period Variance %	Y-T-D Budget £'000	Y-T-D Actual £'000	Y-T-D Variance £'000	Y-T-D Variance %	Annual Budget £'000	Annual Forecast (including Accruals) £'000	Annual Variance £'000	2010/11 Actual £'000
Asset Maintenance IT	13	71	- 58	- 467.9	56	145	- 89	- 160.3	300	300	-	192
Administrative Expenses - IT	2	1	2	75.3	12	8	4	30.8	24	24	-	21
Support - Central Offices - Facilities	23	20	2	10.0	120	109	11	9.4	256	256	-	248
Support - General Admin	20	29	- 10	- 49.6	149	129	20	13.1	291	291	-	330
Support - IT	62	61	1	1.6	460	412	47	10.3	785	785	-	913
Total IT & Facilities Management	**119**	**182**	**- 63**	**- 53.1**	**796**	**804**	**- 8**	**- 1.0**	**1,655**	**1,655**	**-**	**1,704**

3. Net Service Expenditure for each Head of Service - analysed by Budget area

SEPTEMBER 11 - Final	Period Budget	Period Actual	Period Variance	Period Variance	Y-T-D Budget	Y-T-D Actual	Y-T-D Variance	Y-T-D Variance	Annual Budget	Annual Forecast (including Accruals)	Annual Variance	2010/11 Actual
Legal and Democratic Services	£'000	£'000	£'000	%	£'000	£'000	£'000	%	£'000	£'000	£'000	£'000
Action and Development	1	15	- 15	- 2,374.5	3	20	- 17	- 624.9	6	6	-	12
Committee Admin	5	4	1	16.4	44	40	4	8.1	83	83	-	100
Corp Mgmt	52	87	- 35	- 67.6	423	396	27	6.4	943	893	50	1,012
Corporate Savings	12	-	12	100.0	9	-	9	100.0	- 43	- 2	- 41	-
Elections	6	- 35	42	652.8	28	18	10	35.2	66	66	-	56
Equalities Legislation	10	8	2	23.7	16	13	4	22.7	16	16	-	14
Land Charges	- 8	- 9	1	13.4	- 66	- 64	- 2	- 3.4	- 113	- 113	-	- 96
Performance Improvement	0	-	0	-	- 0	5	- 5	-	1	1	-	8
Register of Electors	10	17	- 7	- 75.6	55	53	3	4.6	138	138	-	119
Administrative Expenses - Legal and Democratic	6	2	4	70.8	35	31	4	10.1	71	71	-	60
Support - Legal Function	15	20	- 6	- 36.9	94	122	- 28	- 29.4	200	225	- 25	278
Total Legal and Democratic Services	**109**	**109**	**- 0**	**- 0.2**	**640**	**634**	**7**	**1.0**	**1,368**	**1,384**	**- 16**	**1,563**

4. Cumulative Salary Monitoring

SEPTEMBER 11 - Final	Period Budget £'000	Period Actual £'000	Period Variance £'000	Period Variance %	Y-T-D Budget £'000	Y-T-D Actual £'000	Y-T-D Variance £'000	Y-T-D Variance %	Annual Budget £'000	Annual Forecast (including Accruals) £'000	Annual Variance £'000
Chief Executive, P.A. & Secretariat	18	18	0	0.4	108	110	- 2	- 2.2	216	216	-
Total Chief Executives Dept	18	18	0	0.4	108	110	- 2	- 2.2	216	216	-
Director, P.A. & Secretariat	23	24	- 1	- 5.8	136	136	- 0	- 0.2	271	271	-
Finance & Human Resources	239	232	7	3.1	1,437	1,387	51	3.5	2,889	2,867	22
Legal and Democratic Services	58	51	7	11.8	364	324	40	11.1	739	699	40
IT & Facilities Management	67	67	0	0.4	402	393	9	2.2	804	804	-
Total Corporate Resources	386	373	13	3.4	2,339	2,239	100	4.3	4,702	4,640	62
Director, PA and Secretariat	14	14	- 0	- 2.0	84	83	1	1.2	168	168	-
Community Development	34	35	- 1	- 2.8	216	215	1	0.5	430	430	-
Operational Services	286	275	11	3.8	1,715	1,673	41	2.4	3,429	3,429	-
Environmental Health	60	57	3	4.7	361	345	16	4.4	722	692	30
Licensing	26	25	2	5.9	159	158	0	0.3	318	318	-
Development Services	141	134	6	4.6	880	825	55	6.2	1,735	1,677	58
Building Control	30	26	3	10.5	177	185	- 8	- 4.2	354	354	-
Housing & Communications	45	52	- 7	- 15.6	268	283	- 15	- 5.6	536	549	- 13
Parking and Amenity Services	43	40	3	6.6	258	241	16	6.4	516	491	25
Total Community and Planning Services	679	659	20	2.9	4,119	4,009	109	2.6	8,209	8,109	100
Sub total	1,083	1,050	33	3.0	6,566	6,359	206	3.1	13,127	12,965	162
Council Wide - Vacant Posts	- 2	-	- 2	- 100.0	- 15	-	- 15	- 100.0	- 52	- 52	-
Performance Award Contingency	- 20	-	- 20	- 100.0	-	-	-	-	48	48	-
TOTAL SDC Funded Salary Costs	**1,061**	**1,050**	**11**	**1.0**	**6,551**	**6,359**	**191**	**2.9**	**13,123**	**12,961**	**162**
Externally Funded & Funded from other sources (gross figures). Overspendings here are matched by external funding and represent additional resources secured for the Council since the budget was set.											
Community Development Ext.	6	7	- 1	- 22.4	36	47	- 11	- 29.1	73	73	-
Housing Ext.	1	11	- 9	- 733.7	65	63	2	2.5	130	126	4
	7	18	- 11	- 145.2	101	110	- 9	- 8.8	203	199	4
TOTAL All Salary Costs	1,069	1,068	1	0.0	6,652	6,470	183	2.7	13,326	13,160	166
Less Allocs to Trading a/cs inc Ext Funded TASK	- 244	- 229	- 15	- 6.1	- 1,463	- 1,416	- 47	- 3.2	- 2,925	- 2,925	-
Less Allocations to Capital and Asset maint. etc	- 3	- 3	- 0	- 0.6	- 18	- 17	- 1	- 3.5	- 35	- 35	-
Council Wide Vacant Posts	2	-	2	100.0	15	-	15	100.0	52	52	-
Check total to Pay Costs (Budget book page9)	**824**	**836**	**- 13**	**- 1.6**	**5,187**	**5,037**	**150**	**2.9**	**10,418**	**10,252**	**166**

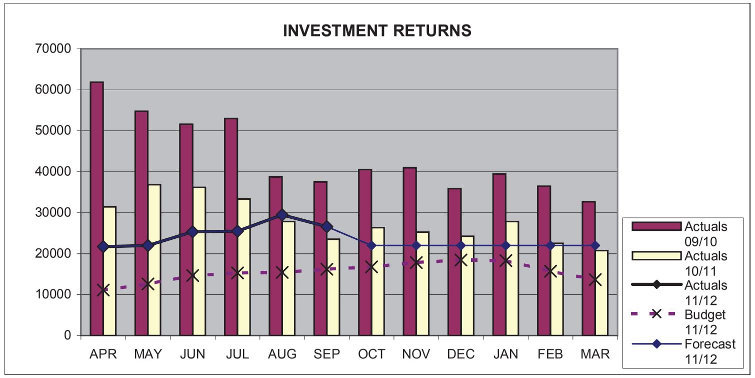
DIRECT SERVICES SUMMARY

	PERIOD				Y-T-D				ANNUAL			Y-T-D NET VARIANCE			ANNUAL NET VARIANCE		
Sep-11	Budget	Actual	Actual / Budget	Variance	Budget	Actual	Actual / Budget	Variance	Budget	Forecast	Variance	Net Budget by Service	Net Actual by Service	Variance by Service	Net Budget by Service	Net Actual by Service	Variance by Service
	£'000	£'000	%	£'000	£'000	£'000	%	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Income																	
Refuse	-172	-172	0%		-1,025	-1,028	0%	3	-2,051	-2,052	1	50	23	27	101	-2	103
Street Cleaning	-96	-96	0%		-575	-578	0%	2	-1,151	-1,157	6	36	31	5	73	43	30
Trade	-29	-24	-17%	-5	-214	-199	-7%	-15	-390	-370	-20	-42	-14	-28	-46	-5	-41
Workshop	-51	-46	-9%	-5	-304	-264	-13%	-40	-609	-567	-42	-15	20	-35	-29	-7	-22
Green Waste	-41	-40	-1%		-257	-258	1%	2	-376	-420	44	-103	-78	-25	-84	-70	-14
Premises Cleaning	-21	-17	-23%	-5	-129	-105	-19%	-24	-258	-212	-46	-8	7	-14	-15	8	-23
Cesspools	-23	-21	-12%	-3	-140	-120	-15%	-20	-280	-240	-40	-31	-9	-22	-63	-22	-41
Pest Control	-12	-9	-22%	-3	-58	-59	1%	1	-80	-85	5	-18	-18			-1	1
Grounds	-11	-11	0%		-68	-68	0%		-135	-137	2	9	4	6	9	-1	10
Fleet	-68	-64	-6%	-4	-408	-377	-8%	-31	-816	-816			-5	5			
Depot	-22	-27	22%	5	-144	-123	-14%	-21	-290	-230	-60	3	-6	9	-20	10	-30
Emergency	-4	-4	0%		-22	-22	0%		-45	-45		1	-5	5	2	-4	6
Total Income	**-551**	**-532**	**-3%**	**-19**	**-3,344**	**-3,200**	**-4%**	**-144**	**-6,481**	**-6,331**	**-150**	**-117**	**-51**	**-65**	**-74**	**-51**	**-23**
Expenditure																	
Refuse	179	176	2%	3	1,076	1,051	2%	25	2,151	2,050	101						
Street Cleaning	102	101	1%	1	612	609	0%	3	1,223	1,200	23						
Trade	29	30	-3%	-1	172	185	-7%	-13	344	365	-21						
Workshop	48	48	1%	1	290	284	2%	6	579	560	19						
Green Waste	28	34	-23%	-6	154	180	-17%	-26	293	350	-57						
Premises Cleaning	20	18	9%	2	121	111	8%	10	243	220	23						
Cesspools	18	19	-3%	-1	109	110	-1%	-2	217	218	-1						
Pest Control	7	6	14%	1	40	41	-2%	-1	80	84	-4						
Grounds	13	11	14%	2	77	71	8%	6	144	136	8						
Fleet	68	63	7%	5	408	372	9%	36	816	816							
Depot	21	14	32%	7	147	117	20%	30	270	240	30						
Emergency	4	4	8%		23	18	23%	5	47	41	6						
Total Expenditure	**537**	**524**	**3%**	**14**	**3,228**	**3,148**	**2%**	**79**	**6,407**	**6,280**	**127**						
Net	**-14**	**-8**	**-41%**	**-6**	**-117**	**-51**	**-56%**	**-65**	**-74**	**-51**	**-23**						

INVESTMENT RETURNS

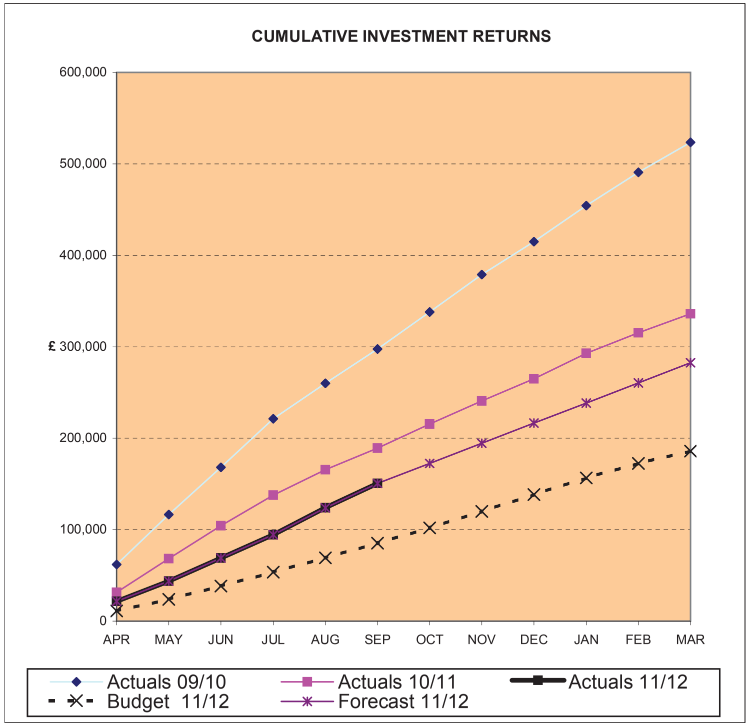
INVESTMENT RETURNS

	Actuals 09/10	Actuals 10/11	Actuals 11/12	Budget 11/12	Variance	Forecast 11/12
APR	61,847	31,431	21,722	11,105	10,617	21,700
MAY	54,783	36,831	21,983	12,591	9,392	22,000
JUN	51,598	36,164	25,342	14,677	10,665	25,300
JUL	53,006	33,361	25,498	15,269	10,229	25,500
AUG	38,709	27,858	29,446	15,442	14,004	29,400
SEP	37,534	23,532	26,586	16,215	10,371	26,600
OCT	40,524	26,352		16,748		22,000
NOV	40,982	25,254		17,846		22,000
DEC	35,869	24,240		18,460		22,000
JAN	39,423	27,832		18,302		22,000
FEB	36,455	22,501		15,698		22,000
MAR	32,694	20,723		13,647		22,000
	523,424	336,079	150,577	186,000	65,278	282,500



INVESTMENT RETURNS (CUMULATIVE)

	Actuals 09/10	Actuals 10/11	Actuals 11/12	Budget 11/12	Variance	Forecast 11/12
APR	61,847	31,431	21,722	11,105	10,617	21,700
MAY	116,630	68,262	43,705	23,696	20,009	43,700
JUN	168,228	104,426	69,047	38,373	30,674	69,000
JUL	221,234	137,787	94,545	53,642	40,903	94,500
AUG	259,943	165,645	123,991	69,084	54,907	123,900
SEP	297,477	189,177	150,577	85,299	65,278	150,500
OCT	338,001	215,529		102,047		172,500
NOV	378,983	240,783		119,893		194,500
DEC	414,852	265,023		138,353		216,500
JAN	454,275	292,855		156,655		238,500
FEB	490,730	315,356		172,353		260,500
MAR	523,424	336,079		186,000		282,500



BUDGET FOR 2011/12 186,000
FORECAST OUTTURN 282,500

CODE:- **YHAA** **96900**

N.B.
1) These are the gross interest receipts rather than the interest remaining in the General Fund

2) Interest due on the Landsbanki investment has been removed from the calculations as from 25/6/2008

Fund Average	1.1294%
7 Day LIBID	0.4573%
3 Month LIBID	0.7049%

STAFFING STATISTICS
SEPTEMBER 2011

	BDGT BOOK FTE	STAFF FTE	AGENCY STAFF	CASUAL FTE	TOTAL	COMMENTS / VARIATIONS	AUGUST TOTALS
CHIEF EXECUTIVES							
Chief Executive's Office	3.61	2.41	0.00	0.00	2.41	1 FTE post deleted wef 10/6/11 - 0.41 temp post wef 11/7.	2.41
SUB TOTAL	**3.61**	**2.41**	**0.00**	**0.00**	**2.41**		**2.41**
CORPORATE RESOURCES							
Director, Secretaries	5.50	6.63	0.00	0.00	6.63	Budget includes Secretariat (although report to Finance and HR) 1 P/T post increased hours. 0.68 post wef 25/7.	6.63
Finance & Human Resources	82.42	80.26	2.00	1.10	83.36	Includes Property Team & 2 Benefits & Local Tax Apprentices.	81.38
Legal, Electoral, Democratic Services & Policy & Performance	17.12	14.22	0.00	0.00	14.22		13.54
Legal, Electoral & Democratic Services	*15.51*	*12.41*	*0.00*	*0.00*	*12.41*		*11.73*
Policy & Performance	*1.61*	*1.81*	*0.00*	*0.00*	*1.81*	*Now 1.61 budgeted to Legal, Electoral and Dem Services. 0.2 worked in Housing & Comms but inc. in P&P.*	*1.81*
IT & Facilities Management	24.46	26.43	0.00	0.00	26.43	2 Temp posts (1 iIT & 1 Fac) so 2 over Bdgt FTE.	25.43
SUB TOTAL	**129.50**	**127.54**	**2.00**	**1.10**	**130.64**		**126.98**
COMMUNITY & PLANNING SERVICES							
Director, PA & Secretarial	2.00	2.00	0.00	0.00	2.00		2.00
Community Development	10.74	10.24	0.00	0.99	11.23	1 post is part externally funded.	11.39
Environmental & Operational Services	161.98	151.42	11.76	0.35	163.53		163.75
SDS & CCTV	*120.10*	*112.31*	*11.76*	*0.35*	*124.42*	*Includes Grounds Maintenance.*	*123.87*
Env Health & Licensing	*25.02*	*24.25*	*0.00*	*0.00*	*24.25*		*24.25*
Parking & Amenity	*16.86*	*14.86*	*0.00*	*0.00*	*14.86*		*14.86*
Development Services	51.34	44.55	0.00	0.00	44.55		44.55
Building Control	7.81	6.81	1.00	0.00	7.81	Plus 1 Seconded Officer.	7.81
Housing & Communications	15.17	13.89	1.09	0.00	14.98	1 post is part externally funded.	15.12
SUB TOTAL	**249.04**	**228.91**	**13.85**	**1.34**	**244.10**		**244.62**
EXTERNALLY FUNDED POSTS							
Community Development	2.04	2.54	0.00	0.00	2.54		2.54
Environmental & Operational Services	0.00	0.00	0.00	0.00	0.00		0.00
Development Services	0.00	0.00	0.00	0.00	0.00		0.00
Housing & Communications	3.41	4.30	0.00	0.00	4.30	1 post is part funded by SDC (see Housing permanent posts).	4.30
SUB TOTAL	**5.45**	**6.84**	**0.00**	**0.00**	**6.84**		**6.84**
TOTALS	**387.60**	**365.70**	**15.85**	**2.44**	**383.99**		**380.85**
Number of staff paid in September							
391 permanent, 13 casuals							

Reserves

	31/3/11 £000	Movement in month £000	Cumulative to date £000	Balance as at 30/9/11 £000	31/3/12 budget £000	31/3/12 forecast £000
Provisions						
First Time Sewerage	*915*	**0**	**0**	**915**	0	*0*
Edenbridge Relief Road Compensation (1)	*1,566*	**0**	**-27**	**1,539**	0	*0*
Accumulated Absences	*152*	**0**	**0**	**152**	152	*152*
Others	*85*	**0**	**-33**	**52**	0	*0*
	2,718	**0**	**-60**	**2,658**	*152*	*152*
Capital Receipts(Gross)	*763*	**7**	**65**	**828**	1,369	*1,369*
Note: this balance will reduce at year end as the receipts are used to finance capital expenditure						
Earmarked Reserves						
Asset Maintenance (2)	4,315	**0**	**-3,315**	**1,000**	1,000	*1,000*
Employer's Superannuation (2)	2,569	**0**	**-2,569**	**0**	0	*0*
Financial Plan (2)	0	**0**	**5,824**	**5,824**	5,812	*5,824*
Budget Stabilisation	2,436	**0**	**0**	**2,436**	341	*2,436*
Housing Benefit subsidy	1,192	**0**	**0**	**1,192**	701	*1,117*
LDF	574	**-13**	**-22**	**552**	267	*552*
Vehicle Renewal	564	**0**	**28**	**592**	608	*608*
Community Development	418	**0**	**35**	**453**	0	*0*
Reorganisation (previously Termination)	358	**0**	**-21**	**337**	75	*300*
Carry Forward Items	341	**0**	**-20**	**321**	0	*0*
Action and Development	314	**0**	**-9**	**305**	300	*300*
Vehicle Insurance	264	**0**	**0**	**264**	246	*246*
Others	824	**-4**	**-24**	**800**	322	*322*
	14,169	***-17***	***-93***	***14,076***	*9,672*	*12,705*
General Fund						
Required Minimum	1,500				1,500	*1,500*
Available Balance	2,213				2,213	*2,213*
	3,713				*3,713*	*3,713*
TOTAL	***21,363***				***14,906***	***17,939***

Notes

1. Changes in the Edenbridge Relief Road Compensation provision is very difficult to predict as it is dependant on the timing of agreeing compensation sums.

2. Cabinet (13/12/10) approved that allowing for an emergency Asset Maintenance reserve of £1m, the remaining balances from the Asset Maintenance and Employer's Superannuation Reserves be moved to a new Financial Plan Reserve which will be used over the ten-year period equally to smooth the rundown of these reserves.

9. Capital

SEPTEMBER 11 - Final

		Period Budget £'000	Period Actual £'000	Period Variance £'000	Period Variance %	Y-T-D Budget £'000	Y-T-D Actual £'000	Y-T-D Variance £'000	Y-T-D Variance %	Annual Budget £'000	Annual Forecast (including Accruals) £'000	Annual Variance £'000
COMMDEV	Local Strategic Partnership - Capital Delivery	-	-	-	-	-	10	- 10	-	-	-	-
COMMDEV	Parish Projects	7	-	7	100.0	28	-	28	100.0	71	71	-
ENVOPS	Playground Improvements	6	-	6	100.0	23	4	19	82.5	59	59	-
ENVOPS	Vehicle Purchases	127	164	- 38	- 29.7	506	236	270	53.4	1,266	1,266	-
FINSERV	Sevenoaks Town Centre (Capital) (LKF)	18	3	14	81.4	70	3	67	95.4	175	175	-
FINSERV	Horton Kirby Village Hall	-	0	- 0	-	-	3	- 3	-	-	-	-
HOUSING	Improvement Grants	69	18	51	74.4	285	100	185	65.0	699	699	-
HOUSING	Wkha Adaps For Disab Financing Costs Advances-H	-	7	- 7	-	-	45	- 45	-	-	-	-
HOUSING	RHPCG 10-11 SDC	-	-	-	-	-	15	- 15	-	-	-	-
HOUSING	RHPCG - Discretionary Grants	-	-	-	-	-	7	- 7	-	-	-	-
HOUSING	RHPCG - Empty Homes	-	-	-	-	-	2	- 2	-	-	-	-
HOUSING	RHPCG - HMO Grants	-	2	- 2	-	-	5	- 5	-	-	-	-
HOUSING	Hever Road Gypsy Site - Consultants	-	-	-	-	-	11	- 11	-	-	-	-
HOUSING	Hever Road Gypsy Site - Amenity Blocks	34	0	34	99.0	137	21	116	84.4	343	343	-
HOUSING	Hever Road Gypsy Site - Ground Works	-	27	- 27	-	-	270	- 270	-	-	-	-
HOUSING	Hever Road Gypsy Site - Preliminary Work	-	-	-	-	-	1	- 1	-	-	-	-
HOUSING	Hever Road Gypsy Site - Bomb Disposal	-	-	-	-	-	10	- 10	-	-	-	-
LEGAL	Modern Govt Document Management System	2	-	2	100.0	6	-	6	100.0	16	16	-
		262	**221**	**41**	**15.5**	**1,056**	**743**	**313**	**29.6**	**2,628**	**2,628**	**-**

Improvement Grants budget shown net of Government grant.

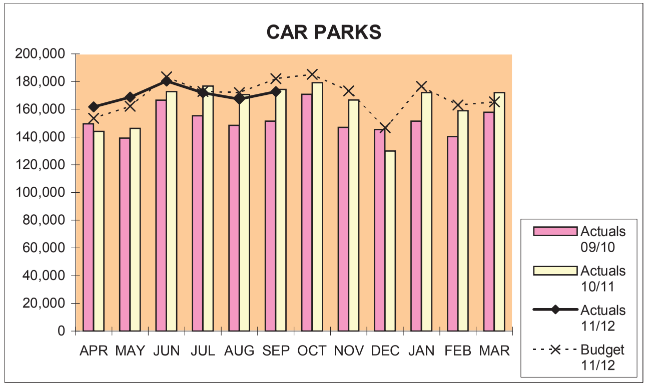
CUMULATIVE INCOME FIGURES September 2011

	ACTUAL	Comparison of 10/11 and 11/12, where a minus is 'bad news'	MANAGER'S PROFILED BUDGET	Variance, where a minus is 'bad news'	ANNUAL BUDGET	Annual Forecast
CAR PARKS	**1,022,886**	*38,132*	**1,026,256**	-3,370	2,036,491	2,036,491
ON STREET PARKING	**312,607**	*17,653*	**333,638**	-21,030	651,669	611,669
LAND CHARGES	**96,642**	*6,251*	**101,596**	-4,954	185,010	185,010
BUILDING CONTROL	**214,581**	*-29,744*	**276,446**	-61,865	514,459	443,459
DEVELOPMENT CONTROL	**267,275**	*105,985*	**286,084**	-18,808	593,920	543,920
	1,913,993	***138,278***	**2,024,020**	**-110,027**	**3,981,548**	**3,820,548**

10 Car Parks Graphs

CAR PARKS (HWCARPK)

	Actuals 09/10	Actuals 10/11	**Actuals 11/12**	Increase / decrease from 10/11 to 11/12	**Budget 11/12**	Variance (Actuals-Budget)	Manager's Forecast
1 **APR**	149,537	144,052	**161,707**	*17,654*	**153,537**	8,169	
2 **MAY**	139,181	146,247	**168,722**	*22,474*	**162,213**	6,509	
3 **JUN**	166,621	172,788	**180,368**	*7,580*	**183,427**	-3,059	
4 **JUL**	155,296	176,717	**171,960**	*-4,757*	**172,880**	-919	
5 **AUG**	148,423	170,558	**167,336**	*-3,221*	**172,092**	-4,755	
6 **SEP**	151,490	174,392	**172,793**	*-1,599*	**182,108**	-9,314	
7 **OCT**	170,869	179,153		*-179,153*	**185,178**		
8 **NOV**	146,974	166,673		*-166,673*	**173,207**		
9 **DEC**	145,369	129,891		*-129,891*	**146,788**		
10 **JAN**	151,428	171,978		*-171,978*	**176,532**		
11 **FEB**	140,372	158,986		*-158,986*	**163,112**		
12 **MAR**	157,838	172,012		*-172,012*	**165,417**		
	1,823,396	**1,963,446**	**1,022,886**	***-940,560***	**2,036,491**	**-3,370**	**2,036,491**



CAR PARKS (CUMULATIVE)

	Actuals 09/10	Actuals 10/11	**Actuals 11/12**	Cumulative increase / decrease from 09/10 to 10/11	**Budget 11/12**	Variance (Column E-G)	Manager's Forecast
APR	149,537	144,052	**161,707**	*17,654*	**153,537**	8,169	
MAY	288,718	290,299	**330,428**	*40,129*	**315,750**	14,678	
JUNE	455,338	463,087	**510,796**	*47,709*	**499,177**	11,619	
JUL	610,634	639,805	**682,757**	*42,952*	**672,057**	10,700	
AUG	759,057	810,362	**850,093**	*39,731*	**844,148**	5,945	
SEP	910,547	984,754	**1,022,886**	*38,132*	**1,026,256**	-3,370	
OCT	1,081,415	1,163,907		*-1,163,907*	**1,211,434**		
NOV	1,228,389	1,330,580		*-1,330,580*	**1,384,641**		
DEC	1,373,758	1,460,470		*-1,460,470*	**1,531,429**		
JAN	1,525,186	1,632,448		*-1,632,448*	**1,707,962**		
FEB	1,665,558	1,791,434		*-1,791,434*	**1,871,074**		
MAR	1,823,396	1,963,446		*-1,963,446*	**2,036,491**		2,036,491

SEPTEMBER 2011

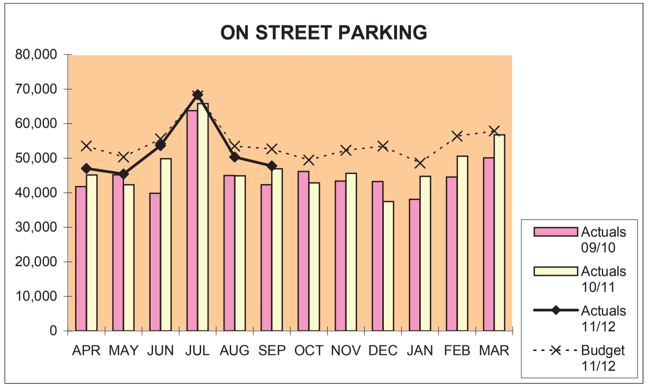
CUMULATIVE BREAKDOWN

HWCARPK		**Actual (Cumulative)**	**Budget**	(Monthly)
DAY TICKETS	***0	**791,761**	**780,056**	133,961
EXCESS / PENALTY CHARGES	***1/***3	**78,180**	**80,005**	11,616
SEASON TICKETS	***2	**144,596**	**162,141**	27,162
OTHER (inc.Res.Pkg)	***9	**4,216**	**2**	35
WAIVERS	3404	**70**	-	-
RENT	94500	**4,064**	**4,052**	20
		1,022,886	**1,026,256**	172,793

10 On-Street Graphs

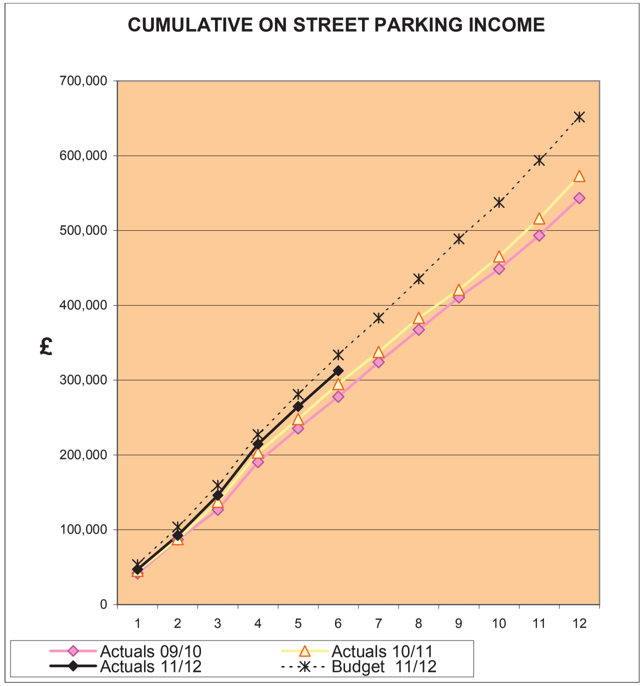
ON STREET PARKING (HWDCRIM)

	Actuals 09/10	Actuals 10/11	**Actuals 11/12**	Increase / decrease from 10/11 to 11/12	**Budget 11/12**	Variance (Actuals-Budget)	Manager's Forecast
1 **APR**	41,795	45,146	**47,046**	*1,899*	**53,524**	-6,478	
2 **MAY**	45,170	42,328	**45,408**	*3,079*	**50,336**	-4,929	
3 **JUN**	39,828	49,872	**53,666**	*3,793*	**55,584**	-1,918	
4 **JUL**	63,742	65,784	**68,376**	*2,592*	**67,995**	381	
5 **AUG**	44,999	44,910	**50,350**	*5,440*	**53,513**	-3,163	
6 **SEP**	42,325	46,913	**47,762**	*849*	**52,687**	-4,924	
7 **OCT**	46,145	42,832		*-42,832*	**49,454**		
8 **NOV**	43,374	45,607		*-45,607*	**52,291**		
9 **DEC**	43,242	37,452		*-37,452*	**53,474**		
10 **JAN**	38,075	44,720		*-44,720*	**48,585**		
11 **FEB**	44,537	50,568		*-50,568*	**56,369**		
12 **MAR**	50,100	56,761		*-56,761*	**57,859**		
	543,332	**572,894**	**312,607**	***-260,287***	**651,669**	**-21,030**	**611,669**



ON STREET PARKING (CUMULATIVE)

	Actuals 09/10	Actuals 10/11	**Actuals 11/12**	Cumulative increase / decrease from 09/10 to 10/11	**Budget 11/12**	Variance (Column E-G)	Manager's Forecast
APR	41,795	45,146	**47,046**	*1,899*	**53,524**	-6,478	
MAY	86,965	87,475	**92,453**	*4,978*	**103,860**	-11,406	
JUNE	126,793	137,347	**146,119**	*8,772*	**159,443**	-13,325	
JUL	190,535	203,131	**214,495**	*11,364*	**227,438**	-12,943	
AUG	235,533	248,041	**264,845**	*16,804*	**280,951**	-16,106	
SEP	277,859	294,954	**312,607**	*17,653*	**333,638**	-21,030	
OCT	324,004	337,786		*-337,786*	**383,091**		
NOV	367,377	383,393		*-383,393*	**435,382**		
DEC	410,619	420,845		*-420,845*	**488,856**		
JAN	448,694	465,565		*-465,565*	**537,441**		
FEB	493,232	516,133		*-516,133*	**593,810**		
MAR	543,332	572,894		*-572,894*	**651,669**		611,669



SEPTEMBER 2011

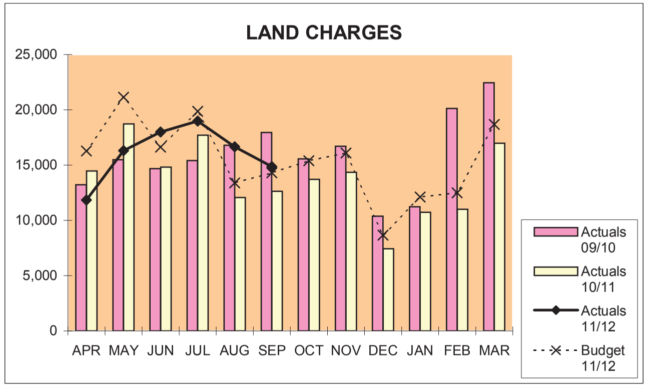
CUMULATIVE BREAKDOWN

HWDCRIM		**Actual (Cumulative)**	**Budget**	(Monthly)
PENALTY NOTICES	*3403*	**63,722**	**73,500**	10,254
WAIVERS	*3404*	**2,746**	**2,562**	300
RESIDENTS PERMITS	*3406*	**28,058**	**24,000**	3,464
ON STREET PARKING	*3300*	**180,745**	**195,776**	28,432
BUSINESS PERMITS	*3408*	**37,336**	**37,800**	5,313
OTHER	*9999*	**-**	**-**	-
		312,607	**333,638**	47,762

10 Land Charges Graphs

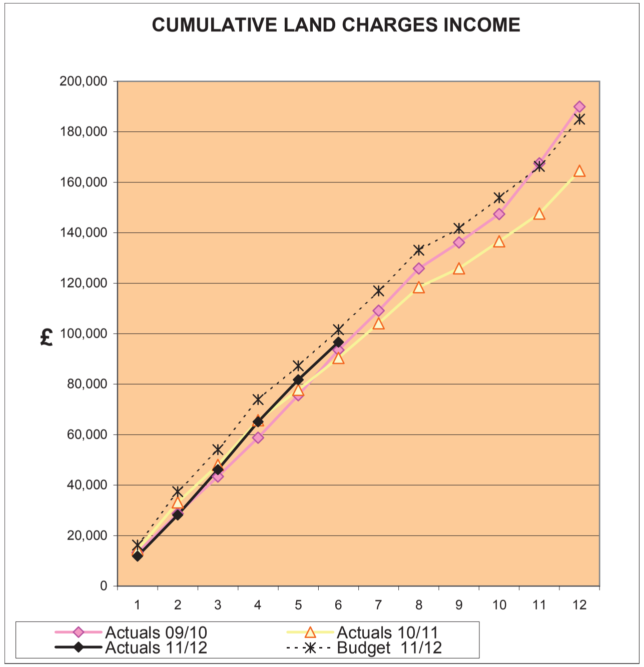
LAND CHARGES (LPLNDCH)

	Actuals 09/10	Actuals 10/11	**Actuals 11/12**	Increase / decrease from 10/11 to 11/12	**Budget 11/12**	Variance (Actuals-Budget)	Manager's Forecast
1 **APR**	13,225	14,463	**11,836**	*-2,627*	**16,278**	-4,441	
2 **MAY**	15,485	18,718	**16,303**	*-2,415*	**21,147**	-4,844	
3 **JUN**	14,682	14,812	**17,994**	*3,182*	**16,625**	1,369	
4 **JUL**	15,416	17,700	**18,987**	*1,288*	**19,866**	-879	
5 **AUG**	16,799	12,074	**16,658**	*4,584*	**13,384**	3,274	
6 **SEP**	17,943	12,624	**14,863**	*2,239*	**14,296**	566	
7 **OCT**	15,558	13,710		*-13,710*	**15,400**		
8 **NOV**	16,697	14,339		*-14,339*	**16,090**		
9 **DEC**	10,375	7,439		*-7,439*	**8,656**		
10 **JAN**	11,227	10,731		*-10,731*	**12,105**		
11 **FEB**	20,119	10,999		*-10,999*	**12,485**		
12 **MAR**	22,442	16,983		*-16,983*	**18,678**		
	189,968	**164,592**	**96,642**	***-67,950***	**185,010**	**-4,954**	**185,010**



LAND CHARGES (CUMULATIVE)

	Actuals 09/10	Actuals 10/11	**Actuals 11/12**	Cumulative increase / decrease from 09/10 to 10/11	**Budget 11/12**	Variance (Column E-G)	Manager's Forecast
APR	13,225	14,463	**11,836**	*-2,627*	**16,278**	-4,441	
MAY	28,710	33,182	**28,140**	*-5,042*	**37,425**	-9,285	
JUNE	43,391	47,994	**46,134**	*-1,860*	**54,050**	-7,916	
JUL	58,807	65,694	**65,122**	*-572*	**73,916**	-8,794	
AUG	75,606	77,768	**81,780**	*4,012*	**87,300**	-5,520	
SEP	93,550	90,391	**96,642**	*6,251*	**101,596**	-4,954	
OCT	109,108	104,102		*-104,102*	**116,996**		
NOV	125,805	118,441		*-118,441*	**133,086**		
DEC	136,180	125,880		*-125,880*	**141,742**		
JAN	147,407	136,610		*-136,610*	**153,847**		
FEB	167,526	147,610		*-147,610*	**166,332**		
MAR	189,968	164,592		*-164,592*	**185,010**		185,010



SEPTEMBER 2011

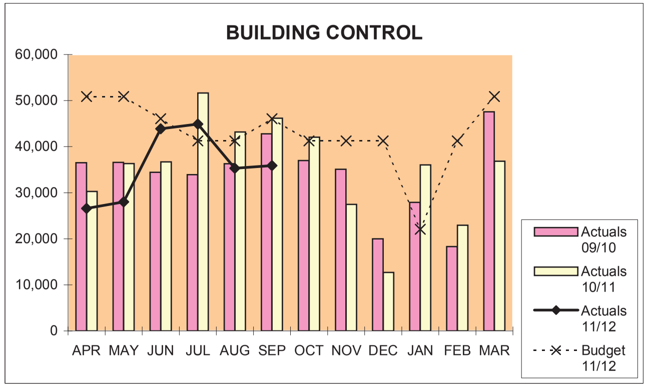
CUMULATIVE BREAKDOWN

LPLNDCH		**Received (Month)**	**Percentage (Month)**	Percentage (Month 10/11)	(Cumulative)
Searches Received - Paper	*£105*	**50**	**27.3%**	38.9%	323
Searches Received - Electronic	*£86*	**95**	**51.9%**	43.4%	635
Searches Received - Personal	*£0*	**38**	**20.8%**	17.7%	283
		183	**100.%**	100.%	1,241

10 Building Control Graphs

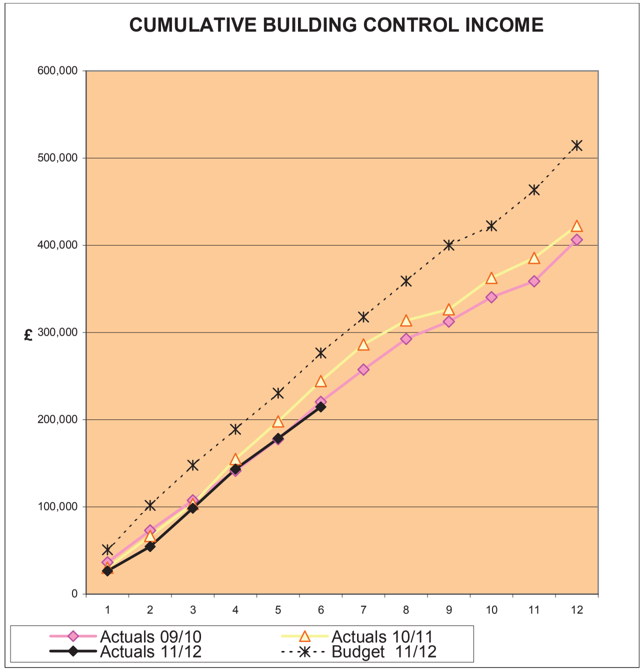
BUILDING CONTROL (DVBCFEE)

	Actuals 09/10	Actuals 10/11	**Actuals 11/12**	*Increase / decrease from 10/11 to 11/12*	**Budget 11/12**	*Variance (Actuals-Budget)*	*Manager's Forecast*
1 **APR**	36,505	30,284	**26,583**	*-3,701*	**50,879**	-24,297	
2 **MAY**	36,598	36,330	**28,008**	*-8,322*	**50,879**	-22,871	
3 **JUN**	34,430	36,701	**43,878**	*7,177*	**46,074**	-2,196	
4 **JUL**	33,917	51,649	**44,902**	*-6,747*	**41,270**	3,632	
5 **AUG**	36,285	43,199	**35,321**	*-7,878*	**41,270**	-5,949	
6 **SEP**	42,770	46,163	**35,890**	*-10,274*	**46,074**	-10,184	
7 **OCT**	36,995	42,044		*-42,044*	**41,270**		
8 **NOV**	35,085	27,469		*-27,469*	**41,270**		
9 **DEC**	19,974	12,695		*-12,695*	**41,270**		
10 **JAN**	27,904	36,036		*-36,036*	**22,052**		
11 **FEB**	18,324	22,935		*-22,935*	**41,270**		
12 **MAR**	47,546	36,833		*-36,833*	**50,881**		
	406,331	**422,339**	**214,581**	***-207,757***	**514,459**	**-61,865**	**443,459**



BUILDING CONTROL (CUMULATIVE)

	Actuals 09/10	Actuals 10/11	**Actuals 11/12**	*Cumulative increase / decrease from 09/10 to 10/11*	**Budget 11/12**	*Variance (Column E-G)*	*Manager's Forecast*
APR	36,505	30,284	**26,583**	*-3,701*	**50,879**	-24,297	
MAY	73,104	66,614	**54,591**	*-12,023*	**101,759**	-47,168	
JUNE	107,533	103,314	**98,469**	*-4,845*	**147,833**	-49,364	
JUL	141,450	154,963	**143,371**	*-11,592*	**189,103**	-45,732	
AUG	177,735	198,162	**178,692**	*-19,470*	**230,372**	-51,681	
SEP	220,505	244,325	**214,581**	*-29,744*	**276,446**	-61,865	
OCT	257,500	286,369		*-286,369*	**317,716**		
NOV	292,584	313,838		*-313,838*	**358,986**		
DEC	312,558	326,534		*-326,534*	**400,256**		
JAN	340,462	362,570		*-362,570*	**422,308**		
FEB	358,786	385,505		*-385,505*	**463,578**		
MAR	406,331	422,339		*-422,339*	**514,459**		443,459



SEPTEMBER 2011

DVBCFEE

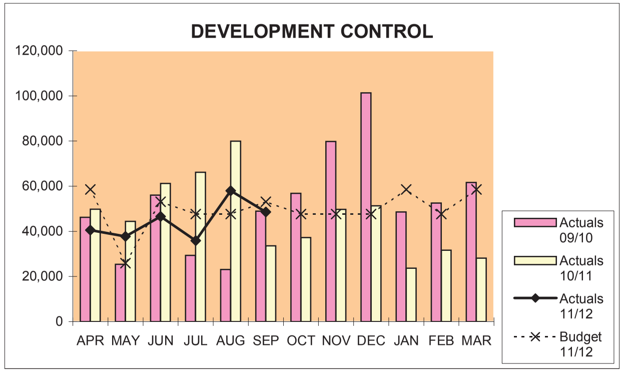
CUMULATIVE BREAKDOWN

		Actual (Cumulative)	**Budget**	(Monthly)
Plan Fee	*3066*	**130,659**	**166,119**	23,955
Inspection Fee	*3067*	**83,922**	**93,329**	11,935
Other	*9999*	**-**	**16,998**	-
		214,581	**276,446**	35,890

10 Development Control Graphs

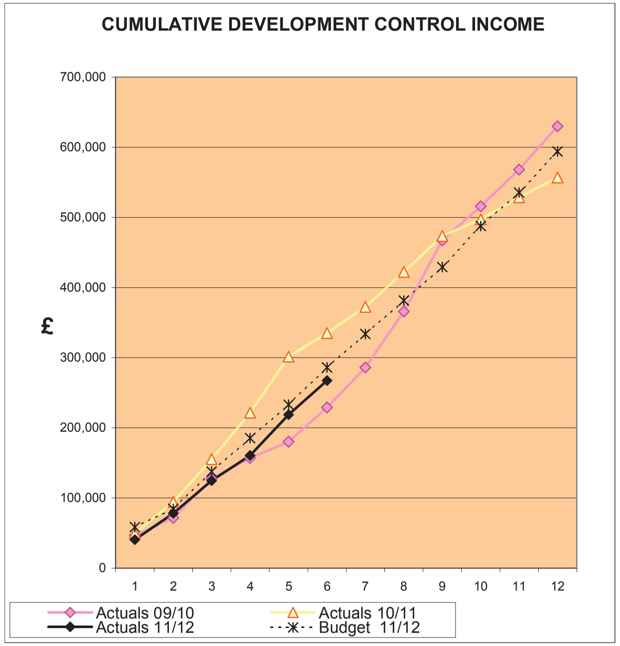
DEVELOPMENT CONTROL (DVDEVCT)

	Actuals 09/10	Actuals 10/11	**Actuals 11/12**	Increase / decrease from 10/11 to 11/12	**Budget 11/12**	Variance (Actuals-Budget)	Manager's Forecast
1 **APR**	46,217	**49,786**	**40,515**	*-9,271*	**58,560**	-18,044	
2 **MAY**	25,435	**44,456**	**37,722**	*-6,734*	**25,924**	11,798	
3 **JUN**	56,052	**61,214**	**46,543**	*-14,671*	**53,120**	-6,577	
4 **JUL**	29,339	**66,145**	**35,903**	*-30,241*	**47,680**	-11,777	
5 **AUG**	23,143	**79,942**	**57,980**	*-21,962*	**47,680**	10,300	
6 **SEP**	48,982	**33,610**	**48,611**	*15,001*	**53,120**	-4,509	
7 **OCT**	56,813	**37,246**		*-37,246*	**47,680**		
8 **NOV**	79,812	**49,751**		*-49,751*	**47,680**		
9 **DEC**	101,351	**51,341**		*-51,341*	**47,680**		
10 **JAN**	48,585	**23,650**		*-23,650*	**58,560**		
11 **FEB**	52,512	**31,622**		*-31,622*	**47,680**		
12 **MAR**	61,635	**28,116**		*-28,116*	**58,556**		
	629,875	**556,879**	**267,275**	***-289,604***	**593,920**	**-18,808**	**543,920**



DEVELOPMENT CONTROL (CUMULATIVE)

	Actuals 09/10	Actuals 10/11	**Actuals 11/12**	Cumulative increase / decrease from 09/10 to 10/11	**Budget 11/12**	Variance (Column E-G)	Manager's Forecast
APR	46,217	**49,786**	**40,515**	*3,569*	**58,560**	-18,044	
MAY	71,652	**94,242**	**78,237**	*22,590*	**84,484**	-6,246	
JUNE	127,704	**155,457**	**124,781**	*27,753*	**137,604**	-12,823	
JUL	157,043	**221,601**	**160,684**	*64,559*	**185,284**	-24,600	
AUG	180,186	**301,543**	**218,664**	*121,357*	**232,964**	-14,300	
SEP	229,168	**335,153**	**267,275**	*105,985*	**286,084**	-18,808	
OCT	285,981	**372,399**		*86,418*	**333,764**		
NOV	365,793	**422,150**		*56,357*	**381,444**		
DEC	467,144	**473,491**		*6,347*	**429,124**		
JAN	515,729	**497,141**		*-18,588*	**487,684**		
FEB	568,240	**528,763**		*-39,477*	**535,364**		
MAR	629,875	**556,879**		*-72,996*	**593,920**		543,920



SEPTEMBER 2011

CUMULATIVE BREAKDOWN

DVDEVCT

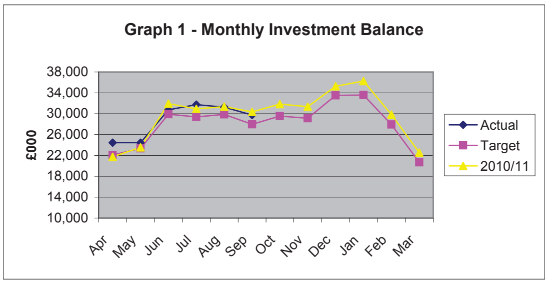
		Actual (Cumulative)	**Budget**	(Monthly)
Planning Application Fees	*3009*	**253,636**	**240,848**	45,861
S106 Monitoring	*3106*	**900**	**25,002**	900
Other	*9999*	**-**	**-**	-
Pre-application Fees	*94301*	**12,739**	**20,234**	1,850
		267,275	**286,084**	48,611

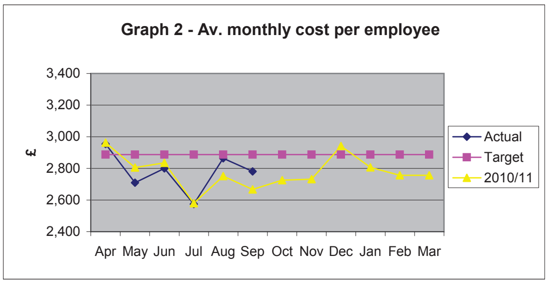
10 Development Control Graphs

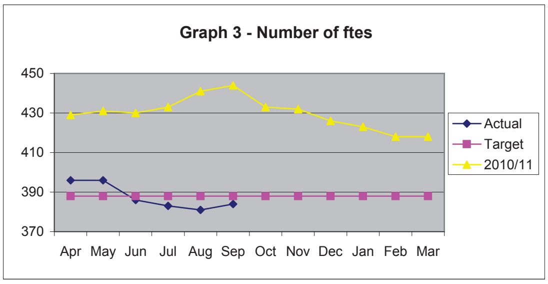
Finance Advisory Group Finance Indicators 2011/12
as at end September 2011

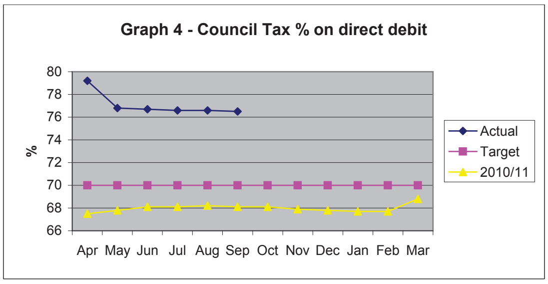
Description	target	actual	Variance	%	notes	graph
Monthly investment balance £000	27,983	29,750	1,767	6.3%	Total investments at month end. Precepts are paid in 10 instalments of roughly £6m, but not in June or December. Therefore, we receive cashflow benefits until the last 2 precept payments go out in February and March. The target figures have been updated to reflect the Balance Sheet position as at 31/03/11.	1
Average monthly cost per employee (non cumulative) £	2,887	2,781	-106	-3.7%	Target is annual pay budget divided by budget ftes, figures include agency and casual staff.	2
Number of ftes	388	384	-4	-1.0%	Target is budgeted ftes.	3
Council Tax % collected for 2010/11	58.8	58.9	0.1	0.2%	LPIFS 19. Monthly cumulative figures	-
NNDR % collected for 2010/11	60.5	59.7	-0.8	-1.3%	LPIFS 20. Monthly cumulative figures.	-
Council Tax payers % on direct debit	70.0	76.5	6.5	9.3%	LPIFS8 - % on direct debit	4
Investment return % 3 month LIBID 7 day LIBID	0.90 0.70 0.46	1.13	0.23	25.5%	Cumulative return on investments. Target is budget assumption	5
Sundry debtors: debts over 21 days £000	35	32	-3	-8.6%	21 days is taken as the base as the first reminder is issued after 3 wks.	6
Sundry debtors: debts over 61 days £000	20	29	9	45.0%	61 days is when the third reminder is issued (debts exclude items on 'indefinate hold', e.g. debtors in administration) KCC owed £6,000 for the 8-12s project as at 30/09/11.	7

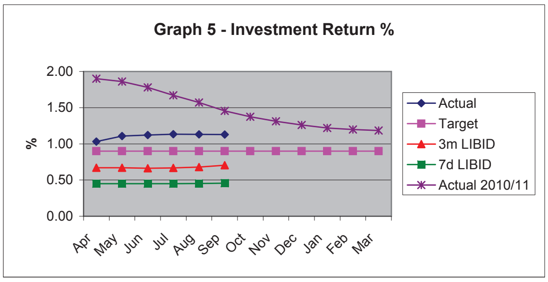
Finance Advisory Group Finance Indicators 2011/12
as at end September 2011

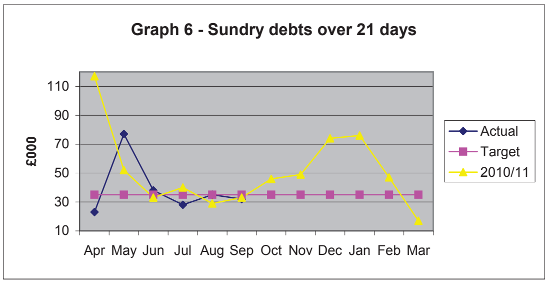


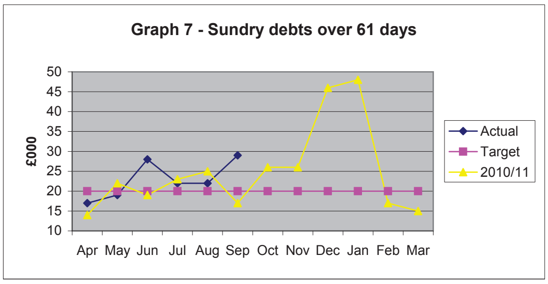







Graph 5 - Investment Return %
%
2.00
1.50
1.00
0.50
0.00
Apr May Jun Jul Aug Sep Oct Nov Dec Jan Feb Mar
Actual
Target
3m LIBID
7d LIBID
Actual 2010/11


Graph 6 - Sundry debts over 21 days
£000
110
90
70
50
30
10
Apr May Jun Jul Aug Sep Oct Nov Dec Jan Feb Mar
Actual
Target
2010/11


Graph 7 - Sundry debts over 61 days
£000
50
45
40
35
30
25
20
15
10
Apr May Jun Jul Aug Sep Oct Nov Dec Jan Feb Mar
Actual
Target
2010/11

Finance Advisory Group Finance Indicators 2011/12
as at end September 2011

Description	target	actual	Variance	%	notes	graph
Monthly investment balance £000	27,983	29,750	1,767	6.3%	Total investments at month end. Precepts are paid in 10 instalments of roughly £6m, but not in June or December. Therefore, we receive cashflow benefits until the last 2 precept payments go out in February and March. The target figures have been updated to reflect the Balance Sheet position as at 31/03/11.	1
Average monthly cost per employee (non cumulative) £	2,887	2,781	-106	-3.7%	Target is annual pay budget divided by budget ftes, figures include agency and casual staff.	2
Number of ftes	388	384	-4	-1.0%	Target is budgeted ftes.	3
Council Tax % collected for 2010/11	58.8	58.9	0.1	0.2%	LPIFS 19. Monthly cumulative figures	-
NNDR % collected for 2010/11	60.5	59.7	-0.8	-1.3%	LPIFS 20. Monthly cumulative figures.	-
Council Tax payers % on direct debit	70.0	76.5	6.5	9.3%	LPIFS8 - % on direct debit	4
Investment return %	0.90	1.13	0.23	25.5%	Cumulative return on investments. Target is budget assumption	5
3 month LIBID	0.70					
7 day LIBID	0.46					
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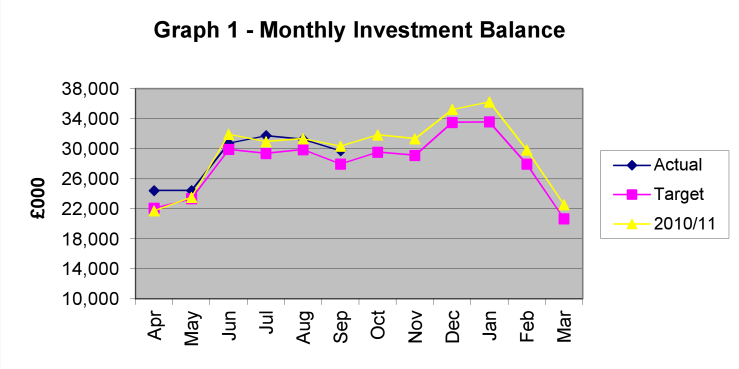
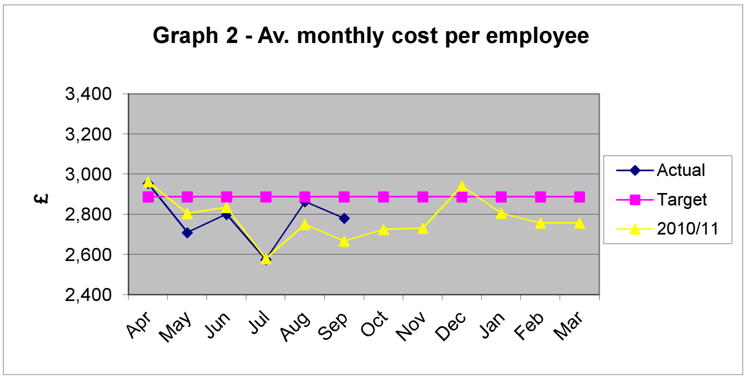
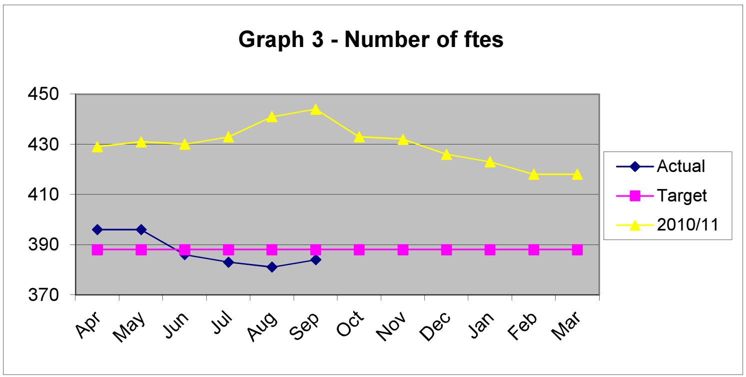
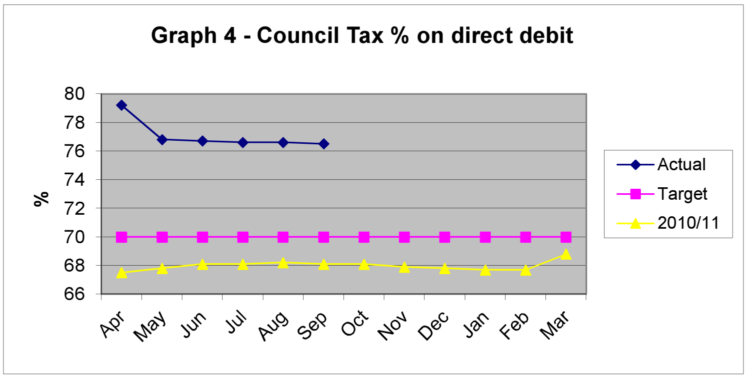
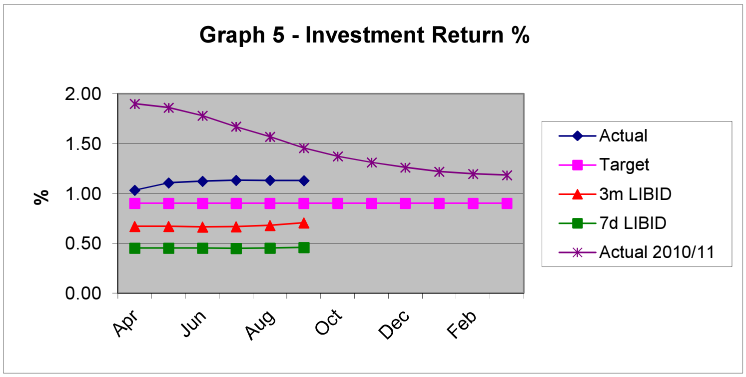
Finance Advisory Group Finance Indicators 2011/12
as at end September 2011







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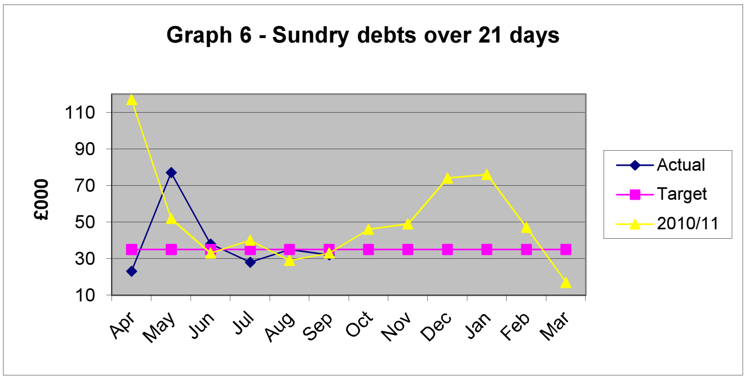
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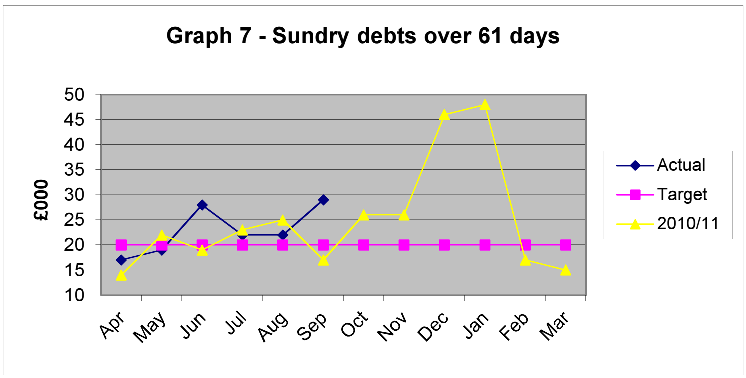
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Actual
Target
2010/11

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FINANCE ADVISORY GROUP – 2 NOVEMBER 2011

INVESTMENT STRATEGY UPDATE

Report of the: Deputy Chief Executive & Director of Corporate Resources

Status: For consideration

Executive Summary: Members approved the Investment Strategy as part of the budget-setting process in December 2010. In considering that Strategy Members were advised that, given the current economic climate, the Strategy would need to be monitored and reviewed, where necessary, during the year.

This report gives details of recent developments in the financial markets and changes to credit ratings.

This report supports the Key Aim of effective management of Council resources.

Portfolio Holder Cllr. B. Ramsay

Head of Service Head of Finance and Human Resources – Mrs. Tricia Marshall

Recommendation: That the report and Members views be noted.

General Background

1 The Council aims to achieve the optimum return on its investments commensurate with proper levels of security and liquidity. The Council approved the current Investment Strategy for 2011/12 at the Council meeting on 16 December 2010.

2 Credit ratings form the basis of investment decisions and the matrix supplied by the Council's treasury advisers, Sector Treasury Services Ltd (Sector), encapsulates credit rating data to provide suggested counterparties and maturity limits.

Economic Background

Global Economy

3 Over the last few months the Euro zone sovereign debt crisis has continued with Spain, and particularly Italy, being the focus of renewed market concerns that they may soon join with Greece, Ireland and Portugal in needing assistance. This uncertainty and the lack of a co-ordinated or credible Euro zone response, left commentators concerned over the potential impact of sovereign default and resulting effect on the Euro zone banking sector. The approval by various countries of the €440bn bail out fund in September has brought temporary relief to financial markets but this does not provide a

credible remedy to the scale of the Greek debt problem or the sheer magnitude of the potential needs of other countries for support.

4 This, coupled with political difficulties in the US over their plans to address the budget deficit, the size and control over the US sovereign debt, and the subsequent loss of the AAA credit rating from Standard and Poor's, has led to a much more difficult and uncertain outlook for the world economy. Growth prospects in the US, UK and the Euro zone have been lower than expected, with future prospects similarly cut. Whilst not a central view, concerns of a double dip recession in some Western countries have increased. World stock markets fell in the second quarter of 2011/12 as a consequence.

UK Economy

5 Following zero growth in the final half of 2010/11 the UK economy grew by a weaker than expected 0.1% in the first quarter of 2011/12, providing a knock on effect to future growth prospects. Growth prospects will be governed by UK consumer sentiment, which is currently subdued due to falling disposable income. Higher VAT, overhanging debt, high inflation and concerns over employment are likely to weigh heavily on consumers into the future.

6 The announcement by the Bank of England's Monetary Policy Committee (MPC) on 6 October 2011 of a second round of quantitative easing (QE) of £75bn emphasised how seriously the MPC now views recession as being a much bigger concern than inflation. Although inflation remains stubbornly high, the MPC's expectation of future falls resulting in an undershoot of its 2% target opened the way for this new round of QE.

7 International investors continue to view UK government gilts as being a safe haven from the EU sovereign debt crisis. The consequent increase in demand for gilts has helped to add downward pressure on gilt yields and sent PWLB borrowing rates to low levels.

Outlook for the next six months of 2011/12

8 There remain huge uncertainties in economic forecasts due to the following major difficulties:

- the increase in risk that the UK, US and EU could fall into recession
- the likely political gridlock in the US preventing significant government fiscal action to boost growth ahead of the Presidential elections in November 2012
- the potential for a major EU sovereign debt crisis which could have a significant impact on financial markets and the global and UK economies
- the degree to which government austerity programmes will dampen economic growth;
- the potential for further QE, and the timing of this in both the UK and US

- the speed of recovery of banks' profitability and balance sheet imbalances and the risk of substantial losses being incurred on EU sovereign debt.

9 The overall balance of risks is weighted to the downside:

- The expectation is for low growth in the UK to continue, with a low Bank Rate to continue for at least 24 months, coupled with a possible further extension of QE. This will keep investment returns depressed.

- The expected longer run trend for PWLB borrowing rates is for them to rise, primarily due to the need for a high volume of gilt issuance in the UK, and the high volume of debt issuance in other major western countries. However the current safe haven status of the UK may continue for some time, postponing any increases until 2012.

Credit Rating Issues

10 As a result of the recent economic and financial market developments, our treasury management consultants, Sector Treasury Services, are stressing the importance of a cautionary investment stance. They have suggested that duration limits are temporarily restricted to a maximum of 3 months and this advice has been followed over the last few months.

11 This limit applies to all entities on the suggested Sector Credit Ratings List with the following exceptions:

a) UK Government and related entities such as Local Authorities. Their suggested duration limit will remain at 5yrs.

b) UK semi-nationalised institutions (Lloyds / RBS). The current significant UK government ownership of these entities is seen as providing significant comfort to investors.

c) Money Market Funds.

12 The above temporary changes are not a significant change of view, but aimed to stress the need for caution when making new investments. It is believed that current market uncertainty warrants this revision and it is hoped that if Euro zone governments formally agree to extend their support mechanisms then some of the excessive risk indicator movements that have been seen in recent weeks will be reversed. However, until market circumstances begin to stabilise then Sector believe that such a prudent investment approach should be taken.

13 However, Sector have stressed that they do not believe clients should be unduly worried about prior investment decisions, rather that by restricting new investments to the above limits client portfolios will be allowed to lower risk naturally as investments mature. This should not require a change of the formal investment strategy, merely an operational restriction of that strategy.

14 More recently, a raft of downgradings have been announced by the Ratings Agencies both to sovereign and individual bank ratings. A number of UK institutions as well as Spanish and Italian ones have been affected.

Future Investment Options

15 Members will be aware that our list of potential counterparties has shrunk over the last few years, such that increases to individual lending limits were required in order to provide sufficient opportunity to place investments.

16 With the potential for removal of more institutions should global conditions worsen, an alternative approach may need to be considered. The questions that need to be addressed are:

a) Are we comfortable with the current counterparties on our lending list and the cash limits applying to them?

b) If not, or if conditions worsen, should a move to more secure investments such as lending to the Debt Management Office's Account Deposit Facility or opening of Money Market Funds be considered?

17 Members' views on these issues are sought. Details of the up to date investment portfolio and current lending list will be circulated at the meeting and background to the alternative types of investment option will be available for discussion.

Key Implications

Financial implications

18 The management of the Council's investment portfolio and cash-flow generated balances plays an important part in the financial planning of the authority with interest receipts in the order of £186k supporting the revenue budget for 2011/12. The security of its capital and liquidity of its investments is of paramount importance. Restricting the number of counterparties for deposits increases the risk of not achieving the interest receipts budget for 2011/12.

Legal, Human Rights etc.

19 None.

Impact on and Outcomes for the Community

20 Investment income is used to support the revenue budget, providing funding for Council services that would otherwise have to be met from higher fees and charges or by service reductions.

Risk Assessment Statement

21 Treasury management has two main risks:-

a) Fluctuations in interest rates can result in a reduction in income from investments; and

b) a counterparty to which the Council has lent money fails to repay the loan at the required time.

Consideration of risk is integral in the Council's approach to treasury management.

22 The movement towards having a restricted lending list of better quality institutions but higher individual limits with those institutions reduces the chances of a default. But if a default did occur, the potential loss would be greater. Previously, the preference was to have smaller investments with a greater range of institutions.

23 These risks are mitigated by the annual investment strategy which has been prepared on the basis of achieving the optimum return on investments commensurate with proper levels of security and liquidity. However, Members should recognise that in the current economic climate, these remain significant risks and that the strategy needs to be constantly monitored.

Sources of Information:	Annual Investment Strategy report (Council 16 December 2010, Cabinet 13 December 2010, Performance and Governance Committee 16 November 2010) CIPFA Code of Practice on Treasury Management in the Public Services (2009) Sector Treasury Services Ltd. - economic updates, monthly investment reports and credit rating lists
Contact Officer(s):	Roy Parsons - ext. 7204

Dr. Pav Ramewal
Deputy Chief Executive & Director of Corporate Resources

FORWARD PROGRAMME FOR FINANCE ADVISORY GROUP

Topic	2 November 2011	25 January 2012	28 March 2012	May/June 2012
Annual Accounts				
Budget		Risks and Assumptions for Budget 2012/13		
Financial Monitoring	Sept 2011 results	Dec 2011 Results	Feb 2012 results	April 2012 results
Financial Performance Indicators	September 2011	December 2011	February 2012	April 2012
Treasury Management		Treasury Management Strategy 2012/13		
Invitee	Building Control Budget			
Other		Costs and Savings in Partnership Working Pensions Investments	Revenues and Benefits Partnership Working	

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