

Meeting of the Cabinet – 16th March 2011

Report of the Director of the Urban Environment and the Director of Corporate Resources

European Regional Development Fund (ERDF) applications

Purpose of Report

1. To
 - a) update Cabinet on the position regarding ERDF applications
 - b) seek approval for the criteria under which the Council will submit ERDF applications on behalf of third party organisations

Background

2. The 2007-2013 ERDF programme, contains 5 priorities for delivery. Under Priority 3, achieving Sustainable Urban Development (SUD), sub-regional package plans have been developed to bring together the strategic priorities and establish a programme of delivery. Sandwell Council is the package plan owner for the South Black Country, covering Sandwell and Dudley boroughs. The plan has an original ERDF package allocation of £12m to develop projects that meet the following themes
 - Stimulating physical improvements and access
 - Securing an enterprise community
 - Tackling worklessness
 - Energy & sustainable environment
3. On 11th June 2008, Cabinet authorised the Director of the Urban Environment, to submit applications to Advantage West Midlands for funding for projects in the ERDF Priority 3 SUD South Black Country Package Plan; to accept any grant funding arising from the AWM and European funding applications; for the Director of Law and Property to sign the necessary funding agreements with AWM; and subject to funding (and the availability of matchfunding) being confirmed, for the scheme be included in the Capital Programme.
4. Following the withdrawal of all AWM Single Pot funding in 2010 for a number of projects being developed by the Council and others, it has been necessary to actively pursue the potential for securing ERDF through the SUD programme to deliver Dudley's priority regeneration projects as the only current alternative source of public sector funding.

Due to their closure in March 2012, AWM has been undertaking a review of all ERDF projects in development to determine the sequence in which their reduced resources will be used to sponsor and appraise project proposals. In December 2010 AWM notified us that the Dudley Townscape Heritage Initiative and the

Castle Hill projects have been prioritised and have been allocated a project sponsor to work with us through the endorsement, appraisal and approval process. Full applications have now been submitted for both projects. An outline application is to be submitted shortly for Dudley Town Centre public realm and we will work with AWM to progress an application for Brierley Hill public realm. The Council will be the applicant and accountable body for these applications which support the physical regeneration of the borough and the work of New Heritage Regeneration Ltd.

5. The Council is also working with partners to secure potential ERDF funds to implement the following projects.

- White House Cone Project

A report was submitted to Cabinet in September 2010 and a further report is to be submitted to the meeting of the Select Committee - Regeneration, Culture and Adult Education on 10th March regarding the proposed redevelopment of the former White House Cone site at Wordsley in conjunction with the existing Red House Cone facility to provide an enhanced offer around the history of glass manufacturing in the area. Complex Developments Ltd, the owners of the White House site, have undertaken a significant amount of work in preparing an ERDF application with the support and involvement of Council officers. The success of this application is key to the overall project.

- Innovation & Enterprise Centre

To develop high quality managed business workspace to accommodate small and new businesses. The scheme will stimulate entrepreneurship and innovation by providing a shared and supportive environment. It is proposed that the Council secure a development partner to deliver and manage the project and the Council would have a back to back agreement that would pass on all the responsibilities and liabilities to the development partner. The value of this project is estimated at £6.15m with £1.5m potentially sought from ERDF or other sources.

- Ruskin Mill Educational Trust; Glasshouse Development Project.

This project will refurbish, upgrade and revitalise the former industrial glassworks in Stourbridge to create a world class centre for innovation, enterprise, creativity and learning. Additional commercial floorspace will be provided for new enterprises together with improved facilities for exhibition, displays, meetings and performances and improved access to and marketing of the site. An element of revenue funding is also being sought to continue the role of the Ruskin Glass Centre Manager whose primary role is to assist businesses on the site and an expansion of the role of the Heritage Development officer to incorporate the marketing of the Ruskin Heritage and Arts Centre to tourists and visitors. The value of this project is estimated at £3m with up to £750,000 sought from ERDF. Whilst AWM have not prioritised this project as one that will have a project sponsor allocated to it in the first stage of the review of pipeline projects, they have strongly advised that the project continues to be developed.

- Dudley Canal Trust; Learning & Access Hub.

This project seeks to provide a new visitor centre with educational facilities on land leased by the Council to the Trust at Todds End. The proposal, which supports the Council's aspirations for the Wrens Nest Strata project, would form a significant contribution to increasing the visitor numbers as a key element of the proposed leisure cluster at the Castle Hill. The value of this project is estimated at £3.5m with £1.7m support sought from ERDF.

6. European funding rules stipulate that organisations applying for ERDF cannot themselves be the direct beneficiary of ERDF grant. Where this is the case, the organisation promoting the project needs to find an applicant to submit the application on its behalf. For this reason the projects set out in paragraph 5 above are unable to act as the applicant/accountable body for ERDF funding and are seeking a suitable organisation to act in this capacity. The role of applicant and accountable body brings with it significant risks and responsibilities including staff to resource the work involved and meeting all ERDF contractual requirements to ensure;
 - delivery on time and within budget
 - eligibility of expenditure to minimise risk of grant clawback
 - accurate, evidenced and timely financial and output monitoring
 - financial completion by June 2015
 - outputs/outcomes delivered and evidenced by September 2015
7. The potential risk of clawback for any ERDF funded project is such that Advantage West Midlands will only contract with a body of sufficient financial capacity, such as a Local Authority, to both bankroll the project and cover any clawback liability. Organisations in the West Midlands, that have managed multimillion pound ERDF budgets under previous programmes, have been required to secure project guarantors when applying for funding under the current programme.
8. Whilst recognising the social, economic, cultural and environmental benefits of these projects, should the council agree to act as applicant and accountable body for these projects, it could face a significant risk of grant clawback in the event of any failure to deliver in accordance with the ERDF contractual requirements. The closure of the 2000-2006 ERDF programme resulted significant funds being clawed back from several organisations nationally as a result of national and European audits. The Cabinet will be aware of the potential scale of this claw back from a number of projects in the region to which clawback was applied. For these reasons, it is proposed that the Council only acts as applicant and accountable body for projects where there is a realisable chargeable asset in value terms to mitigate any risk of potential ERDF grant clawback. Effectively this would mean that either the asset resulting from the investment project or another asset in the ownership of the organisation is made available for disposal should the need arise. It is proposed that risk assessments are undertaken for individual projects to mitigate the risks to the Council.

Finance

9. With the demise of AWM Single Pot funding, ERDF now provides the most appropriate external funding stream to deliver the above projects.

10. It is imperative that any project funded through ERDF complies with all the associated contractual requirements and that the project beneficiary has robust monitoring, evidencing and claiming procedures in place. Robust procedures will minimise the risk of potential clawback. Claims for ERDF grant will not be processed by the Council until all the required evidence is in place.
11. The major consideration in the Council becoming the applicant and accountable body is that there must be realisable assets that could be sold to fund any potential clawback of ERDF grant if necessary.
12. There will be back to back legal agreements with third parties which pass on each and every ERDF contractual obligation including grant clawback in order to mitigate risk to the Council.
13. Dedicated Council staff resources (for project management and financial monitoring and control) will be essential to ensure the level of risk to the Council is minimised and provide the required level of confidence with contractual compliance.

Law

14. The main provisions relating to European Regional Development Fund are contained in the EC Regulations 1080/2006 European Regional Development Fund and further amended Regulations.
15. Section 2 of the Local Government Act 2000 enables the Council to do anything which it considers likely to achieve the promotion or improvement of the economic, social or environmental well being of the Borough
16. Section 111 of the Local Government Act 1972 empowers the Council to do anything which is calculated to facilitate, or is conducive or incidental to the discharge of its functions.

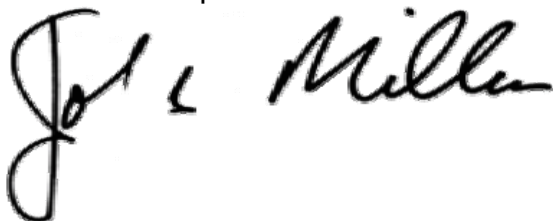
Equality Impact

17. These proposals comply with the Council's policies on Equality and Diversity.
18. With regard to Children and Young People:
 - There is no direct effect of the proposals on children and young people
 - There has been no specific consultation with children & young people
 - There has been no direct involvement of children and young people in developing the proposals.

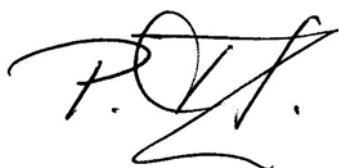
Recommendations

19. It is recommended that the Cabinet
 - a) Note the position of the projects identified in paragraph 4.
 - b) Agree that the Council acts as the applicant and accountable body for those projects outlined in paragraph 5 where there is a realisable chargeable asset to mitigate the risk of potential repayment of ERDF grant.

- c) Authorise the Director of Corporate Resources and the Director of the Urban Environment to undertake the necessary property valuations and legal work to ensure that the proposed charging of the assets is sufficient to protect the Council's position and the cost of this be met by the relevant third party organisation.
- d) Authorise the Cabinet member for Regeneration and the Cabinet member for Personnel, Law and Property, in consultation with the Directors of the Urban Environment and Corporate Resources, to;
- Submit ERDF applications, act as the accountable body and accept grant funding, for third party led projects where there is a realisable chargeable asset and where a risk assessment has been undertaken that identifies minimal risk to the Council.
 - Enter into back to back legal agreements with third parties benefiting from ERDF grant where the Council is the applicant and accountable body to ensure grant conditions and liabilities are passed on.
 - Where appropriate, third parties be required at their own expense, to secure independent expertise to confirm that the key areas of the ERDF grant process such as procurement and defrayment of expenditure accord with EU requirements.



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List of Background Papers
N/A