Agenda Item No 11

Bolsover District Council

Executive

14 July 2014

Pleasley Vale Potential Funding Claw Back

Report of the Commercial Properties & Developments Manager
(Portfolio Holder: Cllr A Tomlinson)

This report is public

Purpose of the Report

- To update Executive following discussions with Public Funding bodies concerning the potential impact of the 'clawback' of external grant upon the future development of the Pleasley Vale complex.

1 Report Details

1.1 Executive will be aware that the Council is in the process of a programme of work designed to secure a sustainable future for Pleasley Vale Mills. Following the acquisition of the site some 20 years ago the Council has secured with the aid of a range of external funders a refurbishment of what was a dilapidated and deteriorating site. While the site is currently home to a range of business and leisure activities which generate a small cash surplus, significant areas of the site are underutilised and a survey of the site has identified a significant requirement for investment in the buildings if they are to be remain in a reasonable condition. A heritage lottery bid has been developed and submitted in order to assist in securing the necessary funding. However, one of the issues which needs to be resolved as part of any options appraisal is that the Mill complex has received in excess of £5m of grant funding in order to enable the previous refurbishment to take place. Such funding could be reclaimed or 'clawed back' if the Council breaches the conditions on which that funding was provided. Clearly if a significant element of that £5m of funding were to be 'clawed back' then it would have a direct impact upon the viability of any proposals in respect of the Pleasley Vale complex.

1.2 As part of the Pleasley Vale HLF project as reported to Council on the 16 January 2014 Council discussions have been taking place with funding bodies regarding the potential impact of claw back of existing funding agreements on the Pleasley project. These discussions with the external funders have sought to reach an agreement as to how 'clawback' on grants previously secured may impact on any future development.

1.3 To date, discussions have been focused upon the major funding bodies DCLG (Birmingham) and the HCA who are responsible for ERDF, SRB, EMDA and English Partnerships related funding. Other funding bodies still need to be contacted such as DEFRA, DCLG (Nottingham), and The Big Lottery. The current position following these discussions may be summarised as follows.

1.2 DCLG:

The funding which falls under DCLG (central policy team) remit is identified in the table below:

Name of the fund	Funding Body at the time of the grant	Amount	Date	Accountable Body 2014	Description / Purpose
ERDF : EMROP 2 (Conditions 5 (ii) and (viii)	GOEM	£422,674	22.12.93	DCLG (Central Policy Team)	Creation of up to 500 jobs. Provision of 12,541 m2 floorspace.
ERDF :Objective 2 (Conditions 18(a)(i) and (f))	GOEM	£238,492	22.12.95	DCLG (Central Policy Team)	20 nursery units, 45 permanent jobs, 31,000 sq ft business space created.
ERDF : RETEX II (Conditions 19(a)(i) and (f))	GOEM	£188,400	20.01.97	DCLG (Central Policy Team)	20 nursery units, 45 permanent jobs, 31,000 sq ft business space created.
ERDF : RETEX II (Conditions	GOEM	£253,358	22.12.95	DCLG (Central Policy Team)	20 SME's assisted. 6 business start-ups. 4 hectares improved land. 352 permanent jobs during project lifetime. 21,645 m2 of business space upgraded.
ERDF : RETEX II (Conditions 19(a)(i) and (f))	GOEM	£213,984	19.09.97	DCLG (Central Policy Team)	18 nursery units, 45 permanent jobs, 20,000 sq ft business space created.
ERDF :Objective 2 (Conditions 20(a)(i) and (f))	GOEM	£6,200	07.12.99	DCLG (Central Policy Team)	20 SME's assisted. 30 m2 new/improved business space.
ERDF : RETEX II (Conditions 20(a)(i) and (e)(i))	GOEM	£10,560	14.12.99	DCLG (Central Policy Team)	15 permanent jobs created. 7 upgraded units for SME's. 883 m2 new/improved business space.

ERDF :Objective 2 (Conditions 15, 17, Annex 7(f)(i) and (g))	GOEM	£360,000	23.05.03	DCLG (Central Policy Team)	36 SME's housed. 18 new start businesses. 80% occupancy of premises. 80 new jobs. 7 female owned SME's assisted. 100% development of brownfield site and refurbished premises reaching a higher level of energy efficiency.
ERDF :Objective 2 **(Conditions 15, 17, Annex 7(f)(i) and (g))**	GOEM	£167,150	01.06.06	DCLG (Central Policy Team)	1285 m2 of premises refurbished. 100% increase in broadband access. 3 SME's assisted from target groups. 1 development of brownfield site. 25 new jobs. 14 new enterprises. 25 additional jobs created employment.
SRB1 Programme (Conditions: 14(f), 15(d), 17	GOEM (Bolsover SRB Partnership)	£780,976	21.08.97	DCLG (Central Policy Team)	531 jobs created. 484 construction jobs (in person weeks). 18 trained people obtaining jobs. 57 new business start-ups. 17.40 hec of improved open space. 3 hec improved/reclaimed land. 38756 m2 of improved floorspace.
SSP SRB Programme (Conditions: 6 [Offer letter], **8.2; 8.4, 9.1(l) and (m) [Funding Agreement]**	EMDA	£360,000	15.04.03	DCLG (Central Policy Team)	25 new business start-ups. 1 environmental improvement scheme. 3,477 area of improved floorspace. 1,464 number of jobs.
Total Funding liability		£3,001,794			

The funded projects DCLG (central policy team) are accountable for are broken down into three categories:

SRB Programme – In February 2011, DCLG removed its capital clawback rights from four historic grant programmes:

- Single Regeneration Budget (SRB)

- Urban Programme
- City Challenge
- Inner Area Grants.

Therefore, clawback on SRB schemes are not considered a future liability.

ERDF (Pre – 2000) – DCLG (central policy team) considered the risk of clawback on these schemes to be low due to the age of the scheme and the fact that the programmes have been formally ‘closed’ by the European Commission. To clarify the position, DCLG will write to BDC stating the following:

“For ERDF funding pre 2000-2006, the risk of claw back is significantly reduced due to the age of the schemes and could be deemed low risk. However, in most cases the likely economic life of the project is 20yrs and therefore, until the projects are older than 20 yrs the risk of claw back remains”.

If BDC develop Pleasley Vale it should be acknowledged that this risk all be it low, remains.

ERDF (2000 – 2006) – ERDF schemes from this programme are considered to be ‘live’ and as such BDC had to complete disposal request form for these schemes which detailed what BDC intend to deliver at Pleasley Vale as outlined in the 16 January Council Report. In considering our disposal requests DCLG (central policy team) have proposed the following for BDC’s consideration:

“Further to your request to dispose of Mill 3 and associated car park I can confirm that in principal your request has been agreed on condition that:

- The Mill is sold on the open market (to avoid any state aid issues);
- Any profits are recycled into the refurbishment of Mills 1 and 2 and or other eligible activities;
- That there remains a SME presence on the site in line with the original purpose of the project.

Before I confirm in writing I would be grateful if you could let me know whether or not the above conditions can be adhered to from your perspective. If you do not feel that this is achievable and the sale goes ahead a pro rata request will be made to pay back a proportion of the ERDF grant allocated across the two projects. Based on the length of time each set of units has been in situ compared to the economic life of the project as set out in each of the offer letters, claw back could be in the region of £200k”.

In summary, if BDC adhere to the conditions outlined above and acknowledge DCLG’s ‘low risk’ view on Pre-2000 ERDF programmes the potential £3m DCLG clawback has been reduced to a maximum liability of £200k, which may be further reduced to a position where no clawback is required.

HCA

The funding which falls under The HCA's remit is identified in the table below:

Name of the fund	Funding Body at the time of the grant	Amount	Date	Accountable Body 2014	Description
English Partnerships Condition: 4(j)	EMDA	£23,750	19.09.94	HCA	Completion of site survey and supply of results
English Partnerships Condition:	EMDA	£310,000	Dec 95	HCA	Appears to have been all environmental and landscaping work - with no hard outputs.
Total Funding Liability		£333,750			

Following a review of the HCA records for EMDA and English Partnership funded schemes at Pleasley Vale the two schemes above are the only schemes which are still open and liable to clawback. There was also a record of a Partnership investment grant which was closed in 2011.

A letter from the HCA (Appendix A), states that under the Derelict Land Grant programme should the site where the land grant is applied be disposed of then an after value payment would be triggered. The after value is the open market value of the land at the time of its disposal, appropriation or bringing into use.

The records we have on these funding streams are limited; however, the land subject to this funding includes Millpond restoration, waste disposal site, sewerage works, demolitions, and miscellaneous works. More work needs to be undertaken to fully establish the specific impact on the proposals for redevelopment at Pleasley.

1.4 Other funders

The funding which falls under other funders which have yet to be contacted regarding the Pleasley proposal:

Name of the fund	Funding Body at the time of the grant	Amount	Date	Accountable Body 2014	Description
Coalfield Area Fund	GOEM	£520,913	07.04.93	Not yet identified	Creation of up to 500 jobs. Provision of 12,541 m2 floorspace.

Rural Development Commission Condition: 4	RDC	£26,195	06.01.98	DEFRA	No outputs specified on documentation.
Rural Development Commission Conditions: C(7), D(1), D(8)	RDC	£348,000	13.01.98	DEFRA	89 jobs created. 2,213 m2 high quality units.
Rural Development Commission Condition: 4	RDC	£17,760	09.01.98	DEFRA	No outputs specified on documentation.
Rural Development Commission Condition: 4	RDC	£12,500	02.12.94	DEFRA	Installation of lift
Alliance SSP Conditions	EMDA	£244,500	15.06.06	DCLG (Notts)	15 jobs created/safeguarded. 6 new businesses created/attracted & operational for 12 months. 5 businesses assisted to improve performance. 9 businesses engaged with UK knowledge base. 0.77 hec of brownfield land reclaimed/redeveloped.
CRT (Delegated Grant)		£58,000	2007	CRT	1 no. community facility improved
Big Lottery (New Opportunities Fund PE and Sport)		£150,000	2007	BLF	adaption of existing building
Total Funding Liability		£1,377,868			

The table above outlines the remaining funding bodies (If known) to contact with regards claw back liabilities at Pleasley Vale. Officers will continue with the process of identifying and approaching funding bodies to establish clawback liability.

2 Conclusions and Reasons for Recommendation

2.1 In conclusion, Executive is asked to consider a recommendation to agree to the proposal from DCLG (Birmingham) with regards ERDF clawback (Post 2000) and acknowledge the low risk status of Pre 2000 ERDF funding.
The work undertaken to date has indicated that levels of clawback on the Pleasley Vale Complex are likely to be significantly below the amount of external grant of in excess of £5m which has been used to refurbish the Mill's over the last 20 years. Officers have identified a maximum liability of some £200k, although in addition to this there are a range of grant regimes such as Derelict Land Grant where further clawback may be experienced. At this point in time it is not realistic to seek to assess the potential costs of clawback arising from these funding streams given that there is significant less certainty around the original conditions of the grant. While further work is ongoing to assess the Council's potential liability it is unlikely to be able to gain a more accurate picture until the Council has committed to a scheme. Clearly the greater the connection between any future refurbishment and change of use and the purpose for which grant were originally provided will reduce the risk of clawback. The main option which are being pursued as part of the Heritage Lottery Grant submission are broadly in line with the current use of the site and should therefore minimise the risk of clawback.

3 Consultation and Equality Impact

3.1 This report is concerned with establishing the potential level of 'clawback' of grant funding previously received which may impact of any future development at Pleasley Vale Mills. Given that this essentially entails a discussion with funding bodies it is not considered necessary to undertake any consultation relating to this work.

3.2 There are no equality issues arising directly from this report.

4 Alternative Options and Reasons for Rejection

4.1 This report is concerned with identifying potential liabilities from previous grant funding. As such it does not look at options for mitigating such clawback, or at any options for the future development of the site.

5 Implications

5.1 Finance and Risk Implications

- The potential financial clawback of grants previously provided is covered throughout this report.
- While officers are seeking to identify and to negotiate an agreed position around grant previously received it needs to be recognised that many of the funding streams used to refurbish Pleasley over the last 20 years are open to a range of interpretations as to the financial liabilities which currently remain. While officers will work to clarify the position as much as possible given the extent and variety of the grant funding used to renovate the Mills there will remain a possibility that the Council will remain subject to unanticipated clawback as a result of any major refurbishment work or attendant change of use which is undertaken.

5.2 Legal Implications including Data Protection

The legal issues around clawback of previously received grant are covered throughout this report.

5.3 Human Resources Implications

There are no human resource issues arising directly from this report.

6 Recommendations

6.1 That Executive notes the work that has been undertaken in respect of the potential clawback of previous grant funding received in respect of Pleasley Vale Mills and continue with further work intended to quantify the potential clawback for those funding streams where a significant level of uncertainty remains. ...

6.2 That Officers bring back further reports concerning proposals for the Pleasley Vale site to Executive as appropriate.

6.3 As detailed in section 1.2, Executive agree to the proposed terms below which allow BDC to develop Pleasley Vale conditional upon:

- The Mill is sold on the open market (to avoid any state aid issues);
- Any profits are recycled into the refurbishment of Mills 1 and 2 and or other eligible activities;
- That there remains a SME presence on the site in line with the original purpose of the project.

If a disposal takes place without the above conditions met a pro rata request will be made to pay back a proportion of the ERDF grant allocated across the two projects currently in the region of £200k.

6.4 As detailed in section 1.2, Executive acknowledge DCLG's low risk assessment of Pre-2000 ERDF funding.

7 Decision Information

Is the decision a Key Decision? (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	Yes
District Wards Affected	
Links to Corporate Plan priorities or Policy Framework	

8 Document Information

<table>
<tr><th>Appendix No</th><th>Title</th></tr>
<tr><td>A</td><td>HCA Letter</td></tr>
<tr><td colspan="2">Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</td></tr>
<tr><td colspan="2"></td></tr>
<tr><td>Report Author</td><td>Contact Number</td></tr>
<tr><td>Commercial Properties & Developments Manager</td><td>X2210</td></tr>
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Report Reference –