

**CABINET
11 JANUARY 2022**

FEETHAMS HOUSE – EUROPEAN REGIONAL DEVELOPMENT FUND

**Responsible Cabinet Member
Councillor Heather Scott – Leader of the Council**

**Responsible Director
Ian Williams- Chief Executive**

SUMMARY REPORT

Purpose of the Report

1. The purpose of this report is to obtain approval for the repayment of £1,710,928.78 of European Regional Development Fund (ERDF) to facilitate the temporary use of Feethams House by the Treasury (HMT) and Other Government Departments (OGD).

Summary

2. In 2019 the Council commenced the building of a grade A office accommodation in the centre of the town. This was a speculative build project aiming to provide high quality office accommodation for small and medium enterprises (SME) and general business use. The overall project £8,460,880 was funded through Council capital contribution £3,329,848 Tees Valley Combined Authority £3,230,000 and ERDF contribution of £1,901,032. The ERDF contribution was specifically allocated for the provision of office accommodation for SMEs. The building was completed in 2020 and funding received to date from ERDF is £1,710.928.78.
3. In March 2021 it was announced that departments of HMT and OGD were to be relocated in Darlington. While a full and comprehensive review for the permanent relocation is currently being carried out it was highlighted that quality temporary accommodation for the early cohorts of officers relocating was required. Feethams House has been identified as the preferred temporary location with occupation commencing in March 2022. HMT and OGDs will require the whole building which means that the two floors identified for the use by SMEs will not meet the restriction imposed by ERDF funding. Officers have discussed with Government officials whether a deferment or some flexibility on repayment of this funding could be obtained, and it has now been confirmed that Government are able to offer repayment over a three-year term (March 2022 to March 2024) in line with the ERDF Programme.

Recommendations

4. It is recommended that:
 - (a) Cabinet agrees to repay the £1,710,928.78 ERDF contribution for the construction of Feethams House.
 - (b) The funding to be sourced in the medium term from the Investment Fund which will be repaid through the rental income from Feethams House.

Reasons

5. The recommendations are supported by the following reasons:
 - (a) To promote new development and Economic Growth.
 - (b) To facilitate the relocation of officers from HMT and OGDs which will provide several significant economic growth opportunities for the borough and the Tees Valley Region.
 - (c) To comply with the grant funding obligations.

Ian Williams
Chief Executive

Background Papers

No background papers were used in the preparation of this report.

Mark Ladyman: Extension 6306

S17 Crime and Disorder	The report has no implications for crime and disorder
Health and Wellbeing	The report has no implications for health and well being
Carbon Impact and Climate Change	There is potential for any new Building to be easily accessible by sustainable transport modes which will help ensure the carbon footprint of the development is acceptable.
Diversity	No implications
Wards Affected	All
Groups Affected	All
Budget and Policy Framework	There is no impact on the Budget or Policy framework.
Key Decision	No
Urgent Decision	No
Council Plan	Supports the Council priority by bringing jobs potentially to Darlington, and facilitating development
Efficiency	The workload resulting from the recommendations in this report assumes additional resources will be required and funded through proposed rental values.
Impact on Looked After Children and Care Leavers	This report has no impact on Looked After Children or Care Leavers

MAIN REPORT

Information and Analysis

6. It is anticipated that over 1,500 civil service jobs will be relocated to Darlington by 2024/2025. A full and comprehensive evaluation exercise on the preferred permanent location for these jobs has been carried out. However, in the meanwhile a temporary solution to accommodate the first cohorts of these posts is required. Various options have been considered by the Government Property Agency (GPA) and Feethams House has been selected as the ideal temporary location.
7. The Treasury and OGDs will require the use of the entire building which means that the funding received through ERDF will need to be repaid as the funding was specifically for the provision of office accommodation for SMEs. The EU regulations make specific provision to recover ERDF grant from projects that significantly change or cease to deliver in line with the offer of grant – in this case office space specifically for the use of SMEs - within five years of the last project payment made. As Feethams House will not deliver any agreed or eligible activity during the life of the ERDF Programme period, this is considered to constitute an irregularity requiring the repayment of ERDF grant.
8. Officers have discussed with Government officials whether a deferment or some flexibility of this funding repayment could be obtained, and it has now been confirmed that Government are able to offer repayment over a three-year term (March 2022 to March 2024) in line with the ERDF Programme.
9. It is anticipated that the relocation to Feethams House will commence in March 2022 and an early conclusion to the ERDF restrictions is required as soon as possible to allow the occupation of Feethams House to commence. The £1,710,928.78 ERDF funding will be sourced through the Economic Growth Investment Fund and will be repaid through the rental income from Feethams House.
10. The Government are conscious that the ERDF was originally allocated at Local Enterprise Partnership (LEP) Area level and have reviewed the reinvestment of the ERDF clawback both in respect of Darlington and the wider Tees Valley area and explore any opportunities for further ERDF investment.
11. It has been confirmed that Government is currently considering requests to invest around £4.5m additional ERDF in the Tees Valley Business Growth Fund. This is expected to support up to 200 businesses in Tees Valley, creating around 200 new jobs and bring new products to market. As a condition of the additional grant, it will be expected that the project takes steps to specifically target Darlington businesses and maximises the potential investment in the Darlington Area. Around £1m of ERDF will be earmarked for Darlington businesses if there is sufficient demand.

Financial Implications

12. Repayment of the ERDF funding can be facilitated through the Investment fund, and it is anticipated to be fully repaid from rental income within 3 years. This will be achieved by prioritising any rental income received to repay the ERDF debt in place of the original

DBC/TVCA profit/risk share agreement. The profit/risk share agreement with TVCA will re-engage once the ERDF debt has been settled.

13. Under the expected head of terms with the GPA there is a 2-year break clause; while it is felt this is unlikely to be triggered, if it was then the outstanding ERDF debt would be £0.945m. While the risk of this may be low it should be noted as this would fall on DBC to fund as the TVCA profit/risk share arrangement is based on net profit/loss before borrowing costs for any party.
14. Following successful repayment of the ERDF debt it is expected that the original business plan would restart at year 1 with no detrimental impact for either DBC or TVCA within the constraints of the business plan.

Legal Implications

15. As outlined above, the ERDF funding was conditional upon any disposals being by way of leases to ERDF eligible Small or Medium Enterprises. This condition is to be found at paragraph 10 of Schedule 1 of the ERDF grant funding agreement (“the Agreement”) dated 8 February 2019.
16. The proposed disposal will mean that the Council will not be compliant with this condition, this itself does not automatically bring the Agreement to an end: consent can be requested of the secretary of state for a disposal under clause 8.3(c) of the Agreement. Should consent not be forthcoming but the disposal proceeds then 8.3(d) requires all proceeds of the disposal to be held in trust for the Secretary of State.
17. Further, such a disposal without consent will be a material breach of the Agreement under clauses 12.2(d) and (e) the consequences for which are outlined in clause 12.3 and are (a) suspension of payments; (b) reduction of the sum of the grant; (c) cessation of payments; and (d) cancellation of the Agreement. In the circumstances, given that the grant has been fully paid to the Council, it is very likely that cancellation would be the consequence, and this would lead to immediate repayment.
18. In conclusion, given that consent for this disposal is unlikely/has not been forthcoming and that this disposal is not to an SME and therefore a material breach of the Agreement, the Council will be obligated to repay the grant in full.