

## **Cabinet – 23 January 2013**

### **Black Country Business Property Investment Programme Supplementary Paper**

- Portfolio:** Councillor Adrian Andrew, Deputy Leader, Regeneration
- Related portfolios:** Councillor Chris Towe, Finance and Personnel
- Service:** Regeneration – Development and Delivery
- Wards:** Wards within the SUD boundary (see **Appendix A**)
- Key decision:** Yes
- Forward plan:** No – the report is urgently required in order to provide Cabinet with an update on the risks associated with the Programme.

#### **1. Summary**

- 1.1 The 'Black Country Business Property Investment Programme (BCBPIP)' report was published in due time for the January 2013 Cabinet meeting. This report provides Cabinet with an update on the risks and management methods associated with the Black Country Business Property Investment Programme (the Programme), in particular any potential clawback which may result from the Department for Communities and Local Government (DCLG) identifying a breach of the funding agreement to be entered into by Walsall Council.
- 1.2 The intention of the BCBPIP January Cabinet report was to set out an alternative proposal for the sharing of any potential grant clawback from DCLG to that reported in February 2012. However, since the publication of the January Cabinet report, it has become necessary to inform Members of a further proposal in relation to potential clawback which has been suggested by our Black Country local authority partners.
- 1.3 The equitable sharing of any potential clawback evoked by DCLG for the BCBPIP has been discussed further by all four Black Country local authorities. Our Black Country partners and their elected Members have now put forward a further proposal for how any clawback could be managed and shared by the local authorities. This supplementary paper outlines this further proposal.

#### **2. Recommendations**

- 2.1 That Cabinet agree to enter into the Black Country Business Property Investment Programme (BCBPIP) Collaboration Agreement with its Black Country local

authority partners which provides for any potential clawback of the European Regional Development Fund by:

- jointly and equally contributing to any clawback arising due to Programme irregularities or clawback that is evoked before the grant funding is allocated to individual projects

and

- contributing to any clawback based on the proportion of ERDF funding allocated to projects in each Local Authority's administrative area if the clawback is related to an individual project within the overall Programme.

2.2 That Cabinet agree to delegate authority to the Executive Director – Regeneration to sign or authorise the sealing of the proposed Collaboration Agreement, to be entered into by the four Black Country Local Authority partners, in relation to BCBPIP and other related documents.

### **3. Report detail**

3.1 The BCBPIP Cabinet report provides a detailed account of the necessity to change the draft collaboration agreement between the four Black Country local authority partners. This is based on the level of risk placed on Walsall Council, as the 'Accountable Body' for the overall Programme, and indeed the other local authorities.

3.2 The Black Country local authorities have now suggested that any potential clawback associated with BCBPIP should be shared depending on the level of grant funding invested in each local authority administrative area. Therefore, presenting a situation whereby the greater the level of reward results in a greater risk for each of the partners.

3.3 Whilst the new proposal provides a compromise for any potential clawback evoked as a result of an individual project being in breach of DCLG's grant conditions, it does not outline an agreed position for any potential clawback associated with Programme management irregularities or should an activity prior to funding being allocated to individual projects evoke clawback. Walsall Council has therefore proposed that in such situations any potential clawback, up to the value of the Programme is shared equally by all four partners. Based on the current Programme value of £6.7m, each local authority partner's liability would be up to £1.675m (maximum) depending on the sum of clawback sought from DCLG. This has now, in principal, been agreed by our partner local authorities; subject to any further approval processes that each authority must adhere to.

### **4. Financial implications**

4.1 Whilst the new proposal for the sharing of any clawback caps the financial risk associated with any clawback resulting from any Programme irregularities or an activity which takes place before grant funding is allocated to individual projects; it does not provide an opportunity to calculate the financial cap for any clawback resulting from individual projects. The level of financial risk for each local authority will vary depending on the value of projects implemented within their

administrative area. This financial risk will not be known until at least all funding is allocated to projects and the Programme has ended.

## 5. Legal implications

- 5.1 Legal Services have been working closely with officers to ensure that all necessary legal processes are in place to minimise the risk to the Council of being the accountable body under the Programme, including but not limited to the drafting of the collaboration agreement.

## Background papers

Black Country Business Property Investment Programme Cabinet Report: 23 January 2013

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23 January 2013



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