
MELLTREE PROPERTIES LIMITED – GRANT REPAYMENT

To: Extraordinary Cabinet – 16 October 2014

Main Portfolio Area: Economic Development and Regeneration

By: Cllr Green – Cabinet Member for Strategic Economic Development Services

Classification: Unrestricted

Ward: All

Summary: To approve the repayment of ERDF grant

For decision

1.0 Introduction and Background

- 1.1 A European Regional Development Fund (ERDF) grant of £68,750 was paid by the Council to Melltree Properties Limited on 30 November 2007 in respect of the conversion of the property at 42 High Street and 16 Marine Drive, Margate into artist studios/galleries.
- 1.2 The full conversion of the property into a gallery and artist studios did not happen and consequently the Council sought full repayment of the grant from Melltree Properties Limited.
- 1.3 As there was a serious risk that the Council would fail in its claim to recoup the full grant and be ordered to pay the Defendant's costs. The claim against Melltree Properties Limited and its two directors was settled on the terms advised by Counsel.
- 1.4 Following Counsel's advice the Council managed to recover £5,000 in full and final settlement as previously reported to members (14th November 2013 Cabinet).
- 1.5 Following this meeting Cabinet requested that the police look into the matter to see if any criminal proceedings could be brought, the police have subsequently stated:

"A grant was paid to Melltree Properties in November 2007. The Council formed the view that the funds had not been correctly used and subsequently invoiced Melltree for the full value of the grant. As above a breach of the terms does not make the occurrence criminal. The Grant being made post Jan 2007 comes under the Fraud Act which should make it easier for a criminal allegation to be proven. It is just necessary to prove that a lie was told during the application process.

The Council's actions post pursuing the matter criminally, in that £5,000 was accepted in full and final settlement of the debt as the Council had been advised that due to there being conflicting evidence they were unlikely to succeed civilly makes any criminal investigation and subsequent prosecution unsupportable."

- 1.6 Now the police investigation has concluded, the Council have fully exhausted all avenues in order to seek any further repayment of the grant and no further legal action can be taken.

2.0 Current Position

- 2.1 The Council have been in discussions with the Government Office for the South East (GOSE) since 2010 and latterly The Department for Communities and Local Government (DCLG) since GOSE was wound up in 2011, regarding the way forward.
- 2.2 DCLG following the closure of the police investigation requested a briefing note from the Council detailing the steps taken to reclaim the grant and proposed usage of the amount reclaimed.
- 2.3 The Council through this briefing note also tried to demonstrate to DCLG that although the grant had not been used as intended, it had indirectly resulted in the development of the site into what is now a hotel and neighbouring restaurant and so had indirectly assisted in the wider regeneration of Margate.
- 2.4 Despite the authority's best efforts on 11th August 2014, DCLG wrote to the Council seeking full repayment of the grant amounting to £68,750.
- 2.5 DCLG reclaimed the monies quoting Article 30.4 of EU Regulation 1260/1999 that requires projects remain operational for a minimum of five years.

3.0 Next Steps

- 3.1 The Council are unable to negotiate with DCLG further and are unable to recoup any further monies from Melltree Properties Limited.
- 3.2 On this basis DCLG will invoice the authority for £68,750, with £5,000 of the required repayment coming from the monies reclaimed from Melltree Properties Limited.
- 3.3 The remaining £63,750 will be taken from the un-ring-fenced grants reserve.
- 3.4 Following correct accounting practice the grant will be repaid from revenue.

4.0 Corporate Implications

4.1 Financial and VAT

- 4.1.1 These have been reflected in the body of the report. As this is a grant repayment the transaction is treated as a Non-Business transaction for VAT purposes.

4.2 Legal

- 4.2.1 There was a serious risk that the Council would fail in its claim and be ordered to pay the Defendant's costs. The claim against Melltree Properties Limited and its two directors was settled on the terms advised by Counsel. No further legal action can be pursued.

4.3 Corporate

- 4.3.1 The Council has since reviewed the procedures and processes for awarding and monitoring external grants and through the introduction of the "External Funding and Grants Protocol" is satisfied that the circumstances that resulted in the full grant being

paid over to Melltree Properties Limited, in a single instalment in advance of delivery, could no longer occur.

4.4 Equity and Equalities

4.4.1 There are no equity or equalities issues arising from this report.

5.0 Recommendation

5.1 That Cabinet approve the repayment of £68,750 grant to DCLG and that this is funded using the £5,000 grant reclaimed, with the balance from the un-ring-fenced grants reserve.

6.0 Decision Making Process

6.1 This is a key decision to be made by Cabinet.

Contact Officer:	Clive Bowen, External Funding Officer
Reporting to:	Nicola Walker, Finance Manager - HRA, Capital & External Funding

Corporate Consultation Undertaken

Finance	Clive Bowen, External Funding Officer
Legal	Colin Evans, Assistant Litigation Solicitor