



EUROPEAN COMMISSION

Brussels, 24.05.2002
C(2002) 1641

Subject: **State Aid N 239/02 – United Kingdom**
“Partnership Support for Regeneration”

Sir,

1. Procedure

By letter dated 18 March 2002, registered at the Commission on 19 March 2002, the UK authorities notified, pursuant to Article 88(3) EC, the “Partnership Support for Regeneration” scheme.

2. Description of the Scheme

The aim of the “Partnership Support for Regeneration” scheme is to increase the stock of housing available for owner-occupation in areas where this is useful from a social and regeneration perspective.

The supply of owner occupation housing in these areas has the potential to bring along improvements in local public services and the local environment. By doing so, it contributes to the overall regeneration of these areas and supports social inclusion.

Applications and awards are administered for the whole of England on behalf of the UK Government by the following Regional and Urban Development Agencies, hereafter referred to as “regeneration bodies”:

- One North East Development Agency
- North West Development Agency
- Yorkshire Forward Development Agency
- East Midlands Development Agency
- Advantage West Midlands Development Agency
- South East of England Development Agency

The Right Hon Jack Straw MP
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- South West of England Development Agency
- East of England Development Agency
- London Development Agency
- Urban Regeneration Agency.

All projects that are proposed for grant funding must be shown to contribute to the regeneration bodies' regional economic strategies. The projects chosen will widen the choice of housing available to those who wish to become owner-occupiers, either in areas dominated by public sector housing or in areas where individuals on low incomes are excluded from owner occupation.

The aid instrument applied by the scheme is “gap funding”, a grant that in each case bridges the gap, wholly or in part, between the cost of a development project and the sales value of the houses upon completion.

The legal basis of the scheme is the ‘Regional Development Agencies Act 1998’, the ‘Greater London Authority Act 1999’, as well as the ‘Leasehold Reform, Housing and Urban Development Act 1993’.

The draft ‘Guidance Notes: Gap Funding for Housing’, edited by the UK ‘Department of Transport, Local Government and the Regions (DTLR)’ outline the administrative guidelines to be applied by the regeneration bodies when assessing applications for individual projects. By means of these guidelines, the regeneration bodies will ensure that the awards will be the minimum necessary to allow a project to proceed. In any case the awards will not be greater than the gap between the eligible costs and the sales value of the houses on completion, as determined by an independent chartered surveyor. The following provisions safeguard this:

- i. As funding for the grant will be restricted, the regeneration bodies will assess applications comparatively. Priority will be given to projects based in areas of the greatest need. This appraisal process will introduce an element of competition for resources between applicants, who will have to demonstrate that their application will deliver the best value outcomes. The appraisal process will also take into account how a proposed project supports community regeneration (points 12 and 15).
- ii. Applications will have to demonstrate that, wherever practicable, all construction works have been competitively procured (point 16).
- iii. In the case of particular sites being identified for specific regeneration purposes that are already in the ownership of applicants, competitive tendering may become impractical. The regeneration bodies will hence conduct a verification with advice from professional Chartered Surveyors registered with the Royal Institute of Chartered Surveyors, who are independent of the projects’ promoters or developers, to certify that the construction costs are at, or below, the prevailing market rate (point 16).
- iv. Grants awarded will not be greater than the gap between the eligible costs and the sales value of the houses on completion, as determined by an independent Chartered

Surveyor. An independent Chartered Surveyor will undertake all valuations, in accordance with the regulatory requirements of the UK Government and with the 'Commission communication on State aid elements in sales of land and buildings by public authorities'¹ (point 13).

- v. The level of grant funding sought by project applicants must be the minimum required to allow a project to proceed and a rigorous appraisal of all applications undertaken by the regeneration bodies will ensure that this is the case (point 14).
- vi. Projects shall be subject to repayment to the extent that costs are lower than projected and market values are higher than projected within a specified period (point 24).
- vii. Grant recipients must provide security for any grant approved by the regeneration bodies (point 20).
- viii. Cumulation of aid with any other form of public support towards the same eligible costs is ruled out under the scheme (points 3 and 5).
- ix. For projects involving initial sales at less than market value, the regeneration bodies will always seek to clawback any surplus profits made following the first re-sale of the grant funded house where this takes place within a minimum period of 5 years and a maximum period of 10 years of the initial sale (point 26).

The duration of the scheme will be as of the date of the Commission's approval until 31 December 2006, which would be the last possible date to grant an aid.

Expenditure on the scheme will be determined each year by the regeneration bodies referred to above. The regeneration bodies receive £1.4 billion per year for the whole range of their allocation activities, including economic development and regeneration. However, there will not be a separate budget for housing. The maximum amount of grant will not exceed 60% of project costs.

3. Appraisal

The Commission notes that the "Partnership Support for Regeneration" scheme is very much modelled on the Scottish scheme "Grants for Owner Occupation (State Aid N 497/01)" on which it took a favourable decision on 13 November 2001.² The present assessment therefore follows the one made in the case "N 497/01: Grants for Owner Occupation".

Aid to the less affluent in order to enable them to become owner-occupiers of a house does normally not fulfil the criteria of Article 87(1) EC. Under the present scheme, grants

¹ OJ C 209, 10.7.1997, p.3.

² OJ C 32/08, 5.2.2002, p.17.

are provided to individuals wishing to become owner-occupiers, either in areas dominated by public sector housing or in areas where individuals on low incomes are excluded from owner occupation (point 8). Therefore such aid, if awarded directly to the owner-occupiers, would not favour certain undertakings or the production of certain goods in the sense of Article 87(1) EC.³

The Commission notes, however, that the aid applicants are not the prospective owner-occupiers, but rather private housing suppliers. Therefore applicants for aid under the scheme are expected to be individuals, partnerships or registered companies set up for the purposes of building houses (point 4). These private housing suppliers are undertakings within the meaning of Article 87(1) EC. They may or may not undertake the construction works themselves. The Commission also notes the information supplied by the UK authorities that some applicants are private developers who own the land in question and who would not be willing to surrender these assets to enable open competition for their development. The Commission furthermore recalls its final Decision on English Partnerships under the partnership investment programme⁴, in which a distinction was made between aid to so-called “speculative” projects and aid to “bespoke” projects. Whereas the beneficiary in the case of bespoke development projects is in principle the end user, the likely beneficiary in the case of speculative development projects is the developer of such a project. The projects to be aided under the present scheme are of a “speculative” nature insofar as the prospective owner-occupiers of the social housing are not known at the time of the application for aid. The Commission would furthermore point out that the property development business is a very mobile activity across Member States. The Commission can therefore not exclude that aid granted to certain private housing suppliers could fulfil all criteria set out in Article 87(1) EC. This finding is in line with the Commission’s Decision on English Partnerships referred to above and subsequent decisions on regeneration aid schemes.⁵

By notifying the scheme as a draft to the Commission, the UK has respected its obligations laid down in Article 88(3) of the EC Treaty.

The UK authorities also refer to point V.6 of the ‘Commission communication on State Aid and Risk Capital’⁶, which they believe should also apply to the “Partnership Support for Regeneration” scheme:

“In general, where a transfer made by the State would be compatible with the state aid rules, the Commission believes that a measure which provides a minimum incentive to other economic operators to make that same transfer should also be authorised, even if technically an aid to those operators is involved.”

³ In line with the Commission’s decision on aid N 348/98 – Italy (Trento), reported in the XXVIIIth Competition Report.

⁴ OJ L 145, 20.06.2000, p. 27.

⁵ Partnership Development Scheme (N 656/99); Partnership Support for Regeneration: Support for Speculative Development (N 747/A/99); English Cities Fund (N 82/01); Grants for Owner Occupation (N 497/01).

⁶ OJ C 235, 21.08.2001, p. 3.

It is the Commission's opinion that this principle can indeed be applied to the "Partnership Support for Regeneration" scheme. The scheme contains the provisions needed to ensure that the suppliers of housing, who apply for the grant, only receive the minimum incentive necessary for them to realise the housing in question at their own risk. The scheme is notably based on competitive tendering whenever practicable as well as verifications by Chartered Surveyors and furthermore contains a clawback mechanism.

Under those circumstances the aid, of which the suppliers of housing are the direct beneficiaries, is largely channelled to the future owner-occupiers of the social housing. The Commission has also taken into consideration that, without the aid, the social housing at affordable prices would not be realised. Grant applicants are incentivised to pursue reductions in cost and increases in value. Finally, no cumulation with other aid is possible. The Commission draws the conclusion that the minimum incentive to the suppliers of the housing will not adversely affect the trading conditions to an extent contrary to the common interest in the meaning of Article 87(3)(c) EC.

4. Decision

On the basis of the foregoing assessment, the Commission concludes that the "Partnership Support for Regeneration" scheme is compatible with the common market pursuant to Article 87(3)(c) EC.

The Commission reminds the UK Government to submit an annual report on the implementation of the scheme. The report should allow the Commission to verify that for each project the incentive to suppliers of housing was the minimum necessary for the project to proceed.

The Commission further reminds the UK Government that all plans to modify this aid scheme have to be notified to the Commission.

If this letter contains confidential information, which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: http://europa.eu.int/comm/secretariat_general/sgb/state_aids/. Your request should be sent by registered letter or fax to:

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Yours faithfully,
For the Commission

Mario MONTI
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