

Document C7

Carmarthenshire County Council Official (1)

The short answer is no I cannot confirm that if the Pumpkin Patch was to remain as a sole trader and do the project that they would be eligible for 80% funding under RCDF.

I am guessing that you are trying to separate out the building works from the subsequent fitting out which would be the part most likely to result in 'increased productivity', yes?

As I said before we have not got a great deal of experience with 7.7 projects (as yet) and so I have not had to consider building improvements/refurbishment where the beneficiary would then use the new space so I would need to take some advice on how the Regulation might be interpreted in this kind of situation.

If this was any other capital scheme and Pumpkin Patch was to apply (assuming eligibility) then the maximum grant rate would be up to 40% because the grant would result in the improvement of a business asset. The building would be on that business' balance sheet.

Buildings that are in someone else's ownership that are improved and then used for community purposes we can see how the RCDF support would result in a 'community benefit' and the same would happen if the building was already in community ownership.

I can see how the Pumpkin Patch is delivering wider benefit and is engaged in community activities but whilst it is a sole trader business that does have implications on how we would look at some aspects of eligibility and the associated grant rates. Sorry this is not the straightforward answer that you were looking for.

Kind regards,

Welsh Government Official (1)

From: Carmarthenshire County Council Official (1) [@carmarthenshire.gov.uk]

Sent: 06 February 2017 17:18

To: Welsh Government Official (1) (ESNR-AFM-CAP Planning)

Cc: Carmarthenshire County Council Official (2); Welsh Government Official (2)(ESNR-AFM-CAP Planning); Welsh Government Official (3)(ESNR-AFM-CAP Planning); Welsh Government Official (4) (ESNR-AFM-CAP Planning); Welsh Government Official (5) (NR - CAP Planning); Welsh Government Official (6) (ESNR-AFM-CAP Planning); Welsh Government Official (7) (ESNR-AFM-CAP Planning)

Subject: RE: RCDF Application - c81123 - The Pumpkin Patch Cookery and Gardening School - Eligibility

Importance: High

Hi Welsh Government Official (1)

Thank you for your response below.

Can we just confirm that we have understood your e-mail correctly before we respond to the applicant.

Should the Pumpkin Patch remain as a sole trader and apply to RCDF solely for the refurbishment costs of the building under 7.7 they would be eligible for 80% funding?

Kind regards
Carmarthenshire County Council Official (1)

From: Welsh Government Official (1) [@wales.gsi.gov.uk]

Sent: 03 February 2017 13:29

To: Carmarthenshire County Council Official (1)

Cc: Carmarthenshire County Council Official (2); Welsh Government Official Official (2)(ESNR-AFM-CAP Planning); Welsh Government Official (3)(ESNR-AFM-CAP Planning); Welsh Government Official (4) (ESNR-AFM-CAP Planning); Welsh Government Official (5) (NR - CAP Planning); Welsh Government Official (6) (ESNR-AFM-CAP Planning); Welsh Government Official (7) (ESNR-AFM-CAP Planning)

Subject: RE: RCDF Application - c81123 - The Pumpkin Patch Cookery and Gardening School - Eligibility

Carmarthenshire County Council Official (1)

I will leave it between yourself and Welsh Government Official (3) to arrange a VC meeting - but just to be aware my availability is somewhat limited over the next couple of weeks unfortunately.

For Rural Community Development Fund we have put in a full State aid notification under the Agriculture Guidelines that covers most of the activities and when we can use a notification we do so because it makes the administration more straightforward. Industrial De Minimis is an option of last resort because it requires aid declarations from the applicant and under the new State Aid Transparency requirements the reporting is more complicated than it used to be so we are avoiding that wherever possible. I suppose that it might have possible to use it for RCDF 7.7 but this is a complicated element of RCDF anyway. I guessing that you are asking the question because of the non-productive / increase in production assessment that might be necessary in some situations?

Welsh Government Official (2) and Welsh Government Official (1) have since discussed this particular point and it seems that my interpretation of the bit of the Regulation was too restrictive - the actual wording is that it 'must be consistent with the Local Development Strategy' and we are taking a confirmation from the LEADER LAGs that all RCDF projects meet that requirement without asking for any further (lower) level of detail.

I cannot see any advantage in getting into any in-depth discussion about the potential issues around RCDF 7.7 because the answers will depend on the combination of the status of the applicant and the ownership of the assets so the response would take a great deal of explanation. But in brief, only commercial businesses are eligible to apply under 7.7 therefore if the business owns the asset that is being improved and that improvement results in increased business activity (turnover and/or profitability) then there are implications for the amount of grant they might have. We could have used Industrial De Minimis as an alternative but for other reasons we have gone for a full notification and so the increase in production potential would be dealt with by a lower grant rate for a proportionate part of the total grant. The comment that I made about looking at the refurbishment costs and the other costs would only apply if the project resulted in an increase in business activity should the Pumpkin Patch (as a sole trader business) have a sufficient in the

buildings for that business to be an eligible applicant under 7.7. In this very specific set of circumstances then we might be able to show that the refurbishment of the building structure was non-productive and then the conversion and fitting out as a café, kitchen and workshop spaces was productive and so that would give a basis for those costs that might be grant supported at up to 80% compared to those costs that might be grant supported at up to 40%.

I am still not convinced that a meeting is necessary as it ought to be fairly straightforward for Lisa Fearn to decide if she wants to set up a CIC (or some other arrangement) in order to develop her ideas or not, but I will wait to hear if a meeting is to be arranged.

Kind regards,
Welsh Government Official (1)

-----Original Message-----

From: Carmarthenshire County Council Official (1) [mailto:Carmarthenshire_Council_Official@carmarthenshire.gov.uk]

To: Welsh Government Official (1) (ESNR-AFM-CAP Planning)

Cc: Carmarthenshire County Council Official (2); Welsh Government Official (2)(ESNR-AFM-CAP Planning); Welsh Government Official (3)(ESNR-AFM-CAP Planning); Welsh Government Official (4) (ESNR-AFM-CAP Planning); Welsh Government Official (5) (NR - CAP Planning); Welsh Government Official (6) (ESNR-AFM-CAP Planning); Welsh Government Official (7) (ESNR-AFM-CAP Planning)

Subject: FW: RCDF Application - c81123 - The Pumpkin Patch Cookery and Gardening School - Eligibility
Importance: High

Thanks Welsh Government Official (1)

I think it would be worth holding a vc meeting. We shall liaise with Welsh Government Official (3) with regard to a suitable date.

Thanks for the response in relation to 7.4

In terms of measure 7.7, you note in your e-mail that the RCDF is covered by 4 state aid covers. Is there a reason why a project under measure 7.7 could not be covered by the Industrial de-minimus ?

You also noted that in order to be eligible the applicant would also need to demonstrate that there was reference within the local development strategy. I can confirm that the Carmarthenshire LDS does make reference to the need for local employment space as highlighted under Strategic aim 5: to develop the distinctiveness and attractiveness of the area in terms of tourism and business investment whilst ensuring that Wales as a nation is resilient. The LDS specifically states that Infrastructure is also a vital component in the future regeneration of rural Carmarthenshire including employment sites and premises; attractive market towns

and access to rural transport (pg 26). I cannot see how any LDS would go down into any further detail i.e. naming specific sites. In addition, the LAG has considered and fully supported the project.

Eligibility of applicant under measure 7.7 - you mention that if the building were owned or under long term lease to the Pumpkin Patch (as a sole trader) then the refurbishment works would represent a benefit to their on-going business activities. If the grant was covered under the industrial de-minimus, would this alleviate the issue?

Finally, you mentioned that there may be an opportunity to separate out costs into just the refurbishment of the structure - could you provide further clarification around this

We would welcome your views in relation to the above, as we are anxious to get an agree way forward for the project.

Kind regards
Carmarthenshire County Council Official (1)

-----Original Message-----

From: Welsh Government Official (1) (ESNR-AFM-CAP Planning)

Sent: 02 February 2017 13:20

To: Carmarthenshire County Council Official (1)

Cc: Carmarthenshire County Council Official (2); Welsh Government Official (2)(ESNR-AFM-CAP Planning); Welsh Government Official (3)(ESNR-AFM-CAP Planning); Welsh Government Official (4) (ESNR-AFM-CAP Planning); Welsh Government Official (5) (NR - CAP Planning); Welsh Government Official (6) (ESNR-AFM-CAP Planning); Welsh Government Official (7) (ESNR-AFM-CAP Planning)

Subject: RE: RCDF Application - c81123 - The Pumpkin Patch Cookery and Gardening School - Eligibility

Carmarthenshire County Council Official (1)

Sorry but I have been away at a number of external meetings over the last two weeks hence the delay in my reply.

We do have video conferencing facilities here at the office in Aberystwyth but I would have to make enquiries about how this might be linked to an external source however if you still feel that a meeting is necessary please contact Carmarthenshire County Council Official (3) and she will make the necessary arrangements in terms of day/time and booking us a room.

The eligibility requirement for Sub Measure 7.4 is that we must have a legal entity that is defined as a Third Sector Organisation. This includes, but is not limited to, a Company Limited by Guarantee but also includes other forms of legal entity such as a Community Interest Company. Until we can see the Memorandum and Articles of Association of the new legal entity I cannot give an absolute guarantee in advance that a particular entity with a certain name (for example Pumpkin Patch CIC) would definitely be eligible under a particular scheme or sub measure because we need to

be sure that the legal entity has the scope to deliver the project activities and is correctly classified. That cannot be done on a presumption beforehand, however, if there was a new legal structure such as a CIC or Company Limited by Guarantee this is likely to be an eligible applicant under RCDF 7.4.

There are other potential elements that would need to be clarified such as who was the owner of the building that was to be refurbished and given a new use and as we have discussed that could be by a long term lease or by ownership.

If there is an eligible applicant with eligible activities under RCDF 7.4 then the maximum amount of grant contribution from RCDF would be up to 80% as it states in the Guidance Notes.

Kind regards,
Welsh Government Official (1)

-----Original Message-----

From: Carmarthenshire County Council Official (1) [[mailto:Carmarthenshire CC Official @carmarthenshire.gov.uk](mailto:Carmarthenshire_Council_official@carmarthenshire.gov.uk)]

Sent: 31 January 2017 15:51

To: Welsh Government Official (1) (ESNR-AFM-CAP Planning)

Cc: Carmarthenshire County Council Official (2); Welsh Government Official (2)(ESNR-AFM-CAP Planning); Welsh Government Official (3)(ESNR-AFM-CAP Planning); Welsh Government Official (4) (ESNR-AFM-CAP Planning); Welsh Government Official (5) (NR - CAP Planning); Welsh Government Official (6) (ESNR-AFM-CAP Planning); Welsh Government Official (7) (ESNR-AFM-CAP Planning)

Subject: RE: RCDF Application - c81123 - The Pumpkin Patch Cookery and Gardening School - Eligibility
Importance: High

Good afternoon Welsh Government Official (1)

Following on from the e-mail trail are you able to provide us with some feedback with regard to our query below please.

The applicant is keen to get some feedback however we would appreciate some reassurance from yourselves before we advise Lisa further.

We look forward to hearing from you.

Kind regards

Carmarthenshire County Council Official

-----Original Message-----

From: Carmarthenshire County Council Official (1)

Sent: 26 January 2017 14:00

To: Welsh Government Official (1) (ESNR-AFM-CAP Planning)

Cc: Carmarthenshire County Council Official (2); Welsh Government Official (2)(ESNR-AFM-CAP Planning); Welsh Government Official (3)(ESNR-AFM-CAP Planning); Welsh Government Official (4) (ESNR-AFM-CAP Planning); Welsh

Government Official (5) (NR - CAP Planning); Welsh Government Official (6) (ESNR-AFM-CAP Planning); Welsh Government Official (7) (ESNR-AFM-CAP Planning)

Subject: RE: RCDF Application - c81123 - The Pumpkin Patch Cookery and Gardening School - Eligibility
Importance: High

Good afternoon

Thank you for your response below.

You note below that Pumpkin Patch could 'potentially' become eligible by becoming a Company Limited by Guarantee. Before we advise the applicant further we would appreciate a firm confirmation from yourselves that by becoming a Company Limited by Guarantee the Pumpkin Patch would be an eligible applicant under RCDF and for 80% funding based on the costings that they have submitted?

We would appreciate the chance to meet and discuss further, we wanted to check if you had video conferencing/skype facilities at your offices and if this could be an alternative option for us to discuss further?

We look forward to hearing from you.

Kind regards
Carmarthenshire County Council Official (1)

-----Original Message-----

From: Welsh Government Official (1) @wales.gsi.gov.uk

Sent: 19 January 2017 17:06

To: Carmarthenshire County Council Official (1) @carmarthenshire.gov.uk>

Cc: Carmarthenshire County Council Official (2); Welsh Government Official (2)(ESNR-AFM-CAP Planning); Welsh Government Official (3)(ESNR-AFM-CAP Planning); Welsh Government Official (4) (ESNR-AFM-CAP Planning); Welsh Government Official (5) (NR - CAP Planning); Welsh Government Official (6) (ESNR-AFM-CAP Planning); Welsh Government Official (7) (ESNR-AFM-CAP Planning)

Subject: RE: RCDF Application - c81123 - The Pumpkin Patch Cookery and Gardening School - Eligibility

Carmarthenshire County Council Official (1),
Thank you for your e-mail.

I have replied to your questions below.

I am not sure that we necessarily need a meeting to 'resolve this issue' because it is simple matter of fact of who would be the applicant and what kind of investment is to be made. However if you still want to meet to have further discussions to clarify the interpretation of the eligibility then at this point I can offer Friday 3 February or Friday 10 February, if you could let me know if either of those suits you I will arrange to book a room.

Kind regards,

Welsh Government Official (1)

-----Original Message-----

From: Carmarthenshire County Council Official (1) @carmarthenshire.gov.uk

Sent: 18 January 2017 14:00

To: Welsh Government Official (1) (ESNR-AFM-CAP Planning)

Cc: Carmarthenshire County Council Official (2); Welsh Government Official (2)(ESNR-AFM-CAP Planning); Welsh Government Official (3)(ESNR-AFM-CAP Planning); Welsh Government Official (4) (ESNR-AFM-CAP Planning); Welsh Government Official (5) (NR - CAP Planning); Welsh Government Official (6) (ESNR-AFM-CAP Planning); Welsh Government Official (7) (ESNR-AFM-CAP Planning)

Subject: FW: RCDF Application - c81123 - The Pumpkin Patch Cookery and Gardening School - Eligibility

Importance: High

Good afternoon Welsh Government Official (1)

Thank you for sending through the e-mail below.

As mentioned in our telephone conversation yesterday you can appreciate our frustration and disappointment with the situation, the applicant has been approved at EOI and Part 1 (the applicant eligibility check) and received full approval from yourselves for their Part 1. The applicant has also incurred costs including architects, planning and the associated costs getting to this point and were within a couple of weeks of receiving an outcome of their second stage when we receive the e-mail that has put the whole project in jeopardy. We have read your e-mail and have a couple of queries that we would appreciate your feedback on please:

- Can you confirm if the Pumpkin Patch becomes a company Limited by Guarantee would then then become eligible under 7.4/7.7 and be eligible for 80% grant?

If Pumpkin Patch was to become a Company Limited by Guarantee then it would become a potentially eligible legal entity only under Sub Measure 7.4 because the proposed investments would now be for community services that would be provided by that new organisation.

- We understand that this scheme is being run under the de minimis regulation and not the Agriculture State aid Guidelines, if you could confirm the relevance?

If you look in the Guidance Notes you will see that we are using four forms of State aid cover; two GBER Block Exemption Schemes, a full State aid Notification under the Agriculture Guidelines [which is in the latter stages of approval] as well as the Industrial De Minimis for any activities that may not be covered by the previous three.

I am not sure what your question is about here? If the activity is going to be under either 7.4 or 7.7 then the Agriculture Guideline rules will apply which is what I

referred to in my e-mail below. In this particular example I do not see how the Industrial De Minimis rules would be applicable.

. Where you note that the farm could be the applicant and receive 80% funding, can you confirm the difference between the farm and the Pumpkin Patch applying as they are both businesses that will benefit from the work being undertaken?

They would benefit but in very different ways. If the farm was still operating as a business then the conversion of the buildings for subsequent use by a community activity would have no bearing on the agricultural activities of the farm therefore there would be no increase in farming activity or output as a consequence of the investment in the building refurbishment and/or conversion. So provided that the buildings were reference in the Local Development Strategy then the project would be eligible and the grant support could be up to 80% contribution from RCDF. However if the buildings were owned or under a long term lease to Pumpkin Patch and that was a sole trader business then the refurbishment and/or conversion of the buildings would represent a benefit to those on-going business activities and so the investments to be made would increase the business turnover. That would be for a commercial gain therefore the grant rate for the improvements would be looked at in a similar way to any other grant scheme, for example the Food Business Investment Scheme.

I think that we need to arrange a meeting in order to resolve this issue, are you able to provide us with some dates that are convenient to meet please?

Regards
Carmarthenshire County Council Official (1)

From: Welsh Government Official (1) @wales.gsi.gov.uk
Sent: 16 January 2017 18:45
To: Carmarthenshire County Council Official (1)
Cc: Carmarthenshire County Council Official (2); Welsh Government Official (2)(ESNR-AFM-CAP Planning); Welsh Government Official (3)(ESNR-AFM-CAP Planning); Welsh Government Official (4) (ESNR-AFM-CAP Planning); Welsh Government Official (5) (NR - CAP Planning); Welsh Government Official (6) (ESNR-AFM-CAP Planning); Welsh Government Official (7) (ESNR-AFM-CAP Planning)

Subject: RCDF Application - c81123 - The Pumpkin Patch Cookery and Gardening School - Eligibility

Dear Carmarthenshire County Council Official (1)
Thank you for the discussion earlier today; I will try my best to explain by e-mail. Firstly, initially I was asked about the eligibility of this application in relation to Sub Measure 7.4
7.4 - support for investments in the setting-up, improvement or expansion of local basic services for the rural population including leisure and culture, and the related infrastructure

In which case the applicant was not eligible because there is no legal entity (a company limited by guarantee or a charity) hence the first comment in the e-mail. Looking at it again now it would have helped if we had made that reference that in consideration of an application under 7.4 this was not eligible.

Then on re-reading the application where it says that the project is to convert a redundant cow shed I suggested that as an alternative the project might fit under Sub Measure 7.7 but the applicant would then have to be the farm as that business would be the owner of the asset that was to be repurposed.

7.7 - support for investments targeting the relocation of activities and conversion of buildings or other facilities located inside or close to rural settlements, with a view to improving the quality of life or increasing the environmental performance of the settlement. The main problem under 7.7 is that the eligibility rules are not as clear. I would refer you to Section 4.2.7 of the Measure Fiche from the Commission (the first attachment above – **Document C5**).

This is an extract from the Measure Fiche for 7.7 ; Even in the case of investments targeting the relocation of activities and conversion of buildings and facilities, where beneficiaries are predominantly private companies/enterprises, the need for such support in a municipality/village should be identified in its development plan.

So under this Sub Measure the applicant could be private sector (an SME sole trader for example) but the proposal for the conversion of the buildings would have to be identified in the Local Development Strategy (local development plan), in other words, the proposed investment would have to be seen as being of value to the wider community and so the investment would have a benefit beyond the individual business. So in this example if the farm owned the building and that brought into a productive use for someone other than the farm then a wider benefit would be demonstrated.

In the initial application it is not clear who owns the building.

There are other considerations in respect of 7.7 and I would refer you to Paragraphs (643) to (651) of the Agriculture State aid Guidelines (the second attachment above – **Document C6**). At paragraph (645) you will see the point that eligibility is to be determined by the reference to the Local Development Strategy. So for this building refurbishment to be eligible it must be referenced as a priority in the LDS.

The issue of how the grant amount is determined is covered by paragraphs (648) to (651) and in particular (650) (b). This states that if the refurbishment of the building results in a modernisation of those facilities or results in an increase in production capacity then the maximum amount of grant is no longer up to 80% but instead it is limited to the maximum rates set out in paragraph (638) of the Agriculture State aid Guidelines. What this means is that if the SME business is getting improved facilities or getting an increase in production capacity as a consequence of the grant provided under RCDF then the usual capital grant rules apply so the maximum grant for the improved elements would be restricted to 40%.

Unfortunately we do not have examples of the kinds of investments that have been supported under this Sub Measure as yet so we have limited information on which to base a decision but there are some things that we can say. The Pumpkin Patch must be a commercial business otherwise we could not consider an application under 7.7. If the Pumpkin Patch owns the redundant building (or has it on a long enough lease agreement) such that it could be eligible under 7.7 then the conversion and improvements to that building will ultimately result in an 'increase in production capacity' in so much as it will allow the business to expand its trading. Therefore we may be able to separate some of the costs into just the refurbishment of the structure and some of the costs could be treated as an increase in production capacity. We may be able to do that on a proportionate basis by an assessment of the current turnover to the expected post-refurbishment turnover and use that as a proportion for the total costs. However we find a way of proportioning those costs it should result in some part of the costs being at 80% [provided that the building refurbishment is in the Local Development Strategy of course] and part of the costs being at 40% because the business is getting grant assistance towards expansion.

Given this potential complication it seemed to me that an easier route would be that if the farm owned the buildings and did the refurbishment then that would not become part of the economic activity of farming so the grant could be up to 80% and then the refurbished building could be used for 'community purposes' through the Pumpkin Patch company.

I can assure you that I am not trying to make this more difficult. I can see the potential issue of interpretation under this Sub Measure and if it is grant aided and subsequently an auditor takes the view that I have explained above then an excess grant would be recovered directly from Pumpkin Patch and that would have even more serious consequences.

I have no doubt that you will come back with further questions once you have considered this e-mail and read through the attachments.

Kind regards,

Welsh Government Official (1)

Pennaeth yr Uned Rheoli Cynlluniau	Head of Scheme Management
Is-Adran Datblygu Gwledig	Rural Development Division
Grŵp Amaeth, Bwyd a'r Môr	Agriculture, Food and Marine Group
Llywodraeth Cymru	Welsh Government
Rhodfa Padarn Aberystwyth	Rhodfa Padarn Aberystwyth

Ffôn / Tel: (03000) 622 219

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