

Subsidy Advice Unit Report on a Proposed Subsidy to Capital and Centric (505) Ltd

**Referred by South Yorkshire Mayoral Combined
Authority**

21 December 2023

Subsidy Advice Unit

Part of the Competition and Markets Authority

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1. Introduction

- 1.1 This report is an evaluation prepared by the Subsidy Advice Unit (SAU), part of the Competition and Markets Authority, under section 59 of the Subsidy Control Act 2022 (the Act).
- 1.2 The SAU has evaluated South Yorkshire Mayoral Combined Authority's (SYMCA) assessment of compliance of the proposed subsidy to Capital and Centric (505) Ltd (the subsidy), with the requirements of Chapters 1 and 2 of Part 2 of the Act (the Assessment).¹
- 1.3 This report is based on the information provided to the SAU by SYMCA in its Assessment and evidence submitted relevant to that Assessment.
- 1.4 This report is provided as non-binding advice to SYMCA. The purpose of the SAU's report is not to make a recommendation on whether the subsidy should be given, or directly assess whether it complies with the subsidy control requirements. SYMCA is ultimately responsible for granting the subsidy, based on its own assessment, having the benefit of the SAU's evaluation.
- 1.5 A summary of our observations is set out at section 2 of this report.

The referred subsidy

- 1.6 SYMCA proposes to provide a £11.6 million subsidy for the development of 550 new homes on the former Cannon Brewery site in Sheffield's Neepsend area. The proposed development is to be funded through the SYMCA Brownfield Housing Fund which distributes funding at a regional level under an agreement between SYMCA and Homes England.² The subsidy, a £11.6 million grant to Capital and Centric (505) Limited, aims to address the viability gap associated with the brownfield site's redevelopment, which has remained vacant since 1999.
- 1.7 The estimated total cost for the redevelopment of the site is £143 million, with the £11.6 million subsidy constituting approximately 8% of this. SYMCA stated that the proposed subsidy will contribute towards the acquisition, remediation of the site, demolition costs, pre-construction site investigations, transport and highway works, and professional fees.

¹ Chapter 1 of Part 2 of the Act requires a public authority to consider the subsidy control principles and energy and environment principles before deciding to give a subsidy. The public authority must not award the subsidy unless it is of the view that it is consistent with those principles. Chapter 2 of Part 2 of the Act prohibits the giving of certain kinds of subsidies and, in relation to certain other categories of subsidy creates a number of requirements with which public authorities must comply.

² Funding from the Brownfield Infrastructure and Land Fund administered by Homes England

SAU referral process

- 1.8 On 7 November 2023, SYMCA requested a report from the SAU in relation to the subsidy.
- 1.9 SYMCA explained³ the subsidy is a Subsidy of Particular Interest because its value exceeds £10 million.⁴
- 1.10 The SAU notified SYMCA on 13 November 2023 that it would prepare and publish a report within 30 working days (ie on or before 27 December 2023).⁵ The SAU published details of the referral on 14 November 2023.⁶

³ In the information provided under section 52(2) of the Act

⁴ Within the meaning of Regulation 3 of [The Subsidy Control \(Subsidies and Schemes of Interest or Particular Interest\) Regulations 2022](#) which sets out the conditions under which a subsidy or scheme is considered to be of particular interest.

⁵ Sections 53(1) and 53(2) of the Act.

⁶ [Referral of proposed subsidy to Capital and Centric \(505\) Ltd by the South Yorkshire Mayoral Combined Authority - GOV.UK \(www.gov.uk\)](#)

2. Summary of the SAU's observations

- 2.1 The Assessment uses the four-step structure described in the Statutory Guidance for the United Kingdom Subsidy Control Regime (the [Statutory Guidance](#)) and as reflected in the SAU's Guidance on the operation of the subsidy control functions of the Subsidy Advice Unit (the [SAU Guidance](#)).
- 2.2 Overall, the Assessment could be significantly improved and articulated more clearly by better referencing and leveraging the supporting evidence within the Assessment itself, which was very brief.⁷ It might have been possible to address some of these issues if SYMCA had approached the SAU for pre-referral discussions before referring the subsidy, as encouraged in the SAU Guidance.⁸
- 2.3 We note that the value of the referred subsidy is just over the threshold of a Subsidy of Particular Interest (see paragraph 1.9) and whilst the depth of the analysis a public authority needs to make on a subsidy should be commensurate to the size and potential distortive impact of the subsidy,⁹ we have nonetheless found that the Assessment could be improved by:
- (a) In relation to Principle B, explaining in more detail, with evidence and analysis, how the size of the subsidy was assessed to be the minimum necessary to achieve the policy objective.
 - (b) In relation to Principle C, further consideration of what the commercial incentives to develop the site, absent the subsidy, are likely to be and explaining why the identified counterfactual would continue to be the most likely outcome.
 - (c) In relation to Principle E, further consideration of the potential for alternatives to subsidy to deliver the policy objective.
 - (d) In relation to Principle F, further assessing the potential effects of the subsidy on competition and investment.
 - (e) In relation to Principle G, more fully articulating both the benefits of the subsidy and the potential negative effects, before weighing them up and arriving at a conclusion. It should also explain and evidence the argument and weight attached to the role of competing bids in the Brownfield Housing Fund.
- 2.4 Our report is advisory only and does not directly assess whether the proposed subsidy to Capital and Centric (505) Ltd complies with the subsidy control

⁷ [SAU Guidance](#), paragraph A.3.

⁸ [SAU Guidance](#), paragraph 3.9.

⁹ [Statutory Guidance](#), paragraph 1.28.

requirements. The report does not constitute a recommendation on whether subsidy should be implemented by SYMCA. We have not considered it necessary to provide any advice about how the proposed subsidy may be modified to ensure compliance with the subsidy control requirements.¹⁰

¹⁰ Section 59(3)(b) of the Act.

3. The SAU's Evaluation

3.1 This section sets out our evaluation of the Assessment, following the four-step framework structure used by SYMCA.

Step 1: Identifying the policy objective, ensuring it addresses a market failure or equity concern, and determining whether a subsidy is the right tool to use

3.2 The first step involves an evaluation of the Assessment against:

- (a) Principle A: Subsidies should pursue a specific policy objective in order to (a) remedy an identified market failure or (b) address an equity rationale (such as local or regional disadvantage, social difficulties or distributional concerns); and
- (b) Principle E: Subsidies should be an appropriate policy instrument for achieving their specific policy objective and that objective cannot be achieved through other, less distortive, means.¹¹

Policy objectives

3.3 As set out in paragraphs 1.6 to 1.7, SYMCA told us that the general policy is the development of housing on previously developed brownfield sites.

3.4 The Assessment explains that the proposed development will deliver 550 new homes alongside commercial floorspace and public open spaces, whilst retaining significant heritage assets on the site. The proposed development is to be funded through SYMCA Brownfield Housing Fund, launched in 2022, which distributes the Homes England fund at a regional level under a funding agreement between SYMCA and Homes England.

3.5 SYMCA has provided relevant documentation in support of its Assessment, which demonstrates how the redevelopment aligns with the regional and national policy framework for brownfield development. This includes how the subsidy aligns with the guiding principles of the Sheffield City Centre Priority Neighbourhood Framework,¹² which calls for a sensitive redevelopment of the site for housing which retains the heritage assets of the site, as well as the approach of the South

¹¹ Further information about the Principles A and E can be found in the [Statutory Guidance](#) (paragraphs 3.32 to 3.56) and the [SAU Guidance](#) (paragraphs 4.7 to 4.11).

¹² https://www.sheffield.gov.uk/sites/default/files/2023-03/city_centre_priority_neighbourhood_frameworks.pdf

Yorkshire Housing Framework¹³ more generally. The Assessment also describes how the policy objective fits with the National Planning Policy Framework.

- 3.6 In our view, the Assessment and supporting information explain and evidence the policy objective of the subsidy.

Market failure and equity objective

- 3.7 The Statutory Guidance sets out that:

- (a) Market failure occurs where market forces alone do not produce an efficient outcome.¹⁴
- (b) Equity objectives seek to reduce unequal or unfair outcomes between different groups in society or geographic areas.¹⁵

- 3.8 The Assessment states that the site is currently derelict having been disused since 1999. It explains that the redevelopment will deliver several benefits, with further details provided in supporting documents, including positive externalities.

- 3.9 These include: (i) the creation of significant areas of public open space including public access green space; (ii) the retention of important heritage assets currently on the site, and (iii) a boost to the local economy and a benefit to local business increasing the number of customers within walking distance.

- 3.10 The Assessment further discusses supporting information and evidence, including the Sheffield City Centre Priority Neighbourhood Framework, which expands upon the benefits of the redevelopment including furthering sustainable development and improving connectivity.

- 3.11 It also cites regional policy drivers behind the redevelopment including the South Yorkshire Housing Framework which outlines that housing growth, particularly on brownfield sites and as part of town and city centre restructuring and repurposing, will continue to be an important goal for SYMCA as part of providing the homes for a growing population and supporting economic growth and regeneration. The Framework states that the provision of good quality housing is intrinsic to the delivery of a stronger, greener and fairer economy and society.

- 3.12 In our view the Assessment, alongside the supporting information, adequately describes the market failure, and strongly describes the equity objectives that the subsidy intends to address.

¹³ <https://southyorkshire-ca.gov.uk/getattachment/3bc544a4-626e-4a67-8bf6-8d56d49022e9/40458-Housing-Framework-Broch-004.pdf>

¹⁴ [Statutory Guidance](#), paragraphs 3.35 to 3.46.

¹⁵ [Statutory Guidance](#), paragraphs 3.49 to 3.53.

Consideration of alternative policy options and why subsidy is the most appropriate and least distortive instrument

- 3.13 In order to comply with Principle E, public authorities should consider why a subsidy is the most appropriate instrument for addressing the identified policy objective, and why other means are not appropriate for achieving the identified policy objective.¹⁶
- 3.14 The Assessment states that a direct grant of subsidy is the most appropriate way to bring forward the policy outcomes outlined in Step 1. It explains, briefly, that prior attempts to promote the development of the site, for example through Sheffield City Council's planning policy and the inclusion of the site in the 2009 Sheffield City Council Core Strategy as an area recommended for residential development have not been successful, and the site has remained unused because of viability issues and the need for public funding to bridge this gap.
- 3.15 The Assessment considers the use of loans as an alternative to grant funding. It concludes that providing a loan, even at nil interest, would not bridge the viability gap for the development of the site identified by the developer.
- 3.16 In our view the Assessment could be strengthened by further consideration of the potential for alternatives to subsidy to deliver the policy objective including, for example, other regulatory/planning incentives, infrastructure enhancements and the potential for SYMCA to develop the site itself and the reasons these were not considered appropriate.

Step 2: Ensuring that the subsidy is designed to create the right incentives for the beneficiary and bring about a change

- 3.17 The second step involves an evaluation of the assessment against:
- (a) Principle C: First, subsidies should be designed to bring about a change of economic behaviour of the beneficiary. Second, that change, in relation to a subsidy, should be conducive to achieving its specific policy objective, and something that would not happen without the subsidy; and
 - (b) Principle D: Subsidies should not normally compensate for the costs the beneficiary would have funded in the absence of any subsidy.¹⁷

¹⁶ [Statutory Guidance](#), paragraphs 3.54 to 3.56.

¹⁷ Further information about the Principles C and D can be found in the [Statutory Guidance](#) (paragraphs 3.57 to 3.71) and the [SAU Guidance](#) (paragraphs 4.12 to 4.14).

Counterfactual assessment

- 3.18 In assessing the counterfactual, the Statutory Guidance explains that public authorities should assess any change against a baseline of what would happen in the absence of the subsidy (the ‘do nothing’ scenario’).¹⁸ This baseline would not necessarily be the current ‘as is’ situation (the ‘status quo’) but what would likely happen in the future – over both the long and short term – if no subsidy were awarded.
- 3.19 The Assessment describes a counterfactual at a high-level whereby the Cannon Brewery site would remain derelict. It states that:
- (a) The ‘site has been disused for industrial purposes since 1999 and [a] lack of maintenance means that it is currently derelict’.
 - (b) ‘The Outline Business Case submitted by the developer, which has been independently assessed by SQW Ltd, (an economic and social development advisor), on behalf of SYMCA makes clear that in the absence of subsidy the acquisition and development of the site will not be brought forward by the developer.’
- 3.20 The Assessment also refers to another development coming forward in the area and states that the cost of development land in the area has been increasing significantly. We understand that the developer has entered into an option agreement to acquire the Cannon Brewery site at a significant price.
- 3.21 Considering the points in paragraph 3.20, whilst the identified counterfactual of the site remaining derelict is a clear potential scenario, we are of the view that the Assessment could be strengthened by further consideration of what the commercial incentives to develop the site, absent the subsidy, are likely to be and explaining why the identified counterfactual would continue to be the most likely outcome.

Change in economic behaviour of the beneficiary

- 3.22 The Statutory Guidance sets out that subsidies must bring about something that would not have occurred without the subsidy.¹⁹ In demonstrating this, public authorities should consider the likely change or additional net benefit.
- 3.23 The Assessment states that the developer will not, without the provision of the subsidy, be in a position financially to bring forward the development. This indicates that the change in economic behaviour which the subsidy is intended to

¹⁸ [Statutory Guidance](#), paragraphs 3.60 to 3.62.

¹⁹ [Statutory Guidance](#), paragraph 3.64.

bring about is the development of the Cannon Brewery site which otherwise would remain derelict.

3.24 The Assessment states that, with the exception of acquisition costs, all funding will be released only after evidence of spend. We consider that the change in behaviour would be supported by this design feature.

3.25 We consider that the Assessment clearly explains the change in economic behaviour of the beneficiary.

Something that would not have occurred without the subsidy

3.26 We consider that the Assessment clearly explains SYMCA's conclusion that, for the change in behaviour to be brought about, the size of the subsidy must be sufficient to satisfy the developer's investment criteria (hurdle rate).

How the change in behaviour supports the specific policy objective being pursued

3.27 The Assessment explains how the redevelopment of previously used (brownfield) sites such as the Cannon Brewery site will support the policy objectives set out in paragraphs 3.3 to 3.5

3.28 We consider that the Assessment demonstrates adequately that the change in behaviour will support the policy objectives against a counterfactual whereby the Cannon Brewery site would remain derelict.

Additionality assessment

3.29 According to the Statutory Guidance, 'additionality' means that subsidies should not be used to finance a project or activity that the beneficiary would have undertaken in a similar form, manner, and timeframe without the subsidy.²⁰

3.30 The Assessment states that:

- (a) 'the submitted Outline Business Case is clear that the developer will not, without the provision of a subsidy, financially be in a position to exercise its option to purchase the site and bring forward the development'; and
- (b) 'the proposed subsidy will not fund costs which would otherwise be met in ordinary course of business by the developer as according to the submitted financial appraisals the site will not be viable without public assistance'.

3.31 It further states that 'given the length of time the site has remained disused and the fact that even with [the] subsidy the development appraisals show a return on

²⁰ [Statutory Guidance](#), paragraphs 3.63 to 3.67.

costs below what is generally considered to be a viable level of profit, it is reasonable to predict that [it] would be a significant period of time [until the redevelopment of the site becomes financially viable without a subsidy]’.

- 3.32 We consider that the Assessment explains SYMCA’s conclusion that the beneficiary would not have undertaken the development without the subsidy.

Step 3: Considering the distortive impacts that the subsidy may have and keeping them as low as possible

- 3.33 The third step involves an evaluation of the assessment against:

- (a) Principle B: Subsidies should be proportionate to their specific policy objective and limited to what is necessary to achieve it; and
- (b) Principle F: Subsidies should be designed to achieve their specific policy objective while minimising any negative effects on competition or investment within the United Kingdom.²¹

Proportionality and limited to what is necessary

- 3.34 The Assessment explains that SYMCA received a significant number of proposals for funding through the Brownfield Housing Fund in response to an open call for bids. One of these proposals relates to the redevelopment of the Cannon Brewery site.
- 3.35 SYMCA have submitted an Outline Business Case alongside its Assessment which explains that for this redevelopment to proceed a subsidy is required to bridge a viability gap.
- 3.36 The Assessment goes on to outline several subsidy design elements which SYMCA considers limit the subsidy to the minimum amount necessary, including that: (i) it only provides the developer with the profit rate at which they are willing to bring forward the development, which SYMCA considers a suitable return in line with the current Planning Policy Guidance on Viability²²; (ii) SYMCA benefits from an average²³ of 50% of profits on costs exceeding 12.5%; (iii) a requirement that the funds be used to cover only specific costs as identified in the business case; (iv) SYMCA will be entitled to clawback the funding in the event the developer fails to acquire or develop the site for any reason and (v) an evaluation and monitoring programme to assure SYMCA of the delivery of outcome.

²¹ Further information about the Principles B and F can be found in the [Statutory Guidance](#) (paragraphs 3.72 to 3.108) and the [SAU Guidance](#) (paragraphs 4.15 to 4.19).

²² Published by the Department of Levelling Up, Housing and Communities.

²³ An excess or surplus, especially the amount by which a sum of money is greater than a previous estimate. In this case SYMCA would benefit from half of profits realised by the developer over the identified threshold.

- 3.37 Whilst we consider that the design elements above, in particular the clawback mechanism, provide a degree of assurance, in our view the Assessment could be improved by explaining in more detail, with supporting evidence where appropriate, how the size of the subsidy has been assessed to be the minimum amount necessary to achieve the specific policy objectives. This could include further explanation of:
- (a) how the assessment of Principle B was supported by the report from SQW Ltd, including detailing the scope of that report and if it assessed whether the size of the viability gap is reasonable and/or limited to the minimum amount necessary to achieve the policy objectives; and
 - (b) an explanation of how SYMCA's entitlement to overage was designed to incentivise the change in economic behaviour while not overcompensating the beneficiary. In particular, why it accrues to SYMCA on costs exceeding 12.5% whilst the proposed grant is based on a hurdle rate of 8.01% for the developer and why it concludes that a 50:50 share is consistent with Principle B.

Design of subsidy to minimise negative effects on competition and investment

- 3.38 The Assessment does not discuss how the subsidy is designed to minimise effects on competition and investment, other than limited references to subsidy characteristics under Step 4 where it is asserted that any potential distortion of the market will be minimal, as the subsidy was granted following open bids to the Brownfield Housing Fund.
- 3.39 It states that any detrimental effect of the subsidy on competition is minimised by other providers in the market being equally entitled to submit business cases which would be assessed against the published criteria for receipt of funding. There is no other assessment of the effects of the subsidy on competition or investment in SYMCA's Assessment. The Outline Business Case states that no adverse economic or social consequences have been identified.
- 3.40 In our view, SYMCA's assessment of the distortive impacts on competition or investment within the UK, or on international trade or investment could be strengthened if it briefly addressed (i) the subsidy characteristics²⁴ not already discussed under Principle B and how these have been chosen to minimise distortions; and (ii) the characteristics of the markets²⁵ that may potentially be affected by the subsidy (such as property development and building services, and the housing market).

²⁴ See [Statutory Guidance](#) (paragraphs 17.6 to 17.28).

²⁵ See [Statutory Guidance](#) (paragraphs 17.29 to 17.63).

3.41 In our view the Assessment would be strengthened if it explained and sought to justify how effectively any constraint from competing bids through the Brownfield Housing Fund would reduce negative effects on competition and investment.

Step 4: Carrying out the balancing exercise

3.42 The fourth step involves an evaluation of the assessment against subsidy control Principle G: subsidies' beneficial effects (in terms of achieving their specific policy objective) should outweigh any negative effects, including in particular negative effects on: (a) competition or investment within the United Kingdom; (b) international trade or investment.²⁶

3.43 The Assessment briefly states that the benefits of the subsidy are that it will contribute significantly towards Sheffield City Council's housing delivery target through the delivery of 550 units of residential housing. It will also bring forward development of commercial space and public open space, whilst retaining the most important existing buildings on site from a heritage and architectural perspective, in redeveloping a brownfield site.

3.44 In terms of negative competitive effects, it states that because the Brownfield Housing Fund was open to any bidders to bring a development forward for funding that any detrimental effect of the subsidy on competition is minimised (see paragraph 3.38). The Assessment concludes that any potential distortion of the market will be minimal and outweighed by the policy benefits of bringing forward the development of the site.

3.45 In our view the Assessment could be strengthened by more fully articulating both the benefits of the subsidy as set out in Step 1 and in the supporting information, and by articulation of the potential negative competitive effects, before then weighing them up and arriving at a conclusion. As mentioned at paragraph 3.41, it should also explain and evidence the argument and weight attached to the role of competing bids in the Brownfield Housing Fund.

3.46 The Assessment would also benefit from assessing the impact and/or relevance of impacts on international trade and investment to the extent relevant in this step.

Other Requirements of the Act

3.47 This step in the evaluation relates to the requirements and prohibitions set out in Chapter 2 of Part 2 of the Act, where these are applicable.²⁷ SYMCA informed us that it had found no Chapter 2 prohibitions and requirements to be relevant.

²⁶ See [Statutory Guidance](#) (paragraphs 3.110 to 3.111) and [SAU Guidance](#) (paragraphs 4.20 to 4.22) for further detail.

²⁷ [Statutory Guidance](#), chapter 5.