**European Regional Development Fund Capital Projects : Impact of Riverside Judicial Review.**

“We have recently had clarification from the courts in the case of [R (on the application of Riverside Park Ltd) v Secretary of State for Levelling Up, Housing and Communities [2023] EWHC 2937](https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.bailii.org%2Few%2Fcases%2FEWHC%2FAdmin%2F2023%2F2937.html&data=05%7C02%7CSharon.Shattock%40levellingup.gov.uk%7Cd0cd5770a53c460c0a5108dc1b3f08ed%7Cbf3468109c7d43dea87224a2ef3995a8%7C0%7C0%7C638415204742838696%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=57iF9Y1KKrJ9ZQKaA4SP1H9gVk8goLQ0nbDpoVIIv34%3D&reserved=0) that it is not in law open to the Department to enforce a clawback pursuant to Grant Funding Agreements, for a substantial change in use which has taken place after the 5 year or 3 year periods specified in the EU Clawback Provisions relating to the 2000 –2006 ERDF programme (that is Article 30(4) of EU regulation 1260/1999), 2007- 2013 programme (that is Article 57 of EU Regulation 1083/2006) and the 2014-2020 programme (that is Article 71 of EU Regulation 1303/2013). This only applies in certain circumstances to projects funded through the ERDF programmes.”

**FREQUENTLY ASKED QUESTIONS**

**Q1 Does this ruling mean that I can sell, pass onto a new owner or change the use of any asset funded through ERDF programmes without needing to obtain permission from DLUHC?**

A1 DLUHC will still need to assess and review each request individually to consider state aid issues and or other conditions or clauses which may remain as part of the original grant funding agreement.

**Q2 Does this ruling mean that all the other terms and conditions within my projects grant funding agreement also no longer apply?**

A2 This ruling is solely in respect of the economic life period in grant funding agreements where the duration is over 5 or 3 years for SMEs.

**Q3 Can I send through speculative requests for a decision?**

A3 Each project is unique and will have its own set of considerations; therefore, the department is only able to consider changes to assets funded through ERDF programmes, where there are well thought out proposals.

**Q4 Is this ruling retrospective?**

A4This ruling only applies to any decisions taken since the Judicial Review ruling was handed down on 21 November 2023 . Where decisions have been made prior to this date this ruling does not apply.

**Q5 Does this ruling relate to the most recent 2014-2020 ERDF programme only?**

A5 This ruling relates to assets funded from all ERDF programming periods 2000-2006 onwards.

**Q6 Who should I direct any queries to?**

A6Any queries about assets funded through ERDF programmes should be sent to: [EuropeanProgrammesClosureTeam@levellingup.gov.uk](mailto:EuropeanProgrammesClosureTeam@levellingup.gov.uk)