

Subsidy Advice Unit Report on the proposed subsidy to Ebbsfleet Garden City Trust

Referred by Ebbsfleet Development Corporation

28 March 2025

Subsidy Advice Unit

Part of the Competition and Markets Authority



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1. The Referral

- 1.1 On 10 February 2025, Ebbsfleet Development Corporation (EDC) requested a report from the Subsidy Advice Unit (the SAU)¹ in relation to the proposed subsidy to Ebbsfleet Garden City Trust (the Trust) (the Subsidy) under section 52 of the Subsidy Control Act 2022 (the Act).²
- 1.2 This report evaluates EDC's assessment of compliance (the Assessment) of the Subsidy with the requirements of Chapters 1 and 2 of Part 2 of the Act.³ It is based on the information and evidence included in the Assessment.
- 1.3 This report is provided as non-binding advice to EDC. It does not consider whether the Subsidy should be given, or directly assess whether it complies with the subsidy control requirements.

Summary

- 1.4 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](#)).
- 1.5 In our view, EDC has considered in detail the compliance of the Subsidy with the subsidy control principles. In particular, the Assessment clearly explains and evidences why private management of the strategic community assets would not be appropriate to deliver the policy objective in Principle E, clearly explains and evidences why the subsidy enables the Trust to manage the strategic community assets in Principle C, and clearly describes why the design features of the Subsidy were the most appropriate in Principle F.
- 1.6 However, we have identified the following areas for improvement:
 - (a) The Assessment should more clearly describe the most likely counterfactual for each of the income-generating and the strategic community assets. This should include identifying who would own the income-generating assets absent the Subsidy and what this could mean for their operation and commercial impact (Principle C).

¹ The SAU is part of the Competition and Markets Authority.

² [Referral of the proposed subsidy to Ebbsfleet Garden City Trust by Ebbsfleet Development Corporation - GOV.UK](#)

³ 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.

- (b) The Assessment should set out additional information on how monitoring will work in practice following cessation of the EDC, particularly in relation to the annual reporting of the business plan, and the types of measures which might be taken in the event of this monitoring identifying any issues (Principle B).
 - (c) The Assessment should set out more clearly and systematically the relevant market(s) and assess whether there is an impact of the Subsidy on competition and investment in those markets (Principle F).
- 1.7 The Assessment would also benefit throughout from bringing in additional reasoning from the annexed evidence, or more clearly referencing specific sections of that evidence.
- 1.8 We discuss these areas below, along with other issues, for consideration by EDC in finalising its assessment.

The referred subsidy

- 1.9 EDC are proposing to award the Trust a subsidy with an estimated value of £40,013,000 in the form of the transfer of five income generating assets⁴ and grant funding of [£10 – 20 million]⁵ to acquire and enhance the Alkerden Hub, a sixth income generating asset.⁶ These assets are a mixture of freehold and leasehold interests in retail units, commercial and office space and community facilities. The transfers will take place from 2025 to 2036.
- 1.10 These income-generating assets will be transferred to the Trust to provide it with an income to support the long-term management of six separate strategic community assets (which are interconnected natural and semi-natural spaces including parks and lakes).⁷ The strategic community assets are considered important to the local community to improve quality of life and social cohesion.
- 1.11 EDC is an Urban Development Corporation which was created to regenerate the Ebbsfleet area, creating a ‘21st Century Garden City’. It was designed to be a short-life organisation, and therefore it requires another body to manage the strategic assets after its closure. EDC told us it will cease operations once it has fulfilled its core purpose and while no fixed timeline has been set for its closure,

⁴ The five income-generating assets are: Castle Hill Local Centre, Northfleet Embankment East, Health and Wellbeing Hub, Castle Hill Block D and the Mobility Hub. Of these, only the Castle Hill Local Centre retail units are let and trading, the other assets have yet to be constructed.

⁵ The SAU has expressed the valuation of the grant funding in a broad range. The valuation lies within this range, but the range does not in any way constitute a maximum or minimum valuation of the grant funding.

⁶ EDC state that without funding for the purchase and enhancement of the asset, it would otherwise be developed to a lesser scale, a lower degree of fit-out and would continue to be owned by the developer.

⁷ The six strategic community assets are: Major Urban Park North, Major Urban Park South, Eastern Quarry Lakes, Northfleet Riverside Park, Ebbsfleet River Park and Ebbsfleet Central Park. Eastern Quarry Lakes has been completed, the others are under construction or are still at the feasibility stage.

EDC's current vision is to achieve substantial delivery of the Garden City by 2035. The Trust was established as a key vehicle within the exit strategy of EDC, and it is envisaged that an increasing number of community assets will be transferred to the ownership and management of the Trust.

- 1.12 EDC explained that the subsidy is a Subsidy of Particular Interest because it exceeds £10 million in value.

2. The SAU's Evaluation

2.1 This section sets out our evaluation of the Assessment, following the four-step structure used by EDC.

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

2.2 Under Step 1, public authorities should consider compliance of a subsidy with:

- (a) Principle A: Subsidies should pursue a specific policy objective in order to remedy an identified market failure or 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.⁸

Policy objectives

2.3 The Assessment states that the policy objective of the Subsidy is to transfer six commercial assets from EDC to the Trust, which will provide an income to the Trust, ensuring that it remains financially viable and sustainable in the long-term. In turn, this will enable the Trust to safeguard the long-term management and future of the strategic community assets for the benefit of the local community. It sets out that the primary rationale for the Subsidy is to ensure the management and upkeep of larger strategic community assets (city parks) which are non-excludable in nature. These assets are accessible to the wider public, including individuals living outside of Ebbsfleet. It also sets out that EDC was constituted by the UK Government to deliver against the garden city principles,⁹ including the provision of strategic community assets that must be maintained in the long-term for the benefit of the community, and that the Trust was subsequently approved by the UK Government to take over the long-term stewardship of such strategic community assets from EDC (which is a time-limited organisation).

2.4 It also sets out that the management of some smaller community assets, such as local parks and playgrounds, are being managed by private sector estate management companies and that tensions around their management has indicated this approach is not aligned with the garden city principles.

⁸ See [Statutory Guidance](#), paragraphs 3.33–3.58 and the [SAU Guidance](#), paragraphs 4.7–4.11 for further detail.

⁹ [Garden City Principles - Town and Country Planning Association](#)

2.5 In our view, while the Assessment sets out the policy context for the subsidy, it could explain the policy objective more clearly by setting out the specific strategic benefits that EDC seek in relation to both the strategic community assets and the income generating assets. The Assessment could more clearly link the enhancements to the Alkerden Hub with the policy objective, for example by specifying if the policy objective includes strategic goals for the management of the income-generating assets. Currently, the policy objective focuses on ensuring that the Trust remains financially viable to enable it to safeguard the strategic community assets, and it is not clear whether the enhancements to the Alkerden Hub specifically target this financial viability.

Market failure

2.6 Market failures arise where market forces alone do not produce an efficient outcome. When this arises, businesses may make investments that are financially rational for themselves, but not socially desirable.¹⁰

2.7 The Assessment describes the following market failures:

- (a) **Positive externalities** associated with the delivery and ongoing maintenance of the strategic community assets in Ebbsfleet. These include the health and well-being impacts associated with access to well-used parks and open space and the positive amenity benefits accruing to existing communities. It explains that the assets are loss-making and would not be commercially viable for private sector entities, and that without intervention the positive externalities would likely not be achieved.
- (b) **Public goods** in the form of larger strategic community assets. The Assessment explains that these are non-excludable in nature as the assets are accessible to the wider public and that the assets are, to some extent, non-rivalrous as the use of a park by one individual does not exclude its use by another (providing capacity is not exceeded). It goes on to set out that there is zero marginal cost to providing parkland to additional users, and that excluding people from the parkland would be inconsistent with the objectives of the Ministry of Housing, Communities and Local Government and EDC.
- (c) **Co-ordination failures** resulting from planning approvals given prior to Ebbsfleet's designation as a Garden City and consequently not sufficiently including measures for delivering and maintaining strategic community assets such as city parks. A further co-ordination failure identified in the Assessment relates to the potential for there being multiple estate management companies which, without adequate mechanisms for co-

¹⁰ [Statutory Guidance](#), paragraphs 3.36–3.50.

ordination may result in fragmented efforts or duplication, leading to inefficiencies in resource allocation and management.

- 2.8 The Assessment sets out that the strategic community assets hold little to no market value, do not generate significant revenue streams and are ill-suited to private management which prioritises profitability. It sets out that the social welfare benefits of the assets are not captured by the private market.
- 2.9 In our view, the Assessment clearly describes and evidences the public good market failures that the Subsidy seeks to remedy.

Appropriateness

- 2.10 Public authorities must determine whether a subsidy is the most appropriate instrument for achieving the policy objective. As part of this, they should consider other ways of addressing the market failure or equity issue.¹¹
- 2.11 The Assessment explains that EDC considered alternative means of achieving the policy objective, including the imposition of resident charges to fund the maintenance of the strategic community assets. This was discounted as EDC found it inequitable, based on past experience, to burden local households with these costs when some of the strategic community assets are also available to the wider public. It argues that management by private sector estate management companies does not align with the long-term vision of social cohesion and inclusivity for Ebbsfleet and would lack the financial resilience and comprehensive oversight to effectively manage the strategic community assets over time.¹²
- 2.12 The Assessment also discusses the possibility of a one-off endowment of grant funding to maintain the assets. This option was discounted due to constraints on public funding and priorities for how such grants are allocated.
- 2.13 In our view, the Assessment demonstrates that EDC has considered other ways of achieving its policy objective and clearly explains and evidences why a subsidy was the most appropriate option.

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

- 2.14 Under Step 2, public authorities should consider compliance of a subsidy with:
- (a) Principle C: Subsidies should be designed to bring about a change of economic behaviour of the beneficiary. That change should be something

¹¹ [Statutory Guidance](#), paragraphs 3.56–3.58.

¹² EDC noted that its concerns with the approach of using resident charges to maintain the strategic community assets are aligned with the recommendations in the CMA's [Housebuilding market study final report](#).

that would not happen without the Subsidy and be conducive to achieving its specific policy objective; and

- (b) Principle D: Subsidies should not normally compensate for the costs the beneficiary would have funded in the absence of any subsidy.¹³

Counterfactual

- 2.15 In assessing the counterfactual, public authorities should consider what would likely happen in the future – over both the long and short term – if no subsidy were awarded (the ‘do nothing’ scenario).¹⁴
- 2.16 The Assessment sets out a counterfactual scenario where absent the Subsidy, the Trust would be unable to finance its ongoing management activities due to insufficient income-generating assets, leading to financial insolvency and forcing the Trust to cease operations. The Assessment adds that the cessation of the Trust would mean that maintenance of the strategic community assets would fail and the strategic community assets would likely fall into disrepair, negatively impacting the quality of life for residents and eroding community cohesion. It comments that poorly maintained public spaces can reduce property values in surrounding areas and discourage investment.
- 2.17 The Assessment states that in this scenario, some planned strategic community assets would not be delivered as they would have no long-term ownership or operational management plan without the Trust. In further clarification, EDC set out that only one of the assets is already complete, and that two are under construction. It said that absent the Subsidy, it may face the strategic decision not to deliver the strategic community assets, as their provision without a clear long-term stewardship model would be unsustainable.
- 2.18 The Assessment does not address what would happen to five of the six income-generating assets in the absence of the Subsidy. In response to clarification questions, EDC explained that it owns five of the six income generating assets and that while no fixed timeline has been set for its closure, EDC is a finite, time-limited organisation and therefore cannot retain ownership of these assets indefinitely. However, as the response stated that transferring these income-generating assets to the private sector may not align with the garden city principles, we infer that ownership and management would likely rest with EDC for some years in the counterfactual situation.
- 2.19 The evidence accompanying the Assessment sets out that absent the Subsidy, the developer is required to deliver the Alkerden Hub in line with planning

¹³ See [Statutory Guidance](#), paragraphs 3.59–3.73 and the [SAU Guidance](#), paragraphs 4.12–4.14 for further detail.

¹⁴ [Statutory Guidance](#), paragraphs 3.62–3.64.

requirements to an agreed fit-out, which is at a lower level than would be facilitated by the Subsidy. The developer would retain a commercial interest in part of the Hub and transfer other elements to Kent County Council on a long-term lease for a peppercorn rent. The Assessment sets out that this lower level of fit out is no longer aligned with local needs and stakeholder requirements for enhancements which would be facilitated by the Subsidy.

- 2.20 In our view, while the Assessment has clearly set out the counterfactual for the Alkerden Hub, it should more clearly describe the most likely counterfactual for each of the other income-generating assets and the strategic community assets. This should include identifying who would own the income-generating assets absent the Subsidy and what this could mean for their operation and commercial impact.

Changes in economic behaviour of the beneficiary and additionality

- 2.21 Subsidies must bring about something that would not have occurred without the Subsidy.¹⁵ They 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 ('additionality').¹⁶
- 2.22 The Assessment explains that the Subsidy will incentivise the Trust to take ownership of the six strategic community assets. Without the Subsidy, these assets would remain unmanaged or fall into disrepair as the Trust would be loss-making. The Assessment adds that the Subsidy will ensure that the Trust can maintain the strategic community assets and manage these in perpetuity. The Assessment shares a financial viability appraisal prepared by an independent consultant, showing how transferring the six income-generating assets would turn the Trust from loss-making to breaking even to cover operating and maintenance costs. EDC also provided the Trust's Articles of Association and the full business case for the establishment of the Trust, which accords with this explanation of the Trust's purpose and how it will be financed.
- 2.23 In our view, the Assessment clearly explains and evidences how the Subsidy would change the Trust's economic behaviour and that the Subsidy brings about changes that would not have occurred absent the Subsidy. The Financial Viability Assessment also helps establish that the Subsidy is not financing a project or activity that the Trust would have undertaken in a similar form or manner without the Subsidy.

¹⁵ [Statutory Guidance](#), paragraph 3.66.

¹⁶ [Statutory Guidance](#), paragraphs 3.70–3.72.

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

- 2.24 Under Step 3, public authorities should consider compliance of a subsidy with:
- (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.¹⁷

Proportionality

- 2.25 The Assessment explains that EDC has ensured proportionality of the Subsidy through using an independent assessment of the viability gap, the 'Financial Viability Appraisal'. The Assessment states that the income-generating assets that form the Subsidy represent the minimum required to achieve the policy objective of ensuring that the Trust remains financially viable and sustainable in the long term, enabling it to effectively manage the six strategic community assets to the long-term benefit of Ebbsfleet Garden City community. The Assessment sets out that the management of these strategic community assets will cost an estimated £1.25 million per year, which will be covered by the income from the income-generating assets.
- 2.26 The Assessment outlines several features of the Subsidy which contribute to keeping it proportionate. A monitoring and evaluation framework will be developed to ensure that the commercial assets are responsibly managed and that the income generated from them is used as intended. The Assessment details what will be included in the monitoring and evaluation framework.
- 2.27 Further, the Assessment states that EDC will ensure that appropriate clawback mechanisms and provisions are included in each grant funding agreement and communicated to the Trust so as to ensure public money is safeguarded throughout the project life cycle.
- 2.28 In our view, the Assessment demonstrates and evidences that the Subsidy is proportionate and limited to the minimum necessary to achieve its specific policy objective in line with the Statutory Guidance. However, the Assessment should set out additional information on how monitoring will work in practice following cessation of the EDC, particularly in relation to the annual reporting of the business plan, and the types of measures which might be taken in the event of this

¹⁷ See [Statutory Guidance](#) paragraphs 3.74–3.110 and the [SAU Guidance](#), paragraphs 4.15–4.19 for further detail.

monitoring identifying any issues (including if there is any imbalance in income and the costs of maintaining the community assets).

Design of Subsidy to minimise negative effects on competition and investment

- 2.29 The Assessment describes several elements of the Subsidy design from the Statutory Guidance, mentioned above (size and monitoring), as well as ringfencing measures, which contribute to minimising negative effects on competition. The ringfencing measures take the form of conditions attached to the Subsidy which stipulate that the Trust may only use income generated from the transferred commercial assets to further the Trust's charitable objectives.
- 2.30 Additionally, the Assessment acknowledges the potential distortive aspect of the subsidy design choices relative to other potential designs, but it explains why they are necessary for the policy objective to be met, noting:
- (a) while the beneficiary may receive a larger economic advantage through this instrument compared to others, it is the only feasible one; and
 - (b) while a subsidy open to a broad set of recipients is less likely to be distortive, the provision to a single provider in this case is not anticipated to have any significant negative distortive market impacts.
- 2.31 In our view, the Assessment clearly describes how design features of the Subsidy contribute to minimising negative effects on competition and investment within the United Kingdom while still meeting the policy objective.

Assessment of effects on competition or investment

- 2.32 The Assessment states that, while there are potential distortive market effects, they are minor and are outweighed by the broader public benefits.
- 2.33 The Assessment defines the relevant affected geographic scope as Ebbsfleet, and considers alternative owners of the income-generating assets instead of the Trust. The Assessment states that there has been limited localised interest in the management of Ebbsfleet's strategic community assets in the long term and acknowledges several 'key competitive stakeholders' who could have owned the income-generating assets instead. However, the Assessment argues that these entities lack either the interest, noting that there has been no resistance from the market, or capacity to deliver on the garden city principles.
- 2.34 The Assessment also considers the potentially distortive effects of the Subsidy but concludes that these are limited, describing that:
- (a) while there could be crowding out of private investment the impact will be minimised given the commercial assets proposed to be transferred to the

Trust have limited localised commercial appeal when taken together with the broader management of loss-making strategic community assets;

- (b) the Subsidy may set a precedent with the potential to discourage private or charitable organisation from exploring similar stewardships without subsidy. However, the Assessment states that this has been minimised through aligning with Government policy and by aiming to demonstrate financial sustainability through its business plan; and
- (c) there could be an impact on local property or asset values with income-generating assets being removed from the open market. The Assessment states the Subsidy may prevent the assets from being developed for 'higher value' uses instead. However, the Assessment argues that this impact is justified by the public benefits derived from the Trust's ability to maintain the loss-generating strategic community assets in the long-term, and that ownership by the Trust could equally prevent the assets from being managed unsustainably within the private market, thus avoiding potential degradation and corresponding negative impact on their value and the community.

2.35 In our view, the Assessment considers some effects of the Subsidy on competition and investment. However, the Assessment should set out more clearly and systematically the relevant market(s) and assess whether there is an impact of the Subsidy on competition and investment in those markets. For example, the Assessment currently focuses on which entities could have owned the income-generating assets instead of the Trust, and generally discusses the management of the strategic community assets. However, it could more explicitly and distinctly describe the market(s) for the services supplied from the income-generating assets and consider any impact of the Subsidy on competitors, relative to the counterfactual. Similarly, it could consider any markets and identify any commercial activities relevant to the strategic community assets, which could be affected by the Subsidy relative to the counterfactual.¹⁸

Step 4: Carrying out the balancing exercise

2.36 Public authorities should establish that the benefits of the Subsidy (in relation to the specific policy objective) outweigh its negative effects, in particular negative effects on competition or investment within the United Kingdom and on international trade or investment.

2.37 The Assessment sets out the beneficial effects, including:

¹⁸ These activities related to the strategic community assets could be wholly or partly non-commercial. For the income-generating assets, the counterfactual is crucial, for example if it involves similar activities under the ownership of a different public authority.

- (a) overcoming the market failures to provide public goods – it sets out that the subsidy enables the Trust to manage the strategic community assets in a way which is inclusive, equitable and sustainable, ensuring that they remain open for the public and community to use free of charge;
- (b) achieving long term sustainability, financial viability and independence for the Trust, allowing it to focus solely on delivering community-oriented outcomes, and ensuring it has the necessary resources to manage and maintain the strategic community assets in perpetuity; and
- (c) supporting EDC’s policy objectives of fulfilling the garden city principles and enabling proactive transition of assets away from EDC ownership.

- 2.38 It sets out that the subsidy prevents negative outcomes, and that without the subsidy, the strategic community assets, if delivered, risk falling into disrepair or failing to deliver their intended benefits, undermining the garden city vision.
- 2.39 The Assessment sets out the negative effects by re-iterating the potential distortive effects described in paragraph 2.34.
- 2.40 It states that the beneficial and potential negative effects have been weighed up for their significance against each other, focusing on immediate and long-term impacts, and that the benefits clearly outweigh its potential distortive effects.
- 2.41 Under Step 3, the Assessment sets out that the proposed subsidy is not expected to distort competition or affect trade between the UK and other countries.
- 2.42 In our view, while the Assessment sets out some positive effects of the Subsidy, it could more clearly explain the benefits of the Subsidy relative to the most likely counterfactual, including explaining the incremental benefits of the Subsidy for those assets which are complete or already under construction. It clearly sets out the Subsidy’s geographic impacts, as well as potential negative impacts, and conducts a balancing exercise between the positive and negative effects in line with the Statutory Guidance.

Other Requirements of the Act

- 2.43 EDC confirmed that no other requirements or prohibitions set out in Chapter 2 of Part 2 of the Act applies to the Subsidy.

28 March 2025