

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

<b>Reference Number:</b>	1917
<b>Author:</b>	Mark Lowe
<b>Department:</b>	Development
<b>Contact:</b>	Mark Lowe (Job Title: Regeneration Manager, Email: mark.lowe@nottinghamcity.gov.uk, Phone: 01158763532)
<b>Subject:</b>	Use of s106 finds to support council house development
<b>Total Value:</b>	£70,756 (Type: Capital)
<b>Decision Being Taken:</b>	To transfer £70,756 of Section 106 affordable housing commuted sum funds to the Housing Revenue Account in order to support the funding of the new build council housing development programme; specifically the development of bungalows as part of the redevelopment of the former Lenton flats site.
<b>Reasons for the Decision(s)</b>	<p>Through the planning process, Nottingham City Council receives contributions from larger residential developers through section 106 agreements to support the development of affordable housing. Often this is an on-site contribution of affordable housing but occasionally this is provided in the form of a commuted sum. These funds are ringfenced to be spent on providing additional affordable housing and usually need to be spent within a certain time limit (often 5 years) otherwise the developer can request that they be repaid.</p> <p>Nottingham City Council in partnership with Nottingham City Homes are currently developing new Council housing across the City. This development is largely funded through the Council's Housing Revenue Account, utilising new flexibilities and self-management arrangements which came about following reforms in April 2012. One of these schemes involves the development of an extra care scheme and bungalows in Lenton, on the former site of the council flats (which are in the process of being demolished). This has been a challenging development, as there are a number of cellars and caves on the site which need to be filled in in order to allow the development to proceed.</p> <p>The Council has £70,756 of section 106 affordable housing commuted sum funds, which needs to be spent within the next 6 months. This decision proposes that this sum be transferred to the HRA to support the development of new Council bungalows at Lenton to meet the additional cost of dealing with the discovered cave and cellars.</p> <p>The Section 106 funds were provided as part of the Section 106 agreement related to planning application 04/02763/PFUL3.</p>

**Other Options Considered:** 1) To meet the cost through existing resources.  
This was rejected as it could potentially lead to the loss of the commuted sum funds.  
2) To use the funds to support a Registered Provider partner scheme. This was rejected as no such schemes will be on-site to spend these funds within the time limit necessary to spend them.

**Background Papers:** None

**Published Works:** None

**Affected Wards:** Dunkirk and Lenton

**Colleague / Councillor Interests:** None

**Consultations:**  
Date: 25/03/2015  
Ward Councillors: David Trimble, Sarah Piper  
Cllrs support this decision.

Date: 03/03/2015  
Other: Nottingham City Homes, provided by Steve Hale  
Supports the decision.

Those not consulted are not directly affected by the decision. At a local level consultation has been with local Councillors rather than area committee as there will be no Area Committee meeting in the near future.

**Crime and Disorder Implications:** The development of new Council bungalows will provide homes for people in housing need which have been designed in accordance with secure by design standards.

**Equality:** EIA not required. Reasons: This supports the development of affordable housing as part of the HRA development programme. A full EIA has already been completed for this programme.

**Decision Type:** Portfolio Holder

**Subject to Call In:** Yes

**Call In Expiry date:**

**10/04/2015**

**Advice Sought:**

**Legal, Finance**

**Legal Advice:**

**1. The decision is within the Portfolio Holder for Community Safety, Housing and Voluntary Sector's terms of reference as detailed in the Constitution.**

**2. Although the Constitution requires consultation with the relevant Area Committee in relation to the proposed spend of section 106 monies for affordable housing, no Area Committee meetings are currently scheduled until June 2015. In light of that together with the timescales involved with this project, the consultation with Ward Councillors which has already taken place is considered to be sufficient.**

**3. The section 106 agreement from which the commuted sum derives is linked to the mixed use development at Euribon House, 129-136 Canal Street (planning ref. 04/02763/PFUL3) dated 14 June 2005. A contribution of £194,584 was paid pursuant to this agreement to be used by the Council towards the provision of affordable housing (defined as housing for persons who cannot afford to rent or buy houses generally on the open market)in the City of Nottingham. As the proposed spend would be used to enable the delivery of Council housing, including extra care accommodation, it is considered to meet the terms of the agreement.**

**4. The section 106 agreement entitles the developer to the return of unexpended contributions (or parts thereof) after the expiry of 5 years from their receipt. Whilst the agreement did not provide for payment of the contributions by instalments, it appears that this is what has occurred. The total of £194,584 was paid in 11 eleven monthly instalments commencing on 28 May 2010 and ending on 29 March 2011. None of the monies have yet been used or approved. The first four instalment payments (received in May, June and August 2010) total £70,761 so would account for all of the proposed spend to which this decision relates and to avoid liability for repayment would need to be utilised by May, June and August 2015 respectively.**

**Advice provided by Judith Irwin (Senior Solicitor) on 26/03/2015.**

**Finance Advice:**

**The development of an extra care scheme and bungalows on the site of the former council flats at Lenton was approved by Executive Board in February 2013. This decision proposes the use of £70,756 of section 106 affordable housing commuted sum funds which needs to be spent within the next 6 months, to part fund the cost of the development. This will reduce the cost of the development to the HRA by £70,756.**

**Advice provided by Jim Driver (Finance Service Partner) on 16/03/2015.**

**Signatures**

**Dave Liversidge (PH Community Safety, Housing and Voluntary Sector)**

**SIGNED and Dated: 01/04/2015**

**David Bishop (Deputy CE, CD for Development and Growth)**

**SIGNED and Dated: 30/03/2015**