

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:	2345
Author:	Debra Ross
Department:	Development
Contact:	Debra Ross (Job Title: regeneration officer, Email: debra.ross@nottinghamcity.gov.uk , Phone: 01158763955)
Subject:	Affordable housing development at Ascot Road, Bobbersmill: Use of Section 106 funds to support development
Total Value:	£64,000 (Type: Capital)
Decision Being Taken:	<ol style="list-style-type: none">1. To authorise the Legal Services Manager to enter into an agreement with NCHA in relation to the matters at 2, 3 and 4 below;2. To allocate £25,550 affordable housing monies paid pursuant to the section 106 agreement related to 129-135 Canal Street (reference 04/02763/PFUL3) towards the provision of affordable housing by Nottingham Community Housing Association (NCHA) at Ascot Road, Bobbersmill as detailed in this report:3. To allocate £38,450 affordable housing monies paid pursuant to the section 106 agreement related to Breconshire Dyeworks, Barlock Road (reference 09/03300/POUT) towards the provision of affordable housing by NCHA at Ascot Road, Bobbersmill as detailed in this report:4. On completion of the agreement at 1 above, to make the necessary transfer of funds to implement 2 and 3 above.

Reasons for the Decision(s)

Through the planning process Nottingham City Council obtains affordable housing benefits from developers in relation to larger residential schemes through Section 106 agreements. Often this is on site provision 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 needs to be spent within a specified time limit otherwise the developer can request that the monies be repaid.

NCHA provide many new affordable homes across the city. One such scheme is on Ascot Road, Bobbersmill which is completely comprised of affordable housing and will provide a total of 47 new units (32 affordable rent and 15 shared ownership). The units provided will be a mix of flats, bungalows and 2/3 bed houses. Officers have reviewed the Development Viability Appraisal and have reported that given the cost of the land and the need for S106 contributions for education and open spaces the development is not viable even with the grant assistance being provided from the Homes & Community Agency. NCHA have requested a subsidy of £2,000 per rented unit, totalling £64,000 in order to deliver the affordable homes in this area.

To enable the funding to be given to NCHA, it is proposed that a legal agreement with the Council be concluded under which NCHA will be committed to using the monies wholly towards the Ascot Road development which will consist of 100% affordable housing. In the event that the monies are not used for such purpose, or that NCHA sells the development to a buyer other than to be used as affordable housing, the monies will be repayable to the Council.

The Council has £25,550 of Section 106 Affordable Housing commuted sums funds remaining received from the development at 129-135 Canal Street (04/02763/PFUL3). The balance of £38,450 can be met from some of the affordable housing commuted sums received from the development on Breconshire Dyeworks, Barlock Road (09/03300/POUT).

Other Options Considered:

- 1) To meet the cost through existing resources - alternative funding pots are not available
- 2) To do nothing - without the subsidy this scheme will not be viable for NCHA to deliver and therefore will not go ahead.
- 3) Not to utilise the identified Section 106 monies in the manner proposed; this was rejected as should they remain unspent the Council will become liable to repay them to the developers on request.

Background Papers:

None.

Published Works:

None.

Affected Wards:

Leen Valley

Colleague / Councillor Interests:

None.

Consultations:

Date: 10/02/2016

Ward Councillors: Glyn Jenkins, Mohammed Saghir

Cllr Jenkins confirmed his agreement to the proposal on 11 Feb 2016. Cllr Saghir was consulted on 11 Feb 2016, however no response has been received.

Date: 10/02/2016

Area Committees: Area 3: Aspley, Bilborough and Leen Valley

As a decision is required urgently the timescales do not allow for a report to be submitted to the next meeting of Area Committee. Consultation therefore has been undertaken under the urgency procedure with Cllr Carole McCulloch (Chair), Marcia Watson (Vice Chair) on 120/2/16 and they confirm they are agreeable to the proposal. Brian Mann, Community Rep of Area Committee 3 was also consulted however no response has been received.

Those not consulted are not directly affected by the decision.

Crime and Disorder Implications:

The development will provide affordable homes which have been designed in accordance with Secure by Design standards.

Equality:

EIA not required. Reasons: Decision does not relate to new or changing policies, services or functions.

Decision Type:

Portfolio Holder

Subject to Call In:

Yes

Call In Expiry date:

01/03/2016

Advice Sought:

Legal, Finance

1.The decisions are within the terms of reference of the Portfolio Holder for Planning and Housing in the Council's Constitution.

2.Under the Constitution, West Area Committee is to be consulted on the proposals contained in this decision and it is noted that the urgency procedure is to be used, in which the Chair, Vice-Chair and Community Representative are consulted instead. At the date of these comments, their consultation responses are awaited.

3.The affordable housing contribution at Item 2 of the decision ("the Canal Street Contribution") derives from an agreement made pursuant to section 106 of the Town and Country Planning Act 1990 between the City Council and Deeley Properties Limited which was completed on 14 June 2005 ("the Canal Street agreement"). A commuted sum of £194,584 was due in respect of affordable housing, which the City Council was contractually obliged to use towards the provision of affordable housing in the City of Nottingham. It is considered that the decision is compliant with the terms of the Canal Street Agreement.

4.Under the terms of the Canal Street Agreement the Canal Street Contribution was to be paid on occupation of 50 per cent of the dwellings in the Canal Street development. Further, the Canal Street Agreement provided that on the expiry of five years from date of payment of the Contribution that on request the paying party was entitled to reimbursement of any part of the Contribution which remained unspent.

5.Though the Canal Street Agreement made no provision for payment by instalments, the Canal Street Contribution was paid in 11 equal instalments between May 2010 and March 2011. Two of the instalments (which together exceed the size of the Canal Street Contribution) were paid at the end of February 2011 and the end of March 2011; therefore in relation to those instalments no ability to demand repayment has yet arisen.

6.The affordable housing contribution at Item 3 of the decision ("the Breconshire Dyeworks Contribution") derives from an agreement made pursuant to section 106 of the Town and Country Planning Act 1990 between the City Council and Crestmont Holdings Limited which was completed on 19 January 2010 ("the Breconshire Dyeworks Agreement"). This required the developer to provide on site affordable housing but in the event that it was unable to transfer its proposed affordable housing units to a housing association, provided that a commuted sum in lieu of on site provision could be paid instead. £161,685.69 was paid in respect of affordable housing, which the City Council was contractually obliged to use for the provision of affordable housing within the City of Nottingham. It is considered that the decision is compliant with the terms of the Breconshire Dyeworks Agreement.

7.The Breconshire Dyeworks Agreement provided that after the expiry of five years from the date of receipt of the Breconshire Dyeworks Contribution, on receipt of a written demand by the owner the Council was obliged to repay any part of the Breconshire Dyeworks Contribution which had not been expended or committed for expenditure on affordable housing. The Breconshire Dyeworks Contribution was paid in October 2011 and therefore the liability to repay on demand has not yet arisen.

8.The legal agreement to be completed between the Council and NCHA will provide reassurance as to the purposes to which NCHA will put the section 106 monies received from the Council.

Advice provided by Judith Irwin (Senior Solicitor) on 11/02/2016.

Finance Advice:

This decision is to provide a grant of £64,000 to Nottingham Community Housing Association (NCHA) towards the development of affordable housing at a site in Nottingham. The amount can be funded from Section 106 contributions which are paid to Nottingham City Council by private housing developers. The sums referred to in the main body of the report are available and need to be spent within the timescales stated.

Advice provided by Julie Dorrington (Finance Officer) on 18/02/2016.

Signatures

Jane Urquhart (Portfolio Holder for Planning and Housing)
SIGNED and Dated: 22/02/2016
David Bishop (Deputy CE, CD for Development and Growth)
SIGNED and Dated: 18/02/2016