

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

<b>Reference Number:</b>	3398
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<b>Department:</b>	Children and Adults
<b>Contact:</b>	Lucy Juby (Job Title: Project Manager School Organisation, Email: lucy.juby@nottinghamcity.gov.uk, Phone: 01158765041)
<b>Subject:</b>	Fernwood Primary School capital project
<b>Total Value:</b>	£58,571 (Type: Capital)
<b>Decision Being Taken:</b>	To apply the section 106 agreement education contribution of £49,448, received from planning reference 14/03062/PFUL3, and a contribution of up to £9,123 from the school, to Fernwood Primary School's nursery building project (as detailed below).

**Reasons for the Decision(s)**

The cost estimate of the project is up to a maximum of £58,571 as there is still scope for some value engineering, and the school have confirmed in writing their agreement to meet any difference in funding between the final project cost and the £49,448 Section 106 funding. The school are committed to using the Council's design services and recommended framework building contractors.

The proposal is to deliver reconfiguration works to the existing Nursery building to create additional provision for the increasing number of pupils accommodated by the expansion of the school. The reconfiguration works to the Nursery building will support the increase in capacity by creating a space that is both fully usable and flexible to the pupils' educational requirements. The works will facilitate intervention / group work / additional support for pupils with SEN, extra lunchtime eating space and to provide additional Breakfast and After School Club places for the growing numbers of children. These requirements were identified during the expansion of the school in 2016, which is providing increased capacity to accommodate the growth in pupil numbers in the catchment area, including those generated by the housing development to which this S106 funding relates (details for which is below).

The Council received a section 106 education contribution from the agreement linked to the housing development at St Thomas More RC Church, Wollaton, in two installments as follows: £21,883 on 09/11/16 and £27,565 on 03/07/17. Schedule 2 of the relevant s106 agreement obliges the Council "to use the education contribution towards increasing capacity at Fernwood Infant School and Fernwood Junior Federation to accommodate children generated by the development." On 28 August 2015, the previously federated Infant and Junior schools amalgamated to become an all-through primary school, since called: Fernwood Primary School. Therefore, the approval required in this report is limited to the identification of the specific project at the named school, i.e. precisely how the funding will be spent at the named school. The obligation to invest this funding at Fernwood Primary School is already determined by the legal agreement between the Council and the Radleigh Group (the developer/owner), which we have to adhere to.

Fernwood Primary and Nursery School was expanded from an 840 place school to a large 1050 place school, from September 2016 (phased over 7 years). The School Governing Body were committed in their support for the expansion of the school as long as the high standards and teaching and learning facilities were not compromised by the increase in pupil numbers.

As the capacity increase is happening on a phased basis over 7 years (from Reception year upwards), the school is continuing to accommodate growing numbers until it is at full capacity in September 2021 (as additional children were admitted from Sept 2015). Phases 1 and 2 of the expansion provided additional classrooms in both the KS1 and KS2 buildings and additional essential facilities such as toilets. The Phase 3 works identified to be funded by this S106 allocation will support the increase in capacity, by providing much needed space to facilitate intervention / group work / additional support for pupils with SEN, extra lunchtime eating space and finally to provide additional Breakfast and After School Club places for the growing numbers of children. The existing Extended School Club provision can only accommodate 40 children, when there are approx. 1000 pupils already on roll at the school (not including nursery). During the planning and consultation stage of this expansion project in 2015, it was identified by key stakeholders that the existing capacity for Extended School Provision is insufficient for the size of the school.

The constraints of the budget and the timing of the anticipated Section 106 funding being paid to the Council, has resulted in a delay to this further phase of the expansion project. The trigger points for receipt of funding were: 50% prior to the 1st occupation and the remaining 50% prior to the 7th occupation. Therefore, the full sum was not received until 3 July 2017.

In 2016 the school gained its Nursery provision, which was occupied in one half of an existing building already occupied by Wollaton's Children's Centre facility. The services offered by this facility have depleted in recent years and by the summer of 2018, the school took on full ownership and access to the whole building throughout the school day. The School's acquisition of this additional space has enabled them to draw up a viable proposal (in collaboration with the Council) to invest the S106 funding concerned, while ensuring that the obligations of the legal agreement between the Council and the developer / owner are met. The existing structure of the building does not fully lend itself to the educational requirements of school. The design works proposed will create a space that is both fully usable and flexible to the school's requirements.

**Other Options Considered:** No other options considered - The obligation to invest this funding at Fernwood Primary School is already determined by the legal agreement between the Council and the Radleigh Group (the developer/owner), which we are required to adhere to.

**Background Papers:** None.

**Published Works:** None.

**Affected Wards:** Wollaton West

**Colleague / Councillor Interests:** None.

**Consultations:**  
Date: 07/01/2019  
Ward Councillors: Steve Battlemuch  
Cllr Battlemuch is aware and supportive of the proposal to allocate this funding stream as detailed in the report.

Date: 21/01/2019  
Area Committees: Area 7: Wollaton & Lenton Abbey  
The Chair, Vice Chair, Opposition Member and formally appointed community member of the Wollaton Area 7 Committee have been consulted on the proposal. One Councillor made an alternative suggestion for investment related to traffic measures, but this would not meet the obligations of spend specified in the legal agreement, i.e. " to increase capacity at Fernwood Primary School, to accommodate children generated by the development." The other Area Committee representatives are in full support of the proposal.

Those not consulted are not directly affected by the decision.

**Crime and Disorder Implications:** None

**Equality:** Please login to the system to view the EIA document: Fernwood S106\_EIA.docx

**Decision Type:** Portfolio Holder

**Subject to Call In:** Yes

**Call In Expiry date:** 13/02/2019

## Legal Advice:

- 1. The decision proposes to allocate a contribution paid pursuant to a section 106 agreement completed on 2 April 2015 between Nottingham City Council, the Nottingham Roman Catholic Diocesan Trustees and Radleigh Group Limited. The agreement was linked to the residential development of land adjacent to St Thomas More RC Church, Glenwood Avenue Wollaton under planning reference 14/03062/PFUL3.**
  - 2. As is stated within the decision, the s106 agreement contained a covenant by the Council to use the education contribution of £48,197 plus index linking "towards increasing capacity at Fernwood Infant School and Fernwood Junior Federation to accommodate children generated by the development". The proposal to use the funds to carry out reconfiguration works to create additional provision at the now merged Fernwood Primary School is compliant with the Council's covenant within the s106 agreement as to specified purpose.**
  - 3. The Council is obliged to repay to the developer any part of the education contribution which has not been spent or committed for expenditure on the specified purpose, once five years have elapsed from the date of receipt of payment. As the two instalment payments of the contribution were received in 2016 and 2017 that repayment has not yet become due.**
  - 4. Under the Council's Constitution, the relevant Area Committee is a consultee in relation to detailed proposals for enhancements to its local area to be funded by section 106 contributions. In the absence of an imminent Area Committee meeting, this requirement has been met by the consultation with Chair, Vice Chair, Opposition member and Community Representative on Area 7 Committee as set out in the decision.**
  - 5. The decision is within the remit of the Portfolio Holder for Education and Skills. Executive Board on 22 July 2008 resolved that authority for spending s106 contributions for community benefits (other than transport, affordable housing and open space) be delegated to the Portfolio Holder most appropriate to the benefits to be delivered by the s106 funding, having regard to the duties and responsibilities outlined in the Constitution.**
- Advice provided by Judith Irwin (Senior Solicitor) on 23/01/2019.**

**Finance Advice:**

The section 106 contribution related to planning application 14/03062/PFUL3 (Thomas Mores RC Church, Glenwood Avenue, Wollaton) was agreed at £48,197 index-linked. This was received in two payments: £21,883.16 on 09/11/16 and £27,564.92 on 03/07/17, making a total of £49,448.08.

Within the agreement, the Council is pledged to "use the Education Contribution towards increasing capacity at Fernwood Infant School and Fernwood Junior Federation to accommodate children generated by the Development". As outlined in the main report, these have since merged into one all-through primary school - Fernwood Primary School. The proposal seeks to fund reconfiguration works to an existing building in order to provide more a more flexible space capable of delivering more school places including for extended school provision. This meets the requirement to increase capacity at the school. The difference between the cost of the works and the s106 contribution will be funded by the school.

As Fernwood Primary School is within the LEA, it will be necessary for the Council to contract and pay for the works, billing the school for the remainder of the cost.

On completion of this decision, a project will be set up for the total cost of the works at £58,571, funded by £49,448.08 s106 and £9,122.92 contribution from the school.

Advice provided by Sarah Baker (Commercial Business Partner - Projects) on 28/01/2019.

**Equality and Diversity Advice:**

The work should facilitate and enable equality of opportunity and, it is hoped, outcome for vulnerable young people, thus ensuring the Council meets it's public sector equality duty.

Advice provided by Adisa Djan (Equalities and Diversity Consultant) on 29/01/2019.

**Signatures**

<b>Neghat Khan (Portfolio Holder for Education &amp; Skills)</b>
<b>SIGNED and Dated: 06/02/2019</b>
<b>Alison Michalska (Corporate Director for Children and Adults)</b>
<b>SIGNED and Dated: 05/02/2019</b>