

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

Reference Number:

3742

Author:

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Department:

Development and Growth

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Subject:

Utilisation of Section 106 Affordable Housing funding to grant fund Framework to provide new affordable housing.

Total Value:

£500,000 (Type: Capital)

Decision Being Taken:

1. To allocate Section 106 affordable housing contributions, from the agreement linked to Woodhouse Park (planning ref 13/01703/POUT) towards the provision of new affordable housing in St Ann's as detailed in paragraphs 1 and 2 of 'Reasons for the Decision' below;
2. To authorise the Legal Services Manager to enter into an agreement with Framework Housing Association in relation to the matters at recommendation 1 above together with nomination rights as per paragraph 3 of 'Reasons for the Decision' below;
3. To delegate authority to the Head of Regeneration & Housing to agree the detail of the final scheme to ensure value for money and agreed outputs, prior to entering into the legal agreement.
4. On completion of the agreement at 2 above, to make the necessary transfer of funds to Framework Housing Association; and
5. To amend the Capital programme accordingly.

**Reasons for the Decision(s)**

1. The funding which is proposed to be made available is to enable Framework Housing Association to provide a new hostel comprising affordable rented units, in one of the ways outlined in paragraph 2 below.
2. Although only one scheme will eventually be proceeded with, Framework are currently exploring two sites for the proposed hostel accommodation. These are (1) the refurbishment of a currently vacant building, and (2) the demolition of a vacant building and rebuild of a new facility. Framework are still working through the feasibility of both options, and simultaneously preparing a bid for the Homes England Affordable Housing Programme to further subsidise the project. Both sites (1) and (2) will be St Ann's ward, close to the city centre.
3. As this funding will be allocated to a third party organisation, the Council will need to enter into a legal contract with Framework, to ensure that the purpose for which the s106 contribution is used by Framework meets the Council's obligations to the developer under the s106 agreement from which the funding was derived. The agreement will also need to secure the City Council's nomination rights to the new affordable rented units, from the housing register. This will assist the City Council to manage the growing homelessness issue, and provide housing for complex needs service users.
4. There is currently £500,000 of Section 106 Affordable Housing commuted sums available from planning application 13/01703/POUT Woodhouse Park. This was received on 16/12/2016 and needs to be used by 15/12/2021.
5. The existence of such a facility is vitally important to the city and meeting homelessness duties. Whilst it is acknowledged that there may be concerns around such a facility, monitoring was done on a similar scheme and raised very few issues relating to anti-social behaviour.

**Other Options Considered:**

1. To not utilise these funds. This project is recommended for approval because;
  - a/ the objectives align with the priorities of the Council Plan and the Housing Strategy: Quality Homes for All.
  - b/ the project will benefit the City Council in providing modern, appropriate supported accommodation and therefore reduce the homelessness issue.
2. To utilise funds on an alternative scheme. S106 is being used to support alternative projects too, and there is sufficient to provide funding for this project as a complementary scheme.

**Background Papers:**

**Published Works:**

**Affected Wards:**

St Ann's

**Colleague / Councillor Interests:**

**Consultations:** **Date: 10/10/2019**  
**Ward Councillors: David Liversidge, Sue Johnson, Chantal Lee**  
**Local ward councillors have been consulted and consider that other locations may be more appropriate for the development.**

**Date: 20/11/2019**  
**Area Committees: Dales, Mapperley, St Anns**  
**Chair and Vice Chair for Dales, Mapperley & St Ann's Area Committee were formally notified. No response beyond those received by the local councillors has been logged.**  
**A community rep was also formally notified and their response is the same as that provided by the local ward councillors.**

**Those not consulted are not directly affected by the decision.**

**Crime and Disorder Implications:** **The new facility will provide accommodation for the homeless, which will allow for better behaviour management, therefore this should have a positive impact on Crime and Disorder, ASB and fear of crime.**

**Equality:** **EIA not required. Reasons: This does not propose any policy or major changes to existing provision.**

**Decision Type:** **Portfolio Holder**

**Subject to Call In:** **Yes**

**Call In Expiry date:** **31/12/2019**

**Advice Sought:** **Legal, Finance**

**Legal Advice:**

1. The section 106 contribution which Recommendation 1 of the decision proposes to apply was paid pursuant to an agreement between the City Council and Wilson Bowden Developments Limited dated 8 October 2013. Under that agreement, the Council is obliged to use the affordable housing commuted sum "towards the provision of Affordable Housing within Nottingham City". "Affordable Housing" is then defined within the s106 agreement as "dwellings occupied as Social Rented Units or Intermediate Units".
  
2. The provision of the grant to Framework under Recommendation 4 will enable new hostel accommodation to be provided, either by refurbishment of existing vacant building or by demolition and rebuilding of a currently vacant building. The resultant application of the funds will therefore constitute a net gain in affordable housing provision, and as noted in paragraph 1 of "Reasons for the Decision" the hostel will comprise affordable rented units. It is considered therefore that the purpose to which the s106 monies are to be put is compliant with the wording of the s106 agreement.
  
3. The s106 agreement contains standard provisions requiring the City Council to provide written confirmation to the developer as to whether the whole or any part of the contribution has been spent or committed for expenditure in accordance with the agreement, and to repay monies which have not been spent or committed for expenditure in accordance with the agreement after five years have elapsed from receipt. It is understood that the contribution was paid on 16 December 2016.
  
4. The City Council will need to ensure that its agreement with Framework pursuant to Recommendation 2 reflects the above, to require Framework to use the monies in accordance with the purpose stated in the s106 agreement, to provide the City Council with confirmation of that use, and to spend those monies before any liability by the City Council to repay to the developer has arisen under the s106 agreement.

Advice provided by Judith Irwin (Senior Solicitor) on 30/11/2019.

**Finance Advice:**

This decision is to provide a grant of £500,000 to Framework Housing Association 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.

Following the approval of this decision the Capital Programme will be updated accordingly and the appropriate Section 106 receipt will be ringfenced for this project.

The Head of Housing and Regeneration is to ensure that all arrangements with Framework Housing Association is in accordance with the section 106 agreement regarding the provision of affordable housing to reduce any risk of clawback from the developer.

Advice provided by Tom Straw (Senior Accountant - Capital Programmes) on 29/11/2019.

**Signatures**

Linda Woodings as Portfolio Holder (PH Housing, Planning and Heritage)
SIGNED and Dated: 10/12/2019
Chris Henning (Corporate Director for Development and Growth)
SIGNED and Dated: 20/12/2019