

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

Reference Number:

**3768**

Author:

**Margaret Coward**

Department:

**Development and Growth**

Contact:

**Margaret Coward**

**(Job Title: Community Led Housing Development Officer, Email: [margaret.coward@nottinghamcity.gov.uk](mailto:margaret.coward@nottinghamcity.gov.uk), Phone: 01158764458)**

Subject:

**Fruit Market - Acceptance of Homes England Community Housing Fund capital grant and procurement of contractors**

Total Value:

**252,000 (Type: Capital)**

Decision Being Taken:

- 1. To accept a Homes England Community Housing Fund grant of £252,000 and enter into a funding agreement with Homes England to fund the delivery of a discrete package of work related to site-wide infrastructure at the Fruit Market including construction costs, project management, approvals for s278/38 orders etc;**
- 2. To dispense with Contract Procedure Rule 5.1.2 in accordance with Financial Regulation 3.29 (Operational Issues) to award a contract to Thomas Bow Ltd to provide infrastructure works without undertaking a tendering process. The works need to be commenced urgently as grant funding, once received will need to be spent by 31 March 2020.**
- 3. To delegate authority to the Director of Planning and Regeneration and s.151 Officer to finalise the details, award and sign the relevant contracts, and authorise the expenditure, in consultation with Legal Services.**

**Reasons for the Decision(s)**

Community led housing designates several distinct types of development including group custom build. The Government is encouraging community-led housing developments as a way of delivering additional affordable housing. Homes England invited local authorities to bid for Community Housing Fund grant to fund infrastructure costs and group development costs on community led housing projects. The proposition at Fruit Market is to create a fully serviced platform for the development of three phases of group custom-build homes provided by Blueprint. The road infrastructure works into the site have been designed and costed by the internal Highways team and planning permission is in place and the Council will provide this public infrastructure works using the grant. This will enable the development of phase 1 and facilitate future phases of Fruit Market. The supplier is ready to commence work imminently.

Whilst the Council has been notified by Homes England that it has been successful in its application for funding, this is an 'in principle' award and is subject to further due diligence being undertaken before Homes England will provide the funding to the Council.

The grant funding requires work to be completed and money to be spent by 31 March 2020. 90% of the grant can be claimed on the start date with the remaining 10% on completion of the works, Blueprint have confirmed that they will reimburse the Council should the remaining 10% not be drawn down due to the completion deadline being missed. The award is conditional upon the site being used for group custom build housing. This risk is mitigated by ensuring the establishment of a group of 11 custom-build customers for Phase 1 and the partial creation of a second group for Phase 2.

**Briefing notes documents:**

002 Rev B Proposed Development Plan.pdf

**Other Options Considered:**

Not to bid for Homes England Community Housing Fund grant. This option was rejected because it would have resulted in missing an opportunity to obtain funding which would contribute towards bridging the viability gap in the Fruit Market development arising from increased costs relative to initial estimates communicated at the reservation and design stage for customers.

Use the funding for an alternative purpose. This was rejected because the bidding prospectus prescribes the areas of activity that can be delivered with the funding. Therefore, it is not possible to use the grant allocation for any purpose other than that already defined.

To procure a contractor via competitive tender or mini-competition. This option was rejected due to the urgent need to commence works on site to ensure that the 12 week programme is completed before the end of March 2020, the deadline for drawing down the grant funding and the fact that it was not viable to undertake a tender process without guaranteed receipt of funding, without which the works would not be commenced.

**Background Papers:**

None

**Published Works:**

DDM 3223 - Sale of land to rear of Victoria Leisure Centre off Brook Street and Bath Street  
<https://committee.nottinghamcity.gov.uk/ieDecisionDetails.aspx?ID=4537> Planning permission for road between bath st and Brook St 22 Sept 2011

**Affected Wards:**

St Ann's

**Colleague / Councillor Interests:**

**Chris Henning has been excluded from authorising the decision as he is a Director of Blueprint who will be undertaking the wider development of the site.**

**Dispensation from Financial Regulations:**

**Yes**

**Consultations:**

**Date: 06/11/2019**

**Ward Councillors: David Liversidge, Sue Johnson, Chantal Lee**

**Letter of support for the grant application written by Councillor Liversidge and submitted to Homes England. No response received from other Ward Councillors**

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

**Crime and Disorder Implications:**

**The proposed redevelopment of this area of vacant land will remove the risk of anti-social behaviour, fly tipping and unauthorised occupation that the land currently presents.**

**Equality:**

**EIA not required. Reasons: This decision does not propose changes to policies, services or functions.**

**Relates to Council Property Assets:**

**Yes**

**Decision Type:**

**Portfolio Holder**

**Subject to Call In:**

**No**

**The call-in procedure does not apply to the proposed decision because the delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The Chair of the Overview and Scrutiny Committee (or Vice-Chair) in his/her absence has been consulted and agreed both that the decision proposed is reasonable in all circumstances and that it should be treated as a matter of urgency.**

**Person Consulted: Councillor Anne Peach**

**Consultation Date: 16/01/2020**

**To enable the scheduled 12 weeks programme of works to commence in sufficient time to allow the work to be completed by 31 March 2020, in accordance with grant conditions.**

**Advice Sought:**

**Legal, Finance, Procurement, Property**

**Legal Advice:**

The proposals in this report raise no significant legal issues and are supported.

The receipt of Homes England funding will enable the Council to undertake infrastructure works for the construction of a road into the Fruit Market site which will enable further development in the vicinity, supporting community led housing developments within the city.

The receipt of the funding is conditional upon entering into and compliance with a grant funding contract with Homes England. The terms impose a number of conditions upon the Council including compliance with EU Procurement Regulations and reporting requirements back to Homes England. The Council must ensure that it can comply with the conditions imposed upon it in all other respects.

Whilst an 'in principle' award has been given to the Council, the funding has not been formally granted and has not yet been received. Once received the Council will be required to implement the work immediately in order to ensure the money is spent by 31st March 2020 in accordance with the grant conditions.

The work subject to this DDM are considered 'works' for the purposes of the Public Contract Regulations and therefore the value of such falls well below the relevant EU threshold for tendering. On this basis and for the reasons given within the report, dispensation is supported.

The Council should ensure compliance with the terms so as to avoid any risk of claw back from Homes England, this will include contracts with sub-contractors as any claw back will be against the Council directly in the first instance.

The funding received from Homes England will be used for local infrastructure and will be made available to the public and so is permissible as aid to support a public task and is not therefore deemed to give rise to state aid. Advice provided by Dionne Claire Screamon (Solicitor) on 20/12/2019.

**Finance Advice:**

Following the approval of this decision the capital programme will be amended accordingly.

The project manager is required to ensure that the project is managed in accordance to the grant conditions reducing the risk of any potential clawback.

Dispensation from the financial regulations is required to make a direct award as detailed in the body of the report. This dispensation reduces the risk of grant clawback due to the grant conditions requiring the expenditure to be incurred prior to the 31st March 2020.

Advice provided by Tom Straw (Senior Accountant - Capital Programmes) on 23/12/2019.

**Procurement Advice:**

If the dispensation to make a direct award is granted, there are no direct procurement issues with this decision, as the value involved is below the OJEU threshold for works.

Given the timescales involved due to the grant funding, and the imminence of the Christmas holiday period, it would be unrealistic to expect to be able to carry out an appropriate tendering exercise and appoint a contractor in sufficient time to complete the project, and so a direct award would appear to be a reasonable proposition. Thomas Bow Ltd are a known company who have carried out a substantial amount of work for the Council in the past, and would be a suitable contractor to carry out the works.

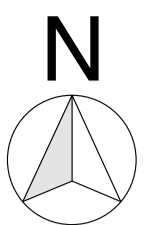
Advice provided by Jonathan Whitmarsh (Lead Procurement Officer) on 20/12/2019.

**Property Advice:**

Nottingham City Council has entered in to an Option Agreement with Blueprint (General Partner) Ltd in respect of the land which is the subject of this report. The Option allows Blueprint (General Partner) Ltd to draw the land down in 3 phases to develop custom build housing. However, in certain circumstances set out in the Option agreement Blueprint (General Partner) Ltd may choose to develop market housing rather than group custom build housing. This would impact on the grant conditions and may trigger a requirement for at least a proportion of grant to be repaid. If this occurred, following discussion with the report author, it is understood that the Council would seek to recover any reclaimed grant from Blueprint (General partner) Ltd. However up front infrastructure costs are adversely affecting the viability of the project and the availability of grant will assist in ensuring this scheme proceeds. Advice provided by Rodney Alan Martin (Development Manager) on 23/12/2019.

**Signatures**

<b>Sam Webster (PH Finance, Growth and City Centre)</b>
<b>SIGNED and Dated: 09/01/2020</b>
<b>Catherine Underwood (Corporate Director for People)</b>
<b>SIGNED and Dated: 06/01/2020</b>
<b>Laura Pattman (Strategic Director of Finance) - Dispensation from Financial Regulations</b>
<b>SIGNED and Dated: 06/01/2020</b>
<b>Chief Finance Officer's Comments:</b>



- Notes**
- Total No. of Units = 43**
  - Total No. of Car Parking Spaces** (inc. 10no. shown on Brook St) = **36**
  - Construction Phase 1 (inc. highways \*)
  - Construction Phase 2
  - Construction Phase 3
  - ▲ Primary access points to the dwellings
  - 2no. 240 litre waste / recycling bins
  - xx.xx Approx. G.F.L of dwellings above sea level (refer to design guide)

**Plot Typologies**

Plot No.	2 Bed - Flat	2 Bed - House	3 Bed Duplex or 3 Bed House	3 Bed - House	4 Bed - House
01					
02					
03					
04					
05					
06					
07					
08a					
08b					
08c					
08d					
09					
10					
11					
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18					
19					
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22a					
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23a					
23b					
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26					
27					
28					
29a					
29b					
29c					
29d					
30a					
30b					
30c					
30d					
31a					
31b					
31c					
<b>Total</b>	<b>11</b>	<b>1</b>	<b>8 or 4</b>	<b>17</b>	<b>5</b>

\* Note: The highways infrastructure to the site may be phased in delivery. Utilising the existing road layout, service access will be maintained to the Victoria Leisure Centre & Nottingham Wildlife Trust throughout the build.

**OUTLINE PLANNING ISSUE**  
 Rev B - 30.10.17  
 Phase 01 revised, Plot 13 deleted  
 Rev A - 30.03.17  
 Revisions to urban block and on-street parking

**Date**  
20.12.16

**Scale**  
1: 250 @ A1

**Revision**  
B

**Drawing No.**  
002

**Drawing Title**  
Proposed Development Plan  
inc. Levels & Construction Phasing

**Project**  
Fruit Market, Sneinton  
Nottingham

**Studio 10**  
Ayr Street Workshops  
Ayr Street  
Nottingham  
NG7 4FX

**Telephone**  
0115 911 0734  
mail@  
lettswheeler.com

1. Proposed Site Levels

LettsWheeler Architects  
 www.lettswheeler.com