

**To the Chair and Members of:  
CABINET**

The Contribution of Affordable Housing s106 to Ongo Homes Housing Association for the Development at Ivor Grove, Balby

<b>Relevant Cabinet Member(s)</b>	<b>Wards Affected</b>	<b>Key Decision</b>
Mayor Ross Jones	Hexthorpe & Balby North	Yes

**EXECUTIVE SUMMARY**

1. The purpose of this report is to obtain approval for the drawdown of £250,000 s106 from the £2.42m commuted sum contributions for Affordable Housing to Ongo Homes Housing Association to support the delivery of the new affordable housing scheme at Ivor Grove, Balby.
2. The scheme at Ivor Grove is scheduled to deliver a mix of 2 and 3 bed family homes along with a proportion of 2 bed bungalows. In total the scheme is scheduled to deliver 50 new affordable homes. **Appendix A** – Location Plan.
3. As part of any development appraisal process, the financial viability is assessed. Original viability presented a fully costed scheme; however as a direct consequence of the local community formally requesting the adoption of two rights of way on site, leading to the requirement to significantly alter layouts and the potential risk to the deliverability of the scheme this would pose, resulted in an overall funding shortfall of £830,000. To alleviate the shortfall both Ongo Homes and Keepmoat have both provided additional contributions of £290,000 to reduce the shortfall to a figure of £250,000.
4. The proposed s106 contribution will mitigate this shortfall. Without this contribution the scheme would not be deemed financially viable to progress, and would have to be deferred until additional funding could be found from alternative sources. Furthermore, without the contribution, the scheme wouldn't be able to progress and as a consequence would fail to meet the funding conditions and timescales set out by the Homes and Communities Agency (HCA) and therefore lose the HCA grant allocated to the site.
5. Financial Procedure Rules (FPR's) require that the awarding of a grant of this value must be approved by Cabinet.

## **EXEMPT REPORT**

6. The report is not exempt.

## **RECOMMENDATIONS**

7. It is recommended that the Mayor and Cabinet:
  - a) Approve the drawdown of £250,000 s106 from Affordable Housing Commuted sums to Ongo Homes to support delivery of the Ivor Grove scheme,
  - b) Include the grant within the Councils capital programme as a grant to a third party.

## **WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?**

8. The contribution will support the viability of a new affordable housing scheme, which will provide a range of accommodation options for both families and older people on the council's waiting list.
9. This decision will enable the Council to reinvest s106 money back into local communities for its intended purpose. Spend of s106 can be time limited, and so any contributions that are not spent, potentially run the risk of being clawed back by developers, and so therefore it is key to ensure that this money is allocated to mitigate this.

## **BACKGROUND**

10. In March 2016, as a direct consequence of the Doncaster Housing Summit, the Council were approached by Keepmoat Regeneration Ltd and Ongo Homes Housing Association, proposing the development of a new affordable housing scheme utilising an unspent Homes and Communities Agency (HCA) grant allocation which was originally identified for another Local Authority. Conditional to the use of the grant was that any new housing development would need to be on site by March 2017, and completed by March 2018.
11. The situation presented to the Council was viewed as a positive opportunity to be seized upon. Not only does it strengthen the Council's relationship with the HCA and other delivery partners looking to bring additional economic investment into the borough, but reinforces the Councils ethos as an open for business authority; and demonstrates confidence in the Councils ability to deliver new homes.
12. In response, a suitable site was identified at Ivor Grove, Balby. The site was chosen because of its suitability to accommodate the number of proposed units, along with presenting very few deliverability constraints, and so judged positive in terms of its deliverability within the short timescales stipulated.

13. Cabinet approved the disposal of the land and the scheme proposal on 18<sup>th</sup> Oct 2016. The site is scheduled to deliver:
  - 29x2bed Houses
  - 11x3b Houses
  - 10x2bed Bungalows
14. Planning approval was received 7<sup>th</sup> March 2017 and consequently development began on site as anticipated in March 2017.
15. Financial viability appraisals form part of any development process, and the appraisal outcome for Ivor Grove was positive in terms of producing a fully costed scheme requiring no further contribution by the council other than disposing of the land at a peppercorn rent on a 125yr lease.
16. However, as the process progressed it became increasingly evident that the two public rights of way objections formally submitted by members of the community regarding the desire lines / unrecorded footpaths present on site were to become significant issues that would jeopardise the viability of the scheme unless they were factored into the designs.
17. Due to the time limitations attached to this site, the solution was to acknowledge the claimed rights of way and incorporate them into the public highway and design the housing units around. By acknowledging the claimed footpaths prevented any further dispute / objection from the public, and prevented any further opportunity for appeal to the Secretary of State, which could've potentially taken 12-18 months to resolve, and as such prevented the scheme from progressing.
18. By accepting the rights of way claims, this led to a revised layout and a subsequent reduction in the number of units from 60 to 50.
  - **Appendix B** – 60 Unit Layout
  - **Appendix C** – 50 Unit Layout
19. In order to satisfy Planning, Public Rights of Way, and Highway requirements, a number of key design alterations were required, including additional infrastructure works, comprising of:
  - Additional highway, footpaths and street lighting
  - BT diversion due to the re-routing of the main estate access
  - Increased retaining walls including highway retaining walls to accommodate the Public Right of Way (PROW)
  - Increase in the impermeable areas therefore increasing the amount of surface Water Attenuation and associated work and materials
  - Increased utility costs due to additional mains work
  - Ecology / bio diversity offsetting and professional fees
20. It must be noted that the design alternations caused by the PROW led to a 60% increase in the highway area, and associated infrastructure works to that of the original 60 unit scheme. And so all of which contributed to a higher scheme cost than originally presented.
21. The impact on viability resulted in a number of specification changes, including Code for Sustainable Homes compliance, i.e. the removal of

professional fees for design submission, post contract assessment and certification, along with the removal of specification details such as, cycle storage sheds, rainwater butts, and composting bins. Despite the removing these elements the build related specification / standards for the scheme remained the same and so include traditional masonry construction with full fill cavity insulation. This is a non-combustible material and provides a complete fire stop at party and external walls. In addition the design standards for the units remained the same, i.e.100% Lifetime homes, Housing Quality Indicator, Design Quality Standard, and Building for Life compliant.

22. As a direct consequence of the public right of way claims and subsequent design alteration requirements, this presented a funding gap of £830,000. Through a process of value engineering and negotiation with all partners concerned, this reduced the figure down to £290,000, with additional negotiations reducing the deficit even further to £250,000. Keepmoat and Ongo were each able to contribute an additional £20,000 each on top of the previously negotiated £270,000. As a result Keepmoat and Ongo were able to contribute £290,000 each, totalling £580,000, leaving a remaining shortfall of £250,000.
23. The value engineering that was undertaken included:
  - Terracing the units
  - Alternative foundation solutions
  - Revision of the retaining wall locations to change them to a non-highway retaining wall where possible
  - Removal of a number of Code for Sustainable Homes elements
24. The DMBC contribution of £250,000 equates to £5k per plot (50 units). Without the contribution would lead to the loss of HCA grant to the scheme and so a potential £2.04m funding gap would be present which would effectively prevent the scheme from going ahead due to the grant conditions attached to this specific allocation. The money is 'windfall' grant from the 2015 - 2018 Affordable Homes Programme; for use on a scheme which could commence by 31<sup>st</sup> March 2017. The grant was originally allocated to another neighbouring Local Authority who were unable to identify and progress a suitable site and so the HCA agreed to allocate this grant to be used in Doncaster.
25. Total Scheme Cost equals £6.04m made up from, HCA grant £2.04m, and Ongo and Keepmoat Regeneration Ltd's own finance £4m.
26. The current total balance of affordable housing s106 contributions is £3.97m, of which £1.66m is time limited (£1.35m to be spent by 2020/21 and £0.31m to be spent by 2021/22). There are no other conditions on the balance that lead directly to claw back but the council has a legal covenant to use the monies for the provision of affordable housing in the borough.
27. Of the £3.97m available, £1.55m is formally committed to other projects and is profiled to be incurred in 2017/18. If the award of £250,000 for the scheme at Ivor Grove is approved then formal commitments will increase to £1.80m, and will assist in avoiding the risk of claw back relating to the time

limited monies received so far.

28. As stated, the amount of time limited s106 totals £1.66m, Strategic Housing have £1.55m committed for spend in 17/18 plus with the £250,000 to be spent in 18/19 totalling £1.80m, which will result in all the time limited monies being spent before the limits detailed above expire.
29. The remaining balance of uncommitted affordable housing s106 contributions would be reduced from £2.42m to £2.17m, with all of the remaining monies being without time limit. Strategic Housing currently has no other pipeline projects that would be adversely affected by approval of this report.

## OPTIONS CONSIDERED

30. **Option 1** – Approve the £250,000 contribution to Ongo Homes.  
This option will support the delivery of 50 new affordable homes in the borough, and meet the conditions set out by the HCA. There are sufficient funds within the s016 commuted sums pot (£2.4m) to cover the amount requested.

**Option 2** – Identify the funding from an alternative source.  
The council does not have the capital funds available to support the scheme (£2.04m), nor does Keepmoat or Ongo Homes.

**Option 3** – Do nothing and refuse the contribution.  
This option would leave the scheme with a £250,000 shortfall, and would prevent the scheme from progressing until additional gap funds can be found.

## REASONS FOR RECOMMENDED OPTION

31. This option enables the council to work towards its aims of providing much needed additional affordable homes in the borough, along with meeting key corporate and Mayoral priorities.

## IMPACT ON THE COUNCIL’S KEY OUTCOMES

32.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li> <li>• <i>Mayoral Priority: Be a strong voice for our veterans</i></li> <li>• <i>Mayoral Priority: Protecting Doncaster’s vital services</i></li> </ul>	<p>Creation of new sustainable affordable housing for families and older people. During the development process additional jobs will be created for local people and local trades / suppliers.</p>
	<p>People live safe, healthy, active</p>	<p>New housing is designed to be more</p>

	<p>and independent lives.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Safeguarding our Communities</i></li> <li>• <i>Mayoral Priority: Bringing down the cost of living</i></li> </ul>	<p>cost efficient for residents. Modern new homes will improve resident's health and wellbeing and quality of life, through well designed development.</p>
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li> <li>• <i>Mayoral Priority: Safeguarding our Communities</i></li> <li>• <i>Mayoral Priority: Bringing down the cost of living</i></li> </ul>	<p>Accommodation will be designed in line with a range of industry best practice design guidance, to ensure quality developments are built. New builds will have design features which will lower the cost of living.</p>
	<p>All families thrive.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Protecting Doncaster's vital services</i></li> </ul>	<p>New homes will enable older people and families to remain close to existing family, friends and local community connections.</p>
	<p>Council services are modern and value for money.</p>	<p>The development is to provide modern new build units, which will be affordable for residents.</p>
	<p>Working with our partners we will provide strong leadership and governance.</p>	<p>The preferred option is the preferred one for all stakeholders.</p>

## RISKS AND ASSUMPTIONS

33. Possible financial risk could be present as additional unforeseen issues could present themselves during the physical development phase, resulting in additional higher scheme costs. This, however, is unlikely due to the amount of additional detailed cost modelling and site appraisal work that has been undertaken to ensure the site appraisal, planning submission and final costings were robust.

## LEGAL IMPLICATIONS

34. Section 1 of the Localism Act 2011 provides the Council with a general power of competence, allowing the Council to do anything that individuals generally may do.
35. The payment of an Affordable Housing Commuted sum is received in lieu of on-site Affordable Housing and must be spent on the provision of affordable housing within the borough.
36. As noted within the report, a section 106 agreement may stipulate that the Council must spend any commuted sum within a specified timescale and a developer may seek a return of a commuted sum payment made which has not been used.

37. Financial Procedure rule E14 states that the approval of cabinet is required where the Council is not acting as an accountable body and is providing a grant to a third party in excess of £50,000 per or more in anyone year.
38. Legal advice and assistance will be given in the preparation of the grant agreement which will include clawback provisions to protect the grant funding.

## **FINANCIAL IMPLICATIONS**

39. The approval to dispose of the land at Ivor Grove, Balby to Ongo Housing Association via a long term lease was approved by Cabinet on the 18th October, 2016. The original approval required no financial contribution towards delivering the 50 units however, as a direct consequence of Public Rights Of Way claims, subsequent design alterations were required.
40. To ensure the financial viability of the scheme, a contribution of £0.25m has subsequently been requested. Without this contribution, the scheme could not be delivered within the timescales required to comply with the conditions for the £2.04m HCA grant funding element.
41. In line with financial procedure rules: E.14 the approval of Cabinet is required for all grants and annual assistance to external bodies with a financial value of £0.05m or more.
42. The contribution will be classed as a capital grant to a third party and following Cabinet approval will be added to the Housing Capital Programme as part of the next Finance and Performance reporting process.
43. As detailed within the body of the report, the current balance of uncommitted Affordable Housing S106 contributions is £2.42m. Approval of this grant award for £0.25m will leave £2.17m remaining for other priorities and will assist with the reduction in claw back risk relating to time limited monies contained within the overall balance.

## **HUMAN RESOURCES IMPLICATIONS**

44. None present.

## **TECHNOLOGY IMPLICATIONS**

45. None present.

## **EQUALITY IMPLICATIONS**

46. The Public Sector Equality Duty (PSED) Due Regard Statement was created by the Equality Act 2010. The duty came into force in April 2011 and places a duty on public bodies and others carrying out public

functions. The aim of the PSED is to embed equality considerations into the day to day work of public authorities, so that they tackle discrimination and inequality and contribute to making society fairer. 'Due Regard' is a legal term that requires proportionality and relevance. The weight given to the general duty will depend on how that area of work affects discrimination, equality of opportunity and good relations.

47. All housing developments supported by DMBC will be accessible depending on individual need. Such assessments will not discriminate against any applicant in any way and particularly due to any of the protected characteristics of the Equality Act 2010.
48. All DMBC Housing Association partners must maintain a commitment to the Act.

## **CONSULTATION**

49. Consultation has been undertaken with Mayor and Deputy Mayor, Housing Portfolio Holder.

## **BACKGROUND PAPERS**

50. None.

## **REPORT AUTHOR & CONTRIBUTORS**

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