



## Mayor and Cabinet

### **Allocation of Section 106 funds to support the delivery of new affordable homes at the Shaftesbury Christian Centre site, Frankham Street, Depford.**

**Date:** 9<sup>th</sup> June 2021

**Key decision:** Yes

**Class:** Part 1

**Ward affected:** New Cross

**Contributors:** Executive Director of Housing, Regeneration and Public Realm; Chief Finance Officer, Director of Law, Governance and HR

### **Outline and recommendations**

It is recommended that the Mayor and Cabinet, approves the allocation of £1.7m of Section 106 contributions received by the Council from the planning agreements set out in the report towards the provision of specialist affordable housing at The Shaftesbury Christian Centre site, Frankham Street, Deptford on the terms set out in this report.

It is also recommended that the Mayor and Cabinet delegate authority to the Executive Director of Housing, Regeneration and Public Realm, in consultation with the Director of Law, Governance and HR, to negotiate the final terms of and enter into a grant agreement with J49 for the funds.

# Timeline of engagement and decision-making

*Project Initiation Document – 10 February 2021*

## 1. Summary

- 1.1. Currently The Bear Church sits on the Shaftesbury Christian Centre site, Frankham Street, Deptford. The Bear Church is an independent Christian church, and a hybrid of two churches, The Bear Church and the Shaftesbury Christian Centre, who merged in 2007. The Bear Church is part of the Deptford Ragged Trust (TDRT), who are the land owner.
- 1.2. This report seeks s106 funding to support the delivery of 33 social rent homes, rented on a medium term, temporary basis through a development with J49 and The Deptford Ragged Trust.
- 1.3. The development would provide much needed, genuinely affordable homes following the demolition of The Bear Church, on land belonging to TDRT. This development would include the reprovision of the church along with the community space to the front of the building, 34 cycle spaces and associated landscaping.
- 1.4. The s106 contribution would assist in the delivery of 33 social rent homes with nomination rights to the Council in perpetuity. All 33 units would be managed by J49, a housing provider set up specifically for this project. J49's application to become a Registered Provider has not yet been approved and recommendation to use s106 funding is made on the basis that their application is successful.
- 1.5. The requested s106 contribution, along with funding from the GLA, is required to deliver the scheme. Both funding streams would subsidise the residential element only.
- 1.6. This Part 1 report provides information on the development. The accompanying Part 2 report provides commercially sensitive information in relation to the development funding.

## 2. Recommendations

It is recommended that Mayor and Cabinet:

- 2.1. Approves the grant allocation of £1.7m to J49 from Section 106 contributions received by the Council from the planning agreements set out in the report to provide specialist affordable housing delivery at The Shaftesbury Christian Centre site, Frankham Street, Deptford on the terms set out in this report.
- 2.2. Delegates authority to the Executive Director of Housing, Regeneration and Public Realm in consultation with the Director of Law to negotiate the final terms of and to enter into a grant agreement with J49 for the funds.

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### 3. Policy Context

3.1. The Council's Corporate Strategy (2018-2022)<sup>[1]</sup> outlines the Council's vision to deliver for residents over the next four years. Building on Lewisham's historic values of fairness, equality and putting our community at the heart of everything we do, the Council will create deliverable policies underpinned by a desire to promote vibrant communities, champion local diversity and promote social, economic and environmental sustainability. Delivering this strategy includes the following priority outcomes that relate to the provision of new affordable homes:

- Tackling the Housing Crisis – Providing a decent and secure home for everyone.
- Building an Inclusive local economy – Ensuring every resident can access high-quality job opportunities, with decent pay and security in our thriving and inclusive local economy.
- Building Safer Communities – Ensuring every resident feels safe and secure living here as we work together towards a borough free from fear of crime.

3.2. Lewisham's Housing Strategy (2020-2026), includes the following themes that relate to the provision of new affordable homes:

- delivering the homes that Lewisham needs.
- preventing homelessness and meeting housing need.
- improving the quality, standard and safety of housing.
- supporting our residents to live safe, independent and active lives.
- strengthening communities and embracing diversity.

### 4. Background

4.1. On 12<sup>th</sup> December 2019 The Deptford Ragged Trust purchased the land and buildings on the site, with a vision to re-provide the church and community rooms and develop affordable housing.

4.2. On 16<sup>th</sup> December 2020 planning permission was granted for the construction of a 6 storey building with roof terraces comprising of a new church, with ancillary community rooms and ancillary cafe on the ground and first floors, with 33 x 1 bedroom affordable flats above, together with the provision of a public space to the front of the building. An associated S106 Agreement was dated the 15<sup>th</sup> December 2020. This secured amongst other obligations, that the 33 residential units had to be provided at a London Affordable Rent or Target/Formula rent.

4.3. The project would be a collaboration with the 'The Deptford Ragged Trust' the freeholder and owner of the Frankham Street site and J49, who would be the

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[1]

<http://councilmeetings.lewisham.gov.uk/documents/s61022/Draft%20Corporate%20Strategy%202018-2022.pdf>

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developer and would also manage the project.

- 4.4. J49 (the developer) is a company limited by guarantee and not for profit. It was established out of the need to provide affordable housing in London, with a mission to build housing and community spaces in partnership with other providers and achieve Registered Provider status.
- 4.5. The scheme would provide medium term specialist housing for people aged 18 to 35 who are in housing need and includes 4 units which would be designed to be wheelchair accessible, or easily adaptable for residents who are wheelchair users.
- 4.6. Tenancies would be provided on the basis of 12-months assured shorthold tenancy followed by periodic reviews and with a maximum stay of 3 years.
- 4.7. Residents would be nominated for accommodation by the Council, and alongside their tenancy, they would receive support from J49 and Bench Outreach staff, to maintain their tenancies, along with supporting them into education, training, and employment.
- 4.8. Bench Outreach provide expert advice and support for people who are homeless and vulnerable to homelessness. They also provide support and advice in regard to wider issues that can contribute to being more vulnerable to homelessness.
- 4.9. There is an expectation that the homeless population will increase, particularly young single people, who will have become marginalised and economically vulnerable due to the financial impact of the Covid-19 pandemic. The type of specialist accommodation being offered at the former Shaftesbury Christian Centre site would offer affordable, medium term temporary supported housing and offer a pathway to enable people to get back on their feet.
- 4.10. Bench Outreach, J49 and the Deptford Ragged Trust would also develop a mentoring programme to help residents with academic or career progression, or to develop start-up businesses. The overarching aim of the project is to ensure that residents are equipped to move on to fully independent, long term accommodation.
- 4.11. The J49 Board have extensive experience of design, development, and management and implementing housing projects. In 1997 two of the directors begun Habitat for Humanity Homes in the UK. HFH is a global charity committed to challenging and eradicating global housing poverty. In 2014 they formed Jubilee Resource Community Ltd which is a commercial company with a social enterprise arm with the aim to build community housing. Whilst working with TDRT they decided it was time to develop an independent organisation (J49) to manage, maintain and develop social housing and apply for grants.
- 4.12. J49 are committed to;
  - Creating multi-generational living spaces that also work as community hubs.
  - Reducing homelessness and the lack of affordable housing amongst young people with an emphasis on the 18-35 demographic.
  - Adding a new dimension to the London way of living by supporting residents.
  - Building designs that promote healthy, creative relationships and supportive environments.
- 4.13. J49 are planning to develop at least 4 schemes in the next 5-10 years, creating a new wave of social rented property in London that will remain in perpetuity for those on low incomes.
- 4.14. The award of the s106 funding is contingent on J49 becoming a Registered Provider (RP).

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- 4.15. The process of successfully achieving RP status is rigorous. Private RP's are assessed extensively for attributes that include but are not limited to; financial strength, governance. and have to demonstrate that they;
- Meet the Governance and Financial Viability Standard at the point of registration and demonstrates that it can sustain its financial viability on an ongoing basis and;
  - Have a business plan that is coherent and the financial assumptions are based on evidenced, robust assumptions.

## 5. Use of s106 Funds

- 5.1. In order to support the scheme, it is recommended that the Council provide grant through financial contributions that have been secured for the provision of affordable housing through Section 106 agreements.
- 5.2. The table below summarises the specific Section 106 agreements and sums that have been identified for the suggested grant allocation of £1.7m, followed by the relevant descriptions:

Planning Number	Site Address	Amount	Type of obligation
DC/00/46436	Former Thames Waterworks site, SE8	£76,108.33	Affordable housing
DC/07/67276	Former Catford Dogs Stadium and Station Gateway, SE8	£1,421,496.46	Affordable housing
DC/17/101332	Haulage Yard, Hereford Place	£202,395.21	Affordable housing
	TOTAL	£1,700,000	

The following are the contributions received for affordable housing;

***DC/00/46436 Former Thames Waterworks site, SE8 – s106 Agreement 23<sup>rd</sup> February 2001 which has been varied through various deeds of variation:***

The original s106 defined the Affordable Housing Sum as:

Affordable Housing Sum:

“Means the sum of one million six hundred and seventy thousand pounds (£1,670,000) provided that if the number of habitable rooms comprising the Market Housing Units shall be more than 1207 the Affordable housing contribution shall be calculated in accordance with the formula set out in the second Schedule hereto.”

Affordable housing:

“has the meaning given to it at Policy HSG29 of the Unitary Development Plan

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adopted by the Council with effected from 26 July 1996.”

It is clear that the housing being proposed in this case would be social housing which would fall within the definition of affordable housing which existed at the time.

In Schedule 16, the s106 also obliges the Council to ‘apply the Affordable Housing Contributions for purposes which in the Council’s exclusive opinion lead to the provision of Affordable Housing within the Borough of Lewisham’ and as such using the monies for the provision of affordable housing units at The Bear meets the requirements of the S106.

In addition to the Affordable Housing sum secured in the original S106 agreement, some of the deeds of variations to that agreement secured additional affordable housing contributions. This comes to a total of £3,647,563.55, has been received in affordable housing contributions over the duration of the development’s construction. Of that amount £2,804,595.42 has been spent on affordable housing projects and £762,388.50 has been allocated to other affordable housing projects. Of the remaining £80,579.63. Of this £76,108.33 will be used on this project leaving the balance at £4,471.30.

***DC/07/67276 Former Catford Dogs Stadium and Station Gateway, SE8 relating to DC/13/84744 and DC/13/84895.***

The original S106 dated 30<sup>th</sup> January 2009 has been amended by five deeds of variation provides:-

the definition of affordable housing

“residential accommodation where the rent of price is reduced directly or indirectly by means of public or private subsidies such that it can be afforded by persons or families on low incomes or in low paid employment”

Schedule 6 states that the Council shall use the Affordable Housing Contribution towards the provision of offsite affordable housing within the London Borough of Lewisham provided always that the Council:

“2.1 in complying with this paragraph 2 shall be entitled to amalgamate the Affordable Housing contribution with other funds it may allocate or secure for the purpose of providing Affordable Housing (whether through planning obligations or by other means); and

2.2 shall be entitled to refrain from complying with the Paragraph 2 until such time as the Council has (in its exclusive opinion) secured sufficient funding to enable it to use the Affordable Housing Contributions towards the provision of Affordable Housing within the London Borough of Lewisham.”

Over the duration of the development £6,520,550 has been received in affordable housing payments; of which £726,173.38 has been spent; £4,372,880.16 has been allocated to affordable housing projects leaving £1,421,496.46. All of this amount will be used for this project leaving a balance of £0.

***DC/17/101332 Haulage Yard Hereford Place, SE4 – s106 Agreement 28 March 2019.***

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The s106 obligated the developer to pay an affordable housing contribution of £200,000 and states in Schedule 3 part 3 that:

“The Council covenants to use the 31 Affordable Housing Contribution for Affordable Housing Purposes.”

The definition of which is set out below along with the definition of affordable housing: Affordable Housing Contribution

“Means the sum of £200,000 (two hundred thousand pounds) together with such other additional amount as may be agreed by the parties to this deed or as it determined by the parties to this deed or as is determined by the Independent Person pursuant to the provision of Schedule 4 in this deed.

Affordable Housing

“Means social rented, affordable rented and intermediate housing provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provision to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.”

On 27<sup>th</sup> November 2020, the whole affordable housing contribution (£202,395.21) was received by the Council. This scheme proposes to use the entire sum, leaving the balance at £0.00.

## **6. Risks and Mitigations**

- 6.1. J49 are now waiting on the outcome of their application to become a Registered Provider. All funding is subject to J49’s successful application to become a Registered Provider.
- 6.2. Further risks and mitigations are detailed in the Part 2 report.

## **7. Financial implications**

- 7.1. This report recommends that the Mayor and Cabinet, subject to J49’s successful application to become a Registered Provider, approves an allocation of Section 106 contributions to provide affordable housing delivery at the Shaftesbury Christian Centre site, Deptford.
- 7.2. Further financial implications are detailed in the Part 2 report.

## **8. Legal implications**

- 8.1. The Council is legally required to apply the contributions received by it in accordance with the terms of the particular Section 106 Agreement under which the contribution was received and should it not do so may be required to repay the money. The agreements listed enable the contributions to be spent on delivering affordable housing in accordance with the definitions of that term contained with the individual agreement. The housing to be provided as set out in this report would fall within each of those definitions as affordable housing.
- 8.2. If money is to be paid in advance of works being completed, an appropriate funding agreement needs to be entered into with the Council, so as to ensure that the money is applied for the purposes approved and falling within the purposes set out in the S106. This report therefore delegates authority to Executive Director of Housing, Regeneration and Public Realm, in consultation with the Director of Law, Governance

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and HR, to negotiate the terms of the funding agreement with J49 and to enter into it.

- 8.3. The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.4. In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.

The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

- 8.5. The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- The essential guide to the public sector equality duty
  - Meeting the equality duty in policy and decision-making
  - Engagement and the equality duty
  - Equality objectives and the equality duty
  - Equality information and the equality duty
- 8.6. The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>
- 8.7 Further legal implications are detailed in the Part 2 report.

## 9. Equalities implications

- 9.1. There are no equalities implications arising directly from the recommendations set out in this report. However, the additional funding would increase the number of social

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rent homes in the borough to enable more households on low incomes to access secure and safe accommodation, which would have positive equalities implications.

- 9.2. It should be noted that the Council is committed to ensuring developments are inclusive and feature accessible and adaptable homes that would meet the needs of our residents throughout their life.

## **10. Climate change and environmental implications**

- 10.1. Environmental issues are at the heart of the planning process. Although s106 monies do not have to be spent on environmental projects due regard has been given to making sure that this development meets or exceeds all climate change and environmental policy requirements.
- 10.2. Information on the environmental impact is included in the Sustainability Statement as part of the planning application.
- 10.3. Existing planning consents are and will be in line with the high standards expected by Lewisham Council and the GLA. Developments will meet or exceed guidance including seeking to reduce energy consumption, emissions, and climate change.
- 10.4. This development will reduce the CO2 emissions of the previous building by 40% by eliminating the use of gas and installing ground source heating across the building, and installing rooftop PV solar panels.
- 10.5. Every effort will be made to enhance the natural environment, enhance landscape and amenity space including existing and proposed public realm in and around developments. This will include undertaking demolition and construction works in line with environmental protection and public health guidelines and seek to limit the impact on neighbours. The new homes have been designed to improve energy performance, reduce CO2 emissions and be water efficient.

## **11. Crime and disorder implications**

- 11.1. There are no crime and disorder issues arising specifically from this report

## **12. Health and wellbeing implications**

- 12.1. There are no direct health and wellbeing implications arising from this report although the provision of new social homes would have a positive impact on health and wellbeing of people on the housing register waiting for permanent accommodation.
- 12.2. J49 along with the Deptford Ragged Trust is uniquely placed to extend its social programme which will enable communities to survive and thrive.
- 12.3. The new facilities, and the J49 managed housing provision will make an impact on all ages and lives of the whole community in Deptford and beyond. In particular, with the new housing option it will create an inspirational youth focus to enable young people to feel connected, informed and safe, reduce isolation, inequality and poverty and Increase mental wellbeing and personal resilience.

## **13. Report author and contact**

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## **14. Comments for and on behalf of the Executive Director for Corporate Resources**

- 14.1. Peter Allery - Group Finance Manager  
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## 15. Comments for and on behalf of the Director of Law, Governance and HR

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