

	<p align="center"><b>ACTION TAKEN UNDER DELEGATED POWERS BY CHIEF OFFICER</b> <b>18 July 2016</b></p>
<p align="center"><b>Title</b></p>	<p><b>Granville Road Estate – Section 106 Agreement</b></p>
<p align="center"><b>Report of</b></p>	<p>Chief Executive</p>
<p align="center"><b>Wards</b></p>	<p>Childs Hill</p>
<p align="center"><b>Status</b></p>	<p>Public</p>
<p align="center"><b>Enclosures</b></p>	<p>Appendix 1 – Draft S106 Agreement</p>
<p align="center"><b>Officer Contact Details</b></p>	<p>Adam Driscoll, Commissioning Lead – Planning  <a href="mailto:Adam.driscoll@barnet.gov.uk">Adam.driscoll@barnet.gov.uk</a>                  020 8359 4922</p> <p>Harriet Beattie, Principal Planning Officer.  <a href="mailto:Harriet.Beattie@barnet.gov.uk">Harriet.Beattie@barnet.gov.uk</a>                  020 8359 7131</p>

<h2>Summary</h2>
<p>The report authorises the putting in place of planning obligations that are required to be taken into account by the planning inspector when deciding whether to uphold or dismiss the appeal against the refusal of planning permission for the Granville Road Estate scheme F/04474/14 15/01195/AREF APP/N5090/W/15/3132049 (“the Appeal”)</p>

<h2>Decisions</h2>
<p><b>1. Approve the enclosed S106 Agreement for sealing.</b></p>

## 1. WHY THIS REPORT IS NEEDED

- 1.1 On 25<sup>th</sup> February 2015 members of the planning committee resolved to refuse to grant planning permission for a proposed development at Granville Road Estate comprising the *'demolition of Beech Court, existing garages and other ancillary buildings and the erection of new buildings (including an extension to Nant Court) between two and six storeys in height (with additional basement levels in places) to provide 132 new dwellings in total (all use class C3), comprising 74 flats and 58 houses, together with associated reconfiguration of the site access arrangements and alterations to parking, landscaping, refuse, recycling and other storage facilities and the provision of new play and communal amenity space.(AMENDED PLANS AND ADDITIONAL INFORMATION)'* under reference F/04474/14
- 1.2 The Developer/Appellant appealed the merits of the refusal and the appeal was heard by public inquiry from 28th June to 5th July 2016
- 1.3 The Appeals Procedure Guide (PINS, 2016) requires that if planning obligations are required to be taken into account by an inspector that they are required to be submitted to the Planning Inspectorate before the Inquiry closes or on a later date as directed by the Inspector
- 1.4 The inspector directed that the Developer/Appellant and the LPA submit an executed s106 instrument to him on or before 18th July 2016

## **2. REASONS FOR DECISIONS**

- 2.1 The putting in place of the proposed planning obligations is necessary to make the Development acceptable in planning terms in the event that the appeal is upheld by the Planning Inspectorate

## **3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

- 3.1 No planning obligations – if there were no planning obligations in place then the Council would be unable to secure the delivery of affordable housing, environmental and public realm improvements, highway works, local employment and training schemes, improvements to Childs Hill Park, and amendments to local traffic management schemes to control parking within the vicinity of the Development should the inspector be minded to uphold the appeal. The cost of delivery of the infrastructure would need to be met from other sources.
- 3.2 Use of planning conditions – although it is possible to condition a grant of permission to provide for the delivery of affordable housing on site, conditions may not be used to secure the payment of financial contributions to deliver the other items referred to in 3.1 above.

## **4. POST DECISION IMPLEMENTATION**

- 4.1 The planning obligations on the part of the Developer/Appellant only apply in so far as the Planning Inspectorate directs that they should do so in the grant of permission under the Appeal. If any obligation set out in the instrument is not directed to be a condition of the grant of permission by the Planning

Inspectorate, then the same is deemed to be discharged (Clause 12.3, page 28)

4.2 The obligations directed to be a condition of the grant of permission will be protected as a local land charge (clause 18, page 30)

4.3 Although the Developer/Appellant does not currently hold a legal interest in the Granville Road Estate the instrument provides for it to enter into a confirmatory deed upon acquiring a legal interest in order to bind that interest to the obligations contained in the Deed (clause 20, page 30)

## **5. IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

5.1.1 The decision to authorise the putting in place of the s106 instrument supports the Council's *responsible growth and regeneration (Opportunity)* priority by *revitalising communities, providing new affordable homes through regeneration schemes and jobs, while protecting the things residents love – and for the council, generating more money to spend on local services (Corporate Plan 2015-2020 0 2016/17 addendum and targets)*

### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 The Developer/Appellant will pay all of the LPA costs associated with the production and completion of the S106 instrument.

### **5.3 Legal and Constitutional References**

5.3.1 The Chief Executive is authorised to take any action necessary to ensure the delivery of the Council's key strategies (*Annex B, Article 15 - Scheme of delegated authority to officers (December 2015)*)

5.3.2 The planning obligation instrument is required to be dated and executed by all parties to it in order for it to be enforceable under s106 *Town and Country Planning Act 1990 (as amended)*

#### 5.4 **Risk Management**

5.4.1 Officers have provided the Inspector with supporting evidence to enable him to determine that the proposed financial obligations (for infrastructure and monitoring etc.) and other non-financial obligations are justified to be paid by the Developer and are lawful in terms of meeting the *CIL Regulation 122* tests

#### 5.5 **Equalities and Diversity**

5.5.1 Section 149 of the Equality Act 2010 ("the Act") imposes important duties on the Council in the exercise of its functions including a duty to have regard to the need to *eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

5.5.2 Officers have in considering the planning obligation instrument and preparing this report had regard to the requirements of section 149 and have

concluded that a decision to authorise the putting in place of the proposed planning obligations instrument would comply with the Council's statutory duties under this legislation

5.5.3 It is considered by officers that the proposed obligations do not conflict with the Council's Equalities Policy or the commitments set out in the Council's Equality Scheme and support the Council in meeting its statutory equality responsibilities

## 5.6 Consultation and Engagement

Not relevant.

## 6. BACKGROUND PAPERS

[HTTP://BARNET.MODERNGOV.CO.UK/DOCUMENTS/S21390/GRANVILLE ROAD ESTATE GRANVILLE ROAD CHILDS HILL LONDON NW2 2LD.PDF](http://barnet.moderngov.co.uk/documents/s21390/granville_road_estate_granville_road_childs_hill_london_nw2_2ld.pdf)

[https://publicaccess.barnet.gov.uk/online-applications/files/7E1BB94C060B61CBD8DCA2BFA04BBCBE/pdf/F\\_04474\\_14-DN\\_REFUSE\\_FUL-3024759.pdf](https://publicaccess.barnet.gov.uk/online-applications/files/7E1BB94C060B61CBD8DCA2BFA04BBCBE/pdf/F_04474_14-DN_REFUSE_FUL-3024759.pdf)

## 7. DECISION TAKER'S STATEMENT

7.1 *I have the required powers to make the decision documented in this report. I am responsible for the report's content and am satisfied that the issues involved in this report do not raise significant levels of public concern or comment or give rise to any policy considerations and that I do not need to seek the view of the Chairman of the Planning Committee. I am satisfied that all relevant advice has been sought in the preparation of this report and that it is compliant with the decision making framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and legal issues including Equalities obligations.*

## 8. CHIEF OFFICER'S DECISION

**I authorise the following action**

8.1 Signing and sealing of the enclosed S106 Agreement.

**Signed**                    Chief Executive

**Date**                      18 July 2016