

**Decision Maker:**        **DEVELOPMENT CONTROL COMMITTEE**

**Date:**                    6 June 2024

**Decision Type:**        Non-Urgent                    Non-Executive                    Non-Key

**Title:**                    **CRYSTAL PALACE SHADOW SECTION 106 AGREEMENT**

**Contact Officer:**        Greg Ullman  
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**Chief Officer:**         Director of Corporate Services

**Ward:**                    Crystal Palace and Anerley

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1.    Reason for decision/report and options

- 1.1   The report sets out an issue that has arisen in connection with the Application Stage Gross Development Value (GDV) that will be used for the section 106 agreement to be completed for the Crystal Palace regeneration planning permission.
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2.    **RECOMMENDATION(S)**

**That Members note the Rockhills Application Stage GDV to be used for the purposes of section 106 agreement that is to be finalised in respect of application 20/00325/OUT is £55,037,400.**

Impact on Vulnerable Adults and Children

1. Summary of Impact: None
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Transformation Policy

1. Policy Status: Not Applicable
  2. Making Bromley Even Better Priority:  
For people to make their homes in Bromley and for business, enterprise and the third sector to prosper.  
For residents to live responsibly and prosper in a safe, clean and green environment great for today and a sustainable future
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Financial

1. Cost of proposal: No Cost
  2. Ongoing costs: Not applicable
  3. Budget head/performance centre: Planning
  4. Total current budget for this head: £
  5. Source of funding: Existing Budget
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Personnel

1. Number of staff (*current and additional*): 90
  2. If from existing staff resources, number of staff hours:
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Legal

1. Legal Requirement: Statutory Requirement
  2. Call-in: Not applicable
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Procurement

1. Summary of Procurement Implications: None
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Property

1. Summary of Property Implications: None
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Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: None
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Impact on the Local Economy

1. Summary of Local Economy Implications: None
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Impact on Health and Wellbeing

1. Summary of Health and Wellbeing Implications: None
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Customer Impact

1. Estimated number of users or customers (*current and projected*): Unknown
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments: To be verbally updated

### **3. COMMENTARY**

- 3.1 Planning permission has been issued by the Council under reference 20/00325/OUT for the comprehensive phased redevelopment of Crystal Palace Park. Part of the redevelopment will involve the sale of two sections of the park, the Rockhills site and the Sydenham Villas site for residential development, the sale proceeds of which will provide funding for restoration works for the park itself. It was agreed that 24 dwellings would be provided as London Affordable and/or Social Rented Housing. It was also agreed that the sites would follow a “Viability Tested Route” and be subject to viability scrutiny and late and early review mechanisms.
- 3.2 The Council normally secures affordable housing under an agreement made pursuant to section 106 of the Town and Country Planning Act 1990. However, the Park at the date of the permission, was owned by the Council and there is a doubt as to whether the Council as planning authority can enter a section 106 with itself as landowner. To address this issue, a “shadow section 106 agreement” was instead finalised. A shadow section 106 is a document that sets out the planning obligations that need to be achieved. The shadow section 106 agreement is not a concluded agreement but to ensure it is given weight in the planning process was considered by the Executive on 29th June 2022.
- 3.3 The Executive resolved to note the terms of the shadow section 106 agreement and confirmed that in respect of any section of Crystal Palace Park to be sold or leased, that no development shall be progressed on the relevant land until such time as the purchaser or lessee has entered into a section 106 agreement with the Council, incorporating the obligations from the shadow section 106 agreement that are relevant to the part of the site.
- 3.4 The residential areas are shortly due to be marketed and a section 106 agreement in will in the future be concluded for the Rockhills and Sydenham Villas areas. The Council’s Viability Consultants have now advised that the Rockhills Application Stage GDV mentioned in the Shadow section 106 agreement should have been £55,037,400 and that this can be verified by reference to viability appraisal submitted with the application.
- 3.5 Those responsible for the marketing have asked if the correct figure of £55,037,400 can be noted by the planning authority. Confirmation has also been sought that Formula 3 of the Mayor of London “Homes for Londoners Affordable Housing and Viability SPD 2017” shall be used for the Late Stage Review Contribution, which is agreed.

### **4. LEGAL IMPLICATIONS**

- 4.1 The shadow section 106 agreement has not been completed and as such there no agreement that requires formal rectification or amendment. The planning permission reference 20/00325/OUT contains references to the shadow section 106 agreement which will need to be left on the public register in its published form. At this stage it can be noted, however, that the corrected figure for the Rockhills Application Stage GDV will be used when the section 106 agreement is negotiated with the future owners of the Rockhills site.

### **5. WARD COUNCILLOR VIEWS**

- 5.1 Any ward councillor comments will be reported verbally.

<b>Non-Applicable Headings:</b>	Impact On Vulnerable Adults and Children, Transformation/Policy Implications, Financial Implications, Personnel Implications, Procurement Implications, Property Implications, Carbon Reduction/Social Value Implications, Impact On The Local Economy, Impact On Health and Wellbeing, Customer Impact
Background Documents: (Access via Contact Officer)	Planning Permission 20/00325/OUT and Shadow Section 106 agreement