

FDS - balance of payments/receipts

NHHT is carrying out the Above and Below Ground Demolition but the Council is paying for these at the current estimated costs of £16.8m and £3.4m respectively (GT6;para 30).

NHHT will eventually reimburse the Council the cost of Below Ground Demolition, but is entitled to first deduct any costs associated with the fact that demolition has had to commence without vacant possession. (the extra costs associated with working around the remaining leaseholders):

- 8.2 The Developer shall be entitled to deduct from any reimbursement to be made to the Council pursuant to paragraph 8.1 of this Part 3 of Schedule 10 the Developer's reasonable assessment of the additional costs incurred in connection with the First Development Site Demolition which are attributable to the fact that the Vacant Possession Condition was not satisfied for the whole of First Development Site before the First Development Site Demolition commenced (and in the event of any dispute between the parties as to the deduction either party can refer to a Specialist appointed pursuant to clause 14)

Extract from the 2nd Deed of Variation (!not in the bundle!)

The Council is also paying for the service diversions being carried out by NHHT on the FDS (cost unknown) (GT6; para 30) and bearing the entire cost of reproviding the Ellision House APF facility, currently estimated to stand at £6m. This does not include the CPO and acquisition cost of the freehold detached property 140 Albany Road.

16. The implications of these agreements are as follows

Scheme	2016/17	2017/18	2018/19	Total
Plot 18 planning	300,000	1,700,000*		2,000,000
Plot 18 demolition	800,000	0		800,000
FDS demolition	6,700,000	9,100,000	1,000,000	16,800,000
Phase 2 planning	0	2,000,000*		2,000,000
APF planning	500,000	0		500,000
Total	8,300,000	12,800,000	1,000,000	22,100,000

*Payment triggered if scheme not being progressed by NHHT in accordance with the DPA.

In terms of total spend on the regeneration programme it is now as follows:
HRA funded -Phases 1 and 2

Scheme	2016/17	2017/18	2018/19	Total
FDS demolition	6,700,000	9,100,000	1,000,000	16,800,000
APF planning	500,000	0		500,000
Tenant rehousing Phases 1 and 2	1,200,000	1,200,000	100,000	2,500,000
APF build	500,000	2,500,000	2,500,000	5,500,000
Leaseholder	9,100,000	8,300,000	6,700,000	24,100,000

Extract from GT6 (Sep 2016 Cabinet report)

The Council is also responsible for the cost of buying out leaseholders. We don't know how much this was on the FDS but we know that there were 74 leaseholders. If each received an average of £175k compensation then that's a total buy-back cost of circa £15m including the home loss payments and fees.

Meanwhile, the viability statement (SM1) shows that the Council will receive just £17.5m for the FDS land while NHHT is estimated to turn a £26.8m profit on the FDS scheme.

Revenue	FDS Units	FDS Appraisal
Private	365	£126,747,123
Affordable Housing	403	£84,508,174
Market Rent	47	£14,559,884
Carparking	99	£1,485,000
Total Revenue		£227,300,181
Costs		
Acquisition		£17,523,000
Construction		£145,694,204
Prof. Fees & S106		£26,401,120
Marketing & Lettings Fees		£5,128,565
Disposal Fees		inc. above
Finance		£5,724,484
Total Costs		£200,471,373
Profit		£ 26,828,808
Profit on PS GDV%		21%
Note: Profit is 21% of private sales income including car parking		

NHHT may argue that it will reinvest these profits in the Aylesbury i.e. the plot 18 £9m public infrastructure contribution. But we should point out that this £9m contribution goes nowhere near the full cost of the plot 18 public health facilities ([estimated at £35m](#)) which is being borne by the Council.

We should also point out that this £9m contribution is not exclusively in respect of the FDS but of the FDS and outline scheme, which as the viability statement shows is expected to net NHHT a profit of £163.8m.

We should also point out that NHHT would in any case have been liable to pay a £4.15m contribution towards health facilities under the Council's standard S106 contributions tariff:

"Health Contribution (FDS Development)"	(FDS)	The sum of £950,411 (nine hundred and fifty thousand four hundred and eleven pounds) Index Linked to be paid by the Developer to the Council in accordance with paragraph 1 of Schedule 5 and applied by the Council towards the provision of additional health services within the Borough PROVIDED THAT such Health Contribution (FDS Development) is only payable if prior to final Practical Completion of the FDS Development a Health Facility has not already been provided as part of the Outline Development;
"Health Contribution (Outline Development)"	(Outline)	The sum of £3,201,077 (three million two hundred and one thousand and seventy seven pounds) Index Linked to be paid by the Developer to the Council in accordance with paragraph 1 of Schedule 6 and applied by the Council towards the provision of additional health services within the Borough PROVIDED THAT such Health Contribution is only payable in the event that the Health Facility is not Practically Complete on the Outline Development prior to Practical Completion of the FDS;

Extract from section 106 agreement (CD64)

The fact that the £30m GLA grant is now going entirely to NHHT swings the scales even further. NHHT may argue that it is spending the £30m by increasing the affordable housing provision via the S.73 amendments, which raises the number of affordable homes by 120 units. But only 15 of these are social rented homes, the remainder are shared ownership which are net assets to NHHT ([JF57](#)). (£30m funding = 15 social rented homes!)

In terms of the balance of payments, they may argue that the Council receives some of the 'overage' profit, but note that this is just **sales** overage on the FDS and is only triggered once sales prices exceed a given level (confirmed in the viability statement). The 'worked example' in the **unredacted** DPA shows the Council receiving a total of just £3.2m in sales overage for the FDS.

Outline Scheme

As for the outline scheme, there is no fixed land payment - the Council's land payment is the residual value output of the viability assessment, i.e. as soon as the scheme is estimated to be able to cover its costs, providing a protected 21% profit on private units for NHHT and have something left over to pay for the land then this 'positive land value' - be it £1 - will be the payment received for the land.

The Council has a sales and development overage agreement for the outline scheme. Again these are dependent on the scheme outperforming certain trigger values - it is a share of surplus profit if there is any, not overall profit.