



**Notice of a public meeting of  
Corporate Services, Climate Change and Scrutiny Management  
Committee (Calling In)**

- To:** Councillors Fenton (Chair), Merrett (Vice-Chair), Ayre, B Burton, Coles, Crawshaw, Healey, Melly, Rose, Rowley, Waller, Widdowson and Whitcroft
- Date:** Monday, 12 August 2024
- Time:** 5.30 pm
- Venue:** West Offices - Station Rise, York YO1 6GA

**AGENDA**

- 1. Declarations of Interest** (Pages 1 - 2)  
At this point in the meeting, Members and co-opted members are asked to declare any disclosable pecuniary interest, or other registerable interest, they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

[Please see attached sheet for further guidance for Members]

- 2. Exclusion of Press and Public**  
To consider excluding the public and press from the meeting during consideration of Annex G to the Update on the Housing Delivery Programme and the Disposal of Surplus Sites report, on the grounds that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information).

This information is classed as exempt under Paragraph 2 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order 2006.

- 3. Minutes** (Pages 3 - 6)  
To approve and sign the minutes of the meeting held on 03 June 2024.

- 4. Public Participation**  
At this point in the meeting members of the public who have registered to speak can do so. Members of the public may speak on agenda items or on matters within the remit of the committee.

**Please note that our registration deadlines have changed to 2 working days before the meeting, in order to facilitate the management of public participation at our meetings. The deadline for registering at this meeting is 5:00pm on Thursday 8 August 2024.**

To register to speak please visit [www.york.gov.uk/AttendCouncilMeetings](http://www.york.gov.uk/AttendCouncilMeetings) to fill in an online registration form. If you have any questions about the registration form or the meeting, please contact Democratic Services. Contact details can be found at the foot of this agenda.

### **Webcasting of Public Meetings**

Please note that, subject to available resources, this meeting will be webcast including any registered public speakers who have given their permission. The meeting can be viewed live and on demand at [www.york.gov.uk/webcasts](http://www.york.gov.uk/webcasts).

During coronavirus, we've made some changes to how we're running council meetings. See our coronavirus updates ([www.york.gov.uk/COVIDDemocracy](http://www.york.gov.uk/COVIDDemocracy)) for more information on meetings and decisions.

- 5. Called-in Item: Update on the Housing Delivery Programme and the Disposal of Surplus Sites** (Pages 7 - 52)  
This report outlines the reasons for the call-in of the decision made by the Executive on 18 July 2024, in respect of the Update on the Housing Delivery Programme and the Disposal of Surplus Sites.

The report also sets out the powers and role of the Corporate Services, Climate Change and Scrutiny Management Committee (Calling-In) in dealing with the call-in.

**6. Urgent Business**

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Jane Meller

Telephone: 01904 555209

E-mail: jane.meller@york.gov.uk

For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

## Alternative formats

If you require this document in an alternative language or format (e.g. large print, braille, Audio, BSL or Easy Read) you can:



Email us at: [cycaccessteam@york.gov.uk](mailto:cycaccessteam@york.gov.uk)



Call us: **01904 551550** and customer services will pass your request onto the Access Team.



Use our BSL Video Relay Service:  
[www.york.gov.uk/BSLInterpretingService](http://www.york.gov.uk/BSLInterpretingService)



Select 'Switchboard' from the menu.



**We can also translate into the following languages:**

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

### Declarations of Interest – guidance for Members

- (1) Members must consider their interests, and act according to the following:

Type of Interest	You must
Disclosable Pecuniary Interests	Disclose the interest, not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Directly Related) <b>OR</b> Non-Registrable Interests (Directly Related)	Disclose the interest; speak on the item <u>only if</u> the public are also allowed to speak, but otherwise not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Affects) <b>OR</b> Non-Registrable Interests (Affects)	Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being: (a) to a greater extent than it affects the financial interest or well-being of a majority of inhabitants of the affected ward; and (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest. In which case, speak on the item <u>only if</u> the public are also allowed to speak, but otherwise do not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.

- (2) Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.
- (3) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations,

and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.

City Of York Council

Committee Minutes

---

Meeting	Corporate Services, Climate Change and Scrutiny Management Committee (Calling In)
Date	3 June 2024
Present	Councillors Fenton (Chair), Merrett (Vice-Chair), Ayre, B Burton, Crawshaw, Melly, Nelson, Rowley, Waller, Orrell (Substitute for Cllr Widdowson), Wann (Substitute for Cllr Healey), J Burton (Substitute for Cllr Coles) and Whitcroft
Apologies	Councillors Coles, Healey and Widdowson
In Attendance	Cllr Lomas, Executive Member
Officers Present	Claire Foale, Assistant Director, Policy and Strategy Lindsay Tomlinson, Head of Democratic Governance and Deputy Monitoring Officer

---

### 1. **Declarations of Interest (5:32 pm)**

At this point in the meeting, Members and co-opted members are asked to declare any disclosable pecuniary interest, or other registerable interest, they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests.

Cllr Merrett noted that he was a member of the York Bus Forum and also the Enhanced Partnership for Buses Forum, however, he did not consider this to be prejudicial to the meeting.

### 2. **Exclusion of Press and Public (5:32 pm)**

The Chair noted that should Members wish to discuss the contents of Annex B to the report, the meeting would need to move into private session.

### 3. **Minutes (4:33 pm)**

Resolved:

- i. That the minutes of the meeting held on 11 March 2024 be approved as a correct record.
- ii. That the minutes of the meeting held on 07 May 2024 be approved as a correct record, subject to an amendment as follows:

‘The Chair opened the meeting by stating that he had been advised by officers that new information had come to light which meant that the Executive Decision, taken on 18 April 2024, would no longer be implemented.

Officers reported that the information was unrelated to the call-in and an urgent report would be presented to the Executive meeting on Thursday 9 May...’

#### **4. Public Participation (5:35 pm)**

It was reported that there had been no registrations to speak at the meeting under the Council’s Public Participation Scheme.

#### **5. Called-in Item: Advertising Contract (5:35 pm)**

Members considered a report which set out the reasons for the call-in of the decisions made by the Executive on 9 May 2024 in respect of the above matter, along with the committee’s remit and powers in relation to the call-in.

The decisions were contained in the extract from the relevant Decision Sheet at Appendix 1 to the report. The original report and associated annexes A and B were attached at Appendix 2. The decisions has been called in by Cllrs Smalley, Hollyer and Knight for the following reasons:

- *The report did not set out the difficulties that previous applicants that have applied for free standing digital advertising boards have had in getting their applications approved by the planning department. Therefore, the level of additional advertising revenue that would be achieved in this circumstance was not taken account for when this decision was made.*
- *No consideration for the reputational risk of the City of York Council and it’s relationship with key stakeholders in the city (such as manufacturing and tourism stakeholders).*



- *No consultation has taken place with the public with that they would like to see be included in a long-term contract to deliver bus shelters in York; including no commitment to replace glass panels with plexiglass, increase the frequency of graffiti removal. No joined up approach with Parish Councils that have responsibility for some other bus shelters.*

The Lead Call-in Member, Cllr Smalley, addressed the committee and expanding on their reasons for the call-in. There were no questions from Members.

The Executive Member for Finance and Major Projects then addressed the committee regarding the decision and responded to questions. The Officer responsible for the report to Executive spoke to clarify aspects of their report and to answer questions.

[6.22 -6.24 pm, Cllr Nelson left the meeting.]

Finally, Cllr Smalley summed up on behalf of the Calling-in Members and the Executive Member summed up the Executive position.

During the above process it was confirmed that the detailed specification for the bus shelters / advertising boards had not been decided; Members were welcome to provide input into the process. Parish Councils had not been consulted and any digital advertising was subject to the relevant planning permission.

Under the provisions of the council's constitution at the time the call-in was made, Members were asked to state individually whether they considered the core principles identified in the call-in request (Appendix 3) had been breached or not. The following options were available:

- In the event of the majority of Members finding no breach, the call-in request would be immediately closed with no further action unless the Committee identified any areas worthy of future exploration by the scrutiny function.
- In the event of the majority of Members finding a breach, the called in decision would be referred back in full for further consideration at the next appropriate meeting of the Executive.

With five Members finding there had been a breach, and eight Members finding there had not been a breach, the call-in fell and it was:

Resolved: That the call-in request be closed.

Reason: To determine the outcome of the alleged breach in Executive decision making.

Cllr S Fenton, Chair

[The meeting started at 5.31 pm and finished at 6.54 pm].



---

**Corporate Services, Climate Change and  
Scrutiny Management Committee (Calling In)****12 August 2024**

Report of the Director of Governance

**Called-in Item: Update on the Housing Delivery Programme and the  
Disposal of Surplus Sites****Summary**

1. This report sets out the reasons for the call-in of the decision made by the Executive on 18 July 2024 in respect of the Update on the Housing Delivery Programme and the Disposal of Surplus Sites. The report also sets out the powers and role of the Corporate Services and Climate Change Scrutiny Management Committee (Calling-In) in dealing with the call-in.

**Background**

2. An extract from the Decision Sheet published after the Executive meeting of 18 July 2024 is attached as Appendix 1 to this report. This sets out the decisions taken on the called-in item. The original report to the Executive, together with its annexes, is attached at Appendix 2.
3. The decisions have been called in for review by the Corporate Services and Climate Change Scrutiny Management Committee (Calling-In) by Cllrs Ayre, Smalley and Knight, in accordance with the Constitutional requirements, and based on the detailed reasoning set out in Appendix 3 attached.

**Consultation**

4. In accordance with the requirements of the Constitution, the calling-in Members have been invited to attend and/or speak at the calling-in meeting, as appropriate, together with relevant Executive Member(s) and Officer(s).

**Options**

5. The Committee must follow the practice for dealing with called in business set out in the Scrutiny Procedure Rules in Appendix 5 of the

Constitution. After debate and all contributions have been heard, the Chair will invite each Member of the Committee to state whether they consider the core principles identified in the call-in request (Appendix 3) have been breached or not.

6. In the event of a majority of Members finding no breach, the call-in request will be immediately closed with no further action unless the Committee identifies any areas worthy of future exploration by the scrutiny function.
7. In the event of a majority of Members finding a breach, the called in decision will be referred back in full for further consideration at the next appropriate meeting of the Executive.

### **Analysis**

8. Members need to consider any breach specifically identified in the call-in request in relation to the original report to the Executive and the consequential decision made. As stated in the options identified above, the Chair will then guide the Committee on the constitutional requirements for handling the meeting and culminating in the Committee determining its position on any breaches.

### **Council Plan**

9. Any implications associated with the delivery of Council priorities for 2023-2027 are addressed in the original report to the Executive set out in Appendix 2.

### **Implications**

10. There are no known Financial, HR, Legal, Property, Equalities, or Crime and Disorder implications in relation to handling the call-in of the issue under consideration.

### **Risk Management**

11. There are no risk management implications associated with the call-in of this matter.

### **Recommendations**

12. Members' views are sought on the call-in request and specific breaches identified in Appendix 3.

13. Members should note the decision of the Monitoring Officer at Appendix A, that only part 4c of the call-in request is determined to be valid and may therefore proceed.

Reason: To enable the called-in matter to be dealt with efficiently and in accordance with the requirements of the Council's Constitution.

### Contact Details

**Author:**

Lindsay Tomlinson  
Head of Democratic  
Governance

[lindsay.tomlinson@york.gov.uk](mailto:lindsay.tomlinson@york.gov.uk)

**Chief Officer Responsible for the report:**

Bryn Roberts  
Director of Governance  
Tel: 01904 555385

Report Approved



Date: 29/07/2024

**Wards Affected:** All

**For further information please contact the author of the report**

### Annexes

**Appendix 1** – Extract from the Decision Sheet produced following the Executive Meeting on 18 July 2024, setting out the decisions made on the called-in item.

**Appendix 2** – Report and annexes B and G of the Director of Housing and Communities and the Director of Finance to the Executive Meeting on 18 July 2024, Update on the Housing Delivery Programme and the Disposal of Surplus Sites.

**Appendix 3** – Call in Request from Councillors Ayre, Smalley and Knight.

This page is intentionally left blank

**EXTRACT****Executive****Thursday, 18 July 2024****Decisions**

Set out below is a summary of the decisions taken at the Executive meeting held on Thursday, 18 July 2024. The wording used does not necessarily reflect the actual wording that will appear in the minutes.

Members are reminded that, should they wish to call in a decision, notice must be given to Democracy Services no later than 4pm on 25 July 2024.

If you have any queries about any matters referred to in this decision sheet please contact Robert Flintoft.

**15. Update on the Housing Delivery Programme including making strategic use of land assets**

Resolved:

Lowfield Green Plot B

- i. Agreed to dispose of the Lowfield Plot B site, by freehold transfer or grant of a long lease, to a Registered Provider for the delivery of age-appropriate affordable housing for residents aged over 55;
- ii. Delegated authority to the Director of Housing and Communities in consultation with the Executive Member for Housing, Planning and Safer Communities and Executive Member for Finance, Performance, Major Projects, Human Rights, Equality and Inclusion to agree the final weighting of the criteria for the disposal of the Lowfield Plot B site.
- iii. Approved the carrying out of a procurement process to procure a Registered Provider to deliver the Lowfield Plot B scheme and to delegate to the Director of Housing and Communities (in consultation with the Head of Procurement and the Director of Governance) the authority to take such steps as are necessary to procure, award and enter into the resulting contract(s).

## Castle Mills

- iv. Noted the interest from the Registered Provider in developing the Castle Mills site for 100% affordable housing and agree to enter a Memorandum of Understanding to grant them an exclusivity over the site for a 4-month period to allow them to undertake further feasibility work with the aim of disposing of the site for affordable housing.

## Former Morrell House site

- v. Agreed to dispose of the site, by freehold transfer or grant of a long lease, to a Registered Provider for the delivery of 100% affordable housing schemes;
- vi. Delegated authority to the Director of Housing and Communities (in consultation the Director of Governance) to agree the terms of the disposal and enter into the resulting agreement(s).

## Procuring an operator to provide benefits for residents of Marjorie Waite Court and the surrounding community

- vii. Approved the procurement of an operator to provide facilities (including, but not limited to, catering, communal dining, a beauty salon and a community hall) at Marjorie Waite Court under a concession contract, along with a lease, for a term of up to 10 years with break and/or extension points at reasonable intervals within that term and delegate to the Director of Housing and Communities (in consultation with the Director of Governance and the Head of Procurement or their delegated officers) the authority to take such measures as are necessary to determine the terms of the arrangements and to procure, award and enter into the resulting contract and lease.

## Disposal of Assets Considered Surplus and not Suitable for Affordable Housing Delivery

- viii. Agreed to dispose of the freehold interest in 22 The Avenue and delegate authority to the Director of Finance (in



- consultation with the Director of Governance) to agree the terms of the disposal and enter into the resulting agreement;
- ix. Agreed to dispose of a 999-year leasehold interest in the 5 No 1 bed flats and communal areas serving such, at Shambles and delegated authority to the Director of Finance (in consultation with the Director of Governance) to agree the terms of the disposal and enter into the resulting agreement;
  - x. Agreed to release the development obligations and overage provisions currently contained within the existing Development Agreement at Hungate, in respect of the site previously sold to Hungate (York) Regeneration Limited, in consideration of a capital premium as detailed in the Confidential Appendix and delegated authority to the Director of Finance (in consultation with the Director of Governance) to agree the terms of the disposal and enter into the resulting agreement.

Reason: To review the Housing Delivery Programme and approve the use of strategic land assets.

This page is intentionally left blank



<b>Meeting:</b>	Executive
<b>Meeting date:</b>	18 July 2024
<b>Report of:</b>	Director of Housing and Communities and Director of Finance
<b>Portfolio of:</b>	Executive Member for Housing, Planning and Safer Communities Executive Member for Finance, Performance, Major Projects, Human Rights, Equality & Inclusion

## **Decision Report: – Update on the Housing Delivery Programme and the Disposal of Surplus Sites**

### **Subject of Report**

1. This report provides an update on the Housing Delivery Programme, including an overview of those sites being developed or held for future delivery within the programme. In addition, the report sets out progress on sites to be delivered by other Registered Providers (**RPs**) as well as self and community builders, made possible through Council land disposals.
2. There are other Council assets which are considered not suitable for affordable housing delivery, and these are proposed to be disposed of to maximise capital receipts and therefore support other Council priorities.
3. York has experienced some of the most significant house price inflation in the country over recent years. Alongside this, the demand for and cost of good quality private rented sector housing continues to increase. This is resulting in significant affordability challenges for many of York's residents, creating a growing demand for affordable homes provided by both the City of York Council and our housing association partners. In response, the new Council Plan (2023-27) seeks to accelerate the delivery of high-quality affordable homes in the city. This report presents:

- (i) an update to the opportunities reported to Executive in November 2023 for meeting that ambition through the Housing Delivery Programme, in both developing and facilitating affordable housing provision in the city; and
- (ii) an update and recommendations on property disposals which are considered not to be suitable for the delivery of affordable housing.

4. Specifically, this report seeks decisions in respect of:

- a) disposing of Lowfield Green Plot B to a Registered Provider for 100% affordable housing delivery;
- b) disposing of the former Morrell House site on Burton Stone Lane for 100% affordable housing;
- c) disposing of 22 The Avenue on the open market;
- d) disposing, by way of a 999-year leasehold interest in the 5 No. 1 bed flats at 28 & 45/47 Shambles;
- e) ending the Development Agreement at Hungate in consideration of the capital premium detailed to facilitate the wider development;
- f) to progress ongoing discussions with a Registered Provider to purchase Castle Mills for 100% affordable housing; and
- g) procuring an operator to manage facilities at Marjorie Waite Court, for the benefit of residents and the wider community, including a lease of these facilities for up to 10-years from the date of appointment.

## **Benefits and Challenges**

5. This report seeks to significantly increase the provision of affordable housing across Council owned sites, through disposals to Registered Providers. Increased affordable housing creates significant benefits to our residents, in a city where the average house price is around 11 times the average salary.

6. This report seeks to dispose of some sites to Registered Providers to obtain a capital receipt for the land whilst seeking to achieve the delivery of much needed affordable housing.
7. Where sites are not considered appropriate for affordable housing delivery then the Council has and will seek best value for its assets which are surplus, to aid the Council's ability to deliver other priorities.
8. The report also seeks approval to grant a lease and concessionary operating contract for the community hall, salon, and café facilities at Marjorie Waite Court ("**MWC**") following a procurement exercise for a provider of these services. Flats within MWC and the associated facilities support independence and wellbeing for our residents and provide benefits for the wider community.

## **Policy Basis for Decision**

9. One of the seven priorities outlined in the Council Plan (2023-27) is to increase the supply of good quality affordable housing. The Housing Delivery Programme has a broad agenda around meeting affordable housing need but also tackling issues around mental and physical health and wellbeing, sustainable transport, equality, and climate change. The principles of the programme and recommendations contained within this report are supportive of achieving the objectives set out in the Climate Change, Health and Wellbeing, and Economic Strategies.
10. The development of age-appropriate accommodation at Lowfield Green broadens the housing offer for residents who require additional support to provide housing options that promote independence and equality resulting in a positive impact on health and wellbeing.

## **Financial Strategy Implications**

11. The report has a number of recommendations over the use of surplus Council assets. There is ultimately a trade-off between a number of policy priorities around providing affordable housing as well as getting best value from assets that are disposed of.

12. The report provides a balance of delivering additional housing units for individuals with care needs where that is appropriate, the selling of land to registered providers to support affordable housing as well as market sales at sites which do not fully support those objectives.
13. The Council has identified a saving whereby capital receipts are used to fund transformation and a sum of £800k is required. There are sales in progress that are expected to deliver this target and the proposed disposals outlined in this paper will support the funding of the overall capital programme.
14. Where there are recommendations to sell land to registered affordable housing providers at Lowfield Plot B, Morrell House, and Castle Mills, it is recognised that this will provide a lower capital receipt than could be received with an unrestricted market sale but will provide much-needed additional affordable homes to the city. The reduction in land value for a mixed tenure, affordable housing scheme (including rent and low-cost home ownership) is generally in the region of 50%.

## **Recommendation and Reasons**

Executive are asked to approve the following recommendations:

### **15. Increasing the delivery of affordable homes through land disposals to Registered Provider partners**

#### **Lowfield Green Plot B**

- a) Agree to dispose of the Lowfield Plot B site, by freehold transfer or grant of a long lease, to a Registered Provider for the delivery of age-appropriate affordable housing for residents aged over 55.
- b) Delegate authority to the Director of Housing and Communities in consultation with the Executive Member for Housing, Planning and Safer Communities and Executive Member for Finance, Performance, Major Projects, Human Rights, Equality and Inclusion to agree the final weighting of the criteria for the disposal of the Lowfield Plot B site.

- c) Approve the carrying out of a procurement process to procure a Registered Provider to deliver the Lowfield Plot B scheme and to delegate to the Director of Housing and Communities (in consultation with the Head of Procurement and the Director of Governance) the authority to take such steps as are necessary to procure, award and enter into the resulting contract(s).

### **Castle Mills**

- d) Note the interest from the Registered Provider in developing the Castle Mills site for 100% affordable housing and agree to enter a Memorandum of Understanding to grant them an exclusivity over the site for a 4-month period to allow them to undertake further feasibility work with the aim of disposing of the site for affordable housing.

### **Former Morrell House site**

- e) Agree to dispose of the site, by freehold transfer or grant of a long lease, to a Registered Provider for the delivery of 100% affordable housing schemes.
- f) Delegate authority to the Director of Housing and Communities (in consultation with the Director of Governance) to agree the terms of the disposal and enter into the resulting agreement(s).

## **16. Procuring an operator to provide benefits for residents of Marjorie Waite Court and the surrounding community**

- a) Approve the procurement of an operator to provide facilities (including, but not limited to, catering, communal dining, a beauty salon and a community hall) at Marjorie Waite Court under a concession contract, along with a lease, for a term of up to 10 years with break and/or extension points at reasonable intervals within that term and delegate to the Director of Housing and Communities (in consultation with the Director of Governance and the Head of Procurement or their delegated officers) the authority to take such measures as are necessary to determine the terms of the arrangements and to procure, award and enter into the resulting contract and lease.

17. **Disposal of Assets Considered Surplus and not Suitable for Affordable Housing Delivery**
- a) Agree to dispose of the freehold interest in 22 The Avenue and delegate authority to the Director of Finance (in consultation with the Director of Governance) to agree the terms of the disposal and enter into the resulting agreement.
  - b) Agree to dispose of a 999-year leasehold interest in the 5 No 1 bed flats and communal areas serving such, at Shambles and delegate authority to the Director of Finance (in consultation with the Director of Governance) to agree the terms of the disposal and enter into the resulting agreement.
  - c) Agree to release the development obligations and overage provisions currently contained within the existing Development Agreement at Hungate, in respect of the site previously sold to Hungate (York) Regeneration Limited, in consideration of a capital premium as detailed in the **Confidential Appendix** and delegate authority to the Director of Finance (in consultation with the Director of Governance) to agree the terms of the disposal and enter into the resulting agreement.

## **Background**

### **Affordable Housing Need**

18. Affordable housing demand in York and its subregion is high. In York, the Local Housing Needs Assessment outlines a need for 592 new affordable homes per annum, taking account of current and future projected need. Evidence suggests this should be delivered at both social and affordable rent levels. There is an additional need for affordable home ownership tenures (such as shared ownership). For context, the accumulated number of affordable housing completions in York over the last 5-years is 648. The need to accelerate affordable housing delivery in the city is clear.
19. The most significant opportunity in respect of affordable housing delivery sits with the adoption of a Local Plan. The policies and site allocations within this are anticipated to deliver over 4,000



affordable homes over the next 15-years. It is important that the type, tenure and quality of housing delivered through the local plan meets the needs of our residents.

20. Additional opportunities exist to increase affordable housing delivery alongside the Local Plan. Opportunities exist around increasing the amount of affordable housing developed through the Housing Delivery Programme, disposing of land to Registered Provider partners, and strengthening and building strategic partnerships around land, funding, and shared objectives.
21. Alongside a focus on delivering housing within York, it is important to think beyond administrative boundaries, reflecting that York can benefit from affordable housing provision in the wider subregion. That is why a strong partnership with North Yorkshire Council and Registered Providers is vital alongside exploring opportunities to be realised through the elected mayor. The election of a new mayor for the region presents significant opportunities to explore options for boosting affordable housing deliver. Taken together this can build a more comprehensive approach to meeting the housing need of York’s residents.
22. In the last 4-years, the Council’s Housing Delivery Programme has directly delivered 164 additional affordable homes, of which 56 are new builds and 108 are through acquisitions. Existing projects under construction will deliver a further 67 new affordable homes and a further 12 homes will be delivered through acquisition. Decisions taken in November’s Executive will see a further 140 new affordable homes built at Ordnance Lane and Willow House. As well as adding to affordable housing numbers, this approach will support the Council in maintaining or growing its affordable housing stock, providing income to support the 30-year HRA business plan and the associated investment plans.
23. Below is a table summarising progress against projects delivered within the Housing Delivery Programme:

<b>Project</b>	<b>Total homes</b>	<b>Affordable</b>	<b>% Affordable</b>	<b>Progress</b>
Lowfield Green (Phase 1)	140	56	40%	Complete – 56 affordable homes provided

Burnholme	78	47	60%	Construction underway
Duncombe	34	20	59%	Construction underway
Ordnance Lane*	101	101	100%	Enabling works underway. Planning application submitted
Willow House*	Approx 40	Approx 40	100%	Design work underway
Second-hand Shared Ownership	105	105	100%	96 affordable homes provided
Rough sleepers programme	6	6	100%	Complete – 6 affordable homes provided
Local Authority Housing Fund	9	9	100%	6 affordable homes provided
Total	513	384	75%	

\*construction remains subject to Executive approval of a financial business case

24. The delivery of affordable homes in the city can be accelerated through the disposal of land, where appropriate, to Registered Providers for 100% affordable housing developments. The Council has recently sold land to JRHT to enable affordable housing delivery at Sturdee Grove in Heworth. In addition, we have recently agreed to dispose of land at the former Clifton Without School to Stonewater Housing Association to deliver around 11 affordable homes (subject to planning permission).
25. In November, Executive agreed to dispose of the former 68 Centre and Woolnough House sites for affordable housing. Since then, soft market testing has highlighted interest from a number of Registered Providers in acquiring the land for 100% affordable housing. As such, these sites will be taken to the market this

summer to seek a buyer subject to planning permission. It is anticipated that this will deliver around 20 new affordable homes.

26. The Council has also supported residents to meet their own housing needs through the disposal of land to enable the delivery of self and community build homes. Below is a table summarising the progress of the disposal of sites for affordable, self, and community housing, which have previously been approved by Executive.

<b>Project</b>	<b>Total homes</b>	<b>Progress</b>
Lowfield Self and Community Build	25	6 self builds complete, community housing site sold
Disposal of Sturdee Grove for Affordable Housing	9	Sold and planning permission achieved for 100% affordable housing
Disposal of former Clifton Without School for Affordable Housing	11	Offer accepted for site subject to planning, 100% affordable housing
Disposal of former Tang Hall Library site for community housing	5	Offer accepted from CosyHome who are a group of parents of profoundly disabled young adults who met at Applefields School.
Former 68 Centre	Approx 10	Interest from RP's – progress to disposal for 100% affordable housing
Former Woolnough House	Approx 10	Interest from RP's – progress to disposal for 100% affordable housing
Self-build small sites	3	Offers accepted for three plots of land at Chaloners Road
<b>Total</b>	<b>73</b>	

### **Age-Appropriate Accommodation Needs**

27. The proposals for Lowfield Plot B continue the theme of Lowfield Green being a place that enables all to thrive. This plot sits adjacent to the recently completed village green. The current outline planning approval (Ref 17/02429/OUTM) was granted for a three storey, 80 bed residential care (C2) facility with a ground floor area of approximately 3910sqm.

28. A procurement exercise for a residential care home provider was carried out in summer 2019. Following feedback from potential providers, it was concluded that they did not feel the location was suitable for residential care and would not be able to offer beds back to the Council at actual cost of care rates required, as such the procurement exercise was terminated. Following a consultation exercise with York residents in 2019 and soft market testing with social landlords and developers, Extra Care was identified as a more suitable alternative means to achieve the Council Plan's ambitions for residents' good health and wellbeing in later life.
29. Based on these further insights and positive soft market testing, a revised procurement process was undertaken in 2021 with a view to developing an Extra Care scheme consisting of a minimum of 40 one-and-two-bedroom apartments, offering a minimum of 20% to be social rented properties. The site was offered with a long lease of 125 years and an expected capital receipt of £450k for its disposal. Whilst positive feedback was received prior to going to market, no formal bids were tendered, and the procurement was terminated.
30. Following the procurement exercise, analysis has been undertaken to understand why the procurement failed. Feedback from Registered Providers has been gathered to understand how the sale of the plot could be amended to ensure it was deliverable. The main themes of this feedback were that RPs are more comfortable delivering a 100% affordable scheme with the majority of the homes being for rent with some providers open to delivering Older Persons Shared Ownership. There was also concern expressed that the potential number of homes (between 45-55 apartments) may not be viable for a full Extra Care development and therefore the criteria for disposal should allow more flexibility to include independent/retirement living which would allow residents to arrange their own care packages rather than full time onsite care. Feedback also highlighted that the 125-year lease term was too short. This feedback has been utilised to recommend that this site be disposed of to an RP for 100% affordable housing for age appropriate (over 55-year-old) accommodation. It is believed that this is attractive to the RP market and will meet the city's housing need.

### **Marjorie Waite Court**

31. As part of the redevelopment and extension of Marjorie Waite Court a full commercial kitchen, community hall and a beauty salon were created. In March 2021, the Council's Executive granted approval to procure an operator for these community facilities. Following that procurement, a 5-year lease and concessionary contract was awarded. The facilities have been well used by the residents of Marjorie Waite Court and have had some use by the wider local community. However, the operator has now given notice that they are no longer able to operate the facilities and the contract will be terminated to end on 1<sup>st</sup> October 2024.

## **Consultation Analysis**

32. The overarching objectives of the Housing Delivery Programme, as outlined within the approved Design Manual 'Building Better Places', were developed in consultation with partners across the city. This supported the development of a range of objectives which seek to support better mental and physical health, increased sustainable transport opportunity, and tackling the climate emergency and resident fuel poverty. The design of each project is developed alongside the community through significant and meaningful public engagement as outlined in the Public Engagement Strategy. The projects contained within the report, namely Willow House and Ordnance Lane, will benefit from this rigorous and impactful engagement approach.
33. Sites which are subject to potential disposal for the delivery of 100% affordable housing by Registered Provider partners have been soft market tested to ensure they are considered a viable development opportunity.
34. In respect of Lowfield Green Plot B, the Housing Delivery Team have recently carried out further soft market testing with Registered Providers working in the city along with providers of private residential care homes and developers to understand if the level of interest in the site has increased over the last two years. The soft market testing explored opportunities for providing accommodation for older people, either as extra care or independent living.
35. There were 7 positive responses received from Registered Providers to the expression of interest and therefore we believe

there is sufficient interest in this site to dispose for affordable housing. As detailed above, feedback focused on the need for the Council to be less prescriptive in terms of tenures and care provision which has been incorporated into this recommendation for disposal.

36. The Local Housing Needs Assessment, whilst acknowledging the ongoing need for rented accommodation for adults over 55, has emphasised the need for intermediate tenures, such as shared ownership. York has a large proportion of homeowners and therefore in later life those looking for alternative housing options are likely to have some equity but are not able to afford, nor in need, of full residential care setting. Developing an affordable development that incorporates some low-cost home ownership options operates as a prevention strategy by trying to get homeowners into suitable future-proofed accommodation earlier.
37. Residents of Marjorie Waite Court have been asked for their views on the future service. These comments will be incorporated into the procurement documents to ensure that the service reflects the needs of their customers.

## **Options Analysis and Evidential Basis**

### **Increasing the development of healthy, sustainable, and affordable homes directly through the Housing Delivery Programme**

#### **Update on Willow House and Ordnance Lane**

38. In November 2023, Executive agreed recommendations to deliver 100% affordable housing projects at these two sites. Since then, a planning application has been submitted at Ordnance Lane for 101 homes and a construction tender pack has been prepared. It is intended, subject to planning permission, to procure a construction delivery partner over the coming months. In line with previous Executive approvals, a business case to invest in the construction of the homes will need to be approved by Executive prior to the signing of a construction contract. Grant funded enabling works to prepare the site for construction are underway and it is anticipated that the construction of new homes will commence in the first half of 2025.

39. The second project is at the former Willow House site off Walmgate, where around 40 new affordable homes could be developed. This project already benefits from some early design work and significant resident engagement and is seen as a positive opportunity for Walmgate Estate and its residents. Since November a design team has been procured and the next round of engagement with local residents and other stakeholders is due to commence in the coming weeks with a view to preparing a planning application later this year. Executive approvals are already in place to procure a construction partner (subject to obtaining planning permission) and it is anticipated that Executive approval to enter into the construction contract will be sought in 2025.

40. The projects aim to deliver 100% affordable housing. The viability of both projects is dependent on a mixed tenure approach, combining low-cost home ownership and rented tenures. Mixed tenure developments bring many benefits by addressing a broad housing need including residents from the housing register, keyworkers and those aspiring to home ownership.

### **Opportunities for the disposal of land for 100% affordable housing**

#### **Lowfield Plot B – proposal to dispose of site to an RP for 100% affordable housing**

41. Following soft market testing and detailed feedback from previous procurement exercises, the disposal of Plot B should offer sufficient flexibility to ensure that the project is deliverable for RPs. The recommendation is that the minimum criteria is clear and concise to ensure the disposal will deliver key priorities for the Council. These essential criteria will be as follows:

- Bidders must be Registered Provider with stock within City of York and a track record of delivering new build housing.
- 100% of homes to be delivered as recognised affordable housing tenures as defined in the National Planning Policy Framework.
- The housing is for adults aged over 55.
- The development will have no reliance on fossil fuels.

42. Providers who fail to meet the criteria set above will be unable to bid for the opportunity to purchase the site. Additional to the essential criteria, there will be desirable criteria which will be weighted in order to further shape the future development. The weighting for these criteria will be delegated as set out in the decisions above. The desirable criteria will broadly be:

- The inclusion of community space to the ground floor of the proposed development.
- The inclusion of low-cost home ownership tenures.
- The development will be delivered to enhanced environmental standards.
- Reduced embodied carbon.
- The design quality and deliverability of the proposals.
- The provision of onsite care.
- The approach to construction management to minimise disruption to existing residents of Lowfield Green and surrounding streets.

### **Former Morrell House site**

43. A further opportunity exists at the former Morrell House care home site on Burton Stone Lane in Clifton. A previous decision, taken by Executive in October 2021, was to dispose of the land to a community housing group. However, the interested community housing group have not made a formal financial offer to the Council. Given the acute need for affordable housing in the city, other options have been explored. This includes seeking the views of Registered Providers into whether there is interest in developing it for affordable housing. The feedback received to date has been positive and therefore this report seeks Executive approval to dispose of this site to deliver between 8 and 20 affordable homes subject to planning permission.

### **The Glen, Ousecliffe Gardens**

44. Executive previously agreed to dispose of this asset as part of the funding for the new “Beehive” Centre of Excellence for disabled children and their families which was completed in late 2020. The property is vacant and not required operationally. As yet, no soft market testing has been undertaken with RPs to understand the



level of interest in this site. It is proposed that this testing is undertaken and brought back to the Executive at a later date with a recommendation for its future use.

### **Castle Mills**

45. At Executive in November 2023, the following recommendation was approved 'Confirm that further work on developing the Castle Mills site is paused and ask officers to investigate appropriate meanwhile use options in parallel with exploring longer term opportunities for the future delivery of 100% affordable housing on this Council owned site.'
46. Officers have liaised with all active RPs in the city to understand the level of interest in delivering a 100% affordable housing scheme on this site. The level of interest is low. Reasons given for the lack of interest are primarily related to the high-rise nature of the project, the site being too small, or that this sort of site was not a priority, with many RPs preferring to focus on low rise houses and apartment projects out of town and city centres.
47. However, there is some interest in developing the site for a 100% affordable housing scheme and officers continue to explore this with one RP. They have confirmed that in principle they are interested in the site and would like to develop it for affordable housing, primarily targeting key workers as well hospitality and retail workers who are so important for the city's tourism industry and are often priced out of the city centre due to high rental costs.
48. The RP would like to undertake a detailed site appraisal to allow them to develop a land offer for the site. In order to do this detailed work, they will need to engage consultants to carry out design work at their own cost and they are therefore seeking that the Council enter a Memorandum of Understanding ("**MoU**") agreeing not to market the site to other parties for a period of 4 months whilst they develop their offer.
49. There is currently an ongoing Council project to deliver the link bridge to the site and the adjacent park by utilising YWCA funding. It is currently estimated that this project will be complete by early 2027 and prior to this, no development can take place on the Castle Mills housing site. There is therefore no delay to the overall programme by granting the RP this time to review their options for

the site in more detail and it is recommended to proceed on this basis. It should be noted that Castle Mills is a complex site, fronting onto the river with a major sewer cutting through the site and therefore it is not guaranteed that the interested RP will be able to deliver the site however, at this stage they feel there is significant potential, and it would be beneficial to allow them to explore this in more detail over the coming months.

### **Marjorie Waite Court – Proposal to Procure for an Operator and Grant a Lease**

50. In March 2021 the Executive agreed to procure an operator for the new, community focused facilities be provided and integrated into the newly built extension of Marjorie Waite Court. The operator has been very popular with the residents at Marjorie Waite Court and has provided opportunities for social interaction and community events.
51. The Marjorie Waite Court extension was completed in 2021 and opened in the August featuring a 172m<sup>2</sup> community hall, beauty salon, a full commercial kitchen, and a communal dining area. These facilities help to provide activities for residents and the wider community and help to integrate the two communities. The concessionary contract for the operation of these facilities includes an exclusive lease of these facilities and the requirement to meet the utility and service costs for these areas of the building.
52. The procurement scope for this concession contract will include:
  - Day-to-day management of the community hall and beauty salon facility, including online bookings, payment and the development of a programme of activities that provide the local area with a wide range of opportunities
  - A regular meals service for residents of Marjorie Waite Court offering nutritious food, taking into consideration specific dietary needs
  - A well-run public facing café and kitchen that offers food and beverages on a value for money basis

53. The operator will be required to cover all costs of utilities and services within the lease area and to contribute to the costs of maintenance of areas of the building shared with the Council's housing service. The community hall, beauty salon and commercial kitchen will be leased to the successful bidder for a term of up to 10 years, with break and/ or extension points at reasonable intervals within that term.
54. As part of the procurement the Council will be seeking a creative and innovative bid that can provide a range of wider social benefits for the local residents including but not limited to; a diverse programme of activity that can support local outcomes around health and wellbeing, mental health, education, learning, social isolation, and food poverty.

### **Disposal of Assets Considered Surplus and not Suitable for Affordable Housing Delivery**

#### **Update on previous disposal decisions**

##### **Land at Station Road, Haxby**

55. Executive approved the disposal of this 0.1 acre cleared site by unrestricted, open market sale on 13<sup>th</sup> January 2022 as part of the future libraries and investment programme once the new Haxby library was completed. The site is considered too small to enable affordable housing delivery by a RP.
56. Following a marketing process, an unconditional offer of has been accepted and matters are proceeding with a view of disposing of the freehold of this land. Executive delegated the decision to dispose to the Chief Operating Officer and hence there is no need for any further Executive decision and hence this is purely an update.

##### **Former Herdsmans Cottages – 156 Mount Vale & 123 Heslington Road**

57. Executive approval for the disposal of these 2 bed properties (by way of 250-year lease) has been previously provided on 26 November 2020 and 6 October 2022. The size and condition of the

properties were considered to make them unsuitable to provide affordable accommodation. Following a marketing exercise, offers for both properties have been received.

58. Executive delegated the decision to dispose to the Director of Place, in consultation with the Director of Governance, and hence there is no need for any further Executive decision and hence this is purely an update.

### **Existing Clifton Library, Rawcliffe Lane**

59. Executive approval has previously been provided to dispose of this c.0.3-acre site, by freehold sale or long lease once the new replacement Clifton library has been completed and opened. The site provides for the accommodation of the current library. The funding from this disposal is part of the funding for the new library. An offer has been received for the freehold of the site from Spotlight Dance Academy. The company currently operate in close proximity to the site as a local dance group, operating from accommodation in the industrial estate. They have been operating since 2009 and would keep the existing building and re-purpose it as a Dance Studio. They have offered Market Value for the site and intend to retain the building. The offer is conditional upon obtaining planning for the use of the building as a dance studio (and any necessary planning permission for any alterations required to re-purpose the building as a dance studio) and they are progressing to attain such prior to entering into legal documentation. Executive delegated the decision to dispose to the Chief Operating Officer and hence there is no need for any further Executive decision and thus, this is purely an update.

### **New disposal decisions**

#### **28& 45/47 Shambles**

60. This consists of 5 No one bedroom flats in need of modernisation and previously leased to Yorkshire Housing ("YH"). The flats are in two separate blocks above ground floor retail accommodation. Registered Providers are not typically interested in this type of accommodation. It is a small scale, in an historic building, and has difficult access arrangements.

61. It is recommended to dispose of the flats and communal area serving such, on a long leasehold unrestricted basis (999 years) whilst retaining the freehold. This would allow the Council to continue to maintain the structure and exterior as it leases out the lower floors for commercial use. Contributions to repairs could be recouped by way of a service charge to the leaseholders.

## 22 The Avenue

62. This property is in a popular high value residential street just off Clifton. It directly adjoins St Peter's school at the rear. It comprises a large two storey detached house that was built c. 1920. The building is in the conservation area. It is of traditional construction and is in a poor condition and requires fully refurbishing. Given the size and condition of the property it is not considered financially viable for affordable housing. Adjacent to the house is the 'annex' which is of more modern build and continues to be used as supported housing within the HRA. It is not proposed to dispose of the annex at this time.

63. Until late 2019, the property was being used as accommodation for mental health assessment and care residents. It was vacated, due to it being no longer being suitable for operational use. The residents were moved to a recently refurbished property in Clifton. There is no future requirement for the property to be re-occupied, as alternatives are now available, utilising tenancies within the HRA housing stock.

64. On 27 August 2020, the Executive approved the sale of 22 The Avenue and the annex following the development of two new specialist mental health supported housing schemes. Authority to proceed and complete the sale was delegated to the Director of Economy and Place. However, the Programme did not proceed due to the lack of interest from RP's. The Specialist Mental Health Housing and Support programme is continuing with a phased approach being adopted including a 7-home pilot project at 92 Holgate Road. This was approved by the Executive on 16<sup>th</sup> November 2023. There is, therefore, a continuing need for the annex building until alternative provision is provided.

65. Whilst the annex is operationally required, the whole site could be separated into two and the property comprising 22 The Avenue could be sold. The attached plan (at **Annex B**) shows how the site

could be separated without affecting the continuing use of the annex.

66. The single nature of the property and the cost of refurbishment does not lend itself to use by a RP to provide for affordable housing and hence it is recommended that this property is sold on an unrestricted basis, whilst the annex is retained until such time as the service finds a new location from which to operate.

### **Hungate**

67. The Council sold its freehold interest in the site known as “Hungate” in on 13 December 2006 for a sale price of £960,000 to Hungate (York) Regeneration Limited (**‘HYRL’**). In addition to the capital sum, the Council entered into a Development Agreement with HYRL in which it was agreed that the purchaser would pay an Overage if sale values of the accommodation constructed by HYRL (less costs associated with the sale) exceeded a certain prescribed base sale rate. Under the terms of the Development Agreement the Council would be entitled to 7.5% of any excess rate, over and above the base rate.
68. Since entering into the Development Agreement, HYRL has developed out a considerable area of the site comprising 462 residential units and the Council has received a further £826k in overage payments, over and above the original base sale price.
69. All units developed are now sold however 3 plots (**see plan attached at Annex D**) within the overall site remain undeveloped and which comprise some 2.76 acres in total. Planning permission was granted for residential development on these undeveloped areas in 2017 (ref:15/01709/OUTM) comprising of 613, 1-3 bed apartments.
70. The Council, as former owner of the site, have been approached by HYRL and advised that HRYL wish to dispose of their interest to a new developer who wishes to develop “build to rent residential accommodation” rather than sell on the units and thus hold them as an investment. It is understood that they wish to build out one of the plots, in accordance with the existing planning consent shortly, with the other plots to follow.

71. As an alternative to the Council receiving an overage of future units when sold (given they would not be sold under a build to rent scheme), a capital consideration has been negotiated whereby the HYRL would pay the Council the capital consideration as detailed within the confidential appendix in return for the Council agreeing to the release of the developer's obligations under the Development Agreement. Independent valuation advice has been sought and this offer is considered to represent best value (See **Confidential Appendix**). A further overage has been offered to the Council as part of the proposed deal structure, whereby if the developer ever changed its mind and developed student accommodation, which has a higher land value, then the Council would share in any further development value uplift.
72. Whilst a matter for the Local Planning Authority, the Housing Policy team consider that there is no impact anticipated regarding these proposed changes on affordable housing contribution. Through Section 106 planning contributions the Hungate scheme has to date delivered £5.261m affordable housing commuted sum payments, and an additional 26 on site affordable homes. Future delivery may incorporate a mix of significant commuted sums alongside some on site affordable housing, or commuted sums only to the maximum value within local and national policy.
73. The proposal will provide the Council with an unbudgeted capital premium and the suggested scheme, once it came to fruition, would benefit the city through added residential accommodation and footfall into the city centre. It is therefore recommended to proceed to extinguish the outstanding obligations in the Development Agreement in exchange for the capital consideration being paid to the Council by HYRL, subject to entering into the necessary legal documentation once the provisions have been agreed between the parties.

## **Organisational Impact and Implications**

### **Financial**

74. The recommendations will lead to the Council generating significant capital receipts (See **Confidential Appendix**).
75. Capital receipts are used as a corporate funding stream. They are used to fund the capital programme, repay debt, or fund

transformation projects. The most appropriate use is determined by the Director of Finance.

76. The receipt from the existing Clifton Library, Rawcliffe Lane has been assumed within the replacement Clifton Library scheme within the capital programme. The proposed receipt is as per the set budget.

## **Human Resources**

77. No implications.

## **Legal**

### **Planning Law Implications**

78. Any necessary planning permission will need to be obtained for each site referred to within this report (by whoever wishes to develop the relevant site(s)). Each Section 106 affordable housing contribution received by the Council will have to be spent in accordance with the terms and conditions of the Section 106 agreement, which has secured the contribution.

### **Contract Law Implications**

79. Any grant funding arrangements sought to deliver the proposals set out in this report will need to be reviewed to understand whether the Council's acceptance and use of any such grant funding will comply with the requirements set out within the Subsidy Control Act 2022.
80. If the Council in disposing of a site (whether by freehold transfer or grant of lease) wishes to impose contractual obligations on the buyer to construct a specified minimum number of dwellings (or other form of specified development works) on the land within a specified timescale then that could be classed as a 'contract for works' which may therefore need to be the subject of a procurement exercise before the sale contract/transfer deed/lease can be entered into.

### **Property Law Implications:**



81. The respective plots of land which the Council propose to dispose of are currently within the General Fund.
82. The Council has a statutory power under Section 123 of the Local Government Act 1972, to dispose of any General Fund/non-HRA land held by the Council (including granting a lease of it). Although Section 123 requires that the consent of the Secretary of State for Housing, Communities and Local Government be obtained for a disposal at a price less than best reasonably obtained, such consent is automatically given for the disposal of General Fund/non-HRA land by a General Consent Order if both of the following conditions are satisfied:
  - (i) the Council considers that the disposal will contribute to the promotion or improvement of the economic, environmental, or social well-being of its area; and
  - (ii) the difference/shortfall between the consideration/monetary receipt obtained and best consideration amount does not exceed c. £2M.
83. In relation to potential purchase of properties by the Council for use additional affordable housing, S.120 of the Local Government Act 1972 gives the Council power to acquire land for the purposes of any of the Council's functions or for the purpose of the benefit, improvement, or development of the Council's area.
84. If the Council intends to dispose of land (either by freehold transfer or by grant of long lease) to a RP with the object of the purchasing RP developing (100%) affordable housing on the land then it should be noted that:
  - (i) the Council can impose a restrictive covenant prohibiting use of the land for any purpose(s) other than solely affordable housing. However, whilst this probably wouldn't reduce the capital receipt obtained by as much as the imposition of a positive development obligation please note:
    - (a) this wouldn't entitle the Council to require that the purchaser actually builds any affordable housing on the land (instead the purchaser might potentially sit on/landbank the land until they wish to develop it);

- (b) there are legal complexities with successfully enforcing covenants restricting use of land and there is a risk that the purchaser might be able to subsequently successfully apply to the First Tier Tribunal under S.84 of the Law of Property Act 1925 for modification or release of such restrictive covenant(s); and
- (ii) the Council has statutory powers to acquire (whether by freehold purchase or by taking a long lease) property for the purpose of any of its functions or for the purpose of improving the benefit, improvement, or development of its area.

## **Procurement**

- 85. **Marjorie Waite Court** - Any proposed concession contract will need to be commissioned via a compliant procurement route under the Council's Contract Procedure Rules and where applicable, the Concession Contracts Regulations 2016 (soon to be Procurement Act 2023). Further advice must be sought from Commercial Procurement and Legal Services.
- 86. **Lowfield Plot B** - Any proposed works or services will need to be commissioned via a compliant procurement route under the Council's Contract Procedure Rules and where applicable, the Public Contract Regulations 2015 (soon to be Procurement Act 2023). All tenders will need to be conducted in an open, fair, and transparent way to capture the key principles of procurement. Further advice regarding the procurement routes, strategies and markets must be sought from the Commercial Procurement team.

## **Health and Wellbeing**

### **Environment and Climate**

- 87. The built environment accounts for over 60% of direct carbon emissions from within City of York's local authority boundary; and half of these emissions are associated with domestic buildings. It is therefore essential that the construction and operation of any new or refurbished homes are low/zero carbon.

88. Restrictions on the use of fossil fuels will be applied as an essential criterion for Registered Provider bids on Lowfield Plot B. It is recommended that minimising embodied carbon is considered as part of the desirable criteria for this site and other sites considered for disposal.

### **Affordability**

89. Provision of additional low-cost housing in York will help to address the current lack of affordable housing for those in the city on low incomes, along with potentially reducing travel costs and improving health and wellbeing of residents. It is well known the those with health and/or mental health challenges have suffered disproportionately throughout the Cost-of-Living crisis and the proposals in this report may help to address some of these challenges.

### **Equalities and Human Rights**

90. See full Equalities Impact Assessment in **Annex F**.

### **Data Protection and Privacy**

91. As there is no personal data, special categories of personal data or criminal offence data being processed, there is no requirement to complete a data protection impact assessment (“**DPIA**”). This is evidenced by completion of DPIA screening questions AD-06656.

### **Communications**

92. There are no communications service implications, other than in the management of any reactive media enquiries which may arise from this report

### **Economy**

93. The York Economic Strategy 2022-32 recognises the challenges of affordable housing in York and its impact on economic growth. The proposals in this paper are well aligned with that strategy and would help bring benefit to tenants, employees, and businesses in York.

## Risks and Mitigations

### Land disposals for 100% affordable housing

94. Whilst land disposals to RPs have undergone soft market testing, the level of land receipt for 100% affordable homes is hard to quantify and will be impacted by additional requirements on RPs and site abnormalities.

## Wards Impacted

All

## Contact details

For further information please contact the authors of this Decision Report.

## Authors

<b>Name:</b>	Michael Jones Sophie Round Nick Collins
<b>Job Title:</b>	Head of Housing Delivery and Asset Management Housing Delivery Programme Manager Head of Property
<b>Service Area:</b>	Housing and Property
<b>Telephone:</b>	
<b>Report approved:</b>	Pauline Stuchfield
<b>Date:</b>	2 <sup>nd</sup> July 2024

## Background papers

**Executive Report February 2023 - Housing Delivery Programme update - Delivering Affordable Housing on Council Land**  
**Executive Report November 2023 - Delivering More Affordable Housing in York – update on the Housing Delivery Programme**

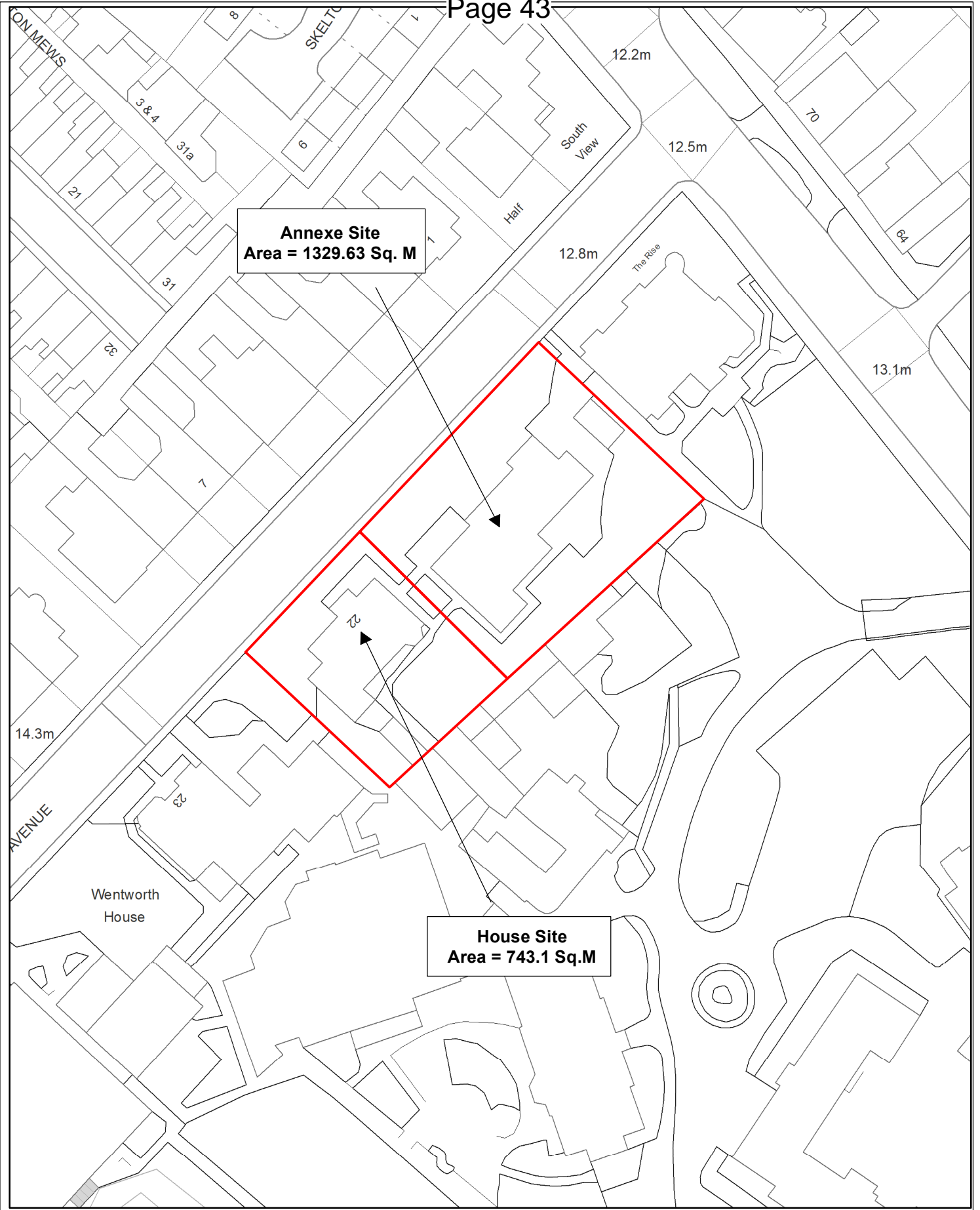
## **Annexes**

Annex A: Morrell House Site Plan  
Annex B: 22 The Avenue Site Plan  
Annex C: Lowfield Site Plan  
Annex D: Hungate Site Plan  
Annex E: Castle Mills Site Plan  
Annex F: Equalities Impact Assessment

### **Confidential Annexes**

Annex G: Financial Information  
Annex H: Commercial Report - Hungate

This page is intentionally left blank



**Asset & Property Management**

**22 The Avenue House & Annexe.**



SCALE 1:750

DRAWN BY: KLM

DATE: 23/05/2024

Originating Group:

**Asset & Property Management**

Drawing No.

This page is intentionally left blank



By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

<b>Call-in Request Form</b>	
This form must be completed and signed by THREE City of York Councillors and MUST be returned to Democratic Services within 5 working days of the decision being published (not including the day of publication).	
<b>Decision taker:</b>	Executive
<b>Date of publication of decision:</b>	19/07/24
<b>Title of Decision Called in:</b>	Update on the Housing Delivery Programme including making strategic use of land
<b>Date Decision Called in:</b>	24/07/24

	<b>REASONS FOR CALL-IN</b>	<b>Tick which reason applies</b>
1.	Decision contrary to the policy framework?	X
2.	Decision contrary to or not wholly consistent with the budget?	
3.	Decision is Key but it has not been dealt with in accordance with the Council's Constitution.	
4.	Decision does not follow principles of good decision-making set out in Article 7 of the Council's Constitution.	X
	If reason 4, please tick which specific element of Article 7 the decision maker has not followed, did he or she not:	
	a) Meaningfully consider all alternatives and, where reasonably possible, consider the views of the public.	X
	b) Understand and keep to the legal requirements regulating their power to make decisions.	
	c) Take account of all relevant matters, both in general and specific, and ignore any irrelevant matters.	X
	d) Act wholly for proper purpose and/or in the interests of the public.	X
	e) Keep to the rules relating to local government finance.	
	f) Follow procedures correctly and be fair.	
	g) Make sure they are properly authorised to make the decisions.	
	h) Take appropriate professional advice from Officers.	

**Detailed Reason(s) for Call-in.**

*Please explain below why one of the reasons for call-in applies (e.g. for number 1- which major policy affected and how/why).*

*PLEASE NOTE: If you wish to produce and rely on significant supplementary, external evidence in support of your reasons for this call-in it must be provided to Democratic Services prior to the publication of the agenda. It will not be permissible to introduce and rely upon evident at the meeting without it being subject to prior circulation unless by consent of the Chair.*

1. Policy Framework

**Council Plan Priority e) Housing: Increasing the supply of affordable housing.** Paper involves market sale of affordable homes, ie 28 and 45/47 Shambles, reducing both the number and distribution of affordable homes.

**Council Plan Priority e) Action 3a) Improve the sustainability and condition of current housing and commercial premises: Review the council's Housing Asset Management Programme to improve the quality of current social housing and to accelerate progress towards our net zero commitment.** Paper recommends disposing of current social housing, ie 28 and 45/47 Shambles, rather than retrofitting.

4a. All alternatives and views of public

- 2020 Housing delivery update outlined a council-led Castle Mills scheme generating £8.4m surplus into council funds, 106 new homes including 20 affordable homes.
- 2023 development appraisals raised six options for Castle Mills with a potential variation in income to the council of up to £5m. Executive papers did not provide independent updates on these valuations. The confidential annex included provided no evidence at all of value of any of the parcels of CYC land.
- Views of public. Local residents, health providers and the voluntary sector have not been consulted on sale of 22 The Avenue. Evidence of significant public interest in this site following call in of previous decision by three existing elected members - Cllr Myers, Cllr Pavlovic and Cllr Wells
  - i. 22, The Avenue is a public asset and should be used to help address the city's housing affordability crisis, through its transfer to the council's Housing Revenue Account;
  - ii. The Executive's decision ignores the opportunity to help to reduce the city's existing housing waiting list;
  - iii. Options should be provided to the Executive as to how 22, The Avenue could be re-developed for housing by the Council and put to beneficial use, rather than being sold off to the private sector to profit from a public asset.

<https://democracy.york.gov.uk/%28S%28aw2b23jofoyuejfc1asnl055%29%29/mgAi.aspx?ID=56315>

Given the time elapsed and change in council plan policy framework detailed options and alternatives should have been considered and public consulted or given the opportunity to comment. No evidence has been provided why council plan policy has been applied to some sites yet others it has not.

4c. Take account of all matters

- No business case provided for decisions relating to the sale of any of the following assets including options for delivering affordable housing;

22 The Avenue  
28 & 45/47 Shambles  
Castle Mills

4d. Act wholly in the interests of the public

Council budget consultation states “The council is facing an unprecedented financial challenge that demands immediate action. As one of the lowest funded unitary authorities in England, and after more than a decade of budget cuts, with external factors beyond the council’s control, our budget is at breaking point.” The paper does not provide details of the cumulative impact of these council sales which could result in a financial reduction to the taxpayer of between £5m - £10m.

	Name (please print)	Signature ( <i>please note that signatures will not be published with the agenda. Electronic signature will be accepted</i> )	Date
1.	Nigel Ayre	Nigel Ayre	24/07/24
2.	Darryl Smalley	Darryl Smalley	24/07/24
3.	Emilie Knight	Emilie Knight	24/07/24

**For office use only:**

Received on behalf of the Monitoring Officer by: (signature)

Name: Jane Meller

Date: 24/07/24

Time: 15:46

**Validation check (if necessary):**

Monitoring Officer / Chief Operating Officer

Valid: YES/~~NO~~ IN PART

Reason:

General Point

The call-in references the Castle Mills site only once, under ground 4c, on the basis of a lack of business case for the disposal of this site. This fundamentally misunderstands the decision taken by the Executive, which was to grant a 4-month period of exclusivity to the potential RSL to develop a business case for social housing use of the site. There is, therefore, no disposal authorised, and this element of the call-in must therefore fail.

Ground 1

The proposed disposal is not contrary to the Council Plan. As noted in the call-in form, the commitment made under Priority e) Action 3a) is to “Improve the sustainability and condition of current housing and commercial premises: review the Council’s Housing Asset Management Programme to improve the quality of current social housing and to accelerate progress towards our net zero commitment.” This does not equate to a moratorium on the disposal of current affordable housing units (even were the units in the Shambles actually in use for that at present, which they are not); rather, it is a commitment to an overall improvement, which may be achieved through disposal of sub-standard units and reprovision through higher-standard units. This ground of call-in must, therefore, fail.

Ground 4a

The report is clear that 22 The Avenue is neither suitable nor required for operational purposes, and is in poor condition requiring full refurbishment. The report is also clear that, given its size and condition, it is not considered financially viable for affordable housing. The recommendation is therefore for disposal.

As noted on the call-in form (in the description text), there is a requirement to “meaningfully consider all alternative and, **where reasonably possible**, consider the views of the public” (emphasis added). In the case of the disposal of a single property, it is not considered reasonable to undertake a public consultation; to do so for any such disposals would place an unnecessary and undue burden on the Council and its staff. Any member of the public who had specific concerns and queries in relation to the matter was able to register to speak at the Executive meeting, and have their views considered as part of the decision-making process.

For clarity, the previous call-in was based on a different decision, and holds no relevance in respect of this decision.

This ground of call-in must, therefore, fail.

Ground 4c

Disregarding the Castle Mills site (for the reasons mentioned above), it is the case that no disposal business cases were presented to the meeting in respect of the Shambles and The Avenue sites. Such business cases would doubtless have

contained additional information and justification for the recommendations presented, and for discounting other possibilities.

As such, this ground of call-in appears valid, and may proceed.

#### Ground 4d

The reason for call-in under this ground does not disclose any valid reason for calling-in the decision; there are, therefore, no reasonable grounds which could justify this ground being accepted.

This ground of call-in must, therefore, fail.

#### Conclusion

On the above basis, the call-in in respect of the properties in the Shambles and The Avenue, on the ground of a lack of business case (ground 4c), may proceed. **No other grounds may be argued.**

Completed by:



Date: 25 July 2024

Time: 12:00

This page is intentionally left blank