

**Executive**

**21 January 2020**

Report of the Corporate Director Economy and Place  
Portfolio of the Executive Member for Finance and Performance

## **Shaping the Future of the Bootham Park Hospital Site**

### **Summary**

1. This report explores the options available to the Council to help it shape the future of the Bootham Park Hospital site (“**the Site**”), guided by extensive public and stakeholder engagement.
2. Executive are asked to agree that the Council will use our rights as owner/landlord of a strip of access road to the Site to secure:
  - a. beneficial public use of the parkland in front of the hospital building
  - b. improved pedestrian and cycle routes through the Site as part of the city’s sustainable transport transformation; and
  - c. conservation and redevelopment of the Site to deliver homes and services which are of benefit to the City.
3. A recent announcement identifies that a purchaser for the site has been identified who will deliver a 125 unit independent living retirement community, public access to areas of the main historic building, emergency landing of the air ambulance on the hospital field and a commitment to open negotiations to secure public access to the grounds and maintaining the cycle and pedestrian access through the site.
4. Executive note that the submitted Local Plan requires a full appraisal of the significance of the historic buildings, landscape and archaeology on the Site and that any redevelopment proposals must arise out of this understanding.

### **Recommendations**

5. The Executive is asked to:
  - 1) Note the results of the further phase of public and stakeholder engagement and the priorities identified for the future of Bootham Park Hospital Site.

*Reason: So that the Council's efforts to shape the future of the Site can be shaped by the views and priorities of York citizens and stakeholders.*

- 2) Authorise officers to negotiate with the current and future owner of the Bootham Park Hospital Site in order to secure beneficial public use of the parkland in front of the hospital building, improved pedestrian and cycle routes through the Site and conservation and redevelopment of the Site to deliver homes and services which are of benefit to the City, and using the powers we hold as owner/landlord of land over which the eastern access to the Site passes, the Council's rights to maintain the cycle route that passes through the Site and as owner of property adjacent to the Site, bring back to Executive the relevant decisions regarding property or asset agreements.

*Reason: So that officers can negotiate to achieve the desired outcomes in order to shape the future of the Site.*

- 3) Seek the delivery of sustainable transport routes through the Bootham Park Hospital Site and Bridge Lane via transport plans for this and adjacent developments.

*Reason: To further improve cycle journeys from the new Scarborough Bridge to the District Hospital and beyond, and from the residential areas of Rawcliffe and Clifton into the District Hospital and the city centre.*

- 4) Note that the submitted Local Plan requires a full appraisal of the significance of the historic buildings, landscape and archaeology on the Site and that any redevelopment proposals must arise out of this understanding and that the Local Planning Authority be asked to provide pre application engagement with any future land owner/developer

*Reason: So that developers of the Site have clear and advance knowledge of the priorities and interests of public and stakeholders so that they can shape their development proposals accordingly.*

- 5) Deploy the remaining monies in the One Public Estate budget, estimated to be £15,000, to fund planning, legal and other help and advice in order progress the actions needed to shape the future of the Bootham Park Hospital Site.

*Reason: So that work can progress to shape the future of the Site.*

## Background

6. The Bootham Park Hospital Site is a key feature of the health estate in York both because of its long-term historic links with mental health care in the city (it was one of the first, purpose built, mental health hospitals in the UK), and because of its proximity to the York District Hospital next door (which is owned by York Teaching Hospital NHS Foundation Trust).
7. The Grade 1 listed building opened its doors in 1777, one of the first purpose-built mental health ‘asylums’ in England. For the next 240 years the hospital’s, at times controversial, history reflects the country’s changing social attitudes and medical approaches to mental health. Those approaches finally outgrew the hospital in 2015. It closed after proving unable to provide an appropriate environment for modern mental health services. These modern mental health services will be provided by a new £37 million, 72-bed, hospital which will open on Haxby Road in 2020. The new hospital will be called Foss Park Hospital. The state-of-the-art facility will provide two adult, single sex wards and two older people’s wards – one for people with dementia and one for people with mental health conditions such as psychosis, severe depression or anxiety.
8. Now that Bootham Park Hospital has closed, its prominence and its proximity give the city a “once in a lifetime” opportunity to guide re-development for the benefit of health, care, housing and public services in York.
9. This large Site, shown in **Annex 1a**, is 17.85 acres of land owned by NHS Property Services Limited but is up to 24.2 acres when neighbouring public sector land owned by the York Teaching Hospital NHS Foundation Trust [Bootham Court, the old nurses home site] and City of York Council [Union Terrace car park] is included (see ownership in **Annex 1b**). It is in the heart of the city and, subject to sensitive and imaginative redevelopment, is a valuable asset that could be realised for the social and economic benefit of York.
10. The Council has worked with colleagues from the Hospital Trust and others to champion the positive future for the Site. This has included extensive public and stakeholder engagement in the winter of 2018 and the autumn of 2019, the lobbying of government and market engagement to influence the views of those wishing to sell the Site.
11. The current owner of the Site, NHS Property Services Limited, are tasked by central government to sell the Site and despite efforts by the Council and others to shape and/or delay the sale process it has progressed regardless. The first attempt at sale failed in the summer

2019 and the second, which has now concluded, has resulted in the identification of a preferred purchaser who will buy the Site on a conditional basis.

12. NHS Property Services Limited on 13<sup>th</sup> January 2020 report that:
  - a. They have appointed Enterprise Retirement Living as the preferred purchaser for the former Bootham Park Hospital which was declared surplus to NHS requirements by Vale of York Clinical Commissioning Group [CCG]. Enterprise Retirement Living propose to redevelop the site to provide a 125 unit independent living retirement community and it is planned that the site will be managed under their single ownership.
  - b. The intended scheme will have due regard to the Heritage aspects of the site and public access will be possible at times to areas of the main building which are of particular interest, including the boardroom, gym and bowling alley. This allows the potential for the donation boards and other fixtures associated with the history of the building to remain in situ. Emergency landing of the air ambulance will continue uninterrupted to the hospital field and ongoing NHS use of the Chapel is assured.
  - c. They are willing to positively engage with the Council around their request to secure outcomes which resulted from the recent Council led One Public Estate work and public consultation, which identified public access to the site and grounds and maintaining the cycle path through the site as highly desirable by the people of York.
  - d. They are also at the early stages of discussions with the CCG around reinvestment of a proportion of the disposal receipt, not only from Bootham but also other NHS Property Services Limited assets within York, back in to the primary care estate within York, the intention being to deliver improved estates facilities to enhance patient care which would directly benefit the local community. They will also engage with the Council and other stakeholders in that respect to explore where interests can be aligned. We hope to advise further on these opportunities over the coming months following discussions with the Council and our NHS partners.
13. The announcement by NHS Property Services to appoint a preferred purchaser who will deliver independent living with care retirement housing on the site is good news as it is a vindication of the approach taken by the Council to the disposal of the Bootham Park Hospital site. Via extensive public engagement, lobbying locally and nationally, and via one-on-one market engagement the Council has been able to shape and influence the proposals for the site.

14. The Enterprise Retirement Living proposal and the commitments made by NHS Property Services have to the potential to deliver many of the features and services set out in the Council's Development Plan for the Site, including:
  - a. public use of the Parkland;
  - b. pedestrian, cycle routes through the Site;
  - c. as was our ambition, the use the historic buildings for Extra Care Housing for older people, a use that fits well with the Council's Older Persons' Accommodation Programme;
  - d. emergency landing of the air ambulance; and
  - e. preservation of the integrity and access to the Hospital Trust owned land so that this can be developed, at a later date, to deliver medical training facilities, key worker accommodation and other hospital staff welfare facilities.
15. However, this good news should not distract the Council from the negotiations needed to secure these and other improvements and services on the Site, which benefit the citizens of York.

## Consultation

16. In the winter of 2018/9 the Council worked with the York Teaching Hospitals NHS Foundation Trust (owner of the adjoining District Hospital site) to draw up a Site Development Plan for the Site and adjacent publically owned land ("**the Development Plan**"). This plan was devised following extensive public and stakeholder engagement and demonstrates that the following could be achieved on the combined site:
  - 147 dwellings.
  - 52 key worker apartments.
  - A new physiotherapy suite, medical training and research centre of excellence.
  - A 70 bed care home.
  - 60 assisted living/supported living apartments.
  - A new children's nursery.
  - A 250 space multi storey car park.
  - Extensive public open space.
17. The Development Plan was published in July 2019.
18. Cost and value advisers tell us that, with these uses, the combined land holdings can generate value of approximately £10m as well as up to

£15m in developer profit. In addition to cash benefits, the Development Plan has the potential to deliver many other benefits including:

- a. facilities to support the delivery of medical training;
- b. retained and enhanced connectivity to the District Hospital site; and
- c. extensive public open space.

19. In preparing the Development Plan earlier in 2019 we engaged with a number of stakeholders. They report their interests and ambitions as follows:

|    | <b>Stakeholder</b>                   | <b>Their interest</b>  |
|----|--------------------------------------|--|
| a) | Bootham School                       | Use of the Parkland as playing fields. Willing to invest in upgrading the quality of the field and to guarantee public access, subject to safeguarding issues when pitches are in use by pupils of the school. Will require lease to back-off investment.<br><br>Issue of how to prevent and/or clear dog mess on playing pitches.   |
| b) | York Minster                         | Keen to see re-instatement of use of Parkland for use by Minster School pupils for “sports events”, etc. A lease was agreed in 2004 for this use and the school has most recently used the land for school sports in 2017.   |
| c) | Children’s Services                  | Children’s Services have surveyed need for childcare nursery provision in the vicinity of the Hospital Trust for use by staff and neighbours. Staff need has been identified via survey.   |
| d) | Hospital Trust staff welfare         | The Hospital Trust welfare team are keen to see a childcare nursery nearby to help with staff recruitment and retention and replicating provision at Scarborough Hospital.<br><br>The need is for the nursery to provide flexible cover to match hospital and other workplace shift patterns.<br><br>Children’s Services also report a shortage of external curriculum space at local schools. |
| e) | Hospital Trust sustainable transport | In order to manage down car use/trips to the District Hospital Trust site, they are keen to see: <ul style="list-style-type: none"> <li>• retention and enhancement of the west/east pedestrian and cycle route from the new</li> </ul>  |

|    | Stakeholder | Their interest  |
|----|-------------|---|
|    |             | <p>Scarborough Bridge cycle cross, through the Site and onto the District Hospital site;</p> <ul style="list-style-type: none"> <li>• improve the north/south cycle route over the railway line at Glass Bridge and onto Bridge Lane;</li> <li>• secure purpose built cycle parking and associated changing/shower, drying and locker provision in order to support staff use of cycles; and</li> <li>• achieve bus and ambulance access to the District Hospital site via a new route from Clarence Street, improving vehicle flow and journey times.</li> </ul> |
| f) | York CVS    | <p>York CVS have taken a keen interest in the Bootham project, have hosted public forum and are willing and able to continue to be involved. Their primary interest is to ensure that the voice of third sector organisations is heard. However, they also have service delivery interest in accommodation for third sector organisations and the establishment of a child care nursery on the Site.</p>  |

20. In the autumn of 2019 a further engagement exercise on the Development Plan was undertaken. During this engagement we sought views on the published plan and asked people to prioritise their preferences for the Site. The engagement exercise reached 1323 people and generated 1657 items of feedback. All aspects of the plan attracted at least 70% approval. People's highest priorities for development on the Site are:

- maintaining and ensuring access to public green spaces;
- providing Key worker accommodation;
- preserving listed buildings; and
- creating better cycling and pedestrian links.

21. People's highest priorities for development on the site are:

- ensuring access to public green spaces and improving their amenity;

- providing Key Worker accommodation for NHS staff;
- preserving the heritage of the Site including its listed buildings; and
- creating better cycling and pedestrian links.

Above all people want to see the Site deliver real community benefit for the people of York as well as respecting/reflecting the mental health heritage of the Site.

22. The main concerns identified are that inappropriate development of the Site will exacerbate traffic congestion and air quality issues in Gillygate and Bootham; and ensuring that the design of new buildings is appropriate for the heritage setting and does not adversely impact local communities. The development that is least acceptable to people is multi-storey car parks.
23. The survey responses show that there is a high level of support for the mix of uses and extent of development proposed in the Development Plan: 78% agree that the proposals are appropriate and sensitive to the Site's heritage; 71% agree that the level of proposed development is acceptable and that the benefits to York are clear; and 70% feel that the healthcare opportunities included in the plan are right for the Site. The unstructured feedback from all sources also includes support for the overall plan as well as support for some specific aspects of it.
24. *Mental Health* - The importance of the history and future of mental health provision on the Site is evidenced by the volume of responses on this subject. 10% of all responses were related to mental health provision. From some there remains a strong feeling that the Site should be retained and refurbished as a mental health facility that is fit for purpose; others propose that it could be used as a community mental health outpatient hub (alongside new inpatient services at Haxby Road); others welcome the modern provision to be delivered at the Foss Park Hospital whilst some fear that the new services will not meet the need for such things as "place of safety" requirements, a mother and baby unit and services for young people. The common thread running through these views is a desire to respect the history of the Site in the way that it is used in future.
25. The use of the main building to provide Extra Care including dementia needs and the use of the grounds as a publicly accessible space designed to promote mental health and wellbeing were recognised as ways of honouring and continuing the Site's historic links.
26. *Heritage and Development* - Preservation of the historic buildings was one of the highest priorities for people. Some voices were in favour of



this being achieved through public sector or third sector funding for uses such as a community centre, hospice or museum; others thought that appropriate commercially viable single use development of the hospital building as a luxury hotel, leisure centre or Extra Care housing could ensure its preservation and the possibility of some continued public access to enjoy the building's listed interior features. Other limited development of housing for senior living, a care home or Key Worker accommodation in the grounds was also seen as acceptable if it could create a viable scheme that would guarantee the preservation of the historic buildings.

27. *Open Spaces* - The highest priority that people want to see delivered by any redevelopment of the Site is the preservation of, guaranteed public access to the open spaces on the Site. There is a history of the space being used in this way and a strong sense of community entitlement that it should continue. The green space is valued for its peace and its role in improving air quality. People would like to see existing trees preserved and more planted; more natural planting to promote biodiversity; space dedicated to informal play and recreation; more seating; creation of green gym and nature trails to promote health and wellbeing. There are differing views about the provision of formal sports pitches with some voices strongly in favour and others concerned about the impact of floodlighting and goalposts on the setting. Also the use for organised sport is seen as potentially excluding more informal uses.
28. *Community uses and facilities* – in the survey we asked for people's ideas of possible community uses on the Site and what community facilities they would like to see. There was no shortage of ideas. Many were connected with promoting health and wellbeing in different ways. These were some of the most popular
  - a. Community orchard and gardens.
  - b. Reading café on the Rowntree park model.
  - c. Community kitchen for healthy eating activities.
  - d. Community meeting/training space (e.g. for social prescribing).
  - e. Performance space to promote arts & cultural events.
  - f. Use of main building for workshops/studios/business units.
  - g. Drinking water stations and public toilets.
  - h. Changing room block for sports.
29. *Management models* – we were also interested in ideas about how the Site could be best managed to benefit the community and which local organisations might be interested. There was a view that only a private developer could take on the management of the site because the costs and risks were so high. Others put forward the idea of a Community Land Trust or the social enterprise/Community Interest Company model.

Heritage funders and Sport England were also suggested as sources of finance and local charities like Edible York and St Nick's were put forward as potentially interested organisations.

30. *Links to healthcare* – because of the historic use of the Site for mental health provision and the proximity of York District Hospital people were generally supportive of the ideas in the Development Plan that linked to the provision of healthcare and recognised the needs of healthcare staff. Affordable Key Worker accommodation near the hospital was seen as one of the top three priorities for the Site. Staff parking and a childcare nursery also received support. In terms of healthcare provision, Extra Care, stepdown care and dementia beds were all seen as highly relevant to improve the provision in the community and reduce pressure on hospital beds. Other ideas were to expand the physiotherapy service on the Site and to retain the use of the chapel for psychological services.
31. *Access and Transport* – in the survey 95% of people supported the maintenance and improvement of access to, through and beyond the Site for cyclists and pedestrians. People want to see better signage, improved lighting, more direct routes, secure bike parking and segregation from motor traffic. There was support for the access off Bootham to be used as an emergency vehicle route but to remain closed to other vehicles. The idea that a new access into the site could enable better bus routes and a service right onto the District Hospital site was also popular. There were calls for cars to be restricted on the new development or for it to be completely car-free. The concern about cars leading to increased congestion and poorer air quality in the area was voiced frequently by local residents and connected to a widespread objection to the provision of more parking, especially multi-storey car parking. But there were differing views on parking, citing the need for parking for staff and visitors to the District Hospital and for residents and visitors to the city.
32. *Housing* – four types of housing were included in the survey question asking people to rank their priorities for what development is delivered on the Site. Key worker accommodation ranked second, affordable housing ranked sixth, housing for senior living ranked seventh and family housing ranked tenth. In people's comments there was a tension between a real recognition of housing need in the city especially for affordable housing and the understanding that this Site could not accommodate a lot of residential development. The concern was frequently expressed that any residential development could therefore be rather exclusive and price out local people, leading to demands that any developer should prevent selling for investment by excluding holiday lets/AirBnB use.

33. A fuller report on the findings from the autumn 2019 consultation is included at **Annex 2**.
34. The continued mental health use of the Site was raised in consultation but is not favoured because the buildings are unsafe for this use [see the report: *Transfer of Services between Leeds York Partnership FT and Tees, Esk and Wear Valleys NHS FT Reflections, Learning and Assurance Report*, 31st March 2016, NHS England, available on line] and the new hospital is currently being built on Haxby Road. However, the need to achieve a wider understanding of the city's mental health plans and provision is noted.
35. The District Hospital Trust confirms that their priority for the site remain:
  - a. continuing to be able to land the air ambulance on the Parkland;
  - b. the retention and improvement of the pedestrian and cycle route through the site;
  - c. confirming their rights of access over the Access Strip at Union Terrace on to their land at Bootham Court; and
  - d. enabling the Bootham Court site to be re-developed to benefit the District Hospital with new provision such as the purpose built Medical School, key worker accommodation, crèche and other staff welfare facilities and care facilities to ease discharge from hospital.
36. York Older People's Assembly was one of the local organisations who carried out a review of the Development Plan and submitted a response focusing on their relevance to the mental health, wider health and social care challenges facing the City from the perspective of the needs of older people. The aspects of the existing proposals that they would welcome are:
  - a. The holistic approach taken to development proposals by including Council owned and Hospital Trust land in the scope.
  - b. The retention of the existing listed buildings and adjacent parkland and the wider community benefits of making this open space publicly accessible for sports and leisure use.
  - c. Provision of key worker accommodation to help with recruitment of NHS staff.
  - d. The opportunity to replace the existing inadequate physiotherapy provision.
  - e. The conversion of the main building to provide Extra Care accommodation and/or a Care Home catering for people living with dementia and with some provision for step-down care.

37. They would also like to see:

- a. The future use of the Chapel as a focus for the history of mental health provision on the site.
- b. The development of a more integrated community on the site by including a better balance of homes for sale and rent including affordable homes to respond to the needs of York's growing elderly population.

38. Historic England have also been actively engaged in commenting on the proposals for the Site. Via meetings, review of proposals and correspondence, their views can be summarised as:

- a. They welcome the "joined up" approach to developing a coherent approach to the development of the Site and adjacent land.
- b. They welcome the opportunity that this provides to open up another access point into the Site. They do not wish to see the Bootham entrance or present roadway to be increased in width. Nor would they wish to see an access road or car parking in front of the Grade 1 listed buildings.
- c. They consider the parkland to have very limited capacity for change, expect it to remain as grass only and if used for sport, for any posts to be fully demountable. Subject to further detail, and justifiable if it allows the open space to be better used, a pavilion or other service building at the edge of the parkland may be acceptable.
- d. They would favour uses for the historic buildings such as health care, dementia care and extra care which continued and marked the buildings' historic significance in the development of mental health care and in this context they would consider limited replacement and renewal of buildings to the north west and rear of the key historic buildings, subject to it being subservient in form and height to Grade 1 structures, if this were necessary to support these desired uses.
- e. Any new build development adjacent of behind the Chapel would need to take into account the impact upon its setting and significance.
- f. They are concerned about the quantity of car parking proposed and question the justification for multi-storey provision in this area.
- g. They urge that a Development Brief for the Site is prepared and adopted by the Planning Authority which establishes the principles and parameters of new build development in each of the different areas of the Site.

39. York Civic Trust have also engaged and submitted a full report into the consultation process. In summary, they state a wish to see:
- a. Retention of the western range of the principal building, including the Grade II Pauper Wards and their connecting corridors.
  - b. Details to be provided of proposed uses of the listed former Recreational and Dining Hall and the American bowling.
  - c. The long range of cottages bordering the main drive from Bootham should not be demolished.
  - d. Felling of trees to require justification.
  - e. The height of any Union Street multi-storey car park should be limited to the double-height coach deck and two further car storeys above with a concealed ramp.
  - f. Landscape and buildings should be considered as inseparable, rather than as two distinct entities.
  - g. The NW-SE and SW-NE through routes for pedestrians and cyclists should be retained and enhanced. Any through bus route should not disrupt the through routes for cyclists and pedestrians, intrude visually or impose additional noise and air pollution to the Site.
  - h. A commitment to the conservation refurbishment of the Grade II main gates and railings on Bootham.
  - i. City of York Council or private benefactor(s) to give serious consideration to the purchase of the 1777 John Carr block to be used for the benefit of the public as a leading centre for learning of mental health provision in the United Kingdom over the last 250 years.
40. The conclusion is that the Council's priorities for shaping the future of the Site should be the:
- a. preservation and public, sports and active leisure use of the Parkland in front of the hospital buildings;
  - b. continuation and enhancement of pedestrian, cycle, [and ambulance] routes across the Site from Bootham to Clarence Street and onto the District Hospital Site at Bridge Lane;
  - c. achieving a sustainable and desirable use of the historic buildings, ideally one that gives life to its historic care and mental health uses by, for example, providing accommodation with care for older people including those living with dementia; and
  - d. delivering value to neighbouring Landowners City of York Council and Hospital Trust by way of purchase of land or rights to ease

access to the Bootham Site and to enable the development of care, medical facilities and key worker accommodation on the Bootham Court land [owned by the District Hospital Trust].

## Options

41. We have examined the options available to the Council to influence and shape any redevelopment of the Site. Options include:
  - a. Buy the Bootham Hospital Site.
  - b. Utilise our legal and land holding rights as owner/landlord of part of roadway which provides access to the Site from the east side to shape the development.
  - c. Enhance our control via recognition that the submitted Local Plan requires a full appraisal of the significance of the historic buildings, landscape and archaeology on the Site and that any redevelopment proposals must arise out of this understanding and that the Local Planning Authority can develop Planning Guidance for the Bootham Park Hospital Site.

These options are examined below.

### Buy the Site

42. The work undertaken in the winter of 2018/9 to prepare a Site Development Plan for the three pieces of land included in that study (the Site owned by NHS Property Services, the Bootham Court site owned by York Teaching Hospitals NHS Trust and the Union Terrace car park owned by the Council, see **Annex 1b**) included a cost and viability review undertaken by Colliers International and Turner and Townsend. This review reported that the highest value development mix produces a gross development value of circa £99.6million. This compares with the construction cost estimate of circa £58.5 million. Alternative options for some parts of the masterplan were evaluated and adopted where they added value to the overall scheme. Costed elements include:
  43. The high-level viability exercise undertaken shows a development surplus of circa £9.4 million after allowance for utilities costs, developers' profits and contingency, finance and other costs of development, but without any allowance for land value or planning contributions. While the headline financial benefits of the combined schemes are positive, this result is based upon taking a strictly commercial approach to the overall development.
  44. The headline financial benefits are also based on best assumptions of cost and developer profit, both of which can be subject to change

because of risks such as difficulty in obtaining best price for construction works, the cost of unforeseen construction risks/cost and fluctuations in the market value of properties produced. While these risks can be managed, and by taking a commercial approach such as strict phasing the market sale risk can be mitigated, the Council, as developer, could be hampered in taking such mitigations because of our wider policy and strategic ambitions.

45. Of significant risk for this Site is the costs associated with restoring and developing the Listed Buildings, costs which can be very volatile and therefore difficult to manage and mitigate. Extra costs incurred in this element of the work are likely to result in a reduction in the viability surplus and/or developer profit.
46. The viability surplus and estimated developer profit described above is based upon delivery of the scheme as set out in the Site Development Plan published in July 2019. A further risk to achieving these values is failure to obtain planning consent for some parts of the proposal and/or achieving consent for a small quantity of development, for example fewer residential dwellings on the Site. Each change would reduce both cost and income and could therefore have a negative impact on the viability surplus.
47. Finally, the key risk to the Council is the cost and affordability of the initial purchase of land. The calculation of this cost is, at this point, speculative but could involve investment of between £5m and £10m, at an annual cost of borrowing of c£500,000 and considerable commercial and policy risks which could wipe out any viability surplus.
48. Working capital to develop the Site prior to receipt of sale income would be considerable and the debt costs of this money are included in the viability assessments at 6%+1% of cost, totalling £4.5m in interest and other payments over the first four years.
49. As described above, the many risks and mitigations associated with the purchase and development of the Site by the Council (and partners) will need further examination and appraisal before they can be fully understood. However, even after this work has been completed the external risks associated with development cost and market sale values cannot be fully managed. It is judged that purchase of the Site by the Council is both costly and risky and is therefore not recommended.

#### Utilise our legal and land holding rights to shape the development

50. The Council owns a small strip of land that links Union Terrace near Clarence Street to the Site (“**the Access Strip**”). The location and extent of the Access Strip is shown coloured red on a Plan attached at

**Annex 1c.** The Council granted a lease of the Access Strip on 20th May 1992 (as varied by a deed of variation dated 13<sup>th</sup> October 1992 (“the Lease”) to the Secretary of State for Health (who then owned the combined/ amalgamated Site and the District Hospital site) for a Term of 125 years from 20<sup>th</sup> May 1992 (i.e. until 20<sup>th</sup> May 2117 so the Lease will expire in 97 years). The Lease permitted use as an access to the Site (and the District Hospital site).

51. On 30<sup>th</sup> August 2006 York Hospitals National Health Service Trust (who at point were the owner of both the District Hospital site and the Site) transferred ownership of the Site to Selby and York Primary Care Trust pursuant to a formal transfer deed (“the 2006 transfer”). In the 2006 transfer the transferee/owner of the Site and their successors in title to the Site was also permitted to use the Access Strip in accordance with the terms of the Lease (granted by the Council in 1992).
52. The seller/buyer is aware of the deficiencies in their control of access to the Site from the eastern side via Clarence Street and when combined with an assessment of the limitations of the western access point from Bootham [see Highways comments below] we see that the seller/buyer are likely to be very reliant on the eastern access and, therefore, will need to negotiate betterment from the City of York Council.
53. The Council’s legal and property advisers confirm that:
  - a. The tenant of the Lease (currently the District Hospital Trust) may have the right to renew the Lease (of the Access Strip) under the Landlord and Tenant Act 1954. However the tenant only has this right if they themselves are in actual occupation of the land (demised by the lease) for non-residential purposes when the lease is due to expire. Further the tenant can only: (i) seek to exercise such a right by serving a notice on the landlord in the time period 6 – 12 months before the expiry date (i.e. May 2116 to November 2116) (ii) demand a lease for a maximum of 15 years at a time (though the right of renewal is potentially perpetual). Any such right can only be exercised by the tenant. The owner of the Site is not the tenant of the Lease (the tenant has merely permitted them to use the rights granted to the tenant in the Lease. They will not become the tenant unless the tenant assigns/transfers the Lease to them.
  - b. Future purchasers of properties developed on the Site, such as Extra Care apartments or residential dwellings, will expect at least a 125 year lease, including access.
  - c. Commercial investors into the development would expect title covenant that would last for at least 250 years and, ideally, freehold



ownership of all land and property which comprises the development land.

- d. Subject to the rights of the tenant of the Access Strip under legislation to potentially seek (maximum of 15 year for each extension) renewal of the Lease in 2116/2117, the Council has full control over the Access Strip and has absolute control, notwithstanding the tenants legislative rights, as to whether they would wish to extend the current lease, for how long, for what uses and for what financial consideration.
- e. The Council also has the right to sell the Access Strip subject to the general provisions relating to land sales and the obtaining of best value but any sale would be subject to the provisions of the Lease.

54. It is proposed that the Council make it clear to all parties that they are willing to engage in negotiations to renew the Lease over the eastern access land subject to the following outline conditions [this is not an exhaustive list]:

- a. that the council wishes to secure public access to the Parkland for public, sports and active leisure use;
- b. that the council wishes to secure pedestrian and enhanced cycle and pedestrian access across the Site and is to allow pedestrian, cycle, [and ambulance vehicle] routes across the Site from Bootham to Clarence Street and onto the District Hospital Site at Bridge Lane;
- c. that the council wishes to secure the access to the Bootham Court land for the Hospital Trust so that this may be developed for care, medical, training and key worker uses;
- d. that sustainable and desirable use of the historic buildings, ideally one that gives life to its historic care and mental health uses by, for example, providing accommodation with care for older people including those living with dementia, are delivered and that the agreed use is secured in perpetuity; and
- e. that the Council's costs in securing the lease extension are paid and due payment is made for the enhanced rights of access by the owner of the Site/the beneficiary of the new lease.

55. It is proposed that negotiations are undertaken in conjunction with the Hospital Trust who also have land rights over the Site and which they will want to exercise.

Enhance our control via the Planning Approval process

56. The Site is a key feature of the built environment in York both because of its long-term historic links with mental health care in the city (it was one of the first, purpose built, mental health hospitals in the UK, having opened in 1777), and because of its proximity to the York District Hospital next door. Now that the hospital has closed, its prominence and its proximity give us a “once in a lifetime” opportunity to guide re-development for the benefit of health, care, housing and public services in York.
57. It is widely recognised that the planning status of the Site and its historic buildings is key to securing its future. The Council’s draft Local Plan identifies the Site as for health use and any change from this designation will require a full appraisal of the significance of the historic buildings, landscape and archaeology on the Site. Any redevelopment proposals must arise out of this understanding, in order to enhance or better reveal their significance into the long term. We have done this work and our proposals have the support of Historic England and the Council’s conservation team.
58. Our plans are shaped by extensive public and stakeholder engagement. Over 3500 engagement comments have been recorded. Discussions have also been held with a very wide range of stakeholders including health partners, conservation and archaeology colleagues, Historic England, York Civic Trust, York CVS, Bootham School, York Minster, Made in York, York BID, Gillygate Traders and the University of St John.
59. Because of the significance of the Site, the benefits that a good quality development could bring to the City and the wide public engagement that has taken place to help shape a vision for its future, it is proposed that the authority actively engage in order to guide future development.
60. The National Planning Policy Framework 2012 states, in paragraph 15, that the planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area, a framework for addressing housing needs and other economic, social and environmental priorities, and a platform for local people to shape their surroundings. The Framework goes on to state, in paragraph 16, that Plans should:
  - a. be prepared with the objective of contributing to the achievement of sustainable development;
  - b. be prepared positively, in a way that is aspirational but deliverable;
  - c. be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations,

businesses, infrastructure providers and operators and statutory consultees;

- d. contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;
- e. be accessible through the use of digital tools to assist public involvement and policy presentation; and
- f. serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).

61. The tests laid down in paragraph 16 of the National Planning Policy Framework 2012 apply to the Site and, mindful of the draft Local Plan designation for the site, it would be appropriate for the Council to actively engage in the development of proposals of the site.
62. The Council therefore urge an early examination of the proposals for the site via a Pre-Planning Application. This would allow the Council to fulfil its obligation, as stated in the Draft Local Plan, to appraise the significance of the historic buildings, landscape and archaeology on site and so that any redevelopment proposals can arise out of this understanding, in order to enhance or better reveal their significance into the long term.
63. If engagement via a Pre-Planning Application is not pursued by the developer, the authority may wish to prepare and approve Planning Guidance for the Site. Much of this work has been done as part of the preparation of the Site Development Plan and associated public engagement. However, a formal process, led by the Planning team will be required to complete it and a comprehensive consultation process will also be required. This will take time which may mean that no guidance will be in place if a planning application is made within the next year to 18 months.
64. The traffic and transport implications of change at the Site are significant and, via public engagement, are seen as very important. The Site currently hosts a major cycle and pedestrian route and is adjacent to pedestrian and cycle routes that could be improved – such as that over Glass Bride and along Bridge Lane – and local vehicle routes that are under severe strain, such as Bootham and Gillygate.
65. Expected developments close by – at Bootham Crescent and Duncombe Barracks – and plans for the rejuvenation of the Groves, further prompt examination of options to achieve improved sustainable transport links across and around the Site.

66. As part of any planning application an updated Traffic and Transport plan for this area will be developed allowing the Local Planning Authority to assess transport impacts and assess the benefits which can be generated from improved pedestrian and cycle routes west to east across Bootham Park and north to south via Glass Bridge and Bridge Lane.

### Conclusion

67. It is proposed that we focus effort on:
- a. negotiating with the current and future owner of the Site in order to secure beneficial public use of the parkland in front of the hospital, improved pedestrian and cycle routes through the site and conservation and redevelopment of the Site to deliver homes and services which are of benefit to the City, and using the powers that the Council hold as owner of land over which the eastern access to the Site must pass, leaseholder of the cycle route that passes through the site
  - b. seek the delivery of sustainable transport routes through Bootham Hospital and Bridge Lane via transport plans for this and adjacent developments; and
  - c. the Local Planning Authority progressing the full appraisal of the significance of the historic buildings, landscape and archaeology on the Site and that any redevelopment proposals must arise out of this understanding, via Pre-Planning Application engagement and, failing that, to develop Planning Guidance for the Bootham Park Hospital Site.

### **Proposed action, implications and timescales**

68. NHS Property Services have announced their preferred purchaser and should Executive agree to proceed with the proposed next steps, we should engage immediately.
69. Work has already begun to look at improved pedestrian and cycle routes across and around the Site, including an initial evaluation of the options available to improve pedestrian, disabled persons and cycle use of Glass Bridge.

### **Issues for consideration [further consideration]**

70. Should Members authorise the work needed to influence what happens next at the Site, the Council and partners will also want to develop a position on the following issues:

- a. The form and function for the management of the Parkland. A partnership with schools – state and private – should be considered in order to make best use of sports and active leisure space on the Site's parkland.
- b. Reviving and progressing A Public Right of Way application for the pedestrian and cycle route through the Site.
- c. The continued hosting of the Air Quality Monitoring Station [and its power supply] will need to be resolved. If it cannot be resolved then the station will need to be moved at an estimated cost of £25,000.
- d. The landing site for the Air Ambulance, and the route for patients to the District Hospital Trust site, must be secured. The Hospital Trust are working to resolve this and to secure the facilities relevant facilities. However, any landing site will need to be considered as part of wider public use of the parkland at the Site.

## Council Plan

71. Our interest in the future of the Site is closely linked to the Council Plan, Making History, Building Communities. Best use of the Parkland on the Site, an improved pedestrian and cycle route and less vehicle traffic in the area will contribute to a **Greener and Cleaner City** and **Getting Around Sustainably**. Good accommodation for older people, particularly those living with dementia and structured sport and active leisure on the Site will help us achieve **Good Health and Wellbeing** and **Creating Homes and World-class Infrastructure**. Sports and open space use of the Parkland will help address the deficit of outdoor curriculum space in local schools, allowing for a **Better Start for Children and Young People**. The preservation of the historic building at Bootham and uses and access which allow people to understand their history and significance will help us achieve **Safe Communities and Culture for All**.
72. The plans and proposal put forward in this report have been drawn up following extensive public and stakeholder engagement and are shaped by the views expressed during this process, demonstration that we are **An Open and Effective Council**.

## Implications

### Financial

73. The preparation of the Bootham Park Site Development Plan, including project management, has been funded from the £155,000 One Public Estate Round 5 grant awarded in October 2016. To date, £140,000 of this grant has been spent.

## **One Planet Council**

74. The development of the Site in line with the ambitions set out in this report will deliver sustainable transport, public open space, health, housing and care benefits to the city.
75. A 'Better Decision Making' Evaluation has been undertaken and is attached as **Annex 3**. The evaluation is positive and identifies that positive uses of the Site will bring Equity & Local Economy benefits to the Fifth Quarter trading area at Gillygate and Bootham and to medical training. Health & Happiness will benefit from sport and active leisure use of the Parkland and from the provision of dementia care services. Sustainable Transport benefits will result from the retention and improvements to pedestrian and cycle routes though and near the site. The preservation, re-use and interpretation of the significant historic buildings on the site will bring Culture & Community benefits and well as positive Zero Carbon and Zero-waste outcomes. Many Local & Sustainable Food and Land Use & Wildlife benefits can be achieved via a positive plan and uses for the Parkland. However, while the achievement of zero carbon relating to heating is difficult to achieve in historic buildings, because of the limitations placed upon improvements to thermal efficiency, the wider site and other benefits achieve considerably out-weights this.
76. Equality benefits are many and include care for those living with dementia, space for external curriculum activities for local schools and space which low income groups can use and enjoy.

## **Legal**

77. NHS Property Services hold the 97 year residue of a lease (granted in 1992 for 125 years) of the Council-owned Access Strip which links the eastern side of the Hospital site to the public highway. NHS Property Services or their successor in title/anyone to whom they assign the Lease may have rights under the Landlord and Tenant Act 1954 to renew this lease but only in the circumstances, and on the terms, referred to in the main body of the report.

## **Property**

78. Our advice and professional experience is that an investor or onward purchaser will not engage in a commercial land transaction where there is limited leasehold time left on a key element of the land under consideration and if they were to it is highly likely that this would have a significant impact on the value of the asset. Therefore, we expect that NHS Property Services will not be able to sell the Site and achieve best consideration without a significant extension of time on the lease over

the access road or its freehold possession. This provides the Council considerable opportunity to influence what happens on the Site, to secure the desired outcomes such as control over open space and sustainable access routes through the site and may even secure a financial payment to the authority.

## **Planning**

79. NHS Property Services Limited own the majority of the 24 acre Site, including the historic hospital buildings, parkland and 19<sup>th</sup> Century Chapel. The District Hospital owns 3 acres containing the nurses' accommodation, while the Council owns land next to the site including the access routes and Union Terrace coach and car park.
80. Despite many historic attributes, the buildings are attached to more modern buildings with limited architectural merit. This engagement exercise needs to explore how to preserve the best of the past and sensitively reflect the history of the Site while opening up space and land for new construction to meet modern needs.
81. The Council's Draft Local Plan identifies the Site as "existing health care facilities" with the green space in front as "existing open space" and insists that "future consideration of the Site must follow a full appraisal of the significance of the historic buildings, landscape and archaeology on site". This consideration has not been concluded.

## **Highways**

82. The Council's Principal Development Control Engineer (Planning), Transport - Traffic & Highways Development reports that existing access off Bootham onto the Site is on a very narrow access road which has limited opportunities for widening it. The width of the road is only suitable for very limited amounts of traffic as a two way access. This may only be suitable for around 25 dwellings as a two way access. It could cater for higher traffic flows if it were part of a one-way system but through traffic would then need to be controlled to avoid people cutting through the site to avoid the Bootham/Gillygate junction.
83. The visibility is poor due to the Grade II listed stone pillars so this would remain an issue if the existing access was to be used as an exit. If used the other way, as an entrance, we would have to carefully design it to avoid conflicts between turning vehicles and cyclists on Bootham.

## **Children's Services**

84. Children's Services report shortfalls in external curriculum space at four local primary schools:

- Park Grove primary [42% shortfall]
- Haxby Road primary [70% shortfall]
- St Wilfrid's primary [87% shortfall]
- Clifton Green primary [10% shortfall]

85. Bootham School and Minster School also experience a shortfall in outdoor curriculum space and wish to explore the potential for the uses of the Bootham fields. Minster Schools has held a lease for the use of the Parkland and most recently exercised their rights to use it for Schools Sports in 2017. This fact will add weight to the argument that the Parkland should be used for structured sports and active leisure as previous school sports use is a material consideration by Sports England when responding to any planning application for the site.
86. As we consider proposals for the Site and develop plans for the use of the Parkland we will seek views from each school and/or others to see if they would make use of the playing fields at Bootham, and for what.

## **Risk Management**

87. The proposed approach does offer risk to the Council. However, it is believed that these risks can be appropriately managed and mitigated. Risks include:
- a. Failure to negotiate desired outcomes on the Site via leverage of the Council's landownership rights. This risk is mitigated by engaging in good quality negotiation and drawing upon expert legal advice.
  - b. Challenge by the developer/s of the Site or by others of any planning decision made on the Site, particularly if those decisions were made in light of planning guidance which was ill-prepared. This risk is mitigated by the deployment of planning expertise and relevant legal advice and undertaking appropriate consultation.
88. The report rejects as not viable the most risky approach, which is for the Council to buy the Site as this would involve taking on ownership of the liabilities of a significant heritage asset, and the costs associated with the maintenance and preservation of that asset, without sufficient commercial certainty that this risk can be mitigated in a timely and cost effective way via development and/or onward sale.

## **Contact Details**

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**Report**  **Date** 9 January 2020  
**Approved**

### **Specialist Implications Officer(s)**

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**Wards Affected:** Guildhall and Clifton

**All**  yes

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

### **Background Papers:**

**Transfer of Services between Leeds York Partnership FT and Tees, Esk and Wear Valleys NHS FT Reflections, Learning and Assurance Report, 31st March 2016, NHS England.**

**Bootham Park Hospital, York, Site Development Report**, prepared by IBI Group on behalf of City of York Council and York Teaching Hospital NHS Trust, April 2019.

### **Annexes**

1. a) Plan of the Bootham Park Hospital Site and Adjoining Land.  
b) Plan of the Bootham Park Hospital Site showing Ownership.  
c) Plan showing the "Access Strip" of land owned by City of York Council.
2. Bootham Park Site Development Plan Consultation Report.
3. 'Better Decision Making' Evaluation.

### **List of Abbreviations Used in this Report**

NHS = National Health Service.

CCG = Vale of York Clinical Commissioning Group.