

Executive

16th March 2017

Report of the Corporate Director of Health, Housing and Adult Social Care from the portfolios of the Executive Member for Adult Social Care and Health, the Executive Member for Finance and Performance and the Executive Member Housing & Community Safety.

Oakhaven Extra Care Facility: the sale of land to facilitate the development

This report updates Executive on progress made towards delivering an Extra Care facility at Oakhaven on Acomb Road. The report will ask for consent to sell the Oakhaven site to an Extra Care developer. As part of this procurement the Council will secure nomination rights to 25 affordable rented and discount sale apartments.

Recommendations

1. The Executive are asked to:
 - a) Note the appointment of Ashley House plc as the developer and operator of the Extra Care facility at Oakhaven and the securing of nomination rights to 20 affordable rented and 5 discount sale apartments for 80 years.
 - b) Agree to sell to Ashley House plc the 0.87 acres of land at Oakhaven on Acomb Road which will be used for the development of the Extra Care facility.

Reason: To progress to deliver the Extra Care facility at Oakhaven as part of the Older Persons' Accommodation Programme.

Background

2. On 30th July 2015 Executive agreed to seek "the building of a new Extra Care scheme on the site of an existing Older Persons Home". On 29th October 2015 Executive agreed to close Oakhaven Older Persons' Home on Acomb Road and agreed to "the procurement of a partner to develop the Oakhaven site as an Extra Care facility for Acomb".

3. The opportunity to develop, construct and operate an Extra Care facility on the Oakhaven site was advertised in the Official Journal of the European Union in November 2016. 0.87 acres of land (see **Annex 1**) was offered for sale to bidders who would use the land to provide the Extra Care facility. As part of this procurement the Council have sought:
 - a) A partner to fund, build and operate an Extra Care facility and, in relation to the design, to propose the best solution for the site in terms of:
 - the quantity and size of units of accommodation, though some units are required to have two-bedrooms;
 - the tenure mix, other than the Council's specific requirements (below);
 - the extent of communal facilities made available; though this must include a cafeteria serving a choice of hot meals; and
 - the provision of gardens and car parking.
 - b) The precise tenure mix is for the Bidder to determine, though:
 - the development is to be of mixed tenure;
 - 20 of the housing units are to be available at a rent which will not exceed the Local Housing Allowance (over which the Council will have nomination rights), 15 of these will be of one-bedroom and 5 two-bedroom units; and
 - 5 units are to be available on a Low Cost Home Ownership for the Elderly lease (over which the Council will have nomination rights).
 - c) The specification of individual units is to be "tenure blind" and affordable/social tenure units are to be pepper-potted around the development.
 - d) The Council's nomination rights will be determined via a Nomination Rights Agreement.
 - e) Personal care will be provided to a standard that ensures that Care Quality Commission registration is obtained and maintained.
4. The cost of personal care will be met by the recipient of care and those recipients who are eligible for local authority financial support will receive this in the form of a Personal Budget/Individual Service Fund.

Recipients retain the right to purchase care from a provider other than the one dedicated to the scheme

5. North Yorkshire Police have indicated that they might be prepared to vacate their adjacent police station and rear yard/outbuildings at a later date. Bidders were required to consider this potential as a later expansion after the procurement process, in the design of their scheme although this is not guaranteed and has no bearing on the procurement process evaluation criteria.
6. Following an initial assessment of those interested in the opportunity, five bidders were shortlisted and invited to tender. Three responses to this Invitation to Tender were received on 8th February 2017.
7. Evaluation of the bids includes the examination of both qualitative (60%) and financial (40%) elements of the proposal.
8. Qualitative elements have been judged against the following criteria:
 - a) Design achieves Council requirements for units with Nomination Rights.
 - b) Design.
 - c) Programme.
 - d) Funding.
 - e) Planning Strategy.
 - f) Delivery Resourcing and Collaborative Working.
 - g) Repair and Maintenance Services.
 - h) Dementia, complex care and safeguarding.
 - i) Social Value Considerations.
9. Financial elements will be judged against the following criteria:
 - a) Capital Receipt for Land.
 - b) Efficiency of delivery costs.
 - c) Building and support service charges.
10. Following this process, Ashley House plc has been selected as Preferred Bidder.
11. The Ashley House plc proposal delivers:
 - a) 56 apartments comprising 48 one bed (54 m²) homes and 8 two bed (68 m²) homes.

- b) Of these apartments, 20 will be for affordable rent, 5 for discount low cost home ownership for the elderly, 15 for market rent and 16 for outright sale.
 - c) They propose a four storey building with a “light touch” approach to communal facilities, providing a lounge, cafe/restaurant, buggy store and staff rooms. This approach is adopted in recognition of the high street location for the Oakhaven scheme and the fact that many facilities are available close by. They also provide 16 car park spaces.
 - d) The weekly rent for the 1 bed affordable rented homes is £99 and £124 for the 2 bed homes.
 - e) The proposed hourly cost of care is £16.14.
 - f) The target sale value of the outright sale apartments is £165,000 for the 1 bed apartments and £195,000 for the 2 bed homes.
 - g) The scheme is expected to be completed by February 2019 (subject to various factors, including this bidder being able to obtain planning permission for their proposed scheme on terms considered to be acceptable by them).
 - h) Should, at a later date, the Police Station site become available, the new building can be extended to accommodate a further 14 apartments and 10 car parking spaces.
12. Ashley House has, as part of their bid, offered to pay £150,000 to the Council for freehold ownership of the site for development of an Extra Care scheme.

Implications

Financial

- 13. The delivery of an Extra Care scheme at Oakhaven forms a key element of the Older Persons’ Accommodation Programme. The Programme is predicated on a financial plan which assumes disposal of the Oakhaven site at nil capital value and for the additional domiciliary care costs which might be incurred as a cost to the Council of the assessed care needs of residents of the Extra Care scheme.
- 14. The preferred bid has delivered a capital receipt of £150,000 which is in excess of the planned receipt. The obtaining of nomination rights to all of the proposed 20 affordable rented apartments and to all of the

proposed 5 discount low cost home ownership for the elderly apartments in the scheme for a period of 80 years also has positive a financial benefit to the Council if compared to the cost of providing those apartments ourselves, preventing the authority having to incur capital expenditure of approximately £2.2 million. These nomination rights will be used to provide accommodation to those in housing and social care need. Therefore, this justifies the sale of the land at less than full market value/best consideration reasonably obtainable.

15. In order to ensure affordability of the rented apartments the Council will need to consider this development to be “Exempt Accommodation” under regulation 10 of the 1995 Housing Benefit regulations.

Legal

16. Under Section 123 of the Local Government Act 1972 the Council needs the consent of the Secretary of State (for Communities and Local Government) if it wishes to dispose of non-housing land for a consideration that is less than the best consideration reasonably obtainable. However under a General Consent Order made in 2003 the Secretary of State has given consent to disposal of non-housing land for less than best consideration reasonably obtainable provided that: (i) the difference between the price obtained and full market value does not exceed £2 million AND (ii) the Council (acting reasonably and properly) considers that the disposal will facilitate the improvement of the economic, environmental or social well-being of the area. In this case the delivery of an Extra Care scheme with local authority nomination rights fulfils this second test of compliance.
17. A fully compliant procurement process has been followed to find a partner to develop and deliver the Extra Care facilities at Oakhaven.
18. The issue of state aid is a factor in this project as council land is being made available as part of the tender. Factors such as size and quality of development, apartment numbers and prices, nomination rights and other facilities offered to the Council or its residents, will have an impact on the value bidders are prepared to offer for the land itself. The offer from Ashley House is below market value and thus potentially be seen as a state resource being made available on preferential terms, which is a characteristic of state aid.
19. However, the fact that the Council has conducted a fully EU compliant procurement process where all parties have had equal chance to express an interest and to bid, and that the price offered for the land is part of the evaluation model, ensures that no advantage is being offered to one organisation over another and that there is no distortion of either

competition or the market. That being the case then it is likely that the Council is not in contravention of EU state aid regulations and unlikely to be subject to any challenge in this respect. It is not unlawful to offer an incentive to allow a project to come to fruition as long as the opportunity is open to all.

20. The Property will be subject to a restrictive covenant prohibiting use for any purpose other than as an Extra Care scheme.

Property

21. The Oakhaven care home site measures 0.87 acres and has been given an open market value of £850,000.
22. The cost of the Council providing similar accommodation as the proposed 20 affordable rented apartments and the proposed 5 discount low cost home ownership for the elderly apartments for which the Council is to have nomination rights for a period of 80 years is estimated at approximately £2.2 million, demonstrating that nominations secured in this way can represent value for money to the authority.

Equalities

23. In considering these matters the Council must have regard to the public sector equality duty. In summary, those subject to the equality duty must, in the exercise of their functions, have due regard to the need to:
 - Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equalities Act 2010.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.
24. The Equalities Act 2010 explains that having due regard for advancing equality involves:
 - Removing or minimising disadvantages suffered by people due to their protected characteristics.
 - Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
 - Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

25. An Equality Impact Assessment (at that time a “Community Impact Assessment”) for the Programme was undertaken in May 2012, has been updated on several occasions (most recently in October 2016) and remains valid.
26. An Older Persons’ Accommodation Project Board and a Reference Group have been established to act as a sounding board for the development of plans as the implementation of the Project unfolds. The project team also continues to use established channels to communicate with, and gather the views of, members of the local community, partners, stakeholders and staff.

Human Resources

27. The Extra Care scheme will be operated by the preferred partner who will employ their own staff to deliver services, or work with partners to do so. Therefore, there are no City of York Council human resource implications relating to this matter.

Crime & Disorder

28. During redevelopment, plans will take account of design features, which minimise opportunities for vandalism and trespass and thus risk to the individuals concerned and ultimately financial risk to the Council.

Information Technology

29. There are no direct Information Technology implications to this report.

Other Implications

30. There are no other implications arising from this report.

Risks

31. The key risks of this proposal are:

	Risk	Mitigating Action
a)	Options for accommodation for older people do not match the expectations and aspirations of current and future residents.	A wide range of options are made available and residents are supported to assess these against their needs and wishes.

	Risk	Mitigating Action
b)	Those with high care needs and their cares/advisers/assessors do not recognise Extra Care accommodation as suitable because there are limited examples in York of this type of accommodation and the care pathways are unclear.	A dedicated care manager will work with residents to explore with them and their relatives how Extra Care operates, how it can be a flexible model for those with high care needs and how it operates in other towns as a viable alternative to residential care.
c)	Insufficient funding to deliver all elements of the project.	The early receipt of capital from the sale of Oliver House and other sites has made a positive contribution to cash flow in the Programme financial model.
d)	Title / related property issues, incorrect procurement of a development partner	Applying due diligence to ensure Council's normal approach to the disposal of land, and/or a development partner is applied.
e)	State Aid challenge.	Final legal advice on Capital Receipt achieved.

Contact Details

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Wards Affected: Holgate			
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Annexes:

Annex 1 – The Oakhaven Site

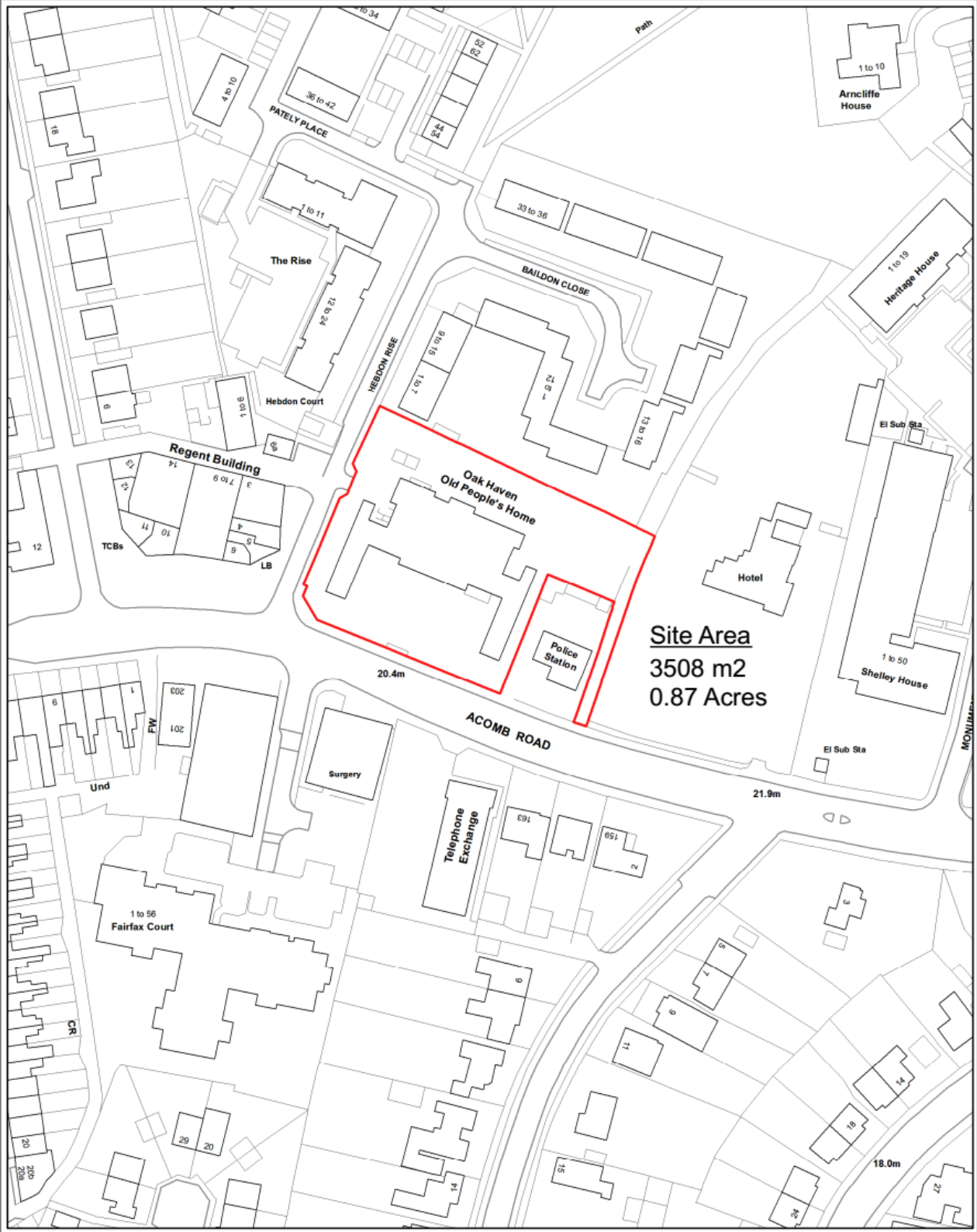
Background Papers:

19 July 2011	Report to Executive giving formal approval for the commencement of the Programme.
1 Nov 2011	Report to Executive giving the results of consultation and proposed a programme of closures, supported by a further consultation period on proposed closures of Oliver House and Fordlands.
10 Jan 2012	Report to Executive authorising consultation with staff, residents and their families and carers on proposal to close Fordlands and Oliver House, including changes to day care services as a result. Recommendation to close Fordlands and Oliver House.
15 May 2012	Report to Executive noting the successful homes closure and transition for residents
4 June 2013	Report to Executive seeking agreement on modernisation programme. The Council to fund the building of the two new care homes and so retain ultimate ownership of the buildings and the land with care homes designed, built, operated and maintained by an external provider.

3 Mar 2015	Report to Executive seeking approval of revised proposals based on creating new Extra Care Housing and reforming the Council's existing ECH stock; building a new care home on the Burnholme site as part of wider health and community facilities; and working more closely with current care providers to deliver more specialist dementia accommodation across the city.
30 July 2015	Report to Executive seeking approval of the Business Case for the Older Persons' Accommodation Programme and agreement to proceed.
29 Oct 2015	Report to Executive providing the results of the consultation undertaken with the residents, relatives and staff of Grove House and Oakhaven residential care homes to explore the option to close each home with current residents moving to alternative accommodation. Executive agreed to close Grove House and Oakhaven.
29 Oct 2015	Report to Executive providing the results of the consultation undertaken with the residents, relatives and staff of Grove House and Oakhaven residential care homes to explore the option to close each home with current residents moving to alternative accommodation. Members agreed to close Grove House and Oakhaven and, further, agreed to sell the Grove House site and to seek a partner to develop an Extra Care scheme on the Oakhaven site. The context for this decision is that the Older Persons' Accommodation Programme aims to meet people's changing needs for accommodation with care, and in-particular the needs of those with dementia and the demographic challenges faced by the city, through delivering additional Extra Care accommodation and new, good quality, residential and nursing care accommodation.
14 July 2016	Report to Executive by the Director of Adult Social Care. Agreement to move forward with examination of the development potential for Lowfield, alternatives to closure of Haxby Hall and sanction to consult on the closure of a further two older persons' homes.
28 th Sept 2016	Report to the Audit & Governance Committee by the Programme Director, Older Persons' Accommodation, providing an update on progress of the Programme and actions taken to address External Audit recommendations.

24 th Nov 2016	Report to Executive by the Corporate Director of Health, Housing and Adult Social Care. The Executive received the results of the consultation undertaken with the residents, relatives and staff of Willow House residential care homes to explore the option to close the home with current residents moving to alternative accommodation, and agreement to close Willow House and sell the site.
7 th Dec 2016	Reports to Executive by the Corporate Director of Health, Housing and Adult Social Care providing an update on the Programme and seeking consent to complete the next phase of delivery of the Burnholme Health & Wellbeing Campus, agreement to seek a sustainable future for Haxby Hall and to move forward with the Lowfield Green development.
9 th Feb 2017	Report to Executive by the Corporate Director of Health, Housing and Adult Social Care. The Executive agreed to sell the site of the former Fordlands Road older persons' home to Octopus Healthcare who proposes to develop a residential and nursing care home on the site.

Annex 1 – The Oakhaven Site



Oakhaven



SCALE 1:1,250 DRAWN BY: DH DATE: 15/09/2015
 Originating Group: **Asset & Property Management** Drawing No. **E00646_1**

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