

**Cabinet Portfolio Holder Decision Session
Cabinet Member for Finance and Performance**

18 March 2015

Report of the Assistant Director for Finance Property and Procurement

Disposal of Oliver House

Summary

1. This report seeks a Cabinet Portfolio Holder decision to select a preferred bidder for the disposal of the former Elderly Persons Home (EPH) at Oliver House and the garage site to the rear. This site is a valuable and high profile city centre site.

Background

2. Oliver House is a former 45 bed EPH, which closed on 31 March 2012. When it became surplus to requirements a decision was taken in May 2012 by Cabinet to dispose of the site to CVS for a Social Care Hub, subject to a robust business case. This was subsequently not found to be feasible and in December 2013 Cabinet agreed to place the site on the open market.
3. A site plan is attached at Annex 1. An additional area of land occupied by garaging is also identified. This is held within the Housing revenue Account (HRA), and was also agreed for disposal to create a larger more viable site and generate a larger capital receipt which will be split between the General Fund (GF) and the Housing Revenue Account (HRA).
4. The site is both financially valuable and strategically important, lying as it does within the city walls, in a largely residential area, within the Central Historic Core Conservation Area.
5. Strong interest in the property has been received from various quarters, with 24 bids made to purchase the property which are presented here for decision.

6. Packaged with the adjoining garages it is worth substantially more than as a stand alone site and the property market in York has recovered significantly since the decision to dispose was made. Bids have been received ranging from £3.24m to £750k.

Evaluation Criteria

7. In the current financial climate, with large reductions in government grant causing huge pressures upon council budgets, the capital value of this site is of significant importance. The site is one of the few high value vacant assets owned by the Council.
8. The site is also in a residential area and has significant community value. The need for the city to maximise brownfield land for housing has been well rehearsed. Increasing the cities' housing stock is key to re-balancing of supply and demand and impacting positively upon the overall affordability of private and rented housing stock. It is also important to consider how the type of any housing will help us meet the priorities set out in our housing strategy.
9. The Council are not selling the land with any restrictions or stipulations on its future use but the evaluation has been undertaken on the basis of
 - a. Capital Value – 60% with the highest bid getting 60 marks and decreasing down to 0% for a zero value.
 - b. Community value - 20% The planning brief identified a strong residential focus of the site so the evaluation awards 4 points for the quantum of housing, 4 points for the type of housing, 4 points for the level of affordable housing provided and 8 points for the provision of local amenities.
 - c. Deliverability - 20% with 11 points awarded for financial deliverability (finance in place) and 9 points awarded for planning risk
10. All bidders were informed of the high level evaluation criteria and asked to provide sufficient information to enable us to score their bids effectively. They were also asked to provide bids that were gross of S106 payments and any exceptional costs that arise through the planning process such as archaeology, renewable energy provision and exceptional build costs such as provision for higher build costs to meet the standards of a conservation area. Estimates of S106 liabilities are significant for the schemes with more than 15 dwellings as these

schemes will be expected to contribute commuted sums for the provision of affordable homes.

11. Some bids are extremely detailed, with site surveys commenced and high level schemes developed. For these schemes estimates of exceptional costs can be made which will eventually, as part of the detailed scheme development and the planning process, be netted off the gross bid before a final sale deal is struck. Some bids are simply a capital value with no scheme information which makes it much harder to quantify what costs may be netted off the gross bid.
12. As part of the analysis, officers have attempted to model the likely S106, archaeology and sustainable energy costs. Exceptional scheme build costs will be unique to each bid and no attempt has been made to estimate these.
13. In order to attempt to assess a wide range of types of bid it is inevitable that the evaluation model cannot possibly allow for all contingencies. It does however attempt to provide a method of assessing differing schemes with impartiality and effectively balance the merits of the different schemes. The Cabinet Member is asked to consider the suitability of the evaluation criteria and the balance applied to the different elements within it.

Analysis

14. A summary of all bids is attached at Annex 2. The analysis of the gross bids is attached at Annex 3, graded in order of overall points scored. Estimated net values have also been evaluated in a confidential Annex 4 and are again listed in order of overall points scored. This is commercially confidential because the actual net figures will be subject to commercial negotiations as part of the final sale agreement.
15. The marketing campaign was extremely successful with 27 bids from 23 bidders, evidencing the strong market interest in this desirable site. 22 of these bids are conditional upon planning (and hence likely to be reduced to accommodate all the costs above). 5 Bids are only conditional upon S106 payments but 3 of these are at a significantly lower level than the conditional bids from the same bidders and have therefore not been separately evaluated.
16. 2 bidders have made bids which are only conditional upon S106 payments. The Grantside bid at £1.475 is lower than the similarly unconditional bid made by Trinity Services for £2.412. This is only

conditional upon agreement of an estimated S106 payment for a very high level proposed scheme.

17. This bid would be subject to a lower level of reductions from the gross figure and is therefore more certain in overall value but it is lower in value than a number of other bids and it will be difficult to calculate a probable S106 as the scheme is not designed. This bid carries a higher risk of significant change from the original scheme when it eventually goes to planning and CYC would have no control if a widely different scheme were eventually put to planning.
18. If we proceed with a bid that is conditional upon planning permission, the capital receipt will be lower than the gross bid proposed and this will be negotiated following the detailed planning process.
19. In the evaluation of both gross bids and the estimated net bids, the bid from McCarthy & Stone for a 30 apartment retirement home scheme is the clear winner with 87 points at £3.324m. In second place is another 29 bed retirement scheme from Churchill Retirement with 79 points and a bid of £2.850m. In third place is the less conditional bid from Trinity Services referred to in Para 15 which scored 70 points at £2.412m.
20. The capital value of the bids ranges widely from £3.324m to £750k. The financial element is a major driver for the sale. The capital will be used to deliver council priorities, particularly accommodation for older people. Given that 60% of the points are awarded for finance and the highest bid is almost 4 and a half times that of the lowest bid, this has a significant influence on the overall scores.
21. The lowest value bid from Yorspace Ltd, which currently is ranked at 15 with 49 points has been widely supported within the Bishophill community and scores highest on community value, providing community space, composting and allotment provision, secure cycle storage and a car pool scheme. The proposal claims annual revenue savings to the council of £278k pa from :-
 - a. Reductions to social care costs if 20% of the residents were over 65 and required no social care support
 - b. Reduced anti social behaviour due to improved social cohesion in Micklegate Ward
 - c. Savings related to health and congestion resulting from a car pool

22. Based on the modest scale of the scheme these savings are highly speculative, and are very unlikely to be realised as actual savings to Council budgets.
23. The Yorspace bid is much lower value than the top 10 bids and a decision to sell the site on the basis of community value and high level projections of potential savings would be highly challengeable. As is set out in Para 25, the Council can decide to sell on the basis of community value at below market rate if the sale price is up to £2m less than market value. The Yorspace bid is £2.754 less than the highest gross bid and therefore a decision to sell to Yorspace would require Secretary of State permission as it does not represent best consideration for the council. This decision would be subject to challenge from a large number of other bidders and other interested parties.

Recommendation

24. It is recommended that the highest scoring bid be selected as preferred bidder and that detailed commercial negotiations are entered into. The negotiations to arrive at a final financial value for the sale will be undertaken by officers and the final sign off of the deal should be delegated to the Director of Customer and Business Support.
25. As the net value of the bid is likely to reduce during these negotiations it is still important to retain some commercial tension and it is therefore recommended that the second and third place bidders be retained as reserve bidders who will be invited back into the competition if an acceptable value cannot be agreed with the preferred bidder.

Corporate Priorities

26. The potential schemes will contribute to the Council Plan in the following ways. All of the housing schemes will contribute to a greater or lesser extent to the theme of Building Strong Communities by increasing the level of much needed housing stock within the city. The schemes for housing for older people and adults with learning difficulties will support the theme of Protecting Vulnerable People. The Hotel scheme will support the theme of Creating Jobs and Growing the Economy. This has been captured in the evaluation model in the scores allocated to community value.

Implications

27.

Finance – The land being sold is held in both the General Fund (70%) and the Housing Revenue Account (30%) The capital receipt will be split on this basis.

£450k of the GF receipt was assumed in the business case for the EPH project and it is expected that part of the GF receipt will make a contribution to the business case being developed to fund future housing provision for older people as part of the Older People's Housing Project. The details of this business case will be brought back to Cabinet later in the year. The HRA element will supplement the available capital budget for the provision of social housing

The actual sums will not be confirmed until the final commercial deal is agreed as they are subject to the reductions explained in paras 9-11.

Legal - The Council has statutory power (under S.123 of the Local Government Act 1972) to dispose of non-HRA land without the Secretary of State's consent for the best consideration reasonably obtainable (or for less than best consideration where the difference between the price obtained and full value is less than £2 Million where the purpose of the disposal will contribute to the promotion or improvement of the economic, environmental or social well-being of the area).

Paragraph A3 of The General Housing Consents Order 2013 gives the Secretary of State's consent (under S.32 of the Housing Act 1985) to the disposal of HRA land for market value price and also gives consent to the disposal of vacant non-residential HRA land (such as garages) at a price determinable by the Council (including for below market value).

It is recommended that if it is decided to enter into a contract conditional upon the purchaser obtaining planning permission for a particular scheme, that the Contract contains the following provisions standard to conditional sale contracts:

- (i) That the Sale Price is fixed/specified in the Contract (with not ability for the purchaser to deduct costs from the sale price after signature of contract (such as the costs of obtaining planning permission or the cost of complying with any Planning Obligation(s) imposed under any S.106 Agreement required by the Local Planning Authority or the cost of

complying with any conditions imposed by the Local Planning Authority)

- (ii) That the purchaser be under an obligation to apply for Planning Permission for their proposed scheme within a specified period from exchange of contracts and that they will use reasonable endeavours to obtain that Planning Permission on terms satisfactory to them by a further specified date, including entering into any S.106 Agreement required by the Local Planning Authority as a condition of granting planning permission.
- (iii) Ability for either the Council or the purchaser to terminate the Contract if the Buyer has not obtained Planning Permission on satisfactory terms by a specified date

If the Contract does not contain a provision restricting the property to a particular use (or preventing the property from being used for specific purposes) then the purchaser/future owner will be entitled to use/develop the property in any manner they choose in the future subject to obtaining planning permission for development/change in use.

Property -All implications are included in this report

Human Resources – None

Risk Management

- 28. Having identified an evaluation methodology, failure to apply it fairly could lead to challenge from other bidders. If a bid were selected that did not clearly demonstrate best consideration then that could also be challenged and would require. Failure to secure a significant capital receipt may impact upon the development of the business case for Older People's Accommodation project and the future delivery of additional social housing.
- 29. There is a risk of any scheme not getting planning permission.

Recommendations

- 30. Approve McCarthy and Stone as the preferred bidder for the purchase of Oliver House and the adjoining Garages.

Reason: To achieve the overall best consideration scheme on the Oliver House site and deliver a capital receipt to the General Fund and the Housing Revenue Account.

31. To retain Churchill Retirement and Trinity Services as reserve bidders who will be invited back into negotiations if an acceptable deal cannot be secured with McCarthy and Stone.

Reason: To retain commercial tension within the negotiations and ensure that the final deal represents best consideration for the Council.

32. To delegate to the Director of Customer and Business Support the agreement of the final sale value and terms.

Reason: To ensure the Council achieves the most advantageous deal.

Contact Details

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Report
Approved

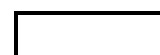


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Specialist Implications Officers

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For further information please contact the author of the report

Annexes:

Annex 1 - A plan showing the location of the site.

Annex 2 – A summary of all Bids

Annex 3 – Evaluation of Gross bids

Confidential Annex

Annex 4- Evaluation of bids with estimated net values