

Executive

7 December 2016

Report of the Corporate Director of Health, Housing and Adult Social Care from the portfolio of the Executive Member for Adult Social Care & Health

Haxby Hall older persons' home: A sustainable future (option appraisal and business case to secure the long-term delivery of older persons' care on this site)

This report examines the options available for the delivery of a sustainable future for Haxby Hall older persons' home on York Road, Haxby [Haxby & Wigginton ward] and recommends that a partner be found to take over the ownership and management of the home along with a commitment to build a new home on the site in the near future.

Recommendations

1. The Executive are asked to:
 - a. Note the review of options for the future of Haxby Hall.
 - b. Consider the three options in this report and decide whether the preferred option is for the Council to seek a partner to take over its ownership and management with a commitment to build a new care home on the site in the near future and that this option is the subject of consultation with residents, relatives, interested parties and staff of Haxby Hall.
 - c. Agree that a six week period of consultation is undertaken with residents, relatives, interested parties and staff of Haxby Hall to explore the option to seek a partner to take over its ownership and management with a commitment to build a new care home on the site in the near future and that a further report on the outcome of this consultation be received at the Executive before a final decision to transfer is made.

Reason: To progress to deliver a sustainable future for Haxby Hall as a care home, as part of the Older Persons' Accommodation Programme.

Summary

2. The purpose of this report is to review the options for the future use of the services and land at Haxby Hall. The review is prompted by the growth in the 75+ population of York, a rise which will continue for at least the next fifteen years, the success of the Older Persons' Accommodation Programme to date and the need to manage the long-term financial pressures facing the authority. Three options have been examined:
 - a. Continue with the current plan to consult on closure and, subject to any decision to close, sell the site.
 - b. The Council to redevelop the site itself as a new care home.
 - c. Transfer of property and services with guarantee of redevelopment.
3. This review concludes that Haxby Hall should not be the subject of consultation to close but instead the Council should seek a partner to take over its ownership and management with a commitment to build a new care home on the site in the near future (Option C). This option will be the subject of consultation with residents, relatives and staff.
4. A plan has been developed in which adult care provision can be continued at Haxby Hall in a modern and high quality environment. The scheme that has been devised makes efficient use of the space in order to provide:
 - a. a new care home with approximately 70 beds including special provision for those with complex care needs such as dementia; and
 - b. a capital receipt from the sale of the site to an independent provider.
5. The proposal is affordable in the context of the Financial Plan for the Programme and will secure a number of good quality care beds for purchase by the authority at an agreed price, helping to manage medium term financial pressures.

Background

6. Executive in July 2015 agreed a programme of activity which will transform the provision of older persons' accommodation with care (the **Programme**) York's current provision of accommodation with care is both incompatible with modern standards and is insufficient to meet the needs of an ageing population.

7. On 14th July 2016 Executive agreed to investment in land holdings adjacent to Haxby Hall older persons' home and that they would "receive a further report in the autumn on the examination of options for the long term future of Haxby Hall, including seeking a partner to operate and redevelop as an alternative to consultation on closure".
8. There is a shortage in York of suitable accommodation with care for older people. This is caused by historic under-investment and expected growth in the size of the over 75 population of the city (the 75+ population is expected to increase by 50% over the next fifteen years, from 17,200 to 25,800).
9. The Programme, as currently set, anticipates the following outcomes in the period 2016 to 2018:

Table 1: New provision under the Programme

New Provision	When	Total
<i>Extra Care</i>		
Glen Lodge Extra Care Extension	Q3 -17	27
New Extra Care Scheme in Acomb	Q4 -18	40
Red Lodge Extra Care – net new	Q1-18+	75
TOTAL new Extra Care units of accommodation		142
<i>Residential Care</i>		
Chocolate Works Care Home	Q2 -17	90
Red Lodge Care Home – net new	Q4 -17	16
Burnholme Care Home	Q4-18	80
TOTAL new residential care beds		186
Making best use of existing Sheltered Housing with Extra Care accommodation for those with high care needs		50
TOTAL new provision		378

10. These efforts will facilitate the closure of the five remaining Council run Older Persons' Homes, subject to consultation. It is recognised that the buildings that these homes operate in are no longer fit for purpose.
11. In total 378 new units of accommodation are expected to be achieved in the next three years, closing the 2014-18 gap identified and replacing existing Council-run care beds.

12. However, more is needed to meet the demand generated by population growth through to 2020 and beyond, as the table below shows:

Table 2: Demand & Supply through to 2020

Demand & Supply through to 2020	2014-18	2020
Shortfall in provision	-371	
New provision as detailed in Table 1	+378	
And, subject to that new provision, shortfall		-137

13. We therefore estimate that we need to see the provision of 90 additional care beds and 50 units of Extra Care accommodation to meet projected need and supply through to 2020 and beyond.
14. Key strands for the Programme are now moving forward and it is therefore timely that we begin to plan for new provision which will come into use in 2019 and 2020 and which will close that 2020 gap. The other imperative is to achieve a supply of residential care beds and “assess to discharge” beds which will help the Adult Social Care team both to keep pace with demand and manage budget pressures.
15. With this in mind and as agreed by Executive in July 2016 we have explored alternative options for Haxby Hall.

Haxby Hall

16. Haxby Hall Older Persons’ Home currently provides residential care accommodation for 41 permanent and 8 short-stay residents. However, the accommodation provided is no longer fit for purpose as few bedrooms have en-suite toilet and bathroom facilities and the social and communal facilities are inadequate.
17. Further, the Council is prevented from providing nursing care at Haxby Hall and this means that some residents have to move to alternative care accommodation when nursing care is needed. If Haxby Hall was instead to be owned and managed by an independent organisation then dual registration would be possible and both nursing and residential care could be provided on the site.
18. As with other Older Persons’ Homes owned and run by the Council, we currently plan to consult on the closure of Haxby Hall in either 2017 or 2018 and, should a decision to close be made, residents would have to move to alternative accommodation.

Haxby Hall operating costs

19. Haxby Hall's annual operating costs currently stand at £1,266,130. After payments are made by residents for their care, the cost to the council of operating the site is £707,500 a year. At Q2 2016, the actual net weekly cost of running a Council bed is around £430 pw.
20. In comparison the average net cost per week that York pays to providers is £275 per week for residential care or £299 for residential care with dementia care.
21. These operating costs form only a part of any considerations in this options appraisal. Some options contain overheads such as build costs and TUPE transfers in addition to the revenue costs associated with running the care home.

Site and Building

22. Haxby Hall is located in the village of Haxby, to the north of York. Haxby is an historic village with good transport links to the city centre and house prices in the area are just below the average for York.
23. The Council owned plot upon which Haxby Hall is situated is 1.04 acres in area (see Annex 1). Progress is currently being made on the purchase of land adjacent to the site. The combined lands, resulting from the additional site purchase, will greatly improved accessibility and layout for future use.
24. The current building on the site was constructed in 1965 and has capacity for 49 people. It is owned and operated by City of York Council as a residential care home since 1965 and also cares for people with high dementia needs.
25. As mentioned previously Haxby Hall's age means that many of its facilities are not up to modern standards. Rooms lack ensuite toilets; corridors and bedrooms are too small to meet accessibility standards and the building design does not work well for dementia care. On top of this the site requires high levels of maintenance. The roof repair in 2009 has failed to completely resolve the problem of leaks. The property contains only minimal quantities of asbestos thus minimising this as a risk to re-development.

Other Factors

26. There are a number of residents at Haxby Hall who have been moved

there from other Council care homes which were closed, primarily Grove House and Oakhaven but also Fordlands and Oliver House.

Consultation

27. A number of tools for consultation have been utilised over the past month. Architects from P&HS were contracted to provide feasibility drawings and produce a concept plan of how any new development might work.
28. The options examined in this report have been discussed with the Older Persons' Accommodation Programme reference group. They are supportive of the preferred option.
29. Residents, relatives and staff at Haxby Hall have also been engaged. Questions were asked about the impact upon current residents, the capacity and capability of the council and its partner to deliver the proposal, what a new care home may look and feel like and how much care would cost under the new arrangements. A summary of the meeting that occurred on 21st November is shown in **annex 2**.
30. Work with the property, finance and procurement teams has also been undertaken to review the costs and opportunities surrounding the options presented.
31. Wider research into how councils have dealt with similar situations elsewhere was undertaken during July and August 2016. Councils approached included Derby, Nottinghamshire, Leicester, Leicestershire and Doncaster. A visit to Doncaster council was conducted in August to discuss the issues around transfers as considered in Option C.
32. If Executive agrees Option C there will be a need for formal consultations with residents, families of residents, interested parties and staff to inform them of the proposal and to receive any feedback regarding the proposal. Option C may also require consultation with trade unions, the CQC and independent care home operators; the latter in order to ascertain demand.

Business Case

33. A number of options have been considered for the Haxby Hall site. These proposals have been the subject of extensive discussion and include:

- a. closure of care home, relocation of staff and residents and sale of site;
 - b. the Council fund and build a new care on the site and continue to own and operate the new care home; and
 - c. procure a partner to take over ownership and operations of the site with a commitment to develop a new care home on the site.
34. The preferred option is a transfer of property ownership and services to an independent organisation whilst providing a commitment that a new care home will be developed on the Haxby Hall site.
35. The transfer of services at Haxby Hall to a private or non-profit organisation has a number of advantages such as:
- i. maintaining the service provision while shedding costly overheads;
 - ii. providing a modern high quality environment for care;
 - iii. increasing the number of care beds available in the city; and
 - iv. generating a capital receipt from the sale of the site.
36. The redevelopment of the site would also increase the capacity of beds above the 49 currently provided on site. The Council would enter into a contract with the new care provider to block purchase a number of care beds at the Actual Cost of Care.

Options examined

Option A: Continue with current plan to consult on closure and, subject to any decision to close, sell the site

37. This is the current proposed option: subject to consultation and any decision to close, the closure of the care home, relocation of current residents and staff and final sale of the site. The village of Haxby has a good community and is well located for commuters, meaning the site ought to realise a decent capital value. This healthy capital receipt is currently intended to contribute to the £4m needed to support the wider aims of the Programme. Replacement provision of Extra Care accommodation and new residential and nursing care facilities is planned, allowing for the replacement of what is currently at Haxby Hall. However, the closure of the home and sale of this site for other uses does not increase the supply of accommodation with care, which is the focus of this stage of the review.

38. Opportunities

- Capital receipt from sale.
- Lower long term costs.

39. Negatives and Risks

- Loss of control of how the land is used.
- Reduced number of council owned care beds.
- Reduced number of total care beds in York.
- Loss of work for staff members.

Option B: The Council redevelops the site itself

40. City of York Council owns and constructs new care facilities at the site and continues to run these. This route would deliver growth in the provision of good quality care beds and also provide long term service benefits to the area. However this plan will also require a large outlay of capital to provide the improvements, estimated to be at least £5m. This plan also leaves the council with the highest operating costs and risk going forward. If the council was to deliver the proposed 70 bed home then net operating costs may grow.

41. Opportunities

- Greater control over quality of care.
- Continued operation of Haxby Hall as a Council owned facility.
- Retain ownership of land.
- Existing staff retain posts with the Council.

42. Negatives and Risks

- No revenue savings and highest long term costs.
- Capital investment required is large.
- Construction and delivery risks remain with the Council.
- Unable to provide both residential and nursing accommodation.
- Long term management and operation risks.

Option C: Transfer of services with guarantee of redevelopment

43. City of York Council transfers operations and land to an independent organisation with guarantees that the site will be redeveloped and increased in capacity. A number of beds will then be block purchased for the Council's use at an agreed price. This option would ensure that Haxby Hall continues operating as a care home, increase the supply of beds in York and reduce long term costs for the Council. After consulting with other councils who chose this option in less prime localities, it would appear that it may be possible to also recoup a capital receipt from the transfer.

44. Opportunities

- Continued operation of Haxby Hall as a care home.
- Increased number of care beds in York.
- Council guarantee of fixed price beds for the future.
- Minimise long term costs to the Council.
- Minimise ongoing management obligations for the Council.
- Reduces the council's liability from risks.
- Potential Capital receipt.

45. Negatives and Risks

- Loss of ownership of the site.
- Risk that suitable development/provider partner cannot be procured.
- Risk that new provider will fail.
- Likely TUPE transfer of existing staff.
- Cost to new partner of TUPE obligations.

Criteria and specification

46. The decision to progress and the preferred option must meet certain criteria which are highlighted below:

- Deliver value for money for all partners.
- Focus on frontline services.
- Deliver a project that meets the aspirations of all involved, including the delivery of more care beds and complex care provision.

- Facilitate early delivery while ensuring good governance.

47. The social and financial context dictates that the council must continue to increase its capacity to provide modern high quality care while minimising long term costs to improve the councils' revenue position.

Analysis

48. Each option was analysed in relation its alignment with the criteria illustrated above. The scoring is as follows:

- **Green** = meets the aim/objective, two points.
- **Yellow** = partially meets the aim/objective, one point.
- **Red** = does not meet the aim/objective, nil points.

	Focus on Frontline Services	A Council that listens	Opportunities to partner	Protect the most vulnerable	Delivery of more care beds	Minimise costs to Council	Capital cost of option
<u>Option A</u> Close & sell land 7 points	1	1	0	1	0	2	2
<u>Option B</u> CYC develops 9 points	2	2	1	2	2	0	0
<u>Option C</u> Transfer services 11 points	2	1	1	2	2	2	1

49. Evaluation of the options shows that in regards to the context, the aims of the Programme and the request to seek additional provision of care beds for the period 2019 to 2020, the closure and sale of Haxby Hall (i.e. Option A) fails to meet a number of the key aims going forward.

50. Option B is the Council redeveloping the site itself. This option would provide good quality care for a greater number of people. However when analysed in the current financial climate it is both unaffordable and delivers unnecessary risk. The proposed new development would cost approximately £5million and would have a greater number of beds than the current site. Staffing these beds would involve hiring a larger workforce further increasing the long term net operating costs. This option brings the highest risk as the Council carries all the liability for

unoccupied rooms or changes in national policy. These issues mean that it is recommended that this option should not be taken forward.

51. This appraisal therefore recommends that the Council takes forward the option to transfer the site and services at Haxby Hall to an independent organisation i.e. Option C. Consultation with other councils has shown that transfer of services can bring a number of benefits when done correctly. Of the councils questioned all had seen a reduction in their operational costs and received a capital receipt which at least covered the costs of the project.
52. Doncaster Council who provided the greatest support also mentioned the warmer public reception in comparison to closure and the success of the new operator in maintaining the services. The location of the asset at Haxby Hall should increase the likelihood of bringing in buyers and therefore make this option viable.

Moving forward

53. The preferred option is the transfer of site ownership and services to an independent organisation with the commitment to build a new care home on the Haxby Hall site (Option C). Architects have produced plans of a potential replacement which would allow for a staggered construction process meaning the care home could remain open during development. This plan is for 70 beds and would cost approximately £5 million. Space can also be freed up for Extra Care bungalows or apartments, if this fits in with the service delivery model of the new operator.
54. The delivery of a new care home with 70 beds would increase the supply of older persons' accommodation in the city.
55. The transfer of ownership and management to a partner organisation also allows the Council to make use of their expertise and resources in order to deliver the incremental redevelopment of the site for new nursing and residential care accommodation.
56. The transfer of services and redevelopment of a new care home at the Haxby Hall site could result in the realisation of a number of benefits.

Benefit	Leading to...	Outcome
Improved environment and facilities for older people in residential and nursing care.	Reduced incident rate of trips, falls etc. Users live in a safe,	Improved quality of life. Decrease in hospital

Benefit	Leading to...	Outcome
	well maintained environment.	admissions.
Older people with complex requirements and/or dementia are cared for in purposely designed facilities.	Engaged and fulfilled lives for older persons with dementia. Users have access to specialised equipment to maximise independence.	Improved quality of life. Reduction in use and cost of peripatetic occupational therapy services.
Independent living in Extra Care bungalows or apartments.	Residents less likely to move to institutionalised care. Users can maximise independence. Short stay hospital visits are reduced.	Improved quality of life. Reduced social exclusion. Reduction in use and cost of peripatetic occupational therapy services.

57. The proposed plans for the transfer of property and services to an independent partner have been the focus of an informal consultation event which included Haxby Hall residents, their family/next of kin and staff, as summarised in **Annex 2**. Formal consultation will be undertaken should Executive choose to support Option C.
58. It is envisaged that the development could progress along the following timetable:

Timeframe	Event/Action
Q1 2017	Formal consultation with residents, relative & staff
And, subject to the outcome of that consultation...	
Q2&3 2017	Procurement of partner
Q3 2017	Executive approval of transfer
Q4 2016/Q1 2018	Transfer
Q1 2019	Construction of new care home begins

Development strategy

59. To achieve the best value for the reform of the Haxby Hall site while retaining high quality design and build standards it is proposed that:
 - a. the ownership and operation of care at Haxby Hall be transferred to an independent developer/provider; and
 - b. an obligation is placed upon the new operator to build a new care home on the site accommodating approximately 70 beds.
60. The initial phase of redevelopment at Haxby Hall would be that of partial demolition. The south wing of the existing Haxby Hall care home would be demolished allowing the opportunity to develop the southern area of the site while still retaining the majority of residents.
61. A new care home could then be built on the southern half of the site that could accommodate 50 en-suite bedrooms. Once completed residents within the remaining existing Haxby Hall can be transferred into the newly developed care home allowing for the demolition of the remaining original Haxby Hall and a further 20 bed extension can then be constructed
62. This option has the potential to accommodate additional facilities such as Extra Care bungalows or apartments, while maintaining the majority of existing trees, on the northern portion of the site.

Procurement strategy

63. It is proposed that the Council procures a single partner or consortium to undertake the operation of care at Haxby Hall and the development of a new care home providing residential and nursing accommodation alongside three extra care scheme style bungalows.
64. The Council should procure an appropriately qualified partner through an OJEU compliant framework or procurement exercise to deliver:
 - a. high quality nursing and residential care at the Haxby Hall site; and
 - b. a new care home with approximately 70 beds.

Considerations moving forward

65. Should Executive agree to Option C a project plan will be formulated to identify risk and manage the process going forward. This should also contain a full engagement and communication plan, as well as a risk

register. Measures should be put in place to mitigate any risks identified in this report or subsequently through the risk management process.

66. The context surrounding outsourcing to the independent sector earlier in the appraisal noted a number of concerns, which need to be taken into consideration in progressing this proposal to delivery phase. The key in reducing risk of market failure will be ensuring that a high quality provider with a track record of good service delivery is selected.
67. Moving forward with Haxby Hall the risks involved with transferring services should be considered. When choosing a provider, advisers suggest that the preferred bidder should display the following characteristics:
- proven track record of successfully operating large care homes;
 - proven experience of both nursing care and specialised dementia care;
 - previous experience of meeting TUPE regulations in relation to care homes;
 - stable business/financial model which is sustainable over term of contract; and
 - experience of designing, building and commissioning a modern care home.
68. These elements would form the basis of the selection criteria when procuring a partner for any proposed undertaking of services at Haxby Hall.

Delivery of Council and partner priorities

69. The Programme is set in the context of the Council Plan for 2015-19 and will contribute to achieving its ambitions. Based on our statutory responsibilities and the aims of the new administration, the plan focuses on three key priorities:
- **a prosperous city for all** - where local businesses can thrive and residents have good quality jobs, housing and opportunities
 - **a focus on frontline services** - to ensure all residents, particularly the least advantaged, can access reliable services and community facilities

- **a council that listens to residents** - to ensure it delivers the services they want and works in partnership with local communities

70. To support these corporate priorities and under the guidance of the Health & Wellbeing Board, York has developed proposals to achieve a new focus for adult health and social care which delivers:
- a. self care and self management;
 - b. better information and signposting;
 - c. home is best;
 - d. early intervention and prevention;
 - e. reablement and intermediate care (targeted resources);
 - f. management of long term conditions; and
 - g. services at a community level where this is desired and possible.
71. In making York a great place for older people to live and in particular the themes of ageing and dying well, the contribution of the voluntary sector, older people and carers should be recognised, especially in:
- a) supporting people with long term conditions to live independently;
 - b) preventing admissions to hospital;
 - c) encouraging physical activity;
 - d) addressing loneliness and social isolation; and
 - e) preparing for an increase in dementia.

Implications

Financial

72. The Financial Plan for the Programme was agreed by Executive in July 2015 and anticipates generating revenue savings from 2019/20 onwards. This Plan assumes that the Programme concludes in 2018. Should Executive agree to extend the Programme beyond 2018, for example, by taking a different approach to Haxby Hall, a different financial outcome would be expected.
73. The preferred option for Haxby Hall has the following impact on the Plan:

(figures in £000)	2017/18	2018/19	2019/20 to 2023/24	ongoing
Financial Plan agreed by Executive, July 2015				
Yearly saving	(76)	0	(284)	(553)
Transfer Haxby Hall and buy 20 residential & dementia beds				
Yearly saving	0	0	(306)	(575)

74. The preferred solution increases slightly the total saving to be generated from the Programme compared to the July 2015 approved plan. The solution also increases the number of good quality care beds available to the city and ensures that the Council can buy beds at an agreed rate for the medium term.
75. The preferred solution will reduce the likely capital receipt from the Haxby Hall site. However, because overall receipts from the recent sale of older persons' homes that have closed have significantly exceeded estimates, a reduced receipt from Haxby Hall will not affect the overall financial outcomes of the Programme.
76. The option to retain and re-build Haxby Hall is not recommended because it is the least cost effective solution:

(figures in £000)	2017/18	2018/19	2019/20 to 2023/24	ongoing
Yearly saving/cost	0	0	220	(49)

Human Resources (HR)

77. The HR team are engaged regarding staff, TUPE and associated issues.
78. A key risk raised by other councils which have undertaken a transfer of care services, was staff pensions and the length of TUPE negotiations. Care staff tend to include a mixture of younger, less experienced staff members and people who have worked there for most of their working lives. Dealing with pension concerns, trade unions and TUPE was identified as the aspect of the transfer that was most difficult and time consuming for other councils. A Local Government Pension Scheme

Admissions Agreement is likely to need to be secured as part of negotiations for comparable pension rates.

79. The process of negotiation can take approximately 6-8 weeks. A number of risks and examples of best practice for a successful transfer of services have been provided by other local authorities that have undertaken the procedure and include:
- Employee representatives should be consulted as early as possible to identify any issues;
 - the project team should include a human resources representative who is knowledgeable of pension transfers to advise on any issues and guide this process; and
 - staff should be consulted soon after Executive approval to identify who is likely to transfer and their current pay/pensions arrangements.

Equalities

80. An Equalities Impact Assessment already exists of the Programme. It is undated to reflect the option to transfer Haxby Hall as a going concern.
81. The continued provision of care accommodation at the Haxby Hall site has several positive impacts on quality of life outcomes for a number of customer groups. For example, residents at the care home will not need to be moved to another care home due to closure. Furthermore, the high quality and fit for purpose design of a new care home will also improve the quality of life of residents resulting in improved care provision for older people. Any new facilities will also meet the needs of people with disabilities or impairments exceeding statutory expectations. Specifications for any facilities will consider and exceed accessibility standards as well as considering visual impairments in relation to colour choice and appropriate contrast. The new modern care home will have larger rooms with en-suites that allow older couples to live together if they wish. Older couples can have the opportunity to live and support each other in the modern care home. This could potentially provide additional support and reinforce family and social values.
82. However, the care staff that are older may suffer adversely if seeking alternative work as a result of the proposals for Haxby Hall. Staff would also be offered protections under TUPE regulations.

Legal

83. The consideration of the closure or transfer of existing council run older persons' homes should follow a clear and consultative path. There are a number of potential challenges to local authorities during the process of closing/transferring older persons' homes which have been considered. Previous advice is held and has been updated by specialist legal colleagues. This advice includes an examination of the application of the Human Rights Act and the Equality Act.
84. In order to ensue fair competition and transparency as well as to avoid a challenge under the State Aid rules (in respect of any Council funding or land made available), there will be a procurement exercise conducted which complies with EU legislation and our own constitution in the event Option C were chosen. Any transfer of assets or operations to an independent operator would ensure that affected staff would transfer their employment rights wherever applicable.
85. The transfer of site ownership and operation of the care home to another entity will trigger the application of the TUPE legislation in relation to staff employed at or involved in the operation of Haxby Hall.
86. When examining options for transfer, the Council will need to consider transfer of both the freehold ownership of the site of Haxby Hall and, in the alternative, disposal of a long lease of the site to the prospective new operator. A lease would potentially give the Council some more control over how the facility is redeveloped and operated. If the Council wants to ensure that a new/replacement care home is constructed on the site to a certain specification/standard within a specified period and to require that the premises are not used for any purpose other than a care home for certain minimum period, such obligations may be more enforceable if contained within a lease than if included within a freehold transfer deed.
87. The transfer of the assets, liabilities and contracts relating to Haxby Hall to a new operator would entail the negotiation and completion of a commercial transfer/business sale agreement.
88. A condition/obligation to construct and operate a care home on the site may adversely affect the capital receipt which the Council is offered for the site meaning that the Council may need to accept less than best consideration/full market value for the site. The General Disposal Consent Order (2003) gives the Secretary of State's consent (pursuant to S.123 of the Local Government Act 1972) to local authorities for

disposal by them at less than best consideration/full open market value provided that:

- i. the Council (acting reasonably) is satisfied that the disposal will facilitate the promotion/improvement of the economic, social or environmental well-being of the area; and
- ii. the difference between the consideration/price received and best consideration/full market value does not exceed £2 Million.

If the above conditions are not satisfied then the Council would need to obtain the Secretary of State's specific consent under S.123 for any disposal (freehold sale or grant of lease for more than 7 years) at less than best consideration/full market value.

89. If the Council wishes to impose a contractual obligation on any new operator within transfer deed/lease to construct a new/replacement care home on the site that may be a works contract for the purposes of the Public Contracts Regulations depending on the value of those works. If the value exceeds the relevant threshold in those Regulations then the contract would need to be procured in accordance with those Regulations.
90. Bidders may possibly not be willing to enter into a commitment to construct a replacement care home on the site (nor to take over ownership and operation of the existing care home) unless and until they obtain planning permission for their preferred design/size of replacement care home on terms acceptable to them. They might potentially consider that otherwise the project is not sufficiently financially attractive if they commit to operating a care home on the site for a substantial number of years but are then unable to obtain planning permission to replace the existing outdated high-maintenance care home with a larger, modern more efficient care home.

Property

91. The property team has been consulted over concerns with the sale, development or transfer of the property
92. The preferred option means that the council will not receive the sizable capital receipt that is assumed in the current Plan. However, this loss is off-set by several sales already achieved which have been significantly in excess of expectations.

93. Any transfer of the Haxby Hall site would be conditional on the commitment to build a new care home on the site.

Crime and Disorder

94. *Not Applicable*

Information Technology (IT)

95. *Not Applicable*

Risk Management

96. The risks associated with the examination of the options are highlighted in each option evaluation.
97. The risks associated with the preferred option are listed below and will be carefully managed and monitored:

	Risk	Control/action	Gross	Net
98.	Anticipated level of capital receipts not realised.	Work closely with partners and CYC finance to maximise capital receipts.	8	1
99.	Increase in interest rates.	Ensure impact is capped or controlled through the contracts.	19	14
100.	Rising cost of external residential care providers.	Undertaking negotiations with Independent Care Group.	23	19
101.	Project does not deliver the right number and type of care places required by the city.	Modelling of predicted care levels to look at effect of the provision of different numbers of care places by type.	19	13

	Risk	Control/action	Gross	Net
102.	Loss of morale for existing staff leading to negative impact on service provided to current residents.	Maintain staff morale and focus through regular briefings/updates; engagement through Operational Managers and staff groups; investment in staff training, support and development.	19	13
103.	Challenge and negative publicity from existing residents and relatives.	Development of good communications via briefings to residents and relatives, Executive, group leaders, trade unions, operational management & staff, Programme Wider Ref Group, media etc.	19	13
104.	Private Sector unattracted to financial viability.	Soft market testing / 'socialising' the scheme with potential bidders.	19	18
105.	Planning Permission not granted / onerous.	Early site master planning and pre-submission engagement.	19	18

End

Contact Details

Author:		Chief Officer responsible for the report:		
Roy Wallington Programme Director, Older Persons' Accommodation Tel: 01904 552822 roy.wallington@york.gov.uk		Martin Farran Corporate Director of Health, Housing and Adult Social Care		
		Report Approved	✓	Date 27 th Nov 2016
Specialist Implications Officer(s) Legal – Walter Burns (Ext 4402)Gerard Allen (Ext 2004) Finance – Debbie Mitchell (Ext 4161) and Steve Tait (Ext 4065) Property – Philip Callow (Ext 3360) and Ian Asher (Ext 3379)				
Wards Affected: <i>Haxby & Wigginton</i>				
For further information please contact the author of the report				

Annexes:

Annex 1 – Plan of the Haxby Hall site

Annex 2 – Summary of feedback from consultation

Annex 3 – Updated Equality Impact Assessment as it relates to the Haxby Hall transfer proposal

Abbreviations:

OPH – Older Persons' Home, previously referred to as – Elderly Persons' Homes

TUPE - Transfer of Undertakings (Protection of Employment) Regulations 2006, as amended by the 2014 amendment regulations

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 regarding securing a viable future for the Burnholme school site in Heworth ward. Following extensive public consultation Members agreed to sanction further work to identify partners to progress the continued community and sports use of the site, complemented with wider health and enterprise services, the building and operation of a residential care home for older people and the provision of housing.
19 May 2016	Report to Executive that obtained consent to begin to deliver the Burnholme Health & Wellbeing Campus and secure a viable future for the former Burnholme Community College site (the Site) in Heworth ward.
14 July	Report to Executive by the Director of Adult Social Care.

2016	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. Receipt of 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.