

Executive

30 August 2018

Report of the Director of Economy and Place
Portfolio of the Leader and Executive Member Finance and Performance
and the Executive Member for Housing and Safer Neighbourhoods

The Proposed Purchase of Robinson Court and the Union Terrace Centre (formerly the Arc Light Centre)

Summary

1. This report sets out proposals for the purchase of the freehold of Robinson Court and the long leasehold of the Union Terrace Centre from York Housing Association (YHA).

Recommendations

2. The Executive is asked to:
 - 1) Agree to the purchase of the freehold of Robinson Court for £610k,
 - 2) Agree to buy YHA out of their long term lease from the Council of the Union Terrace Centre for £1.1m.
 - 3) To recommend to full Council to establish a capital budget of £1.924m, financed by prudential borrowing, to fund the two property transactions to include acquisition costs and repairs needed to the properties. The prudential borrowing will be funded from rental receipts on both properties

Reasons:

- Provides the opportunity to maintain the level of hostel provision within the city.
- Enable consistent decision making processes across the hostel provision, with City of York Council acting as landlord/owner for each property.
- Ensures strategic priority is maintained through allocation decisions with No Second Night Out; Severe Weather procedure and use of shared rooms where appropriate.

Background

- 3 Both Robinson Court and the Union Terrace Centre (formerly the Arc Light Centre) are used as hostels. Customers predominantly include the homeless, ex-offenders and individuals with a history of substance misuse or mental health difficulties. All referrals are made through the Council's Single Access Point.
- 4 YHA are a long established Registered Provider of a range of supported accommodation in the city and were the incumbent service provider of homelessness services, some of which were delivered from the Union Terrace Centre and Robinson Court. YHA own the freehold of Robinson Court and hold a long lease of the Union Terrace Centre from the Council.
- 5 On 24th February 2017 The Cyrenians Limited (trading under the operating name of Changing Lives) were appointed as the Service provider of Adult Community Wellbeing Support services on behalf of the Council. The Service Contract is for a term of 5 years from 1st February 2017 (i.e. expiring on 31st January 2022), with an option for the Council to extend the duration of the Service Contract for up to a further 2 years (i.e. until 31st January 2024). As YHA own Robinson Court and hold a long term lease of the Union Terrace Centre, interim Management Agreements were put in place with Changing Lives to ensure continuous use of the hostel/s.
- 6 This left a slight anomalous situation where the service provider is operating its services in buildings owned and leased by one of its competitors. Although short term arrangements have been entered into to ensure continuity of service the situation presents some risks to the long term delivery of the service with no certainty over the future ownership and availability of both properties.
- 7 YHA indicated last year that they wish to dispose of their interest in both properties. In the meantime YHA became a subsidiary of Karbon Homes on 1 December 2017 but retains its own Board and their Board members have opportunities to influence strategy and policy at Group level. YHA had already sought Board approval to sell Robinson Court and their interest in Union Terrace. This was disclosed to Karbon during the due diligence phase. Providing the terms of sale already set out in the Savills report are agreed then YHA do not need to seek further approval, other than reporting back to Board and gaining the necessary Board member signatures to sales documents.

Robinson Court, Walmgate

- 8 Robinson Court contains 18 units of hostel provision out of a total of 104. The loss of this provision would make a significant impact on the homeless community and any alternatives would need to be planned out accordingly to minimise this impact.
- 9 The freehold interest of Robinson Court is currently owned by YHA and is used for hostel accommodation. It comprises of purpose built accommodation split over two separate buildings and three floors built in the 1980s. The accommodation includes single occupancy rooms with shared facilities, two bedroom self-contained flats, common areas and office space. Externally there is shared outdoor space along with parking accessed from Paver Lane. Between both buildings is the access to The National Early Music Centre and closed graveyard of St. Margaret's Church.
- 10 The title to the property includes a restrictive covenant to which the Council are the beneficiaries, which restricts the use of the property to a bail hostel or other sheltered housing scheme. The Council gave a similar covenant to NYCC when the Council acquired Robinson Court from North Yorkshire County Council (NYCC) in 1992.
- 11 The property is in a reasonable condition and fit for purpose, although it is dated in design and layout, e.g. external concrete stairwells. A condition survey of the property has been carried out on the property which has identified immediate capital repairs totalling c. £80k. As part of the acquisition deal the council has agreed to take on responsibility for the outstanding repairs and the cost is included in the financial business case as attached in appendix 3.
- 12 Changing Lives, occupy the property under a management agreement with YHA. The support was previously for offenders and ex-offenders and under the re-modelled provision is now predominantly for homeless women with a separate section for homeless young people.

The Union Terrace Centre, Clarence Street

- 13 The Council owns the freehold interest of the Union Terrace Centre and currently leases it to YHA. The building provides accommodation comprising 39 bedrooms for homeless individuals and is part of the Council's emergency support provision. The property comprises a purpose built accommodation block over three floors. The accommodation includes single occupancy rooms with shared facilities

and rooms with en-suite facilities, common areas, a gym, a canteen and office space. Externally there is a shared walled garden and parking.

- 14 The lease is for a term of 125 years with effect from 23 April 2009 (i.e. expiring on 22 April 2134). The lease was granted on the basis of a peppercorn rent, reflecting YHA's financial contribution and full ongoing maintenance responsibility for the building. A social housing grant of £1,650,000 was obtained by YHA from the Housing Corporation, to build the property. There is a condition/obligation of this grant that the funding would need to be recycled into social housing provision within 3 years if the property was no longer required for the purpose that the grant was issued for. Confirmation has been received that this liability would transfer to the Council. Additional funding of £2,225,000 was also received from central government which was directly allocated to the Council. The need to repay any capital would only arise should the site cease to be used as a hostel which is not proposed.
- 15 As the building is a relative new build it is in good condition and fit for purpose. The Council has undertaken a condition survey of the property. Long term and short term repairs have been identified totalling c£34k. As with Robinson Court, as part of the acquisition deal the council has agreed to take on responsibility for the outstanding repairs and the cost is included in the financial business case as attached in appendix 3.
- 16 Changing Lives occupy the property under a management agreement with YHA. The client group for this service was mixed homeless people and has been re-modelled to homeless males. This service remains as 24 hour provision with higher level needs than other supported accommodation.

Homelessness Strategy

- 17 There has been an increase in street homeless both nationally and locally resulting in a requirement to present a report to the Executive demonstrating the approach that is being taken to try to minimise rough sleeping. Part of this approach includes ensuring the quantity of supported housing units are protected, particularly in light of reduced supported housing provision over the last two years. It is recognised that ensuring these two properties come under full control of the council will protect these interests and ensure there is no risk of sale or restriction/change of use to maximise the positive impact these properties offer. Within hostel provision there are difficult priorities to address with the balance of ensuring rough sleeping is minimised against risks within the property. There are strategic priorities of No Second Night Out and Severe Weather Protocol that help to minimise

street homelessness, however sufficient temporary beds in hostels are required to manage this.

- 18 In addition it is important to have continuity of approach and ability to effectively manage allocations across hostels within internal and external support providers. Having one landlord (the Council) across the hostel stock creates a more seamless and effective service provision and maximises opportunities for the Council to offset its homeless duties and effectively manage risk. It also mitigates the risks of changing providers at the end of service contracts.

Consultation

- 19 Consultation has taken place with the YHA Board and Changing Lives.
- 20 Prior to commissioning Changing Lives a consultation event took place including stakeholders and homelessness services.
- 21 Homeless strategy consultation has taken place to inform the 2018-2023 strategy.

Options and Analysis

Option 1- Retain the status quo.

- 22 The homeless service depends heavily upon the guaranteed use of both properties under the current arrangements there is no guarantee that YHA will continue to allow Changing Lives to use the properties under the current management agreements.
- 23 If both Robinson Court and the Union Terrace Centre were no longer available for use as hostel provision then this will result in likely under provision of suitable supported accommodation and have a major impact on street homelessness which will have a knock on impact to hospitals, police, prisons and other statutory and non-statutory services. The level of risk would fluctuate depending on the time of year and weather conditions with potential outcomes fluctuating between moderate and major
- 24 The current Management Agreement between YHA and Changing Lives was initially for a 6 month period from 1 February 2017 and has been extended by mutual agreement between both parties, YHA and Changing Lives. YHA's lease of the Union Terrace Centre from the Council prohibits YHA from using that building for any purpose other than 'supported residential accommodation for the homeless' without the

Council's consent but we are obliged not to unreasonably withhold or delay consent to an alternative use 'which provides care and/or support to residents'. Given that Robinson Court is subject to a covenant in favour of the Council and NYCC that it can only be used "as a hostel or other sheltered housing scheme", any alternative use of Robinson Court would need consent from both NYCC and the Council. Despite the protection afforded by the restrictive covenants and lease terms limiting the use of the properties to provision of supported residential accommodation for homeless people we cannot mandate that our own services must be provided from these buildings.

- 25 Thus to retain the status quo leaves the service open to risk that either or both properties may not be available and create a loss of up to 57 hostel units with the only remaining units being supported housing, thus jeopardising the homeless resettlement provision.

Option 2 – Purchase the freehold interest of Robinson Court and leasehold interest of the Union Terrace Centre from YHA.

26 The advantages to the Council for taking this approach are that:

- This provides the opportunity to maintain the level of hostel provision in the city
- This enables consistent decision making processes across the hostel provision with City of York Council acting as landlord/owner for each property.
- This ensures strategic priority is maintained through allocation decisions with No Second Night Out; Severe Weather procedure and use of shared rooms where appropriate.

- 27 This option will give the Council control over the service provision being retained and operated from these properties and allow the Council to continue its current level of service provision. The Council would enter into a direct agreement with Changing Lives to allow them to occupy and operate from the properties. This model is already being used for other Council properties which Changing Lives are occupying to deliver services. The Council would take responsibility for any major repairs and the day to day repairs would be carried out by the provider to create continuity with the rest of the supported housing property portfolio.

- 28 In the long term the acquisition of both properties would be a worthwhile addition to the Council's property portfolio and the income would fund the borrowing required to purchase both properties. If, in the future either property is not required for this service provision, either the buildings or

the sites could be used for a variety of other services disposed of, subject to the covenant from the Council to NYCC which restricts the use of Robinson Court to a bail hostel or other sheltered housing scheme. If the Council wished to use Robinson Court for a different purpose, it could seek to: (i) obtain a release/discharge of covenant from NYCC or (ii) purchase a restrictive covenant indemnity insurance policy or (iii) obtain an order from the Lands Tribunal (LT) discharging or modifying the covenant if the Council could persuade the LT that the covenant no longer serves any useful purpose/prevents a reasonable use of the property and that release/modification of the covenant would not cause material harm to NYCC.

- 29 YHA has undertaken a valuation of their freehold interest of Robinson Court of £610,000 and of the leasehold interest of Union Terrace of £1.1M. The Council have had these valuations verified by an external party which has supported them as being value for money (see confidential annexes 4 &5). YHA has advised that they will either sell both of the properties, or none to the Council.
- 30 Attached at annex 3 is a financial summary which sets out the business case for the proposed acquisitions. The total borrowing of £1,924k includes the valuation of the sites £1,710k, purchasing costs £100k and urgent repairs £114k. Taking into account the income received from the two properties, the financing of the borrowing to fund the acquisitions, and cost of the outstanding repairs, the overall financial outcome is a surplus to the Council.

Option 3 – for CYC to take a lease of both properties from YHA

- 31 This is an arrangement that YHA proposed as an alternative to them selling the property. This would mean that YHA offset their responsibilities as owners to the Council who will then in effect sub-lease to the support provider (currently Changing Lives).
- 32 The terms of any lease from YHA to the Council, including (i) the amount of any rent and/or premium payable by the Council to YHA, (ii) repairing liabilities (iii) any restriction(s) as to the use of the properties and (iv) any restrictions on the Council's ability to assign/transfer the lease or grant a sublease, would need to be negotiated with YHA. The Council would become liable to keep paying rent and continue to keep the properties in repair for the full Term (duration) of any lease to it, even if we cease to use the properties. Unless any lease to the Council contained a break/early termination clause in the Council's favour, the Council could not surrender/hand back the lease without YHA's consent.

Council Plan

- 33 A prosperous city for all – residents have access to decent housing.
- 34 A focus on frontline services – least advantaged have access to reliable services

Implications

Finance

- 35 Annex 3 has the detailed financial appraisal on the preferred option to purchase the aforementioned properties. This would generate a surplus against budget of £27k per annum allowing for £40k per annum to be set aside to undertake unforeseen major capital works such as window, roof, boiler replacement etc.
- 36 The status quo position does not add pressure to the budget immediately but should any of the covenants be lifted specifying what must be provided on those sites then the Council would face pressure to place people elsewhere, which is likely to be at a premium cost due to the paucity of other provision in the city.
- 37 There is minimal financial risk regarding the level of guaranteed income from the service provider: The provider recovers the rent from individuals staying at the hostels which includes an element for void properties. The vast majority of individuals residing in the hostels can recover their rent through Housing Benefit.

Human Resources (HR) - There are no HR implications.

One Planet Council / Equalities – The One Planet Impact Assessment form is attached at appendix 4.

Legal – Section 120 of the Local Government Act 1972 gives the Council power to acquire property by agreement. When acquiring any property the Council should ensure that it does so on the best terms reasonably obtainable, including with regard to the price paid, any restrictions as to which the property can be used for and any restrictions on its ability to dispose of the property in the future.

Crime and Disorder - There are no Crime and Disorder considerations.

Information Technology (IT) - There are no IT considerations.

Property – The acquisitions give long term freedom to re-purpose the buildings, should there be no need for, or alternative provision found for their current use. This is subject to the expunging of the restrictive covenant to NYCC on Robinson Court.

Other - There are no other known implications.

Risk Management

- 38 If YHA's interest in the properties is not acquired by the Council there is a risk that YHA will cease to allow Changing Lives to use the properties for the purpose of delivering services under the Service Contract between the Council and Changing Lives and therefore there is a risk that the Council will lose access to essential supported accommodation beds.
- 39 If the purchasing of Robinson Court is not approved then it will be necessary to request an extension of the Management Agreement from YHA for a further 6 months. If YHA decide that they do not wish to continue this arrangement then there is a risk that they will not accept new referrals and existing customers will need to be rehoused. In addition there would be gradually increasing voids which the Council would need to fund.
- 40 The terms of the lease for Union Terrace Centre contain limitations on the use of extra temporary beds which are needed in order to meet No Second Night Out and Severe Weather requirements. It would therefore be essential to have a replacement provision.
- 41 The council would need to consider the use of existing stock to determine whether it can be re-purposed as hostel provision. This could be for example, with an existing general needs block or a sheltered housing provision. To take this approach would require alternative housing to be allocated to existing tenants and home loss payments, as well as capital funding required to make the property suitable for alternative provision. In addition planning permission would be required for change of use along with any local consultation processes required. A minimum of a year's extension to the existing arrangements would be required to implement this. The total cost implication would be around £230K.
- £40,000 void costs
 - £90,000 re-location costs dependent on size of provision
 - £100,000 nominal capital costs to make provision fit for purpose
- 42 If the properties are not acquired then there is a risk that YHA will dispose of them on the open market to a new owner who may not agree to their ongoing use by the council. This risk is mitigated by the restrictions on the use of the buildings but is not ultimately a risk that can be fully mitigated
- 43 In respect of Union Terrace, there is no known intention to sell this property and York Housing Association have recognised that this is a

purpose built hostel, which would not necessarily be suitable for an alternative provision. In addition YHA would not obtain permission for change of use from City of York Council and there was hostel grant provision from the CLG Places of Change capital grant funding programme. Therefore, the risk is reduced.

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Approved

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Wards Affected: Guildhall

For further information please contact the author of the report

Background Papers: None.

Annexes

Annex 1 – Robinson Court Site Plan.
Annex 2 – Union Terrace Hostel Site Plan.
Annex 3 – Summary of Business Case.
Annex 4 – One planet Impact Assessment Form

Confidential Annexes

Annex 5 – Sanderson Weatherall valuation report on Robinson Court

Annex 6 – Sanderson Weatherall valuation report on Union Terrace Centre

List of Abbreviations Used in this Report

YHA – York Housing Association.