

Meeting:	Executive
Meeting date:	18 July 2024
Report of:	Director of Housing and Communities and Director of Finance
Portfolio of:	Executive Member for Housing, Planning and Safer Communities Executive Member for Finance, Performance, Major Projects, Human Rights, Equality & Inclusion

Decision Report: – Update on the Housing Delivery Programme and the Disposal of Surplus Sites

Subject of Report

1. This report provides an update on the Housing Delivery Programme, including an overview of those sites being developed or held for future delivery within the programme. In addition, the report sets out progress on sites to be delivered by other Registered Providers (**RPs**) as well as self and community builders, made possible through Council land disposals.
2. There are other Council assets which are considered not suitable for affordable housing delivery, and these are proposed to be disposed of to maximise capital receipts and therefore support other Council priorities.
3. York has experienced some of the most significant house price inflation in the country over recent years. Alongside this, the demand for and cost of good quality private rented sector housing continues to increase. This is resulting in significant affordability challenges for many of York’s residents, creating a growing demand for affordable homes provided by both the City of York Council and our housing association partners. In response, the new Council Plan (2023-27) seeks to accelerate the delivery of high-quality affordable homes in the city. This report presents:

- (i) an update to the opportunities reported to Executive in November 2023 for meeting that ambition through the Housing Delivery Programme, in both developing and facilitating affordable housing provision in the city; and
 - (ii) an update and recommendations on property disposals which are considered not to be suitable for the delivery of affordable housing.
4. Specifically, this report seeks decisions in respect of:
- a) disposing of Lowfield Green Plot B to a Registered Provider for 100% affordable housing delivery;
 - b) disposing of the former Morrell House site on Burton Stone Lane for 100% affordable housing;
 - c) disposing of 22 The Avenue on the open market;
 - d) disposing, by way of a 999-year leasehold interest in the 5 No. 1 bed flats at 28 & 45/47 Shambles;
 - e) ending the Development Agreement at Hungate in consideration of the capital premium detailed to facilitate the wider development;
 - f) to progress ongoing discussions with a Registered Provider to purchase Castle Mills for 100% affordable housing; and
 - g) procuring an operator to manage facilities at Marjorie Waite Court, for the benefit of residents and the wider community, including a lease of these facilities for up to 10-years from the date of appointment.

Benefits and Challenges

5. This report seeks to significantly increase the provision of affordable housing across Council owned sites, through disposals to Registered Providers. Increased affordable housing creates significant benefits to our residents, in a city where the average house price is around 11 times the average salary.

6. This report seeks to dispose of some sites to Registered Providers to obtain a capital receipt for the land whilst seeking to achieve the delivery of much needed affordable housing.
7. Where sites are not considered appropriate for affordable housing delivery then the Council has and will seek best value for its assets which are surplus, to aid the Council's ability to deliver other priorities.
8. The report also seeks approval to grant a lease and concessionary operating contract for the community hall, salon, and café facilities at Marjorie Waite Court ("**MWC**") following a procurement exercise for a provider of these services. Flats within MWC and the associated facilities support independence and wellbeing for our residents and provide benefits for the wider community.

Policy Basis for Decision

9. One of the seven priorities outlined in the Council Plan (2023-27) is to increase the supply of good quality affordable housing. The Housing Delivery Programme has a broad agenda around meeting affordable housing need but also tackling issues around mental and physical health and wellbeing, sustainable transport, equality, and climate change. The principles of the programme and recommendations contained within this report are supportive of achieving the objectives set out in the Climate Change, Health and Wellbeing, and Economic Strategies.
10. The development of age-appropriate accommodation at Lowfield Green broadens the housing offer for residents who require additional support to provide housing options that promote independence and equality resulting in a positive impact on health and wellbeing.

Financial Strategy Implications

11. The report has a number of recommendations over the use of surplus Council assets. There is ultimately a trade-off between a number of policy priorities around providing affordable housing as well as getting best value from assets that are disposed of.

12. The report provides a balance of delivering additional housing units for individuals with care needs where that is appropriate, the selling of land to registered providers to support affordable housing as well as market sales at sites which do not fully support those objectives.
13. The Council has identified a saving whereby capital receipts are used to fund transformation and a sum of £800k is required. There are sales in progress that are expected to deliver this target and the proposed disposals outlined in this paper will support the funding of the overall capital programme.
14. Where there are recommendations to sell land to registered affordable housing providers at Lowfield Plot B, Morrell House, and Castle Mills, it is recognised that this will provide a lower capital receipt than could be received with an unrestricted market sale but will provide much-needed additional affordable homes to the city. The reduction in land value for a mixed tenure, affordable housing scheme (including rent and low-cost home ownership) is generally in the region of 50%.

Recommendation and Reasons

Executive are asked to approve the following recommendations:

15. Increasing the delivery of affordable homes through land disposals to Registered Provider partners

Lowfield Green Plot B

- a) Agree to dispose of the Lowfield Plot B site, by freehold transfer or grant of a long lease, to a Registered Provider for the delivery of age-appropriate affordable housing for residents aged over 55.
- b) Delegate authority to the Director of Housing and Communities in consultation with the Executive Member for Housing, Planning and Safer Communities and Executive Member for Finance, Performance, Major Projects, Human Rights, Equality and Inclusion to agree the final weighting of the criteria for the disposal of the Lowfield Plot B site.

- c) Approve the carrying out of a procurement process to procure a Registered Provider to deliver the Lowfield Plot B scheme and to delegate to the Director of Housing and Communities (in consultation with the Head of Procurement and the Director of Governance) the authority to take such steps as are necessary to procure, award and enter into the resulting contract(s).

Castle Mills

- d) Note the interest from the Registered Provider in developing the Castle Mills site for 100% affordable housing and agree to enter a Memorandum of Understanding to grant them an exclusivity over the site for a 4-month period to allow them to undertake further feasibility work with the aim of disposing of the site for affordable housing.

Former Morrell House site

- e) Agree to dispose of the site, by freehold transfer or grant of a long lease, to a Registered Provider for the delivery of 100% affordable housing schemes.
- f) Delegate authority to the Director of Housing and Communities (in consultation with the Director of Governance) to agree the terms of the disposal and enter into the resulting agreement(s).

16. Procuring an operator to provide benefits for residents of Marjorie Waite Court and the surrounding community

- a) Approve the procurement of an operator to provide facilities (including, but not limited to, catering, communal dining, a beauty salon and a community hall) at Marjorie Waite Court under a concession contract, along with a lease, for a term of up to 10 years with break and/or extension points at reasonable intervals within that term and delegate to the Director of Housing and Communities (in consultation with the Director of Governance and the Head of Procurement or their delegated officers) the authority to take such measures as are necessary to determine the terms of the arrangements and to procure, award and enter into the resulting contract and lease.

17. **Disposal of Assets Considered Surplus and not Suitable for Affordable Housing Delivery**

- a) Agree to dispose of the freehold interest in 22 The Avenue and delegate authority to the Director of Finance (in consultation with the Director of Governance) to agree the terms of the disposal and enter into the resulting agreement.
- b) Agree to dispose of a 999-year leasehold interest in the 5 No 1 bed flats and communal areas serving such, at Shambles and delegate authority to the Director of Finance (in consultation with the Director of Governance) to agree the terms of the disposal and enter into the resulting agreement.
- c) Agree to release the development obligations and overage provisions currently contained within the existing Development Agreement at Hungate, in respect of the site previously sold to Hungate (York) Regeneration Limited, in consideration of a capital premium as detailed in the **Confidential Appendix** and delegate authority to the Director of Finance (in consultation with the Director of Governance) to agree the terms of the disposal and enter into the resulting agreement.

Background

Affordable Housing Need

18. Affordable housing demand in York and its subregion is high. In York, the Local Housing Needs Assessment outlines a need for 592 new affordable homes per annum, taking account of current and future projected need. Evidence suggests this should be delivered at both social and affordable rent levels. There is an additional need for affordable home ownership tenures (such as shared ownership). For context, the accumulated number of affordable housing completions in York over the last 5-years is 648. The need to accelerate affordable housing delivery in the city is clear.

19. The most significant opportunity in respect of affordable housing delivery sits with the adoption of a Local Plan. The policies and site allocations within this are anticipated to deliver over 4,000

affordable homes over the next 15-years. It is important that the type, tenure and quality of housing delivered through the local plan meets the needs of our residents.

20. Additional opportunities exist to increase affordable housing delivery alongside the Local Plan. Opportunities exist around increasing the amount of affordable housing developed through the Housing Delivery Programme, disposing of land to Registered Provider partners, and strengthening and building strategic partnerships around land, funding, and shared objectives.
21. Alongside a focus on delivering housing within York, it is important to think beyond administrative boundaries, reflecting that York can benefit from affordable housing provision in the wider subregion. That is why a strong partnership with North Yorkshire Council and Registered Providers is vital alongside exploring opportunities to be realised through the elected mayor. The election of a new mayor for the region presents significant opportunities to explore options for boosting affordable housing deliver. Taken together this can build a more comprehensive approach to meeting the housing need of York’s residents.
22. In the last 4-years, the Council’s Housing Delivery Programme has directly delivered 164 additional affordable homes, of which 56 are new builds and 108 are through acquisitions. Existing projects under construction will deliver a further 67 new affordable homes and a further 12 homes will be delivered through acquisition. Decisions taken in November’s Executive will see a further 140 new affordable homes built at Ordnance Lane and Willow House. As well as adding to affordable housing numbers, this approach will support the Council in maintaining or growing its affordable housing stock, providing income to support the 30-year HRA business plan and the associated investment plans.
23. Below is a table summarising progress against projects delivered within the Housing Delivery Programme:

Project	Total homes	Affordable	% Affordable	Progress
Lowfield Green (Phase 1)	140	56	40%	Complete – 56 affordable homes provided

Burnholme	78	47	60%	Construction underway
Duncombe	34	20	59%	Construction underway
Ordnance Lane*	101	101	100%	Enabling works underway. Planning application submitted
Willow House*	Approx 40	Approx 40	100%	Design work underway
Second-hand Shared Ownership	105	105	100%	96 affordable homes provided
Rough sleepers programme	6	6	100%	Complete – 6 affordable homes provided
Local Authority Housing Fund	9	9	100%	6 affordable homes provided
Total	513	384	75%	

*construction remains subject to Executive approval of a financial business case

24. The delivery of affordable homes in the city can be accelerated through the disposal of land, where appropriate, to Registered Providers for 100% affordable housing developments. The Council has recently sold land to JRHT to enable affordable housing delivery at Sturdee Grove in Heworth. In addition, we have recently agreed to dispose of land at the former Clifton Without School to Stonewater Housing Association to deliver around 11 affordable homes (subject to planning permission).
25. In November, Executive agreed to dispose of the former 68 Centre and Woolnough House sites for affordable housing. Since then, soft market testing has highlighted interest from a number of Registered Providers in acquiring the land for 100% affordable housing. As such, these sites will be taken to the market this

summer to seek a buyer subject to planning permission. It is anticipated that this will deliver around 20 new affordable homes.

26. The Council has also supported residents to meet their own housing needs through the disposal of land to enable the delivery of self and community build homes. Below is a table summarising the progress of the disposal of sites for affordable, self, and community housing, which have previously been approved by Executive.

Project	Total homes	Progress
Lowfield Self and Community Build	25	6 self builds complete, community housing site sold
Disposal of Sturdee Grove for Affordable Housing	9	Sold and planning permission achieved for 100% affordable housing
Disposal of former Clifton Without School for Affordable Housing	11	Offer accepted for site subject to planning, 100% affordable housing
Disposal of former Tang Hall Library site for community housing	5	Offer accepted from CosyHome who are a group of parents of profoundly disabled young adults who met at Applefields School.
Former 68 Centre	Approx 10	Interest from RP's – progress to disposal for 100% affordable housing
Former Woolnough House	Approx 10	Interest from RP's – progress to disposal for 100% affordable housing
Self-build small sites	3	Offers accepted for three plots of land at Chaloners Road
Total	73	

Age-Appropriate Accommodation Needs

27. The proposals for Lowfield Plot B continue the theme of Lowfield Green being a place that enables all to thrive. This plot sits adjacent to the recently completed village green. The current outline planning approval (Ref 17/02429/OUTM) was granted for a three storey, 80 bed residential care (C2) facility with a ground floor area of approximately 3910sqm.

28. A procurement exercise for a residential care home provider was carried out in summer 2019. Following feedback from potential providers, it was concluded that they did not feel the location was suitable for residential care and would not be able to offer beds back to the Council at actual cost of care rates required, as such the procurement exercise was terminated. Following a consultation exercise with York residents in 2019 and soft market testing with social landlords and developers, Extra Care was identified as a more suitable alternative means to achieve the Council Plan's ambitions for residents' good health and wellbeing in later life.
29. Based on these further insights and positive soft market testing, a revised procurement process was undertaken in 2021 with a view to developing an Extra Care scheme consisting of a minimum of 40 one-and-two-bedroom apartments, offering a minimum of 20% to be social rented properties. The site was offered with a long lease of 125 years and an expected capital receipt of £450k for its disposal. Whilst positive feedback was received prior to going to market, no formal bids were tendered, and the procurement was terminated.
30. Following the procurement exercise, analysis has been undertaken to understand why the procurement failed. Feedback from Registered Providers has been gathered to understand how the sale of the plot could be amended to ensure it was deliverable. The main themes of this feedback were that RPs are more comfortable delivering a 100% affordable scheme with the majority of the homes being for rent with some providers open to delivering Older Persons Shared Ownership. There was also concern expressed that the potential number of homes (between 45-55 apartments) may not be viable for a full Extra Care development and therefore the criteria for disposal should allow more flexibility to include independent/retirement living which would allow residents to arrange their own care packages rather than full time onsite care. Feedback also highlighted that the 125-year lease term was too short. This feedback has been utilised to recommend that this site be disposed of to an RP for 100% affordable housing for age appropriate (over 55-year-old) accommodation. It is believed that this is attractive to the RP market and will meet the city's housing need.

Marjorie Waite Court

31. As part of the redevelopment and extension of Marjorie Waite Court a full commercial kitchen, community hall and a beauty salon were created. In March 2021, the Council's Executive granted approval to procure an operator for these community facilities. Following that procurement, a 5-year lease and concessionary contract was awarded. The facilities have been well used by the residents of Marjorie Waite Court and have had some use by the wider local community. However, the operator has now given notice that they are no longer able to operate the facilities and the contract will be terminated to end on 1st October 2024.

Consultation Analysis

32. The overarching objectives of the Housing Delivery Programme, as outlined within the approved Design Manual 'Building Better Places', were developed in consultation with partners across the city. This supported the development of a range of objectives which seek to support better mental and physical health, increased sustainable transport opportunity, and tackling the climate emergency and resident fuel poverty. The design of each project is developed alongside the community through significant and meaningful public engagement as outlined in the Public Engagement Strategy. The projects contained within the report, namely Willow House and Ordnance Lane, will benefit from this rigorous and impactful engagement approach.
33. Sites which are subject to potential disposal for the delivery of 100% affordable housing by Registered Provider partners have been soft market tested to ensure they are considered a viable development opportunity.
34. In respect of Lowfield Green Plot B, the Housing Delivery Team have recently carried out further soft market testing with Registered Providers working in the city along with providers of private residential care homes and developers to understand if the level of interest in the site has increased over the last two years. The soft market testing explored opportunities for providing accommodation for older people, either as extra care or independent living.
35. There were 7 positive responses received from Registered Providers to the expression of interest and therefore we believe

there is sufficient interest in this site to dispose for affordable housing. As detailed above, feedback focused on the need for the Council to be less prescriptive in terms of tenures and care provision which has been incorporated into this recommendation for disposal.

36. The Local Housing Needs Assessment, whilst acknowledging the ongoing need for rented accommodation for adults over 55, has emphasised the need for intermediate tenures, such as shared ownership. York has a large proportion of homeowners and therefore in later life those looking for alternative housing options are likely to have some equity but are not able to afford, nor in need, of full residential care setting. Developing an affordable development that incorporates some low-cost home ownership options operates as a prevention strategy by trying to get homeowners into suitable future-proofed accommodation earlier.
37. Residents of Marjorie Waite Court have been asked for their views on the future service. These comments will be incorporated into the procurement documents to ensure that the service reflects the needs of their customers.

Options Analysis and Evidential Basis

Increasing the development of healthy, sustainable, and affordable homes directly through the Housing Delivery Programme

Update on Willow House and Ordnance Lane

38. In November 2023, Executive agreed recommendations to deliver 100% affordable housing projects at these two sites. Since then, a planning application has been submitted at Ordnance Lane for 101 homes and a construction tender pack has been prepared. It is intended, subject to planning permission, to procure a construction delivery partner over the coming months. In line with previous Executive approvals, a business case to invest in the construction of the homes will need to be approved by Executive prior to the signing of a construction contract. Grant funded enabling works to prepare the site for construction are underway and it is anticipated that the construction of new homes will commence in the first half of 2025.

39. The second project is at the former Willow House site off Walmgate, where around 40 new affordable homes could be developed. This project already benefits from some early design work and significant resident engagement and is seen as a positive opportunity for Walmgate Estate and its residents. Since November a design team has been procured and the next round of engagement with local residents and other stakeholders is due to commence in the coming weeks with a view to preparing a planning application later this year. Executive approvals are already in place to procure a construction partner (subject to obtaining planning permission) and it is anticipated that Executive approval to enter into the construction contract will be sought in 2025.

40. The projects aim to deliver 100% affordable housing. The viability of both projects is dependent on a mixed tenure approach, combining low-cost home ownership and rented tenures. Mixed tenure developments bring many benefits by addressing a broad housing need including residents from the housing register, keyworkers and those aspiring to home ownership.

Opportunities for the disposal of land for 100% affordable housing

Lowfield Plot B – proposal to dispose of site to an RP for 100% affordable housing

41. Following soft market testing and detailed feedback from previous procurement exercises, the disposal of Plot B should offer sufficient flexibility to ensure that the project is deliverable for RPs. The recommendation is that the minimum criteria is clear and concise to ensure the disposal will deliver key priorities for the Council. These essential criteria will be as follows:

- Bidders must be Registered Provider with stock within City of York and a track record of delivering new build housing.
- 100% of homes to be delivered as recognised affordable housing tenures as defined in the National Planning Policy Framework.
- The housing is for adults aged over 55.
- The development will have no reliance on fossil fuels.

42. Providers who fail to meet the criteria set above will be unable to bid for the opportunity to purchase the site. Additional to the essential criteria, there will be desirable criteria which will be weighted in order to further shape the future development. The weighting for these criteria will be delegated as set out in the decisions above. The desirable criteria will broadly be:

- The inclusion of community space to the ground floor of the proposed development.
- The inclusion of low-cost home ownership tenures.
- The development will be delivered to enhanced environmental standards.
- Reduced embodied carbon.
- The design quality and deliverability of the proposals.
- The provision of onsite care.
- The approach to construction management to minimise disruption to existing residents of Lowfield Green and surrounding streets.

Former Morrell House site

43. A further opportunity exists at the former Morrell House care home site on Burton Stone Lane in Clifton. A previous decision, taken by Executive in October 2021, was to dispose of the land to a community housing group. However, the interested community housing group have not made a formal financial offer to the Council. Given the acute need for affordable housing in the city, other options have been explored. This includes seeking the views of Registered Providers into whether there is interest in developing it for affordable housing. The feedback received to date has been positive and therefore this report seeks Executive approval to dispose of this site to deliver between 8 and 20 affordable homes subject to planning permission.

The Glen, Ousecliffe Gardens

44. Executive previously agreed to dispose of this asset as part of the funding for the new “Beehive” Centre of Excellence for disabled children and their families which was completed in late 2020. The property is vacant and not required operationally. As yet, no soft market testing has been undertaken with RPs to understand the

level of interest in this site. It is proposed that this testing is undertaken and brought back to the Executive at a later date with a recommendation for its future use.

Castle Mills

45. At Executive in November 2023, the following recommendation was approved 'Confirm that further work on developing the Castle Mills site is paused and ask officers to investigate appropriate meanwhile use options in parallel with exploring longer term opportunities for the future delivery of 100% affordable housing on this Council owned site.'
46. Officers have liaised with all active RPs in the city to understand the level of interest in delivering a 100% affordable housing scheme on this site. The level of interest is low. Reasons given for the lack of interest are primarily related to the high-rise nature of the project, the site being too small, or that this sort of site was not a priority, with many RPs preferring to focus on low rise houses and apartment projects out of town and city centres.
47. However, there is some interest in developing the site for a 100% affordable housing scheme and officers continue to explore this with one RP. They have confirmed that in principle they are interested in the site and would like to develop it for affordable housing, primarily targeting key workers as well hospitality and retail workers who are so important for the city's tourism industry and are often priced out of the city centre due to high rental costs.
48. The RP would like to undertake a detailed site appraisal to allow them to develop a land offer for the site. In order to do this detailed work, they will need to engage consultants to carry out design work at their own cost and they are therefore seeking that the Council enter a Memorandum of Understanding ("**MoU**") agreeing not to market the site to other parties for a period of 4 months whilst they develop their offer.
49. There is currently an ongoing Council project to deliver the link bridge to the site and the adjacent park by utilising YWCA funding. It is currently estimated that this project will be complete by early 2027 and prior to this, no development can take place on the Castle Mills housing site. There is therefore no delay to the overall programme by granting the RP this time to review their options for

the site in more detail and it is recommended to proceed on this basis. It should be noted that Castle Mills is a complex site, fronting onto the river with a major sewer cutting through the site and therefore it is not guaranteed that the interested RP will be able to deliver the site however, at this stage they feel there is significant potential, and it would be beneficial to allow them to explore this in more detail over the coming months.

Marjorie Waite Court – Proposal to Procure for an Operator and Grant a Lease

50. In March 2021 the Executive agreed to procure an operator for the new, community focused facilities be provided and integrated into the newly built extension of Marjorie Waite Court. The operator has been very popular with the residents at Marjorie Waite Court and has provided opportunities for social interaction and community events.
51. The Marjorie Waite Court extension was completed in 2021 and opened in the August featuring a 172m² community hall, beauty salon, a full commercial kitchen, and a communal dining area. These facilities help to provide activities for residents and the wider community and help to integrate the two communities. The concessionary contract for the operation of these facilities includes an exclusive lease of these facilities and the requirement to meet the utility and service costs for these areas of the building.
52. The procurement scope for this concession contract will include:
 - Day-to-day management of the community hall and beauty salon facility, including online bookings, payment and the development of a programme of activities that provide the local area with a wide range of opportunities
 - A regular meals service for residents of Marjorie Waite Court offering nutritious food, taking into consideration specific dietary needs
 - A well-run public facing café and kitchen that offers food and beverages on a value for money basis

53. The operator will be required to cover all costs of utilities and services within the lease area and to contribute to the costs of maintenance of areas of the building shared with the Council's housing service. The community hall, beauty salon and commercial kitchen will be leased to the successful bidder for a term of up to 10 years, with break and/ or extension points at reasonable intervals within that term.
54. As part of the procurement the Council will be seeking a creative and innovative bid that can provide a range of wider social benefits for the local residents including but not limited to; a diverse programme of activity that can support local outcomes around health and wellbeing, mental health, education, learning, social isolation, and food poverty.

Disposal of Assets Considered Surplus and not Suitable for Affordable Housing Delivery

Update on previous disposal decisions

Land at Station Road, Haxby

55. Executive approved the disposal of this 0.1 acre cleared site by unrestricted, open market sale on 13th January 2022 as part of the future libraries and investment programme once the new Haxby library was completed. The site is considered too small to enable affordable housing delivery by a RP.
56. Following a marketing process, an unconditional offer of has been accepted and matters are proceeding with a view of disposing of the freehold of this land. Executive delegated the decision to dispose to the Chief Operating Officer and hence there is no need for any further Executive decision and hence this is purely an update.

Former Herdsmans Cottages – 156 Mount Vale & 123 Heslington Road

57. Executive approval for the disposal of these 2 bed properties (by way of 250-year lease) has been previously provided on 26 November 2020 and 6 October 2022. The size and condition of the

properties were considered to make them unsuitable to provide affordable accommodation. Following a marketing exercise, offers for both properties have been received.

58. Executive delegated the decision to dispose to the Director of Place, in consultation with the Director of Governance, and hence there is no need for any further Executive decision and hence this is purely an update.

Existing Clifton Library, Rawcliffe Lane

59. Executive approval has previously been provided to dispose of this c.0.3-acre site, by freehold sale or long lease once the new replacement Clifton library has been completed and opened. The site provides for the accommodation of the current library. The funding from this disposal is part of the funding for the new library. An offer has been received for the freehold of the site from Spotlight Dance Academy. The company currently operate in close proximity to the site as a local dance group, operating from accommodation in the industrial estate. They have been operating since 2009 and would keep the existing building and re-purpose it as a Dance Studio. They have offered Market Value for the site and intend to retain the building. The offer is conditional upon obtaining planning for the use of the building as a dance studio (and any necessary planning permission for any alterations required to re-purpose the building as a dance studio) and they are progressing to attain such prior to entering into legal documentation. Executive delegated the decision to dispose to the Chief Operating Officer and hence there is no need for any further Executive decision and thus, this is purely an update.

New disposal decisions

28& 45/47 Shambles

60. This consists of 5 No one bedroom flats in need of modernisation and previously leased to Yorkshire Housing (“YH”). The flats are in two separate blocks above ground floor retail accommodation. Registered Providers are not typically interested in this type of accommodation. It is a small scale, in an historic building, and has difficult access arrangements.

61. It is recommended to dispose of the flats and communal area serving such, on a long leasehold unrestricted basis (999 years) whilst retaining the freehold. This would allow the Council to continue to maintain the structure and exterior as it leases out the lower floors for commercial use. Contributions to repairs could be recouped by way of a service charge to the leaseholders.

22 The Avenue

62. This property is in a popular high value residential street just off Clifton. It directly adjoins St Peter's school at the rear. It comprises a large two storey detached house that was built c. 1920. The building is in the conservation area. It is of traditional construction and is in a poor condition and requires fully refurbishing. Given the size and condition of the property it is not considered financially viable for affordable housing. Adjacent to the house is the 'annex' which is of more modern build and continues to be used as supported housing within the HRA. It is not proposed to dispose of the annex at this time.

63. Until late 2019, the property was being used as accommodation for mental health assessment and care residents. It was vacated, due to it being no longer being suitable for operational use. The residents were moved to a recently refurbished property in Clifton. There is no future requirement for the property to be re-occupied, as alternatives are now available, utilising tenancies within the HRA housing stock.

64. On 27 August 2020, the Executive approved the sale of 22 The Avenue and the annex following the development of two new specialist mental health supported housing schemes. Authority to proceed and complete the sale was delegated to the Director of Economy and Place. However, the Programme did not proceed due to the lack of interest from RP's. The Specialist Mental Health Housing and Support programme is continuing with a phased approach being adopted including a 7-home pilot project at 92 Holgate Road. This was approved by the Executive on 16th November 2023. There is, therefore, a continuing need for the annex building until alternative provision is provided.

65. Whilst the annex is operationally required, the whole site could be separated into two and the property comprising 22 The Avenue could be sold. The attached plan (at **Annex B**) shows how the site

could be separated without affecting the continuing use of the annex.

66. The single nature of the property and the cost of refurbishment does not lend itself to use by a RP to provide for affordable housing and hence it is recommended that this property is sold on an unrestricted basis, whilst the annex is retained until such time as the service finds a new location from which to operate.

Hungate

67. The Council sold its freehold interest in the site known as “Hungate” in on 13 December 2006 for a sale price of £960,000 to Hungate (York) Regeneration Limited (‘HYRL’). In addition to the capital sum, the Council entered into a Development Agreement with HYRL in which it was agreed that the purchaser would pay an Overage if sale values of the accommodation constructed by HYRL (less costs associated with the sale) exceeded a certain prescribed base sale rate. Under the terms of the Development Agreement the Council would be entitled to 7.5% of any excess rate, over and above the base rate.
68. Since entering into the Development Agreement, HYRL has developed out a considerable area of the site comprising 462 residential units and the Council has received a further £826k in overage payments, over and above the original base sale price.
69. All units developed are now sold however 3 plots (**see plan attached at Annex D**) within the overall site remain undeveloped and which comprise some 2.76 acres in total. Planning permission was granted for residential development on these undeveloped areas in 2017 (ref:15/01709/OUTM) comprising of 613, 1-3 bed apartments.
70. The Council, as former owner of the site, have been approached by HYRL and advised that HRYL wish to dispose of their interest to a new developer who wishes to develop “build to rent residential accommodation” rather than sell on the units and thus hold them as an investment. It is understood that they wish to build out one of the plots, in accordance with the existing planning consent shortly, with the other plots to follow.

71. As an alternative to the Council receiving an overage of future units when sold (given they would not be sold under a build to rent scheme), a capital consideration has been negotiated whereby the HYRL would pay the Council the capital consideration as detailed within the confidential appendix in return for the Council agreeing to the release of the developer's obligations under the Development Agreement. Independent valuation advice has been sought and this offer is considered to represent best value (See **Confidential Appendix**). A further overage has been offered to the Council as part of the proposed deal structure, whereby if the developer ever changed its mind and developed student accommodation, which has a higher land value, then the Council would share in any further development value uplift.
72. Whilst a matter for the Local Planning Authority, the Housing Policy team consider that there is no impact anticipated regarding these proposed changes on affordable housing contribution. Through Section 106 planning contributions the Hungate scheme has to date delivered £5.261m affordable housing commuted sum payments, and an additional 26 on site affordable homes. Future delivery may incorporate a mix of significant commuted sums alongside some on site affordable housing, or commuted sums only to the maximum value within local and national policy.
73. The proposal will provide the Council with an unbudgeted capital premium and the suggested scheme, once it came to fruition, would benefit the city through added residential accommodation and footfall into the city centre. It is therefore recommended to proceed to extinguish the outstanding obligations in the Development Agreement in exchange for the capital consideration being paid to the Council by HYRL, subject to entering into the necessary legal documentation once the provisions have been agreed between the parties.

Organisational Impact and Implications

Financial

74. The recommendations will lead to the Council generating significant capital receipts (See **Confidential Appendix**).
75. Capital receipts are used as a corporate funding stream. They are used to fund the capital programme, repay debt, or fund

transformation projects. The most appropriate use is determined by the Director of Finance.

76. The receipt from the existing Clifton Library, Rawcliffe Lane has been assumed within the replacement Clifton Library scheme within the capital programme. The proposed receipt is as per the set budget.

Human Resources

77. No implications.

Legal

Planning Law Implications

78. Any necessary planning permission will need to be obtained for each site referred to within this report (by whoever wishes to develop the relevant site(s)). Each Section 106 affordable housing contribution received by the Council will have to be spent in accordance with the terms and conditions of the Section 106 agreement, which has secured the contribution.

Contract Law Implications

79. Any grant funding arrangements sought to deliver the proposals set out in this report will need to be reviewed to understand whether the Council's acceptance and use of any such grant funding will comply with the requirements set out within the Subsidy Control Act 2022.
80. If the Council in disposing of a site (whether by freehold transfer or grant of lease) wishes to impose contractual obligations on the buyer to construct a specified minimum number of dwellings (or other form of specified development works) on the land within a specified timescale then that could be classed as a 'contract for works' which may therefore need to be the subject of a procurement exercise before the sale contract/transfer deed/lease can be entered into.

Property Law Implications:

81. The respective plots of land which the Council propose to dispose of are currently within the General Fund.
82. The Council has a statutory power under Section 123 of the Local Government Act 1972, to dispose of any General Fund/non-HRA land held by the Council (including granting a lease of it). Although Section 123 requires that the consent of the Secretary of State for Housing, Communities and Local Government be obtained for a disposal at a price less than best reasonably obtained, such consent is automatically given for the disposal of General Fund/non-HRA land by a General Consent Order if both of the following conditions are satisfied:
 - (i) the Council considers that the disposal will contribute to the promotion or improvement of the economic, environmental, or social well-being of its area; and
 - (ii) the difference/shortfall between the consideration/monetary receipt obtained and best consideration amount does not exceed c. £2M.
83. In relation to potential purchase of properties by the Council for use additional affordable housing, S.120 of the Local Government Act 1972 gives the Council power to acquire land for the purposes of any of the Council's functions or for the purpose of the benefit, improvement, or development of the Council's area.
84. If the Council intends to dispose of land (either by freehold transfer or by grant of long lease) to a RP with the object of the purchasing RP developing (100%) affordable housing on the land then it should be noted that:
 - (i) the Council can impose a restrictive covenant prohibiting use of the land for any purpose(s) other than solely affordable housing. However, whilst this probably wouldn't reduce the capital receipt obtained by as much as the imposition of a positive development obligation please note:
 - (a) this wouldn't entitle the Council to require that the purchaser actually builds any affordable housing on the land (instead the purchaser might potentially sit on/landbank the land until they wish to develop it);

- (b) there are legal complexities with successfully enforcing covenants restricting use of land and there is a risk that the purchaser might be able to subsequently successfully apply to the First Tier Tribunal under S.84 of the Law of Property Act 1925 for modification or release of such restrictive covenant(s); and
- (ii) the Council has statutory powers to acquire (whether by freehold purchase or by taking a long lease) property for the purpose of any of its functions or for the purpose of improving the benefit, improvement, or development of its area.

Procurement

- 85. **Marjorie Waite Court** - Any proposed concession contract will need to be commissioned via a compliant procurement route under the Council's Contract Procedure Rules and where applicable, the Concession Contracts Regulations 2016 (soon to be Procurement Act 2023). Further advice must be sought from Commercial Procurement and Legal Services.
- 86. **Lowfield Plot B** - Any proposed works or services will need to be commissioned via a compliant procurement route under the Council's Contract Procedure Rules and where applicable, the Public Contract Regulations 2015 (soon to be Procurement Act 2023). All tenders will need to be conducted in an open, fair, and transparent way to capture the key principles of procurement. Further advice regarding the procurement routes, strategies and markets must be sought from the Commercial Procurement team.

Health and Wellbeing

Environment and Climate

- 87. The built environment accounts for over 60% of direct carbon emissions from within City of York's local authority boundary; and half of these emissions are associated with domestic buildings. It is therefore essential that the construction and operation of any new or refurbished homes are low/zero carbon.

88. Restrictions on the use of fossil fuels will be applied as an essential criterion for Registered Provider bids on Lowfield Plot B. It is recommended that minimising embodied carbon is considered as part of the desirable criteria for this site and other sites considered for disposal.

Affordability

89. Provision of additional low-cost housing in York will help to address the current lack of affordable housing for those in the city on low incomes, along with potentially reducing travel costs and improving health and wellbeing of residents. It is well known the those with health and/or mental health challenges have suffered disproportionately throughout the Cost-of-Living crisis and the proposals in this report may help to address some of these challenges.

Equalities and Human Rights

90. See full Equalities Impact Assessment in **Annex F**.

Data Protection and Privacy

91. As there is no personal data, special categories of personal data or criminal offence data being processed, there is no requirement to complete a data protection impact assessment (“**DPIA**”). This is evidenced by completion of DPIA screening questions AD-06656.

Communications

92. There are no communications service implications, other than in the management of any reactive media enquiries which may arise from this report

Economy

93. The York Economic Strategy 2022-32 recognises the challenges of affordable housing in York and its impact on economic growth. The proposals in this paper are well aligned with that strategy and would help bring benefit to tenants, employees, and businesses in York.

Risks and Mitigations

Land disposals for 100% affordable housing

94. Whilst land disposals to RPs have undergone soft market testing, the level of land receipt for 100% affordable homes is hard to quantify and will be impacted by additional requirements on RPs and site abnormalities.

Wards Impacted

All

Contact details

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Background papers

Executive Report February 2023 - Housing Delivery Programme update - Delivering Affordable Housing on Council Land
Executive Report November 2023 - Delivering More Affordable Housing in York – update on the Housing Delivery Programme

Annexes

Annex A: Morrell House Site Plan
Annex B: 22 The Avenue Site Plan
Annex C: Lowfield Site Plan
Annex D: Hungate Site Plan
Annex E: Castle Mills Site Plan
Annex F: Equalities Impact Assessment

Confidential Annexes

Annex G: Financial Information
Annex H: Commercial Report - Hungate