

Older Persons' Accommodation Programme Board

2nd March 2017 by email

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

Issues for Decision

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

Background

2. The Programme Board received an update on the procurement of the Oakhaven Extra Care scheme when it met on 9th February 2017. This report provides the outcome of the procurement.
3. The opportunity to develop, construct and operate an Extra Care facility at Oakhaven was advertised in the Official Journal of the European Union in November 2016. 0.87 acres of land (see **Annex 1**) was offered to bidders who would use the land to provide the Extra Care facility. As part of this procurement the Council seek:
 - A partner to fund, build and operate an Extra Care facility and, in relation to the design, to propose the best solution for the site in terms of:
 - i. the quantity and size of units of accommodation, though some units are required to have two-bedrooms;
 - ii. the tenure mix, other than the Council's specific requirements at b. below;
 - iii. the extent of communal facilities made available; though this must include a cafeteria serving a choice of hot meals; and
 - iv. the provision of gardens and car parking.

- The precise tenure mix is for the Bidder to determine, though:
 - i. the development is to be of mixed tenure;
 - ii. 20 of the housing units are to be available at a rent which will not exceed the Local Housing Allowance (over which the Council will have nomination rights), 15 of these will be of one-bedroom and 5 two-bedroom units.
 - iii. 5 units are to be available on a Low Cost Home Ownership for the Elderly lease (over which the Council will have nomination rights); and
- The specification of individual units is to be “tenure blind” and affordable/social tenure units are to be pepper-potted around the development.
- The Council’s nomination rights will be determined via a Nomination Rights Agreement.
- Personal care will be provided to a standard that ensures that Care Quality Commission registration is obtained and maintained.

4. The cost of personal care will be met by the recipient of care and those recipients who are eligible for local authority financial support will receive this in the form of a Personal Budget/Individual Service Fund and payments for care will be through utilisation of this approach. Recipients retain the right to purchase care from a provider other than the one dedicated to the scheme

5. The North Yorkshire Police have indicated that they might be prepared to vacate their adjacent police station and rear yard/outbuildings at a later date. Bidders are required to take this potential later expansion into account, in the design of their scheme

6. Following an initial assessment of those interested in the opportunity, five bidders were shortlisted and invited to tender:

- Ashley House

[REDACTED]

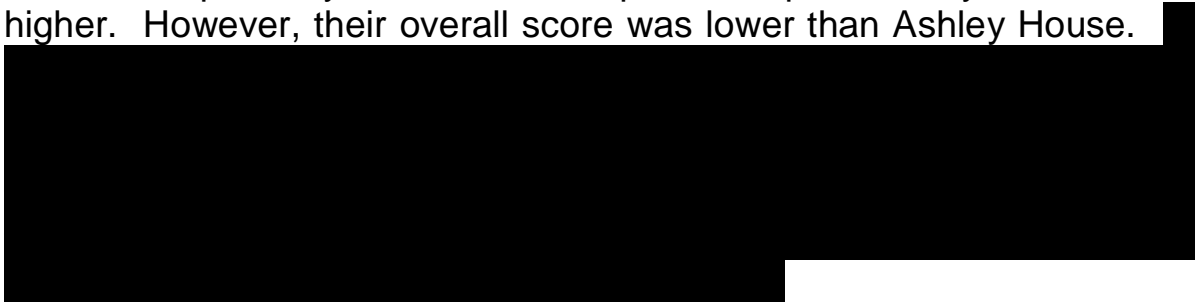
[REDACTED]

8. Three responses to this Invitation to Tender were received on 8th February 2017. One was not compliant. The remaining two can be summarised as follows:

Item	Ashley House	██████████
a) Number of apartments provided.	48 x 1 bed 8 x 2 bed = 56	27 x 1 bed 14 x 2 bed = 41
b) Tenure mix.	20 affordable rent 5 shared ownership 15 market rent 16 outright sale	20 affordable rent 5 shared ownership 0 market rent 16 outright sale
c) Key design features.	Lounge, cafe/restaurant, buggy store and staff rooms. 16 car park spaces.	Lounge, cafe/restaurant, buggy store, second lounge, assisted bathrooms, laundry and staff rooms. 21 car park spaces.
d) Space standards.	1 bed = 54 m ² 2 bed = 68 m ² Communal = 382 m ²	1 bed = 54.7 m ² 2 bed = 68.7 m ² Communal = 632 m ²
e) Weekly affordable rent charged including basic rent and HB eligible and ineligible service charges	1 bed = £241 2 bed = £266	██████████ ██████████
f) Sale and shared ownership target price.	1 bed = £165k 2 bed = £195k	██████████ ██████████

	Item	Ashley House	██████████
g)	Care charge per hour.	£16.14	██████████
h)	Value to be paid for the land.	£150,000	██████████
i)	Date the Extra Care facility will be ready for occupation	February 2019	March 2019
j)	Impact of inclusion of Police Station in purchase.	An additional 14 apartments	An additional 12 apartments

9. Evaluation of the bids is complete. Evaluation included both qualitative (60%) and financial (40%) elements of the proposal.
10. Ashley House is proposed as Preferred Bidder because they scored highly on the qualitative aspects of the evaluation and while they scored lower than the other bidder on the financial evaluation their overall score was the highest, although only by a small margin.
11. ██████████ scored low on quality and higher on the financial evaluation, primarily because the capital receipt that they offered was higher. However, their overall score was lower than Ashley House.



Impacts

Legal

12. Under Section 123 of the Local Government Act 1972 the Council needs the consent of the Secretary of State (for Communities and Local Government) if it wishes to dispose of non-housing land for a consideration that is less than the best consideration reasonably obtainable. However under a General Consent Order made in 2003 the Secretary of State has given consent to disposal of non-housing land

for less than best consideration reasonably obtainable provided that: (i) the difference between the price obtained and full market value does not exceed £2 million AND (ii) the Council (acting reasonably and properly) considers that the disposal will facilitate the improvement of the economic, environmental or social well-being of the area. In this case the delivery of an Extra Care scheme with local authority nomination rights fulfils this second test of compliance.

13. A fully compliant procurement process has been followed to find a partner to develop and deliver the Extra Care facilities at Oakhaven.
14. The issue of state aid is a factor in this project as council land is being made available as part of the tender. Factors such as size and quality of development, apartment numbers and prices, nomination rights and other facilities offered to the Council or its residents, will have an impact on the value bidders are prepared to offer for the land itself. This may be below market value and thus potentially be seen as a state resource being made available on preferential terms, which is a characteristic of state aid.
15. The fact that the Council has conducted a fully EU compliant procurement process where all parties have had equal chance to express an interest and to bid, and that the price offered for the land is part of the evaluation model, ensures that no advantage is being offered to one organisation over another and that there is no distortion of either competition or the market. That being the case then it is likely that CYC is not in contravention of EU state aid regulations and unlikely to be subject to any challenge in this respect. It is not unlawful to offer an incentive to allow a project to come to fruition as long as the opportunity is open to all.
16. The Property will be subject to a restrictive covenant prohibiting use for any purpose other than as an Extra Care scheme.

Property

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

Financial

19. The delivery of an Extra Care scheme at Oakhaven forms a key element of the Older Persons' Accommodation Programme. The Programme is predicated on the financial plan which makes provision for disposal of the Oakhaven site at nil capital value as a base-line calculation in order to determine the final Capital Receipt and for the additional domiciliary care costs which might be incurred as a cost to the Council of the assessed care needs of residents of the Extra Care scheme.
20. The preferred bid has delivered a capital receipt of £150,000 which is in excess of the planned receipt. The obtaining of nomination rights to all of the proposed 20 affordable rented apartments and to all of the proposed 5 discount low cost home ownership for the elderly apartments in the scheme for a period of 80 years also has positive a financial benefit to the Council if compared to the cost of providing those apartments ourselves, preventing the authority having to incur capital expenditure of approximately £2.2 million. These nomination rights will be used to provide accommodation to those in housing and social care need. Therefore, this justifies the sale of the land at less than full market value/best consideration reasonably obtainable.
21. In order to ensure affordability of the rented apartments the Council will need to consider this development to be "Exempt Accommodation" under regulation 10 of the 1995 Housing Benefit regulations.

Risks

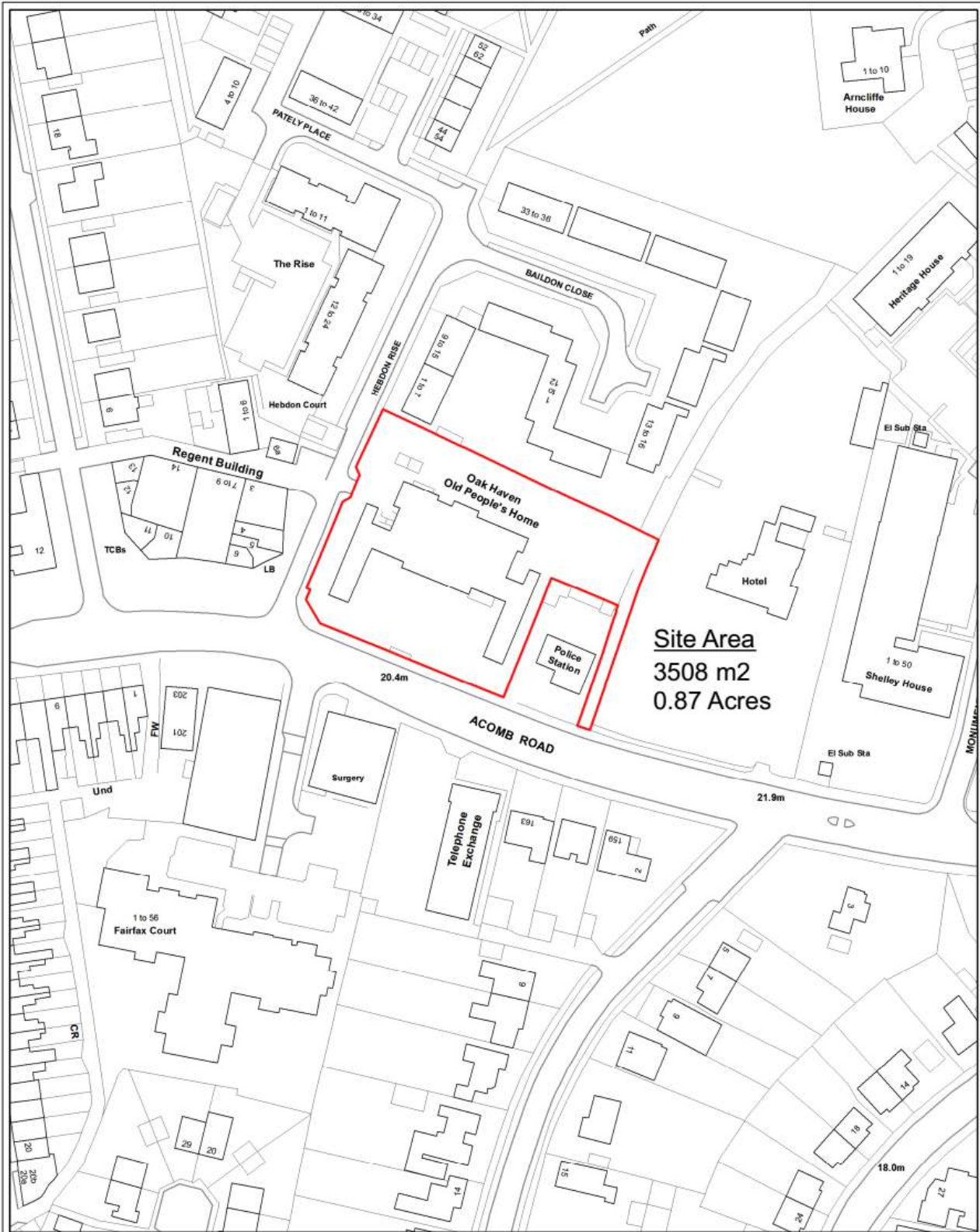
22. The key risks of this proposal are:

	Risk	Mitigating Action
a)	Options for accommodation for older people do not match the expectations and aspirations of current and future residents.	A wide range of options are made available and residents are supported to assess these against their needs and wishes.
b)	Those with high care needs and their carers/advisers/assessors do not recognise Extra Care accommodation as suitable because there are limited examples in York of this type of accommodation and the care pathways are unclear.	A dedicated care manager will work with residents to explore with them and their relatives how Extra Care operates, how it can be a flexible model for those with high care needs and how it operates in other towns as a viable alternative to residential

	Risk	Mitigating Action
		care.
c)	Insufficient funding to deliver all elements of the project.	The early receipt of capital from the sale of Oliver House and other sites has made a positive contribution to cash flow in the Programme financial model.
d)	Title / related property issues, incorrect procurement of capital works and/or development.	Applying due diligence to ensure Council's normal approach to the disposal of land, procurement of capital works and/or a development partner is applied.
e)	State Aid challenge.	Final legal advice on Capital Receipt achieved.

End

Annex 1 – The Oakhaven Site



Oakhaven



SCALE: 1:1,250 DRAWN BY: DH DATE: 15/09/2015

Originating Group: **Asset & Property Management** Drawing No. **E00646_1**

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