

Appendix 2

**Report to Director of City Development on Appropriation of
Sites for Use in the Independent Living Project and Disposal of
Sites at an Undervalue**



AGENDA ITEM:

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Report of the Chief Officer Public Private Partnerships Unit

To the Director of City Development

Date: 21 JANUARY 2008

Subject: APPROPRIATION OF SITES FOR USE IN THE INDEPENDENT LIVING PROJECT AND DISPOSAL OF SITES AT AN UNDERVALUE

Electoral Wards Affected:

City Wide

Specific Implications For:

Ethnic Minorities

Women

Disabled people

Narrowing the gap

Key Decision Major Decision Eligible for call in Not Eligible for call in
 (details contained in the report)

Significant Operational Decision Administrative Decision

Decision to be taken by:

Full Council	<input type="checkbox"/>	Corporate Governance and Audit Committee	<input type="checkbox"/>
Executive Board	<input type="checkbox"/>	Standards Committee	<input type="checkbox"/>
An Area Committee	<input type="checkbox"/>	Member Management Committee	<input type="checkbox"/>
A Regulatory Committee	<input type="checkbox"/>	A Director using delegated authority	<input checked="" type="checkbox"/>

1. EXECUTIVE SUMMARY

1.1 To recommend that the sites listed at appendix A are appropriated to social services for use in the Independent Living Project and that the sites listed at appendix B are then subsequently disposed of at an undervalue to the housing management contractor in the LiLAC Consortium by way of leasehold disposal.

2. ACCESS TO INFORMATION

2.1 This report contains no exempt information.

3. PURPOSE OF THIS REPORT

3.1 The purpose of this report is to:

- 3.1.1
 - seek appropriation of sites to social services use for use in the Independent Living Project.
- 3.1.2
 - Seek authority to dispose of sites to the housing management contractor at an undervalue through leases that will terminate at the same time as the 25 year Project Agreement and in any event will be for a term in excess of 7 years.

4. BACKGROUND INFORMATION

4.1 The Independent Living Project is a private finance initiative (PFI) project that aims to build and manage specialist accommodation across the City of Leeds for the benefit of people with mental health needs and learning difficulties. The facilities to be provided on the sites that are going to be leased are units of accommodation that allow service users to live as independently as possible.

4.2 Registered care homes are also going to be constructed, as part of the Project, on sites that are to be licensed to the PFI Contractor for the construction phase only and retained by the Council and are therefore outside the scope of this report. Some of the sites listed in this report, (Ridgeside M157, Bewerley Croft M161, Cottingley Court M162, Spen Croft M164 and Outgang Lane M274) are mixed sites of which some areas will be leased and some areas will be retained by the Council following the construction of Registered care homes. On the mixed sites the value of the newly built registered care homes has been considered in the valuation.

4.3 The LiLAC Consortium is the preferred bidder on this project. In order to facilitate this development a number of the sites where the accommodation is going to be situated will be leased to Progress Care Housing Association, the housing management contractor, part of the LiLAC Consortium. The lease will allow Progress Care Housing Association to let tenancies covering units of accommodation to individual service users.

4.4 The Corporate Asset Management Unit has identified a total of 39 sites across the City for use in the Independent Living Project. According to the City Council's land records 20 of these sites are currently held by the Environment and Neighbourhoods Department, and 1 site is currently part of a park held by Development Department.

4.5 36 of these sites will be disposed of to the housing management contractor under the terms of a lease. Each site will be leased separately. The other 3 sites shall continue to be held by the City Council to provide registered accommodation.

4.6 16 of the sites were declared surplus to housing needs by the Neighbourhoods and Housing Panel on 30 March 2007. See report title "Approval for release of sites currently vested in neighbourhoods and housing, managed by the ALMOs, for use for the Independent Living Project dated 30 March 2007".

4.7 Bedford Garth (M111) was re-considered as there was a boundary change following the 30 March 2007 report. The amended Bedford Garth site along with two further sites, South Parkway (M293) and Outgang Lane (M274) were formally released by

Neighbourhoods and Housing Panel on 18 January 2008. See report title “Approval for release of sites currently vested in Environment and Neighbourhoods, for use for the Independent Living Project dated 16 January 2008, delegated decision made 18 January 2008”

- 4.8 Site M192, Dam Lane was formerly part of Tarnfield Park and was declared surplus to parks requirements and released by Development Department on 21 January 2008. See report title “ILP (Independent Living Project) sites – Yeadon Tarn and Spen Croft dated 18 January 2008, delegated decision made 21 January 2008.”
- 4.9 The sites at appendix A were accepted in to the Adult Social Care property portfolio on 14 January 2008. See report title “Acceptance of sites into the Adult Social Care property portfolio for use in the Independent Living Project – report date 10 January 2008, delegated decision taken 14 January 2008.”
- 4.10 All of these sites, listed at appendix A need to be appropriated to social services use using s122 Local Government Act 1972 (“the Act”). The reason for this is explained at section 5.1.
- 4.11 The structure of the PFI contract sets out a build (works) period for construction followed by a 25 year services period for management and maintenance of the properties on these sites. During the services period the sites listed at appendix B will need to be disposed of to the housing management contractor on a lease. The proposed leases will be contracted out of the security of tenure provisions contained in the Landlord and Tenant Act 1954, will be for a nominal rent and will terminate at the same time as the Project Agreement. The leases will restrict use of the sites to provision of the services as detailed in the Project Agreement.
- 4.12 The granting of a lease that will terminate at the same time as the Project Agreement is a disposal for the purpose of section 123 of the Act and is in excess of 7 years. The Act states that all such disposals made under the Act must be made at best consideration unless secretary of state consent is obtained. The secretary of state has issued a general consent known as circular 06/03: Local Government Act 1972 general disposal consent (England) 2003, (“the Circular”) which states that disposals can be made at an undervalue provided that the authority considers that the disposal will help secure the promotion or improvement of the economic, social or environmental well being of its area and the undervalue is not greater than £2 million.
- 4.13 The Director of City Development has delegated authority under the Leeds City Council constitution to take decisions concerning the appropriation and disposal of land. The Director of City Development has exercised her power to further delegate authority to take these decisions to the Chief Asset Management officer.

5. MAIN ISSUES

- 5.1 Specific legislation governs the way that certain areas of land held by the above departments can be appropriated and disposed of. To enable relevant land to be disposed of by way of lease it is necessary for such land currently held by the above departments to be formally appropriated to Social Services use. The funders lawyers will be particularly keen to see evidence that decisions on appropriation and disposal of land have been properly taken.
- 5.2 The disposal will help secure the promotion or improvement of the social well being of the Leeds City Council area by providing improved accommodation for people with

mental health needs and learning difficulties and facilitate “independent living” for these individuals. This will support the City Council’s community strategy the “Vision for Leeds” and in particular the aim to “make sure that everyone can play as full a part in society as they want by reducing barriers which prevent people from being involved in everyday life.” The Chief Asset Management officer must be satisfied that the support for the Vision for Leeds will be provided by this disposal before it can be authorised under the terms of the circular.

More detail on the social and community benefits of the Independent Living Project is available in the project Final Business Case.

- 5.3 As will be seen in the schedule attached at appendix C, all of the disposals with the exception of Cottingley Court (M162) will be at an undervalue but in each case the extent of the undervalue is within the £2 million threshold allowed in the general consent contained in the Circular. Cottingley Court (M162) will be disposed of at best consideration.
- 5.4 It is intended that the leases will be granted following the initial works period for each site following which the PFI contract will provide for maintenance and housing management services to be provided by the contractor who will sub-contract the housing management facilities to the housing management contractor. The leases will terminate at the same time as the Project Agreement which is expected to be 02 May 2036.
- 5.5 Craven Road (M203) is the site of the former playing field to the former Grafton Special School. Secretary of state consent is required before this site can be disposed of. In the event that Secretary of State consent is granted under section 77 of the School Standards and Framework Act 1988 a further report will be brought requesting authority to appropriate this site to social services use and dispose of the site by way of lease to the housing management contractor.
- 5.6 Two of the Sites, Cottingley Drive (M166) and Dam Lane (M192) are public open space. As required by sections 122 and 123 of the Act, notices were displayed in a local newspaper advertising the Council’s intention to appropriate and dispose of the sites and giving a reasonable period of time to register any objections. No objections were received within the period of time allowed.
- 5.7 There are no “houses” on the sites for the purposes of the Housing Act 1985. This means that the housing sites can be appropriated to social services use without requiring secretary of state consent under housing legislation.
- 5.8 Section 25 of the Local Government Act 1988 requires Secretary of States Consent to be obtained if financial assistance is to be given in relation to privately let accommodation. Although the disposals in this case have followed a robust competitive and commercial bid process, due to uncertainties in the market on the need for a consent, and following discussions with the preferred bidder and Department for Communities and Local Government (DCLG), the Project team has concluded that a consent should be obtained. The disposals will therefore only be actioned when s25 consent is in place.
- 5.9 The Circular is silent on the extent to which transactions under the general consent should be ‘linked’, or aggregated for the purposes of calculating whether the undervalue is over £2 million. The Project team has consulted with DCLG, who did not offer a view one way or the other, merely suggesting that the Council should

consider the facts and take a view. Clearly if a number of parcels within a single site were being separately valued aggregation would be the correct approach. In this case the sites are spread over all areas of the city, and separate legal interests will be created. There are further practical reasons for creating separate leases, works on each site will be completed at different times and the leases will therefore commence at different times and it is possible that sites may be removed from the Project in future. It will make it easier to remove sites from the Project if the sites are disposed of on separate leases.

6. KEY MILESTONE

- 6.1 Executive Board is meeting on 23 January 2008 to consider a report requesting final approval for the Independent Living Project to proceed to financial close.

7. FINANCE AND RESOURCES

- 7.1 Disposal of the sites listed at appendix B to the housing management contractor on a lease is key to the success of the Independent Living Project.

8. RISK

- 8.1 The risk involved in not accepting this recommendation is that the Council may not be in a position to provide the funders lawyers with evidence that decisions on appropriation and disposal of land have been properly taken.

9. PROGRAMME

- 9.1 See key milestones

10. IMPLICATIONS FOR COUNCIL POLICY AND GOVERNANCE

- 10.1 Following the recommendations will aid the successful completion of the Independent Living Project.

11. RECOMMENDATIONS

- 11.1 To note that all of the sites listed in this report be used in support of the City Council's Independent Living Project.
- 11.2 That the sites listed in appendix A be appropriated out of housing use and into social services use under sections 19 Housing Act 1985 and 122 Local Government Act 1972.
- 11.3 That the site listed in appendix A be appropriated out of leisure and parks use and into social services use under section 122 Local Government Act 1972.
- 11.4 That, (subject to consent being obtained as required under section 25 Local Government Act 1988), the sites listed at appendix B be disposed of under section 123 Local Government Act 1972 and the general consent under Circular 06/03: Local Government Act 1972 general disposal consent (England) 2003 to the housing management contractor under the Independent Living Project on a leasehold basis with each lease terminating at the same time as the Project Agreement anticipated at the date of this report to be 02 May 2036 on terms provided for in the Project Agreement.

APPENDIX A – SITES TO BE APPROPRIATED

Seacroft Crescent (M138)
Bailey's Lane West (M291)
Farfield Drive (M142)
Waterloo Grove (M265)
Albert Square (M116)
Haw Lane (M118)
Foxcroft Road (M242)
Iveson Rise (M251)
Eastleigh Drive (M147)
Cross Heath Grove (M197)
Burton Row (M217)
Lady Pit Lane (M134)
Cottingley Drive (M166)
Ceres Road (M106)
Potternewton Mount (M253)
Scott Hall Square (M254)
Bedford Garth (M111)
South Parkway (M293)
Outgang Lane (M274)
Dam Lane (M192)

Note:

20 sites were included in the report to Neighbourhoods and Housing Panel 30 March 2007.

Bedford Garth (M111) was amended and re-considered in Environment and Neighbourhoods report "Approval for release of sites currently vested in Environment and Neighbourhoods, for use for the Independent Living Project dated 16 January 2008, delegated decision made 18 January 2008"

Craven Road (M203) has been excluded from the requirement to appropriate sites through this report for reasons outlined in section 5 of this report.

It is our understanding that Roos Court (M158) and Prospect House (M267) were included in the Neighbourhoods and Housing Panel 30 March 2007 report in error as they were already held by social services. Therefore the appropriation of these sites is not required.

"M" numbers refer to ILP site plans that are available on request.

APPENDIX B –SITES TO BE DISPOSED OF BY LEASE

Ceres Rd (M106)
Bedford Garth (M111)
Albert Sq (M116)
Haw Lane (M118)
Ilford Street (M127)
Lady Pit Lane (M134)
Seacroft Crescent (M138)
Eastleigh Drive (M147)
Delph Manor (M154)
Healey Croft (M155)
Ridgeside (M157)
Roos Court (M158)
Rossedene (M159)
Templars Croft (M160)
Bewerley Croft (M161)
Cottingley Court (M162)
Spen Croft (M164)
Joseph Street (M165)
Cottingley Drive (M166)
Westerton Close (M176)
Dam Lane (M192)
Burton Row (M217)
Foxcroft Road (M242)
Iveson Rise (M251)
Potternewton Mount (M253)
Audby Lane (M263)
Church Lane (M264)
Waterloo Grove (M265)
Prospect House (M267)
Mawcroft Grange (M269)
Victoria Park Grove (M275)
Lee Grange (M283)
Bailey's Lane West (M291)
South Parkway (M293)
Outgang lane (M274)

Note:

Craven Road (M203) has been excluded from the requirement to dispose of sites through this report for reasons outlined in section 5 of this report.

“M” numbers refer to ILP site plans that are available on request.

APPENDIX C – VALUATION SCHEDULE OF CORPORATE ASSET MANAGEMENT

Address	Area in acres	Comments	Valuation	
			Market value	Restricted value
Albert Square, Yeadon, (off Cemetery Road)	0.16	Former garage site near centre of Yeadon	£208,000	£75,000
Audby Lane, Wetherby	0.32	Area of mainly open space	£350,000	£140,000
Bailey's Lane West, Seacroft	0.54		£380,000	£92,000
Seacroft Crescent, LS14	0.28	Cleared site near centre of Seacroft	£170,000	£46,000
Bedford Garth, Cookridge	0.41	Former Garage site	£240,000	£165,000
Bewerley Croft, Holbeck	0.6	Poor area close to City Centre	£580,000	£320,000
Burton Row, Leeds 11	0.25	Grassed area situated opposite an area of open space	£125,000	£90,000
Ceres Road, Wetherby	0.29	Former Garage Court on Council Estate	£175,000	£132,000
Church Lane, Horsforth	0.35	Good position near to Church	£525,000	£80,000
Cottingley Court, Leeds 11	0.74		£360,000	£540,000
Cottingley Drive, Leeds 11	0.11	Area of open space adjoining Council estate	£80,000	£35,000
Dam Lane, Yeadon, Leeds	0.17	Land situated on boundary to small area of parkland	£180,000	£65,000
Delph Manor, Woodhouse	0.62	Shopping site near to University	£550,000	£220,000
Foxcroft Road, Headingley, Leeds 6	0.18	Former garage site on a Council estate.	£100,000	£42,500
Haw Lane, Yeadon, Leeds	0.25	Former garage site in an elevated position near the centre of Yeadon	£375,000	£55,000
Healey Croft, West Ardsley	0.26	Site of former staff house	£280,000	£110,000
Iveson Rise, Leeds 16	1.63	Former highways depot	£2,000,000	£220,000
Illford Street, Morley	0.36	The site is situated in a mixed area near the centre of Morley	£470,000	£184,000
Joseph Street, Hunslet	0.28		£130,000	£60,000
Lady Pit Lane, Beeston	0.28	Area of open space	£170,000	£77,000
Land at Outgang Lane, Bramley, LS 13	1.83	Apportioned site area for 2 bungalows	£1,100,000	£292,000
Lee Grange, West Ardsley	0.89		£840,000	£110,000
Mawcroft Grange Hostel, Rawdon	0.77	Good residential area	£1,050,000	£200,000
Potternewton Mount, Leeds 7	0.18	Cleared site next to Potternewton Primary School	£168,000	£46,000
Prospect House, Moor Road, Leeds 10	0.4	Prospect House is in poor condition and the cost of renovation could be prohibitive. Demolition considered the best option.	£120,000	£100,000
Ridgeside, Cookridge Lane	3.06	Adjacent to Cookridge Golf Course	£1,600,000	£1,000,000

Roos Court, Horsforth	1.06		£1,400,000	£185,000
Rosdene, Bramley	1.28		£670,000	£184,000
Eastleigh Drive, West Ardsley	0.42	Cleared site of former library. Situated on a Council estate.	£420,000	£75,000
South Parkway, Seacroft	0.86	Cleared site on a Council estate	£700,000	£100,000
Spenn Croft, Leeds 16	0.94		£1,025,000	£800,000
Templar's Croft, Wetherby	0.99	Situated adjacent to a Light Industrial Estate	£1,100,000	£220,000
Victoria Park Grove, Kirkstall	0.5		£400,000	£220,000
Waterloo Grove, Pudsey	0.32	Cleared site with open areas adjoining	£270,000	£115,000
Westerton Close, West Ardsley	0.41	Area of open space	£320,000	£95,000