



**APPENDIX 1 NOT FOR PUBLICATION  
Exempt / Confidential under Rule 10.4 (3)**

**Report of the Deputy Chief Executive**

**Executive Board**

**Date: 8<sup>th</sup> February 2008**

**Subject: Leeds Independent Living PFI Project – Approval of the affordability position of the Children’s Services element of the Project. Approval of the release of sites in connection with the Independent Living Project**

**Electoral Wards Affected:**  
All

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In

**EXECUTIVE SUMMARY**

1. Further to the report which was approved at Executive Board on 23 January 2008 this paper seeks approval of the Children’s Services affordability position within the Project .
2. This report also outlines the sites which are to be used within the Independent Living Project and seeks approval to lease relevant sites to the PFI contractor for use during the 25 year life of the contract. The sites will be leased to the contractor for the duration of the contract to enable the contractor to undertake their responsibilities as Landlord and issue tenancies, and at the end of the contract the sites will be returned to the Council.
3. Members are requested to agree to the recommendations set out in Section 6 to this report relating to the Children’s Services affordability position and the disposal of a leasehold interest in some of the sites that are intended to be used in the project.

## Purpose of This Report

- 1.1 Further to the report approved at Executive Board on 23 January 2008 the purpose of this report is to update Members on the affordability position of the Children's Services element of the Independent Living Project.
- 1.2 Members are requested to approve the financial implications for the Council of entering into the Children's Services element of the Project as detailed in Appendix 1, and to agree the maximum affordability ceiling for the City Council of £0.361m for the first full financial year (2010/11), as set out in Appendix 1.
- 1.3 The report also outlines the sites to be used in the Independent Living Project and seeks approval for the use of these sites (including leasehold disposals to the Contractor) for the duration of the Project.

## 2.0 Background Information

- 2.1 This project forms a major part of the City Council's Modernisation Programme to transform residential services for adults with learning disability and mental health needs by allowing them to live as independently as possible within their local communities. The Programme aims to meet the accommodation, housing-related support and care needs of current service users and provide an infrastructure that is flexible and adaptable to the changing needs of these service user groups over the next 25 years.
- 2.2 On 6<sup>th</sup> July 2005 Members of the Executive Board endorsed the submission of an Outline Business Case for the building of new independent living accommodation, for adults with learning difficulties and mental health needs. On 22<sup>nd</sup> August 2007 the Board approved an extension of the Project to include procurement of the Children and Young People Services PFI Project.
- 2.3 On 15<sup>th</sup> December 2006 the Department for Children, Schools and Families (DCSF) awarded the City Council PFI credits of £5m for a Children and Young People Services PFI Project to be included as part of the Independent Living Project. Members of the Executive Board formally approved the extension of the Independent Living Project to include the Children's PFI element at their meeting on 22<sup>nd</sup> August 2007.
- 2.4 The following are the individual stages in the procurement process determined by the Project Board:
  - i) OJEU Notice 16<sup>th</sup> January 2006
  - ii) Receipt of Pre Qualification Questionnaire and Pre ITN Documents from Bidders 12<sup>th</sup> April 2006
  - iii) Invitation to Negotiate Shortlist 21<sup>st</sup> June 2006
  - iv) Stage 1 of the ITN process August 2006 to March 2007
  - v) Stage 2 of the ITN process April to October 2007
  - vi) Selection of the Preferred Bidder 2<sup>nd</sup> October 2007

- 2.5 The outcome of the procurement process was that on 2<sup>nd</sup> October 2007, the Leeds Independent Living Accommodation Company (LiLAC) Consortium was selected as the Preferred Bidder for this Project, subject to the agreement of a satisfactory Preferred Bidder letter, which was signed by the City Council and the Lilac parties on 22<sup>nd</sup> October 2007.
- 2.6 The Project is now at the Final Business Case (FBC) stage. All Government Departments involved in the project (DCLG, DoH, DCSF) must approve the FBC and issue a joint Promissory Note prior to Financial Close and Contract signature. This Promissory Note secures the release of the Notional Credit Approvals. A copy of the FBC (which is Exempt / Confidential under Access to Information Procedure –see paragraph 5.2 below) has been lodged with the Clerk to this Executive Board and is available for inspection by Members of Executive Board.

2.7 The LiLAC Consortium comprises:

<b>Equity Investors</b>	Gleeson PFI Investments Ltd Progress Care Housing Association Ltd Jack Lunn (Properties) Ltd
<b>Lead Bidder</b>	Gleeson Capital Solutions Ltd
<b>Senior Lender</b>	Norddeutsche Landesbank (Nord LB)
<b>Construction</b>	Jack Lunn Group
<b>Housing Management</b>	Progress Care Housing Association Ltd
<b>Facilities Management</b>	Powerminster Ltd

2.8 On the 23<sup>rd</sup> January the Executive Board approved the Final Business Case for the Independent Living Project and authorised entering into all necessary project documents.

### **3.0 Approval of Children’s Services Affordability**

Members are asked to refer to Appendix 1 which is exempt under Access to Information Procedure Rule 10.4(3) and includes matters where negotiations of a confidential nature will ensue. In these circumstances it is considered that the public interest in not disclosing this commercial information outweighs the interests of disclosure.

### **4.0 Disposal of Sites**

4.1 Members will recall that paragraph 5.3.2 of the 23 January 2008 Executive Board report indicated that the Project Agreement assumes that a number of sites will be disposed of via a 25 year lease. This will enable the Housing Management Contractor, Progress Care Housing Association, a Registered Social Landlord, to grant tenancies to individual service users. A full list of those sites that have been identified is contained in Appendix 2 to this report. The 23 January report indicates

that necessary appropriations under s122 Local Government Act 1972 and disposals under s123 Local Government Act 1972, were subject to separate reports to the Director of City Development under delegated powers.

- 4.2 As the Executive Board Report of 23 January 2008 outlined, there has been extensive consultation through Ward Members, and via the planning process on the intended use of the sites for the Independent Living Project.
- 4.3 The Chief Asset Management Officer (exercising those delegated powers under the Development Department's scheme of delegations) has considered a report of officers in the Public Private Partnerships Unit Project Team, which is attached at appendix 2, ("Appropriation and Disposals report") and has taken decisions to appropriate sites identified for the Project out of existing use for use in support of the Project.
- 4.4 Delegated powers exist allowing the Director of City Development (and in turn the Chief Asset Management Officer) also to take decisions in relation to disposals, but where a disposal is at less than best consideration, and there is an undervalue exceeding £100,000 envisaged, as a matter of practice such disposals have been referred to Executive Board for consideration.
- 4.5 The leases anticipated to be required for the Project are at a nominal rent, and because they contain restrictions on the Contractor to (amongst other things) use them solely for the purposes of the Project and create the accommodation required, will in most cases be at less than best consideration. However the disposals are not intended to provide financial assistance or benefit to the Registered Social Landlord, rather to enable tenancies to individual occupants. In this case the project has proceeded through a competitive process with the overall consideration on the project being tested as the best market price, affordable to the City Council and value for money, as outlined in the report to Members on 23 January.
- 4.6 Legislation requires all disposals by an authority by way of lease above 7 years to be made at best consideration unless either a specific Secretary of State consent is obtained or the local authority decides to dispose at less than best consideration within the terms of the General Disposal Consent, which enables disposals at an undervalue provided that the authority considers that the disposal will help secure the promotion or the improvement of the economic, social or environmental well-being of its area, and the undervalue will not be greater than £2,000,000.
- 4.7 Separate leases are envisaged for each Site. Recently received valuations for each site are attached to the Appropriations and Disposals report at Appendix 2
- 4.8 If the disposals were at full market rent the unitary charge would simply be increased to cover the cost. Additionally the project is using a number of sites upon which Social Services accommodation is currently provided. In reality these sites would not be disposed of on the open market and are not in reality surplus to requirements. The disposals will be for a period of approximately 25 years following which the residual value will return to the Council. The maximum market value valuations have been on the basis of a freehold disposal (ie not a 25 year lease) so the undervalue appears significant in some cases. The valuations recently carried out (which are summarised in Appendix C to the report attached at Appendix 2) do reveal that a significant number of sites, in the valuer's opinion, could fetch receipts in excess of £100,000 above the restricted value. For the purpose of the General Disposal Consent described in paragraph 3.6 above, the disposal of each site is

treated separately, although cumulatively the overall undervalue is in excess of £2 million.

- 4.9 The Chief Asset Management Officer has approved, subject to confirmation by Executive Board in relation to those sites where the valuer has indicated an undervalue in excess of £100k (and also secretary of state consent necessary under s25 Local Government 1988 being granted), the disposals recommended in the Appropriation and Disposals report.

## **5. Conclusions**

- 5.1 The Leeds Independent Living Project (ILP) forms a major part of a City Council Modernisation Programme which aims to significantly improve accommodation, housing related support and care services to adults with a learning disability and adults with mental health needs.
- 5.2 Leeds has also been successful in obtaining PFI credits for the provision and maintenance of a residential facility for young people with learning difficulties and a short break facility for disabled children. The total capital value of the project, including the children's services element, amounts to over £50m.
- 5.3 The affordability implications of the Children's Services element of the project to the City Council are reported in Appendix 1, which is confidential to this report.
- 5.4 The Director of Children's Services has confirmed acceptance of the affordability position shown in Appendix 1. This revenue funding requirement, along with any associated costs of operating the new facilities not covered within the proposed PFI contract, will be prioritised within the Children's Services budget for 2010/11.
- 5.4 The sites detailed in this report need to be leased to the contractor for the duration of the contract to enable the contractor to undertake their responsibilities as Landlord and issue tenancies. At the end of the contract the sites will be returned to the Council.
- 5.5 As reported on 23 January 2008 Financial Close and Contract signature will see the commencement of the construction programme in May 2008. The programme will be split into 12 phases and, following successful completion of the final phase in May 2011, will lead to a total of 75 properties with 343 bed spaces being available for beneficial use by the citizens of the City.

## **6 Recommendations**

- 6.1 Approve the financial implications for the Council of entering into the Children's Services element of the Independent Living Project and to agree the maximum affordability ceiling for that element of £0.36m for the first full financial year (2010/11) as set out in Appendix 1.
- 6.2 That, (subject to consent being obtained as required under section 25 Local Government Act 1988), the decision of the Chief Asset Management Officer that the sites listed for disposal at appendix 2 be disposed of, under s123 Local Government

Act 1972, to the housing management contractor under the Independent Living Project, on a leasehold basis (and at less than best consideration where indicated), be approved.